

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

Forty-First Session
Geneva, April 8 to 11, 2019

COMPILATION OF THE RETURNS TO THE QUESTIONNAIRE ON GRAPHICAL USER INTERFACE (GUI), ICON AND TYPEFACE/TYPE FONT DESIGNS

Document prepared by the Secretariat

INTRODUCTION

1. At the fortieth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), which was held in Geneva from November 12 to 16, 2018, the SCT considered a Draft Questionnaire on Graphical User Interface (GUI), Icon, Typeface/Type Font Designs (documents SCT/40/2 and SCT/40/2 Rev.).
2. The Chair of the fortieth session of the SCT concluded that “the Secretariat was requested to circulate the questionnaire as contained in document SCT/40/2 Rev. to SCT members and Intergovernmental Intellectual Property Organizations with observer status, for returns by January 31, 2019; and compile all returns into a document for consideration by the forty-first session of the SCT, it being understood that, due to the limited time for the preparation of this document, the SCT agreed that this document would be made available not later than March 8, 2019” (document SCT/40/9, paragraph 11).
3. Accordingly, the Secretariat prepared and addressed to all SCT members and Intergovernmental Intellectual Property Organizations with observer status, under Circular letter C. 8821 of December 7, 2018, the *Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs* (hereinafter “the questionnaire”), which is reproduced in Annex II to the present document. In addition, the questionnaire was made available, in Arabic, Chinese, English, French, Russian and Spanish, on the World Intellectual Property Organization (WIPO) website at the following address: <https://www.wipo.int/sct/en/>.

4. At the closing date to return the completed questionnaire to WIPO (*i.e.*, on January 31, 2019), replies from the following Member States had been received: Brazil, Canada, China, Colombia, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Ireland, Kazakhstan, Lithuania, Mexico, New Zealand, Pakistan, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Singapore, Slovakia, Sweden, Switzerland, United Kingdom, and the United States of America (31). The following Intergovernmental Intellectual Property Organization also replied to the questionnaire: Benelux Organization for Intellectual Property (BOIP) (1).

5. Annex I to the present document compiles the replies to the questionnaire. It reproduces the 39 questions contained in the questionnaire, as well as all corresponding replies in tabulated form. When a Member State or Intergovernmental Intellectual Property Organization gave no reply to a particular question, the corresponding entry is left empty. Comments provided are reproduced as such and *in extenso* under or, whenever possible, in the table reporting the replies to the related question.

6. *The SCT is invited to consider the content of the present document.*

[Annexes follow]

QUESTIONS CONCERNING THE REQUIREMENT FOR A LINK BETWEEN GUI, ICON, TYPEFACE/TYPE FONT DESIGNS AND THE ARTICLE OR PRODUCT

Question 1 - Does your jurisdiction provide protection for:

Responding Party	GUI designs	Icon designs	Typeface/type font designs	Comments
Brazil	Yes	Yes	No	
Canada	Yes	Yes	Yes	In Canada, a “design” or “industrial design” means features of shape, configuration, pattern or ornament and any combination of those features that, in a finished article , appeal to and are judged solely by the eye (see s.2 of the <i>Industrial Design Act</i>). A design for a GUI/icon design and typeface / type font designs must be applied to a finished article to be protected.
China	Yes	No	No	
Colombia	Yes	Yes	No	
Croatia		Yes	Yes	
Czech Republic	Yes	Yes	Yes	
Denmark	Yes	Yes	Yes	Our jurisdiction does not provide protection for GUIs in general. The appearance of a GUI can be protected as an industrial design whereas the technical functions of the GUI is covered by patent law. Eg. “The screen display and userface” is protected exclusively, as a “registered industrial design” and as an “unregistered industrial design protection (EU)”, as it appears and not by its technical functions.
Estonia	Yes	Yes	Yes	
Finland	Yes	Yes	Yes	
France	Yes	Yes	Yes	
Georgia	Yes	Yes	Yes	
Germany	Yes	Yes	Yes	
Hungary	Yes	Yes	Yes	
Ireland	Yes	Yes	Yes	Ireland does not differentiate between design types. Designs are treated the same irrespective of whether the applicant or anyone else may call them GUI, icon, typeface, normal or any other.
Kazakhstan	Yes	Yes	Yes	
Lithuania	Yes	Yes	Yes	
Mexico	Yes	Yes	Yes	Each of them is provided for in article 32 LPI of our jurisdiction: Article 32.- Industrial designs include: I.- Industrial drawings, which are any combination of figures, lines or colors that are incorporated into an industrial product for ornamentation purposes and that give it a peculiar and proper appearance, and GUI, icon and font designs have been protected in Mexico for years.

Responding Party	GUI designs	Icon designs	Typeface/type font designs	Comments
New Zealand	No	No	No	New Zealand does not have a law providing specifically for registered design protection for GUI, icons or typeface/type font designs per se. The Intellectual Property Office of New Zealand will, however, register designs under the Designs Act 1953 in the form of an image applied to an article as a pattern or ornament applied to the article. If the image corresponds to a static version of an icon or GUI then only to this degree could it be said that a GUI or icon enjoyed protection under the Designs Act 1953. The article to which the image is applied may be an electronic display screen, so it is not necessary for the image to be displayed permanently on the screen. In so far as a GUI or icon or typeface/type design or parts thereof may be considered to be an 'original artistic work', then the design may qualify for protection under the Copyright Act 1994.
Pakistan	Yes	Yes	No	The Registered Design Ordinance 2000 does not restrict registration of GUI or Icon Design.
Peru	Yes	Yes	No	Article 113 of Decision 486 of the Andean Community Commission establishes that the particular appearance of a product resulting from any assembly of lines or combination of colors, or from any two-dimensional or three-dimensional external shape, line, contour, configuration, texture or material, shall be considered as an industrial design, without changing the purpose or destination of said product.
Poland	Yes	Yes	Yes	
Portugal	Yes	Yes	Yes	
Republic of Korea	Yes	Yes	Yes	
Republic of Moldova	Yes	Yes	Yes	
Romania	Yes	Yes	Yes	There are no special provisions. These designs can be registered according to the general provisions of Design Law.
Singapore	Yes	Yes	Yes	The design (GUI, icon, typeface/ type font) should be applied to any article or non-physical product.
Slovakia	Yes	Yes	Yes	
Sweden	Yes	Yes	Yes	
Switzerland	Yes	Yes	Yes	
United Kingdom	Yes	Yes	Yes	
United States of America	Yes	Yes	Yes	
BOIP	Yes	Yes	Yes	However, computer programs are ruled out from the definition of a product (art. 3.1(4) BCIP).

Question 2 - In your jurisdiction, is a link between a GUI/icon design and an article required as a prerequisite for registration?

Responding Party	A link between a GUI/icon design and an article is required	Comments
Brazil	No	
Canada	Yes	
China	Yes	
Colombia	Yes	
Croatia	No	
Czech Republic	No	
Denmark	No	
Estonia	No	
Finland	No	
France	No	
Georgia	No	
Germany	No	
Hungary	No	
Ireland	No	
Kazakhstan	No	A link between a GUI/icon design and an article may be reflected in the name of a claimed utility model that contains a reference to the area of its application. A utility model application must contain a description of the utility model. Information about the purpose and area of application of a claimed utility model is provided in the description section under the heading "Purpose and area of application of the utility model."
Lithuania	No	
Mexico	Yes	
New Zealand		
Pakistan	Yes	
Peru	Yes	Article 118 of Decision 486 states that the application for registration of an industrial design shall be contained in a form and shall comprise the following: (...) (d) an indication of the type or genus of goods to which the design shall apply and of the class and subclass of such goods.
Poland	No	
Portugal	No	
Republic of Korea	Yes	
Republic of Moldova	No	
Romania	No	This is depending on how the applicant mentions the title of design in the application. E.g.: "Graphic User Interfaces" or "Graphical User Interface for a display screen or portion thereof", "Graphic user interface for mobile terminals", but the classification is the same - class 14 - 04.
Singapore	Yes	
Slovakia	No	
Sweden	No	
Switzerland	No	
United Kingdom	No	N/A

Responding Party	A link between a GUI/icon design and an article is required	Comments
United States of America	Yes	<p>"In a design patent application, the subject matter which is claimed is the design embodied in or applied to an article of manufacture (or portion thereof) and <u>not</u> the article itself. Ex parte Cady, 1916 C.D. 62, 232 O.G. 621 (Comm'r Pat. 1916). "[35 U.S.C.] 171 refers, not to the design of an article, but to the design for an article, and is inclusive of ornamental designs of all kinds including surface ornamentation as well as configuration of goods." In re Zahn, 617 F.2d 261, 204 USPQ 988 (CCPA 1980). The design for an article consists of the visual characteristics embodied in or applied to an article. Since a design is manifested in appearance, the subject matter of a design patent application may relate to the configuration or shape of an article, to the surface ornamentation applied to an article, or to the combination of configuration and surface ornamentation.</p> <p>Design is inseparable from the article to which it is applied and cannot exist alone merely as a scheme of surface ornamentation. It must be a definite, preconceived thing, capable of reproduction and not merely the chance result of a method." MPEP §1502</p> <p>"Computer-generated icons, such as full screen displays and individual icons, are 2-dimensional images which alone are surface ornamentation. See, e.g., Ex parte Strijland, 26 USPQ2d 1259 (Bd. Pat. App. & Int. 1992) (computer-generated icon alone is merely surface ornamentation). The USPTO considers designs for computer-generated icons embodied in articles of manufacture to be statutory subject matter eligible for design patent protection under 35 U.S.C. 171. Thus, if an application claims a computer-generated icon shown on a computer screen, monitor, other display panel, or a portion thereof, the claim complies with the "article of manufacture" requirement of 35 U.S.C. 171. Since a patentable design is inseparable from the object to which it is applied and cannot exist alone merely as a scheme of surface ornamentation, a computer-generated icon must be embodied in a computer screen, monitor, other display panel, or portion thereof, to satisfy 35 U.S.C. 171. See MPEP § 1502." MPEP § 1504.01(a)(I)(A)).</p>
BOIP	Yes	

(a) Requirement for a link

Question 3 - In your jurisdiction, for which type of designs is a link with an article required?

Responding Party	Computer-generated animated designs	GUI designs	Icon designs	Typeface/type font designs	Other
Brazil					
Canada	Yes	Yes	Yes	Yes	Yes
China		Yes			
Colombia		Yes	Yes		
Croatia					

Responding Party	Computer-generated animated designs	GUI designs	Icon designs	Typeface/type font designs	Other
Czech Republic					
Denmark					
Estonia					
Finland					
France					
Georgia					
Germany					
Hungary					
Ireland					
Kazakhstan					
Lithuania					
Mexico		Yes	Yes		
New Zealand					
Pakistan	Yes	Yes	Yes		
Peru					Yes
Poland					
Portugal					
Republic of Korea	Yes	Yes	Yes		
Republic of Moldova					
Romania					
Singapore	Yes	Yes	Yes	Yes	
Slovakia					
Sweden					
Switzerland					
United Kingdom					
United States of America					Yes All designs.
BOIP	Yes	Yes	Yes	Yes	Yes

COMMENTS:

Canada

In Canada, all designs must be applied to a finished article. See s.2 of the *Industrial Design Act*. "“design” or “industrial design” means features of shape, configuration, pattern or ornament and any combination of those features that, **in a finished article**, appeal to and are judged solely by the eye". See also s. 20(1) of the *Industrial Design Regulations*: "[...] An application must be limited to one design **applied to a single finished article** [...]".

Pakistan

As mentioned above, the law is silent, any aesthetic design applies to an article may be registered under Registered Design Ordinance 2000.

Peru

Article 113 of Decision 486 of the Andean Community Commission establishes that the particular appearance of a product resulting from any assembly of lines or combination of colors, or from any two-dimensional or three-dimensional external shape, line, contour,

configuration, texture or material, shall be considered as an industrial design, without changing the purpose or destination of said product.

Likewise, Article 118 of Decision 486 states that the application for registration of an industrial design shall be contained in a form and shall comprise the following: (...) (d) an indication of the type or genus of goods to which the design shall apply and of the class and subclass of such goods.

Singapore

All designs are required to be applied to any article or non-physical product. Definition of design: Design means features of shape, configuration, colors, pattern or ornament applied to any article or non-physical product that give that article or non-physical product its appearance.

United Kingdom

N/A

United States of America

All design patent applications are examined pursuant 35 U.S.C. 171 and must be directed to “new, original and ornamental designs for an article of manufacture.” As described previously, the subject matter which is claimed is the design embodied in or applied to an article of manufacture (or portion thereof) and not the article itself. See MPEP § 1502. With regard to type fonts, the following may be noted: “Traditionally, type fonts have been generated by solid blocks from which each letter or symbol was produced. Consequently, the USPTO has historically granted design patents drawn to type fonts. USPTO personnel should not reject claims for type fonts under 35 U.S.C. 171 for failure to comply with the ‘article of manufacture’ requirement on the basis that more modern methods of typesetting, including computer-generation, do not require solid printing blocks.” MPEP §1504.01(a) III (Treatment of Type Fonts).

BOIP

A design right can only be claimed for a product (within the Locarno classification).

Question 4 - For which reason is such a link required in your jurisdiction?

Responding Party	Facilitating searches by examining Offices	Facilitating Freedom to Operate (FTO) searches by users	Facilitating searches by applicants	Limiting the scope of design rights	Other
Brazil					
Canada	Yes		Yes	Yes	
China	Yes			Yes	
Colombia	Yes		Yes		Yes*
Croatia					
Czech Republic					
Denmark					
Estonia					
Finland					
France					

Responding Party	Facilitating searches by examining Offices	Facilitating Freedom to Operate (FTO) searches by users	Facilitating searches by applicants	Limiting the scope of design rights	Other
Georgia					
Germany					
Hungary					
Ireland					
Kazakhstan					
Lithuania					
Mexico				Yes	
New Zealand					
Pakistan				Yes	
Peru	Yes		Yes		
Poland					
Portugal					
Republic of Korea					
Republic of Moldova					
Romania					
Singapore				Yes	
Slovakia					
Sweden					
Switzerland					
United Kingdom					
United States of America					Yes
BOIP				Yes	

COMMENTS:

Colombia

In the definition of Industrial Designs, our Community legislation provides for “particular appearance of a product (...)”.

Mexico

When performing the background examination, we assign a classification that depends on the title of the application, its figures and the attached claim, to determine whether there is congruence. We look for this title in the recently used version 12 of the Locarno classification. This classification enables us to achieve greater success and accuracy in our searches.

Republic of Korea

Screen design (include GUI) is registrable only if it is claimed as a partial design of an article.

United Kingdom

N/A

United States of America

This requirement that the design patent application be directed to “designs for an article of manufacture” is a statutory requirement setting forth that which is eligible for protection by design patents in the United States. 35 U.S.C. 171; MPEP § 1502.

BOIP

A design is defined as the new appearance of a product. So without a product indication, no design right can be granted.

Question 5 - In your jurisdiction, a GUI design:

Responding Party	Must be embodied in a physical article to be protected	Can apply to a virtual article	Comments
Brazil			
Canada	Yes	No	A design application can be filed showing either the design applied to a physical article or the design in isolation. The application must clearly indicate the finished article to which the design is applied.
China	Yes	No	
Colombia	Yes	Yes	
Croatia			
Czech Republic			
Denmark			
Estonia			
Finland			
France			
Georgia			
Germany			
Hungary			
Ireland			
Kazakhstan			
Lithuania			
Mexico	Yes	Yes	
New Zealand			
Pakistan	Yes	No	
Peru			
Poland			
Portugal			
Republic of Korea	Yes	No	
Republic of Moldova			
Romania			
Singapore	No	Yes	Where a GUI contains features of shape, configuration, colours, pattern or ornament and such GUI is applied to an article or non-physical product so as to give that article or non-physical product its appearance, an applicant may seek registration

Responding Party	Must be embodied in a physical article to be protected	Can apply to a virtual article	Comments
			of the GUI as a design under the Registered Designs Act.
Slovakia			
Sweden			
Switzerland	No	Yes	
United Kingdom			N/A
United States of America			
BOIP	No	Yes	See Locarno class 14.04

COMMENTS:

United States of America

The United States currently lacks jurisprudence in relation to whether design patents can be successfully enforced in relation to use in virtual spaces.

Complaints based on accused infringement of design rights in the virtual space have been initiated in federal district court, however, known cases have concluded without resolution of this issue. See e.g., Bayerische Motoren Werke AG (BMW) et al. v. Turbosquid, Inc., New Jersey District Court (2016). (Case filed May 3, 2016 and terminated on August 11, 2016).

Question 6 - In your jurisdiction, do functional aspects of the article displaying the GUI/icon design play a role in assessing the link between such design and the article?

Responding Party	Functional aspects of the article play a role in assessing the link	If yes, what role?
Brazil		
Canada	No	
China	Yes	Limiting the scope of designs.
Colombia	No	
Croatia		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Georgia		
Germany		
Hungary		
Ireland		
Kazakhstan		
Lithuania		
Mexico	No	
New Zealand		
Pakistan	No	
Peru	No	
Poland		
Portugal		
Republic of Korea	No	
Republic of Moldova		

Responding Party	Functional aspects of the article play a role in assessing the link	If yes, what role?
Romania		
Singapore	No	
Slovakia		
Sweden		
Switzerland	No	
United Kingdom		
United States of America	No	
BOIP	No	

COMMENTS:

Mexico

In the registration of industrial designs and industrial drawings in Mexico, form and appearance are protected, as illustrated, described and claimed. According to article 31(3) of the LPI: "The protection conferred to an industrial design shall not include elements or characteristics dictated solely by technical considerations or by the performance of a technical function, and that do not incorporate any arbitrary contribution of the designer; nor those elements or characteristics whose exact reproduction would be necessary to allow the product incorporating the design to be mechanically assembled or connected to another product of which it constitutes an integral part; this limitation shall not apply to products in which the design is in a form intended to allow the assembly or multiple connection of the products or their connection within a modular system". Hence, the law clearly and precisely provides for it.

Peru

Article 130 of Decision 486 states that the protection conferred on an industrial design shall not extend to the elements or characteristics of the design dictated entirely by considerations of a technical nature or by the performance of a technical function, which do not incorporate any arbitrary contribution by the designer.

The protection conferred on an industrial design shall not include those elements or characteristics whose exact reproduction would be necessary to allow the product incorporating the design to be mechanically assembled or connected to another product of which it forms a part. This limitation shall not apply to products in which the design is in a form intended to allow the assembly or multiple connection of the products, or their connection within a modular system.

United Kingdom

N/A

Question 7 - In your jurisdiction, if a link between a GUI, icon, typeface/type font design and an article is required, but not provided in the design application, can it still be provided during prosecution?

Responding Party	A link can still be provided during prosecution	If yes, who is empowered to provide it?	
		The applicant	The Office
Brazil			
Canada	Yes	Yes	
China	No		
Colombia	Yes	Yes	
Croatia			
Czech Republic			
Denmark			
Estonia			
Finland			
France			
Georgia			
Germany			
Hungary			
Ireland			
Kazakhstan			
Lithuania			
Mexico	Yes	Yes	
New Zealand			
Pakistan	Yes	Yes	
Peru	Yes		
Poland			
Portugal			
Republic of Korea	Yes	Yes	
Republic of Moldova			
Romania			
Singapore	Yes	Yes	
Slovakia			
Sweden			
Switzerland			
United Kingdom			
United States of America	Yes	Yes	Yes
BOIP	Yes	Yes	

COMMENTS:

Mexico

The institute issues a requirement requesting that the design link be specified.

Peru

Article 118 of Decision 486 states that the application for registration of an industrial design shall be contained in a form and shall comprise the following: (...) (d) an indication of the type or genus of goods to which the design shall apply and of the class and subclass of such goods.

Likewise, Article 120 of the Decision mentions that if, following the examination of the form, it is found that the application does not contain the requirements referred to in the preceding paragraph, the competent national office shall notify the applicant to complete said

requirements within a period of thirty days following the date of notification. At the request of a party, such time limit may be extended once for an equal period without loss of priority. If, on expiration of the prescribed period, the applicant does not complete the indicated requirements, the application shall be considered abandoned and shall lose its priority. Without prejudice to the foregoing, the competent national office shall keep the application confidential.

United Kingdom

N/A

United States of America

It depends on the meaning intended by “not provided. If the link is not provided at all, the application seems fatally deficient under 35 U.S.C. 171.

On the other hand, if the originally filed drawing does not depict, e.g., a computer-generated icon embodied in a computer screen, monitor, other display panel, or a portion thereof, but the disclosure as a whole suggests or describes the claimed subject matter as a computer-generated icon embodied in a computer screen, monitor, other display panel, or portion thereof, the drawing may be amended to overcome a rejection under 35 U.S.C. 171. MPEP 1504.01(a)(I)(B)(B).

In general, amendments to the written description, drawings and/or claim will ordinarily be entered if properly filed and supported by the original disclosure. But the addition or inclusion of any new matter (matter not supported by the original disclosure) is not permitted and will be required to be canceled from the written description, drawings and/or claims. MPEP § 1504.01(a)(I)(B)(B)(1)(b).

Amendments may be made through applicant filings with the Office. See 37 CFR 1.121; MPEP § 714. While the Office also is permitted to make an amendment (an Examiner’s Amendment) in the interest of expediting prosecution and reducing cycle time, authorization from the applicant or attorney/agent of record is required if the changes made in the examiner’s amendment are substantive. 37 CFR 1.121(g) and MPEP § 714 (II)(E).

BOIP

Applicant will be requested to clarify his application if unclear.

Question 8 - In your jurisdiction, if a link between a GUI/icon design and an article is required, how can/must the GUI/icon design be represented in the application?

Responding Party	Representation of the GUI or icon design alone + an indication in words of the article	Representation of the GUI or icon design + the article in dotted or broken lines	Representation of the GUI or icon design + the article in dotted or broken lines + an indication in words of the article	Representation of the GUI or icon design + the article in solid lines	Representation of the GUI or icon design + the article in solid lines + an indication in words of the article	Other
Brazil						
Canada	Yes		Yes		Yes	
China					Yes	
Colombia			Yes			Yes*
Croatia						
Czech Republic						
Denmark						
Estonia						
Finland						
France						
Georgia						
Germany						
Hungary						
Ireland						
Kazakhstan						
Lithuania						
Mexico			Yes			
New Zealand						
Pakistan			Yes	Yes		
Peru		Yes		Yes		
Poland						
Portugal						
Republic of Korea			Yes			
Republic of Moldova						
Romania						
Singapore			Yes			
Slovakia						
Sweden						
Switzerland						
United Kingdom						
United States of America						Yes*
BOIP	Yes	Yes	Yes			Yes

COMMENTS:

Colombia

Because they are two-dimensional designs, the link between the GUI or icon is indicated from the title (indication in words). The dotted line representation is not mandatory because it only has an illustrative function; i.e., to show the location of the GUI or icon on the product. However, for the purposes of study, publication and protection, the GUI or icon must be presented free of any external element.

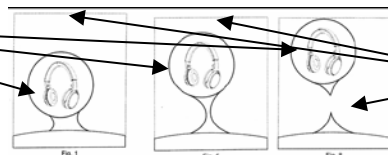
Mexico

Next we will add a graphic example to define each one of these elements, in Concession No. 48214, titled "INDUSTRIAL DRAWING OF GRAPHIC USER INTERFACE FOR THE MANAGEMENT OF WIRELESS DEVICES", file MX/f/2016/001519. It shows a GUI in figures, the article in dotted lines and the indication in words of the title.

Gaceta:	Ejemplar:	Sección:
29 Patentes, Registros de Modelos de Utilidad y de Diseños Industriales	Noviembre de 2016	Registros de Diseños Industriales: Modelos y Dibujos Industriales
Oficina No de Patente y Tipo de documento	MX 48214 B	
Tipo de documento	Diseño Industrial	
Fecha de concesión	04/11/2016	
Número de solicitud	MX/f/2016/001519	
Fecha de presentación	12/02/2015	
Inventor(es)	NAGANAGOUDA B. PATIL [IN]; SANJAY CHAUDHRY [IN]; JOSHUA JAM REBECCA DEVEER CRIMMIN [US]; CHRISTOPHER SCOTT MUCAR ELLEN PRESCOTT [US]; GRAEME REED [US]; Framingham, Massac 9168, US	
Titular	BOSE CORPORATION [US]; Framingham, Massachusetts, 01701-9168	
Agente	SERGIO LUIS OLIVARES LOBATO; Pedro Luis Ogazón 17, Col. San ALVARO OBREGON Ciudad de México, México	
Prioridad (es)	US29/499,175 12/08/2014	
Locarno	14-04	
Título	DIBUJO INDUSTRIAL DE INTERFASE GRÁFICA DE USUARIO PARA LA GESTIÓN DE DISPOSITIVO INALÁMBRICO.	
Fecha de Puesta en Circulación	2016-12-14	

Title:
indication in
words of the
article

Representation of
GUI



Article in dotted
line

United Kingdom

N/A

United States of America

All of the answers are potential manners in which the GUI/icon can be represented except for the first option - "representation of the GUI or icon design alone + an indication in words of the article." While the application will be rejected in the first option, the application may be curable through amendment, depending on the disclosure as a whole.

In an instance in which the drawing does not depict a computer-generated icon embodied in a computer screen, monitor, other display panel, or a portion thereof, in either solid or broken lines (i.e., the first option of the questionnaire), the application may be amended or corrected to comply with 35 U.S.C. 171, if the disclosure as a whole suggests or describes the claimed subject matter as a computer-generated icon embodied in a computer screen, monitor, other display panel, or portion thereof. However, if the disclosure as a whole does not suggest or

describe the claimed subject matter as a computer-generated icon embodied in a computer screen, monitor, other display panel, or portion thereof, the application may be fatally defective such that rejection cannot be overcome and any new matter will have to be cancelled.
MPEP § 1504.01(I)(B).

BOIP

Any depiction making clear that the article is disclaimed and protection is only sought for the GUI. Also see EU Convergence Program 6.

Question 9 - If a link between a GUI/icon design and an article is required in your jurisdiction and your Office is an examining Office, does your Office search for any design with a similar or identical appearance, regardless of the articles to which it applies?

Responding Party	The Office searches for any design with a similar or identical appearance, regardless of the articles to which it applies	Please explain
Brazil		
Canada	No	When conducting a search of the prior art, the Office will look at designs applied to the same article or articles sharing an analogous function.
China	No	
Colombia	Yes	In article 113 D486, Our Community Legislation defines it thus: "(...) without changing the destination or purpose of said product". Therefore, if the same condition exists for an application pertaining to a vehicle that can be used as a toy, the search is also conducted in the vehicles class.
Croatia		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Georgia		
Germany		
Hungary		
Ireland		
Kazakhstan		
Lithuania		
Mexico	Yes	The search for prior art is based on Locarno, but is supplemented with terms for similar products.
New Zealand		
Pakistan	Yes	Yes, Designs Office-IPO-Pakistan is an examination office. Search is conducted for any other article with the same GUI applied

Responding Party	The Office searches for any design with a similar or identical appearance, regardless of the articles to which it applies	Please explain
		to it because the classification up till now is based on material not the article. Moreover, under section 3(2) of Registered Design Ordinance 2000, an explanation note is provided which states that Designs are not new or original if they do not significantly differ from known designs or combination of design features.
Peru	Yes	In accordance with Article 124 of Decision 486, the competent national office shall examine whether the subject matter of the application is consistent with the provisions of Articles 113 and 116, whether the industrial design is manifestly devoid of novelty and, in the case of oppositions to registration, shall analyze novelty based on a prior right in force or on the lack of novelty of the industrial design.
Poland		
Portugal		
Republic of Korea	Yes	In order to protect the wide range of the design right for all kinds of information appliances without disclaiming any product, the applicants are allowed to choose 'display panel' for the article of GUI/icon design. The examiner searches not only the article where the GUI/icon design is embedded, but also search prior arts regardless of the articles.
Republic of Moldova		
Romania		
Singapore	No	Only formalities examination is required. However, the Registrar may refuse an application for registration of design if, on the face of the application, the design is not new.
Slovakia		
Sweden		
Switzerland		
United Kingdom	N/A	
United States of America	Yes	In determining whether the design claimed in an application is considered novel, a prior art reference in nonanalogous art may be used to defeat novelty. Anticipation does not require that the claimed design and the prior art be from analogous arts. In re Glavas, 230 F.2d 447, 450, 109 USPQ 50, 52 (CCPA 1956). "It is true that the use to which an article is to be put has no bearing on its patentability as a design and that if the prior art discloses any

Responding Party	The Office searches for any design with a similar or identical appearance, regardless of the articles to which it applies	Please explain
		article of substantially the same appearance as that of an applicant, it is immaterial what the use of such article is. Accordingly, so far as anticipation by a single prior art disclosure is concerned, there can be no question as to nonanalogous art in design cases." Id. (internal quotation marks omitted). MPEP § 1504.02.
BOIP	N/A	BOIP is not an examining office.

Question 10 - If a design is represented within an article which is disclaimed (e.g., broken lines), what is the effect of the article on the scope of protection of the design?

Responding Party	The scope of protection is limited only to the specific type of article that was disclaimed	The scope of protection is limited to articles that fall within the same classification	The scope of protection is limited to: other	Is there an exception for GUI/icon designs?
Brazil				
Canada		Yes	Yes	No
China				
Colombia				
Croatia				
Czech Republic				
Denmark				
Estonia				
Finland				
France				
Georgia				
Germany				
Hungary				
Ireland				
Kazakhstan				
Lithuania				
Mexico				
New Zealand				
Pakistan		Yes		No
Peru				
Poland				
Portugal				
Republic of Korea		Yes		Yes
Republic of Moldova				
Romania				
Singapore	Yes			No
Slovakia				

Responding Party	The scope of protection is limited only to the specific type of article that was disclaimed	The scope of protection is limited to articles that fall within the same classification	The scope of protection is limited to: other	Is there an exception for GUI/icon designs?
Sweden				
Switzerland	Yes			No
United Kingdom				
United States of America			Yes*	No**
BOIP	Yes			No

COMMENTS:

Canada

Protection will be granted for the portion of the design in solid lines and extends to the same article or analogous articles.

Colombia

The study, publication and protection focuses solely on the design of the GUI or icon, since the representation of the article in dotted lines is not accepted during the formal examination.

Mexico

Mexican practice requires a claim that limits protection to the product to which the design applies.

Peru

It is understood that the article is not within the scope of industrial design protection.

Republic of Korea

KIPO uses a special article for screen design, 'Display panel'. If the applicant wants to protect the screen design more than one article, the applicant can entitle the indication of product as "Display panel in which screen design (GUI or icon) is indicated". And for these cases, the scope of protection of the GUI/icon design is not limited by the article, such as mobile phone, computer, home appliance, etc.

United Kingdom

No effect – it has been disclaimed.

United States of America

* Disclaimed structure is not part of the claimed design and thus not limiting on the scope of the claim.

Structure that is not part of the claimed design, but is considered necessary to show the environment in which the design is associated, may be represented in the drawing by broken lines. This includes any portion of an article in which the design is embodied, or applied to, that

is not considered part of the claimed design. See *In re Zahn*, 617 F.2d 261, 204 USPQ 988 (CCPA 1980); MPEP § 1503.02 (III).

** GUI/icon designs are treated in the same manner.

Question 11 - If a design is represented within an article which appears in solid lines, the scope of the design patent/design registration would be considered to cover:

Responding Party	Only the design	Both the design and the article	Other
Brazil			
Canada		Yes	
China		Yes	
Colombia		Yes	
Croatia			
Czech Republic			
Denmark			
Estonia			
Finland			
France			
Georgia			
Germany			
Hungary			
Ireland			
Kazakhstan			
Lithuania			
Mexico		Yes	
New Zealand			
Pakistan	Yes		
Peru		Yes	
Poland			
Portugal			
Republic of Korea		Yes	
Republic of Moldova			
Romania			
Singapore		Yes	
Slovakia			
Sweden			
Switzerland	Yes		
United Kingdom		Yes	
United States of America			
BOIP		Yes	

COMMENTS:

Colombia

In Colombia, we apply the rules of technical drawing for the representation of lines: the continuous drawing for seen edges and contours and the dotted drawing for hidden edges and hidden contours (Paragraph 1.2.4.1 Title X of the Single Circular).

Mexico

If the design to be protected includes an icon on a display screen, showing the product in solid lines, as in the example of a granted registration, both designs are protected.

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Gaceta:
Patentes, Registros de Modelos de Utilidad y de Diseños Industriales

Ejemplar:
Diciembre de 2013

Sección:
Registros de Diseños Industriales:
Modelos y Dibujos Industriales



FIG. 1

Oficina, No de Patente y Tipo de documento	MX 40593 B
Tipo de documento	Diseño Industrial
Fecha de concesión	11/12/2013
Número de solicitud	MX/i/2012/002159
Fecha de presentación	13/07/2012
Inventor(es)	LEE, JAE-MYOUNG [KR]; Seocho-Gu, Seúl, 1593-7, KR
Titular	SAMSUNG ELECTRONICS CO., LTD.* [KR]; Suwon-si, Gyeonggi-do, 443-742, KR
Agente	HERIBERTO RAÚL LÓPEZ PADILLA; Leibnitz No. 117 PH 1, Col. Col. Anzures, 11590, Distrito Federal, MEXICO
Locarno	14-04
Título	DIBUJO INDUSTRIAL DE ICONO PARA UNA PANTALLA DE DESPLIEGUE.
Fecha de Puesta en Circulación	2014-01-29



FIG. 2



FIG. 3

Pakistan

It protects only design appearing in identical manner on the represented article but protection does not involve the article as such.

United States of America

Solid lines in the design representations indicate the subject matter considered to be the claimed design. Any subject matter shown in solid lines is considered part of the design and would be considered in determining the scope of the design. MPEP 1503.01 (III).

Question 12 - If a design is represented within an article which is disclaimed (e.g., broken lines) and the identification of the article(s) in relation to which the industrial design is to be used is required, what is the purpose of that identification?

Responding Party	Purpose of the identification of the article(s)	Comments
Brazil		
Canada		An application must always contain the name of the finished article to which the design is applied in order to limit the scope of the design and to assess novelty. A design application may be filed showing the design in isolation, however, the application must identify a finished article.
China		
Colombia	Order and classification	Since dotted lines are not accepted in Colombia to represent what is not claimed, identification of the article is done for the purpose of defining its classification.
Croatia		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Georgia		
Germany		
Hungary		
Ireland		
Kazakhstan		
Lithuania		
Mexico		Mexican practice requires that the industrial design specifies the product to which the design applies.
New Zealand		
Pakistan		According to our Design Law, identification is not necessary, only representation is important.
Peru		
Poland		
Portugal		
Republic of Korea	To judge the grant of industrial applicability and use of the article.	
Republic of Moldova		
Romania		
Singapore	The rights conferred by registration is linked to any article in respect of which the design is registered and to which that design, or a design not substantially different from that design, has been applied.	
Slovakia		
Sweden		
Switzerland		
United Kingdom		? We are not sure what the question is referring to. If classification, it aids searching.

Responding Party	Purpose of the identification of the article(s)	Comments
United States of America		Inclusion of the article is required, even if the article is illustrated as disclaimed through the use of broken lines, to demonstrate that the design claimed is an ornamental design for an article of manufacture and proper subject matter for protection in a U.S. design patent. 35 U.S.C 171.
BOIP		Protection is for the article, the design is the element for which protection is sought.

(b) No requirement for a link

Question 13 - In your jurisdiction, why is no link between a GUI/ icon design and an article required?

Responding Party	Because of the nature of new technological designs, which may be used in different articles/environments	Other
Brazil		The link is optional, either indicated in words or by representing the article in broken lines.
Canada		
China		
Colombia		
Croatia	Yes	
Czech Republic	Yes	
Denmark		
Estonia	Yes	
Finland		For us GUI is a product in itself and they are classified in class 14-04.
France	Yes	
Georgia	Yes	
Germany	Yes	The representation shall only show the design without any other articles. In Germany the GUI can be protected as such (as a "virtual design").
Hungary		There are no special requirements for the protection of GUI/icon designs in the Hungarian legislation. According to Article 1(1) of Act No. XLVIII of 2001 on the legal protection of design (hereinafter referred to as: Hungarian Design Act), design protection shall be granted for any designs which are new and have individual character. Design protection is not attached to a class of goods as trademark protection; therefore, the product category for which the design is applied for is irrelevant when examining the scope of protection.

Responding Party	Because of the nature of new technological designs, which may be used in different articles/environments	Other
Ireland		Because there is no legislative requirement for designs to have a link with the article.
Kazakhstan		The legislation of the Republic of Kazakhstan does not provide for a link between a design and an article.
Lithuania	Yes	Design must be presented in the neutral background without any additional elements which are out of scope of protection. Therefore, other parts, if used, should be marked as not protected: blurred, marked with broken lines, etc.
Mexico		
New Zealand		
Pakistan		According to our Design Law, link is an important aspect.
Peru		
Poland	Yes	
Portugal	Yes	
Republic of Korea		
Republic of Moldova	Yes	
Romania	Yes	
Singapore		
Slovakia	Yes	
Sweden	Yes	
Switzerland	Yes	
United Kingdom		
United States of America	N/A	
BOIP		

COMMENTS:

Denmark

N/A

France

The Office's examination does not focus on the use of designs.

Mexico

Not applicable.

Sweden

GUIs and icons are classified in 14-04 Locarno.

United Kingdom

The Registered Designs Act allows for both 2D and 3D protection. Therefore, the GUI/Icon is seen as a design in its own right. It can be applied to anything providing the appearance remains the same.

Question 14 - If no link is required in your jurisdiction and your Office is an examining Office, does your Office search for any design with a similar or identical appearance, regardless of the articles to which it applies?

Responding Party	The Office searches for any design with a similar or identical appearance, regardless of the articles to which it applies	Please explain
Brazil	Yes	The search is conducted after the design registration, but only by request of the owner. The search is limited to the 14-04 class of the Locarno Classification.
Canada		
China		
Colombia		
Croatia	No	
Czech Republic	Yes	
Denmark	No	
Estonia	No	In Estonia, industrial designs are registered by formal registration system. The Office controls only the formal requirements - reproduction, adherence to deadlines, application and does not examine the industrial design as to its novelty, individual character, industrial applicability or the right of a person to file an application. The rights of the owner of the registered industrial design may be contested in court.
Finland	Yes	
France		
Georgia	Yes	
Germany		
Hungary	Yes	Our Office conducts the search in case of GUI/icon designs similar to any other design. The design is searched for as a graphic symbol.
Ireland	No	Novelty searches are not conducted by the Irish Office.
Kazakhstan	Yes	
Lithuania	No	
Mexico		
New Zealand		
Pakistan		
Peru		
Poland		
Portugal	No	
Republic of Korea		
Republic of Moldova	Yes	The search is done in the databases (for registered designs) according to the class-subclasses which are indicated in the application (Locarno Classification). The search is not made for unregistered designs, publicly known designs.
Romania	Yes	The search is conducted in class 14-04.

Responding Party	The Office searches for any design with a similar or identical appearance, regardless of the articles to which it applies	Please explain
Singapore		
Slovakia	No	The different indication of the product and the different Locarno classification.
Sweden		
Switzerland	No	The IPI is no examining office.
United Kingdom	No	In the UK novelty searching ceased in 2006.
United States of America	N/A	
BOIP		

COMMENTS:

Denmark

Please note that our Office does not search for earlier rights, since we do not test if the industrial design is new and possesses individual character.

Germany

The German Patent and Trade Mark Office is not an examining office.

Mexico

Not applicable.

Poland

The Polish Patent Office is not an examining Office.

Portugal

Searches at INPI are only conducted if an opposition is filed against a design application.

Sweden

The Swedish Patent Office is a non-examining office.

Question 15 - If no link is required in your jurisdiction, how do users conduct Freedom to Operate (FTO) searches?

Responding Party	Freedom to Operate (FTO) searches
Brazil	The search must be conducted in the Brazilian design registers database: https://gru.inpi.gov.br/pePI/jsp/desenhos/DesenhoSearchAvancado.jsp . In the GUI/icon case, the search must focus on, but might not be limited to, the 14-04 class of the Locarno Classification.
Canada	
China	
Colombia	

Responding Party	Freedom to Operate (FTO) searches
Croatia	In the same manner as for the other designs upon the name of the product and/or appearance and/or owner and/or designer and/or Locarno classification, (sub)class.
Czech Republic	Using on-line database - https://www.upv.cz/en/client-services/online-databases/industrialdesign-databases/national-database.html .
Denmark	
Estonia	Users can conduct searches by using databases on our Office's website: https://www.epa.ee/en/databases/industrial-designs-databases or hire a patent attorney for professional help.
Finland	GUIs/icons are classified in class 14-04.
France	Users have the possibility of searching among the designs designating graphical interfaces or icons, provided for in Class 14 of the Locarno Classification.
Georgia	Users can conduct search according to the Locarno Classification or with the indication of the product, or use image search in the internet, with programs like TinEye.
Germany	This question should be answered by the user organizations. German Patent and Trade Mark Office does not conduct FTO searches.
Hungary	The users have to search in the databases for two Locarno classification classes, namely 32-00, 14-04.
Ireland	That is a matter for users.
Kazakhstan	
Lithuania	Searches may be conducted by the indication of the product or Locarno Class.
Mexico	
New Zealand	
Pakistan	
Peru	
Poland	Users can conduct searches using Locarno Classification.
Portugal	Users have to conduct "Freedom to Operate searches" on their own since our Office does not provide that kind of service. In our website users can search design applications and registration through Locarno Classification, product indication, or owner/applicant.
Republic of Korea	
Republic of Moldova	The users can do searches according by the class-subclasses (Locarno Classification) that correspond to GUI/ icon.
Romania	This concept (FTO) is specific to patent domain. In Romania, the design protection is through by design registration based on which a certificate of registration is granted. According to Romanian Design Law our Office conducting, upon request a documentary search on published designs. Relevant services are: anteriority documentary search concerning the novelty of an industrial design, documentary search for preventing infringement of a design, documentary search for monitoring the competition. There is an internal decision that established the charges for these services. These types of documentary searches could be done as well by the user itself, design attorneys or by the enforcement entities in the relevant databases on our website www.osim.ro free of charge.
Singapore	
Slovakia	Users do searches by the Locarno classification and the indication of the product.
Sweden	
Switzerland	The IPI does not conduct FTO searches. Therefore, we do not know how users can conduct such searches.
United Kingdom	Earlier rights searches can be carried out via DesignView. GUIs and Icons would be classified under 14-04 and typefaces in 18-03.
United States of America	N/A
BOIP	

COMMENTS:

Denmark

N/A

Mexico

Not applicable.

Slovakia

14.02 Interfaces for computers

14.04 Interfaces for a display screen

14.04 Icons

18.03 Typefaces/Type fonts

Sweden

GUIs and icons are classified in 14-04 Locarno.

Question 16 - If no link is required in your jurisdiction, is the indication of an article:

Responding Party	Optional	Mandatory	What is the effect of such indication?
Brazil	Yes		The indication of an article (in words or represented in broken lines) might influence the search scope.
Canada			
China			
Colombia			
Croatia		Yes	The indication of the product shall clearly distinguish the nature of the product and enable the classification of each product in one class pursuant to the Locarno Agreement Establishing an International Classification for Industrial Designs.
Czech Republic		Yes	Identification of the product shall have no influence to the scope of protection resulting from the industrial design in itself.
Denmark	Yes		The indication of the design could simply be "graphic interface" or the purpose of the design could be specified by indicating the article, e.g. "computer interface". In theory, the indication of the article is only a matter of form, but if the article is indicated it might, potentially, influence our decision when assessing possible infringements.
Estonia	Yes		It can be used for illustrating purposes or when seeking a protection for the product as a whole, provided that only the parts that remain visible during the normal use of the product are protected.
Finland	Yes		It has no effect.
France	Yes		
Georgia	Yes		
Germany		Yes	The indication of an article (product indication) is important for the classification of designs.
Hungary		Yes	According to Article 36(2) of the Hungarian Design Act, the design application shall contain a request for the grant of the design protection, the representation of the design, the

Responding Party	Optional	Mandatory	What is the effect of such indication?
			denomination of the product embodying the design and, where necessary, other relevant documents. According to Article 47(1a) within the examination as to the formal requirements the Hungarian Intellectual Property Office shall examine the application whether the formal requirements of Article 36(2) have been met. If a design application does not meet the requirements examined under paragraph (1a), the applicant shall be invited, according to the nature of the objection, to rectify the irregularities. A design application shall be refused in whole or in part if it does not meet the examined requirements even after the rectification of the irregularities or the submitting of comments.
Ireland		Yes	To enable the design to be classified according to Locarno.
Kazakhstan	Yes		
Lithuania	Yes		
Mexico			
New Zealand			
Pakistan			
Peru			
Poland	Yes		When the applicant indicates an article, the scope of protection is limited to that article.
Portugal	Yes		The protection will concern the GUI in that article.
Republic of Korea			
Republic of Moldova	Yes		It is presented only for the presentation of the protected object's way of usage.
Romania		Yes	The examiner can understand better the environment where the design is used and for purpose of proper classification.
Singapore			
Slovakia		Yes	
Sweden		Yes	A GUI is given the article indication "GUI" and classified in 14-04 Locarno.
Switzerland			Not applicable.
United Kingdom		Yes	The indication of article is purely administrative, it aids classification. It does not affect the scope of protection.
United States of America	N/A	N/A	
BOIP			

COMMENTS:

Hungary

The appearance of the product is protected by design protection, however, protection is not clearly independent from the product. On the other hand the protection is not limited to the product defined in the design application. There is no such connection between the product and the design protection as between trademarks and the class of goods or services.

Mexico

Not applicable.

Question 17 - Can a patent design/design registration be obtained for a GUI/icon design *per se* if it is represented alone (without any article such as a screen or a device)?

Responding Party	Patent design/design registration obtained <i>per se</i>	If yes, does the patent design/design registration cover use of the claimed GUI/icon design in any article/environment?
Brazil	Yes	Yes
Canada		
China		
Colombia	Yes	Yes
Croatia	Yes	Yes
Czech Republic	Yes	Yes
Denmark	Yes	Yes
Estonia	Yes	N/A
Finland	Yes	Yes
France	Yes	Yes
Georgia	Yes	Yes
Germany	Yes	Yes
Hungary	Yes	Yes
Ireland	Yes	Yes
Kazakhstan	Yes	Yes
Lithuania	Yes	Yes
Mexico	No	
New Zealand		
Pakistan	No	
Peru		
Poland	Yes	Yes
Portugal	Yes	Yes
Republic of Korea		
Republic of Moldova	Yes	Yes
Romania	Yes	Yes
Singapore	No	
Slovakia	Yes	No
Sweden	Yes	Yes
Switzerland	Yes	Yes
United Kingdom	Yes	Yes
United States of America	N/A	
BOIP		

COMMENTS:

Colombia

GUIs or icons are graphic designs that can use any environment (screen) such that the user interacts with the article. Furthermore, the interconnection and synchronization that exists between devices, the use of different articles for the same application and network access from any place and device do not have to be limited to a single article.

Denmark

Please note the GUI/icon is protected exclusively, as a “registered industrial design” as it appears. If the proportions of the design (and thereby the overall impression of the design) change due to the use on different articles the design registration might not cover the use on all articles.

The indication of the product must be coherent with the representation of the design. If the design is indicated as a GUI or an icon the representation of the design must show a GUI or an icon and not a device. If represented with a device, this device must be disclaimed in the representation.

Georgia

According to the article 6 of the "Instruction On Design Registration" - information on the classification index does not affect the scope of protection. Therefore, design registration covers its use for every product.

Mexico

GUI and icon designs must specify the product for which the design will be used, according to Mexican legal practice.

Gaceta: Patentes, Registros de Modelos de Ejemplar: Octubre de 2014		Sección: Registros de Diseños Industriales:
Utilidad y de Diseños Industriales		Modelos y Dibujos Industriales
Oficina, No de Patente y Tipo de MX 42631 B documento		
Tipo de documento	Diseño Industrial	
Fecha de concesión	09/10/2014	
Número de solicitud	MX/12013/001913	
Fecha de presentación	03/07/2013	
Inventor(es)	KIM MIN HYUNG [KR]; CHANGSOO LEE [KR]; PILLYOUNG MOON [KR]; GANGNAM-GU, SEUL, 443-742, KR	
Titular	SAMSUNG ELECTRONICS CO., LTD. [KP]; SUWON-SI, GYEONGGI-DO, 443-742, KR	
Agente	RAFAEL BELTRAN RIVERA; Homero 534 8, Col. Chapultepec Morales, 11570, MIGUEL HIDALGO, Distrito Federal, México	
Prioridad (es)	KR30-2013-0000703 04/01/2013	
Locarno	14-04	
Título	DIBUJO INDUSTRIAL DE ICONO PARA UNA PANTALLA DE VISUALIZACIÓN.	
Fecha de Puesta en Circulación	2014-12-17	
URL Ficha:	http://siga.impi.gob.mx/newSIGA/content/common/ficha.jsf?idFicha=5611971	

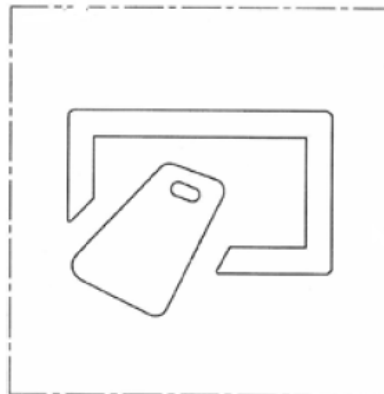


FIG. 2

Portugal

The protection will be granted to that GUI alone.

Romania

Design registration will be linked with the scope of use specified in the application. It is similar with the designs in class 32-00 that could be applied to more products.

QUESTIONS CONCERNING THE METHODS ALLOWED BY OFFICES FOR THE
REPRESENTATION OF ANIMATED DESIGNS

Question 18 - In your jurisdiction, which methods of representation can applicants use to claim protection for animated designs?

Responding Party	Moving images		Static images in electronic format		Static images in paper format	Any additional requirements
	File format (e.g., avi, flv, wmv, wav, mov, mp4):	Maximum size, if any	File format (e.g., pdf):	Maximum size, if any		
Brazil			pdf		Yes	The number of variations is limited to 20 in either formats (paper and electronic).
Canada			pdf jpeg tiff gif	21.59cm; margins min.2.5cm; resolution min.300dpi PDF: 60MB; Other file formats: 10MB	Yes	
China			jpg tiff	not exceeding 150mmx220mm	Yes	
Colombia			Yes		Yes	Sufficient animation frames within 1 (one) letter-size sheet (21.59 x 29.94 cm), such that the animation can be clearly seen and that it represents the same scene; e.g. the movement of a character within the same environment.
Croatia			jpeg jpg gif png bmp	6189x4016 px	Yes	max. 6 views per one design.
Czech Republic						
Denmark			jpg pdf		Yes	
Estonia			jpg pdf		Yes	
Finland			Yes		Yes	
France			jpg gif png bmp	Size of the reproduction on photographs or drawings: minimum 8 cm and maximum 15 cm*18 cm		

Responding Party	Moving images		Static images in electronic format		Static images in paper format	Any additional requirements
	File format (e.g., avi, flv, wmv, wav, mov, mp4):	Maximum size, if any	File format (e.g., pdf):	Maximum size, if any		
				File size limit per frame: 5 MB and minimum resolution 300 dpi		
Georgia			pdf	See additional requirements and comments	Yes	On paper format the size of each perspective of the image shall not exceed 16x16 cm and shall not be less than 3x3 cm.
Germany			jpeg	2 MB per view	Yes	
Hungary			pdf docx odt tif tiff jpg jpeg png	150 MB/image, the size of the whole submission may not exceed 300 MB	Yes	
Ireland			jpeg	4 MB with 17 cm x 24 cm maximum size	Yes	17x24 cm maximum size.
Kazakhstan						
Lithuania			jpg	2 MB per picture	Yes	The applicant must represent a set of images in such an order that it would reflect the movement/change/progression that applicant is aiming to protect. All images must be represented in 3 copies, which can not be bigger than 200x150 mm.
Mexico			Yes		Yes	
New Zealand						
Pakistan					Yes	
Peru					Yes	
Poland			any format		Yes	
Portugal			jpeg pdf	300dpi's	Yes	
Republic of Korea	swf mpeg wmv animated gif	*	tiff jpg	300dpi to 400 dpi (300 dpi recommended)	Yes	

Responding Party	Moving images		Static images in electronic format		Static images in paper format	Any additional requirements
	File format (e.g., avi, flv, wmv, wav, mov, mp4):	Maximum size, if any	File format (e.g., pdf):	Maximum size, if any		
Republic of Moldova			Yes	Yes	Yes	
Romania			gif	The graphic representations can have minimum dimensions 60 x 60 mm or a multiple thereof, but maximum 180 x 240 mm.	Yes	The graphic representations can have minimum dimensions 60 x 60 mm or a multiple thereof, but maximum 180 x 240 mm.
Singapore			jpg	The dimensions for each of the views of the design should not exceed 13 cm x 15 cm, and should not be smaller than 3 cm x 3 cm. The total file size of all the images and the attachments submitted should not exceed 100 MB. A total of up to 40 different views of the same GUI may be filed as representations of the design which protection is being sought for. The Registry may, on written request, allow for more than 40 views to be filed.	Yes	
Slovakia			pdf jpeg tiff png gif svg	35 MB	Yes	
Sweden			jpeg png gif		Yes	
Switzerland						
United Kingdom	*	*	jpeg	Each file 4MB max, 12 images max	Yes**	
United States of America			pdf	100MB		
BOIP			jpg jpeg	Size: minimum 100x100 pixels ;	Yes*	

Responding Party	Moving images		Static images in electronic format		Static images in paper format	Any additional requirements
	File format (e.g., avi, flv, wmv, wav, mov, mp4):	Maximum size, if any	File format (e.g., pdf):	Maximum size, if any		
				maximum 3000x3000 pixels		

COMMENTS:

Canada

If an application is filed in paper form, it must be printed on one side of the page only (e.g. no double-sided printing), on white paper with the following dimensions: between 20 cm and 22 cm (7.9 in and 8.5 in) by 25 cm and 36 cm (9.8 in and 14 in). The page orientation may be portrait or landscape.

Colombia

Although the jurisdiction has not yet regulated the acceptance of animations in Colombia, two-dimensional designs are applicable; digital files with a maximum size of 5 MB in PDF format and in letter size (21.59 x 27.94 cm) are accepted.

Czech Republic

We do not register animated industrial designs.

Denmark

As for now we only accept static images as representation of the design.

Static images both electronic and in paper format must be submitted separately and each image must not exceed the papersize A4.

Georgia

In case of e-filing system, static images may be presented in format JPEG, Resolution of images -300x300dpi; minimum size - 3cm x 3cm (at 300dpi); maximum size 16cm x 16cm (at 300dpi); maximum file size (per file) -5 Megabytes, borders -between 1 and 20 pixels.

Mexico

The IMPI protects sequences of interface screens, as long as it is indicated in the application description.

Peru

In accordance with the provisions of Article 119 of Decision 486, the applicant shall submit the graphical and photographic representation of the industrial design. For two-dimensional designs incorporated in a flat material, the representation may be replaced by a sample of the material incorporated in the design.

Republic of Korea

* Moving images are only possible as reference views, maximum size 200Mb, (640X480 pixels are recommended).

Republic of Moldova

Static images in electronic format are related only to the applications with MD designation submitted by Hague System and the applications submitted on-line through e-AGEPI service (<https://e-servicii.agepi.gov.md/en>).

Sweden

We have not yet had any such application.

Switzerland

The IPI does not accept animated designs at all.

United Kingdom

* We cannot accept moving images.

** Unlimited images allowed providing they are no bigger than 4MB per image once scanned.

United States of America

Static representations are accepted in electronic or paper format. The USPTO does not currently accept moving image files. See 37 CFR § 1.84 for the standards for drawings in patent applications before the USPTO.

For example, see 37 CFR § 1.84 (e)-(g):

“(e) Type of paper. Drawings submitted to the Office must be made on paper which is flexible, strong, white, smooth, non-shiny, and durable. All sheets must be reasonably free from cracks, creases, and folds. Only one side of the sheet may be used for the drawing. Each sheet must be reasonably free from erasures and must be free from alterations, overwritings, and interlineations. Photographs must be developed on paper meeting the sheet-size requirements of paragraph (f) of this section and the margin requirements of paragraph (g) of this section. See paragraph (b) of this section for other requirements for photographs.

(f) Size of paper. All drawing sheets in an application must be the same size. One of the shorter sides of the sheet is regarded as its top. The size of the sheets on which drawings are made must be:

(1) 21.0 cm. by 29.7 cm. (DIN size A4), or

(2) 21.6 cm. by 27.9 cm. (8 1/2 by 11 inches).

(g) Margins. The sheets must not contain frames around the sight (i.e., the usable surface), but should have scan target points (i.e., cross-hairs) printed on two catercorner margin corners. Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at

least 1.0 cm. (3/8 inch), thereby leaving a sight no greater than 17.0 cm. by 26.2 cm. on 21.0 cm. by 29.7 cm. (DIN size A4) drawing sheets, and a sight no greater than 17.6 cm. by 24.4 cm. (6 15/16 by 9 5/8 inches) on 21.6 cm. by 27.9 cm. (8 1/2 by 11 inch) drawing sheets.”

The size limit for electronic filings is 25 MB. <https://www.uspto.gov/patents-application-process/filing-online/legal-framework-efs-web#heading-9>

For additional requirements associated with electronic filings see <https://www.uspto.gov/patents-application-process/applying-online/efs-web-pdf-guidelines>.

BOIP

Paper: minimum 1,5x1,5 cm; maximum 8x8 cm

Question 19 - Where a choice of different methods of representation is available in your jurisdiction, what method is used the most by applicants?

Responding Party	Moving images	Static images in electronic format	Static images in paper format
Brazil		Yes	
Canada			Yes
China		Yes	
Colombia		Yes	
Croatia			Yes
Czech Republic		Yes	
Denmark		Yes	
Estonia		Yes	
Finland		Yes	
France			
Georgia		Yes	Yes
Germany		Yes	
Hungary			Yes
Ireland		Yes	
Kazakhstan			
Lithuania			
Mexico			Yes
New Zealand			
Pakistan			Yes
Peru			
Poland		Yes	Yes
Portugal		Yes	Yes
Republic of Korea		Yes	
Republic of Moldova		Yes	
Romania		Yes	Yes
Singapore		Yes	
Slovakia			Yes
Sweden			
Switzerland			
United Kingdom		Yes	
United States of America		Yes	
BOIP		Yes	

COMMENTS:

Canada

In Canada although 60 percent of applicants still file in paper, the proportion of electronic applications increased over the past years.

Colombia

In Colombia, 97% of applications are filed online. Hence, the applicant directly uploads his/her representations into a database (in pdf and jpg formats). Furthermore, all paper applications are digitized, meaning that all images are static in electronic format.

Czech Republic

Moving images are not accepted.

Finland

90% in electronic format.

Georgia

It depends on an applicant. However, it has to be mentioned that in 2018, we have differentiated the fees for applications filed on paper or by electronic method, in order to encourage applicants to use e-filing system. So after that applicants choose to file applications electronically.

Lithuania

So far, no such an application was filled by an applicant in our bureau.

Mexico

Online representation is only gradually being used in Mexican practice; so paper representation still predominates.

Peru

Not applicable.

Republic of Moldova

Static images in electronic format are related only to the applications with MD designation submitted by Hague System and the applications submitted on-line through e-AGEPI service (<https://e-servicii.agepi.gov.md/en>)

Romania

Moving images is not permitted for the moment due to technical reasons.

Sweden

N/A as we have not had any such applications yet.

Switzerland

The IPI does not accept animated designs at all.

United Kingdom

The majority of applications are electronically filed.

United States of America

Static images in electronic format is the most frequently used method by applicants by a large margin.

Question 20 - Are there any additional/special requirements regarding the contents of the application for animated designs?

Responding Party	Additional/special requirements for animated designs	If yes, please specify
Brazil	No	
Canada	No	
China	Yes	A brief description is needed to illustrate the dynamic process of animation.
Colombia	Yes	Sufficient animation frames within 1 (one) letter-size sheet (21.59 x 29.94 cm), such that the animation can be clearly seen and that it represents the same scene; e.g. the movement of a character within the same environment.
Croatia	Yes	Short sequence of views used to show a single animated design at different specific moments in time, in a clearly understandable progression. The sequence of snapshots needs to be visually related (must have features in common) and it is the responsibility of the applicant to number the views in such a way so as to give a clear perception of the movement/progression.
Czech Republic		
Denmark	Yes	It has to live up to the requirements of CP6.
Estonia	No	
Finland	No	
France		
Georgia	Yes	For the animated GUIs and/or icons, are required series of static images in electronic format or in paper format, which show changes in the sequence of the animated design at different moments in time.
Germany		
Hungary	No	
Ireland	No	
Kazakhstan		
Lithuania	No	
Mexico	No	
New Zealand		
Pakistan	No	
Peru		
Poland	Yes	Views should be visually related and should be presented in such a way so as to give a clear perception of the movement. Up to 10 views.

Responding Party	Additional/special requirements for animated designs	If yes, please specify
Portugal	No	
Republic of Korea	Yes	Each sequence of movement needs to show consistency of the change as an animated design.
Republic of Moldova	No	
Romania	No	
Singapore	Yes	A dynamic GUI is to be filed in an application as a series of static representations, where each representation (in the form of a drawing or photograph) shows a freeze-frame of the GUI in action. The applicant may provide, in a cover letter or separate document accompanying the application form, an explanatory statement for each representation to clearly describe the elements in the GUI (e.g. how they are activated, how they interact, whether the GUI only appears in an "on" state, whether certain GUI elements subsequently arise from user interaction, etc.). As far as possible, the representations must be filed in consecutive order. At least 2 views should be filed for a single dynamic GUI.
Slovakia	No	
Sweden	No	
Switzerland		
United Kingdom	No	N/A
United States of America	Yes	Computer generated icons including images that change in appearance during viewing may be the subject of a design claim. Such a claim may be shown in two or more views. The images are understood as viewed sequentially, no ornamental aspects are attributed to the process or period in which one image changes into another. A descriptive statement must be included in the specification describing the transitional nature of the design and making it clear that the scope of the claim does not include anything that is not shown. Examples of such a descriptive statement are as follows: "The subject matter in this patent includes a process or period in which an image changes into another image. This process or period forms no part of the claimed design;" or "The appearance of the transitional image sequentially transitions between the images shown in Figs. 1-8. The process or period in which one image transitions to another image forms no part of the claimed design;" or "The appearance of the transitional image sequentially transitions between the images shown in Figs. 1-8. No ornamental aspects are associated with the process or period in which one image transitions to another image." MPEP § 1504.01(a)(IV)
BOIP	No	

COMMENTS:

Canada

It is recommended that a figure reference accompany an animated design application. When included, the figure reference should read as "Figure 1.1 – first frame of the sequence," "Figure 1.2 – second frame of the sequence," etc. to clarify that the images are to be examined as an animated sequence. If there are no figure references and there is no descriptive statement of the sequence, the Office will interpret the order in which the figures appear as defining the sequence of the design for which protection is sought.

Czech Republic

We do not register animated industrial designs.

France

The content of an application for a design registration is subject to the conditions laid down in Convergence Program 6: Convergence on Graphic Representations of Designs.

The applicant is requested to provide a description of the sequence and to number the frames in such a way as to allow a clear perception of the movement/progress. Each sequence of the animation is represented separately.

Germany

Not applicable.

Peru

Not applicable.

Switzerland

The IPI does not accept animated designs at all.

Question 21 - Where video files can be used by applicants to represent animated designs in your jurisdiction:

Responding Party	Video files only are accepted	Video files + series of static images are mandatory	Video files are mandatory + series of static images are optional	Video files are optional + series of static images are mandatory	Other
Brazil					Yes Video files are not allowed.
Canada					
China					
Colombia					
Croatia				Yes	
Czech Republic					Yes We do not accept video files.
Denmark					

Responding Party	Video files only are accepted	Video files + series of static images are mandatory	Video files are mandatory + series of static images are optional	Video files are optional + series of static images are mandatory	Other
Estonia				Yes	
Finland					Yes Video files are not allowed.
France					
Georgia					
Germany					
Hungary					
Ireland					
Kazakhstan					
Lithuania					
Mexico				Yes	
New Zealand					
Pakistan				Yes	
Peru				Yes	
Poland					
Portugal					
Republic of Korea				Yes	
Republic of Moldova				Yes	
Romania					Yes For the moment due to technical reasons it is not permitted to receive video files.
Singapore					
Slovakia				Yes	
Sweden					
Switzerland					
United Kingdom					
United States of America					
BOIP					

COMMENTS:

Colombia

Video archives are still not accepted.

Croatia

Series of static images are mandatory as they determinate the scope of protection, but the Office will accept video files in application as information.

Denmark

As for now we do not accept video files as the representation of the design.

Georgia

Video files are not used for application of animated designs. We only accept static images.

Germany

Not applicable.

Lithuania

According to the law an application for the registration of a design shall contain photographs or graphic representations of a design.

Poland

Video files are not acceptable.

Portugal

At the present moment, video files are not an acceptable mean of representation of designs.

Republic of Moldova

The legislation of the Republic of Moldova does not provide the protection of the videos as industrial design.

Sweden

We have not yet had any such applications, but we generally recommend an applicant to use one means of representation of the design.

Switzerland

The IPI does not accept animated designs at all.

United Kingdom

N/A

United States of America

The USPTO currently does not accept video files.

BOIP

N/A

Question 22 - Where both series of static images and video files are contained in the application, which format determines the scope of protection?

Responding Party	Both formats, treated equally	Video files prevail and static images are treated just as a reference information	Static images prevail and video files are treated just as reference information
Brazil			
Canada			
China			
Colombia			Yes
Croatia			Yes
Czech Republic			
Denmark			Yes
Estonia			Yes
Finland			Yes
France			
Georgia			Yes
Germany			
Hungary			
Ireland			
Kazakhstan			
Lithuania			
Mexico			Yes
New Zealand			
Pakistan			Yes
Peru			Yes
Poland			
Portugal			
Republic of Korea			Yes
Republic of Moldova			Yes
Romania			
Singapore			
Slovakia			Yes
Sweden			
Switzerland			
United Kingdom			
United States of America			
BOIP			

COMMENTS:

Brazil

Video files are not allowed in the Brazilian design register application.

Croatia

Series of static images are mandatory as they determinate the scope of protection, but the Office will accept video files in application as information.

Czech Republic

We do not register animated industrial designs. We do not accept video files.

Georgia

According to our legislation, only static images are required for registration of a design, because the scope of legal protection of a design shall be determined by its image.

Germany

Not applicable.

Kazakhstan

In accordance with paragraph 55 of the Rules for the Examination of Industrial Property Applications, the requirements for a set of images of an article are as follows: images of the external appearance of an article must contain visually identifiable information about significant features of the utility model, which define the scope of legal protection for the utility model being requested by the applicant.

Photographs or drawings of articles may be submitted as images, including those executed using computer graphics, reproduction, or other means.

Lithuania

Only static images are accepted.

Poland

Video files are not acceptable.

Portugal

Because INPI presently does not accept video files, the answer to this question is not required. However, regarding images, our Office accepts two kinds: graphical or photographs. If both are included in the same application, we must understand without a doubt that they represent the same product.

Republic of Moldova

The legislation of the Republic of Moldova does not provide the protection of the videos as industrial design.

Sweden

See q. 18. The generally issue with using two formats is that it can be perceived as two designs rather than one.

Switzerland

The IPI does not accept animated designs at all.

United Kingdom

N/A

United States of America

N/A. See answer 21.

BOIP

N/A

Question 23 - If animated designs are represented by series of static images or a sequence of drawings or photographs, are there additional requirements regarding the images?

Responding Party	Additional requirements	If yes, is it required that:				
		All images relate to the same function of the article	All images be visually related	All images give a clear perception of the movement/ change/ progression	The number of images does not exceed a maximum number	Other
Brazil	Yes		Yes			
Canada	No					
China	Yes	Yes	Yes	Yes		
Colombia	Yes		Yes	Yes	Yes	
Croatia	Yes		Yes	Yes	Yes	
Czech Republic						
Denmark	Yes		Yes	Yes		Yes
Estonia	No					
Finland	No					
France	Yes		Yes	Yes	Yes 100	
Georgia	Yes		Yes	Yes		
Germany	Yes	Yes	Yes	Yes	Yes	
Hungary	No					
Ireland	Yes	Yes	Yes	Yes	Yes	
Kazakhstan						
Lithuania	Yes		Yes	Yes		
Mexico	Yes			Yes		Yes*
New Zealand						
Pakistan	No					
Peru	Yes			Yes		
Poland	Yes		Yes	Yes	Yes Up to 10	
Portugal	Yes	Yes	Yes	Yes	Yes 7 views per product	Yes*
Republic of Korea	Yes	Yes	Yes	Yes		
Republic of Moldova	No					
Romania	Yes		Yes	Yes		
Singapore	Yes			Yes	Yes	
Slovakia	Yes			Yes		
Sweden			Yes			

Responding Party	Additional requirements	If yes, is it required that:				
		All images relate to the same function of the article	All images be visually related	All images give a clear perception of the movement/ change/ progression	The number of images does not exceed a maximum number	Other
Switzerland						
United Kingdom			Yes	Yes	If filed electronically there is a maximum of 12 images allowed though there is no limit with paper filed applications.	
United States of America						
BOIP		Yes	Yes	Yes		

COMMENTS:

Brazil

The Brazilian legislation provides no protection for animated designs. That been said, each frame of the animation might be individually protected as a static image. The static images should therefore be visually related in order to be included in the same application, but the protection provided will not concern the movement that results from the sequence of static images.

Canada

The individual frames do not need to include substantially similar content to one another, as they are not assessed independently from their sequential arrangement.

Colombia

Sufficient animation frames within 1 (one) letter-size sheet (21.59 x 29.94 cm), such that the animation can be clearly seen and that it represents the same scene; e.g., the movement of a character within the same environment.

Croatia

Maximum number of views is 6.

Czech Republic

We do not register animated industrial designs.

Denmark

It has to live up to CP6.

Georgia

The number of images is not limited. Applicant has to file as many images as possible to give a clear perception of the movement/change.

Mexico

* Meet the requirement of unity of design.

Portugal

* The views must illustrate the product alone, without any other elements or accessories that are not part of it. Measures or subtitles are not accepted either.

Romania

These additional requirements are in accordance with the Common Communication launched in the frame of the EUIPO Convergence Programme.

Singapore

A total of up to 40 different views of the same GUI may be filed as representations of the design which protection is being sought for.

Sweden

Animated designs are not examined differently from a “normal” design, and the requirements are the same.

Switzerland

The IPI does not accept animated designs at all.

United Kingdom

We have signed up to EUIPO's Convergence Program (CP6) – Convergence on the Graphic Representations of Designs. This requires that, where a design consists of a GUI or sequence, the representations will consist of a: *“Short sequence of views used to show a single animated design at different specific moments in time, in a clearly understandable progression. This applies to an animated icon (design consisting of a sequence) or an animated graphical user interface (design of an interface). In order to be accepted: The sequence of snapshots needs to be visually related (must have features in common) and it is the responsibility of the applicant to number the views in such a way so as to give a clear perception of the movement/progression.”*

United States of America

See answer 20.

BOIP

See CP 6.

Question 24 - In which format are animated designs granted?

Responding Party	Paper registration/ patent	Electronic (e-grant)	Other	Comments
Brazil		Yes		
Canada	Yes			
China	Yes	Yes		
Colombia		Yes		
Croatia	Yes			
Czech Republic				We do not register animated industrial designs.
Denmark	Yes			As a general rule we issue paper registrations/grants, but we can issue e-grants if applicants request it.
Estonia	Yes			
Finland	Yes			
France	Yes	Yes		Electronic grant and issuance of a paper registration certificate.
Georgia	Yes			
Germany		Yes		
Hungary	Yes	Yes		
Ireland	Yes			
Kazakhstan				In Kazakhstan, a patent for a utility model is issued on paper, regardless of the type of model.
Lithuania	Yes			
Mexico		Yes		
New Zealand				
Pakistan	Yes			
Peru	Yes			
Poland	Yes			
Portugal	Yes	Yes		
Republic of Korea	Yes	Yes		
Republic of Moldova	Yes			
Romania	Yes			
Singapore	Yes	Yes		
Slovakia	Yes			
Sweden				We have not yet had any such applications.
Switzerland				The IPI does not accept animated designs at all.
United Kingdom				? We are unclear on this question.
United States of America	Yes			Namely an issued U.S. design patent.
BOIP		Yes		

Question 25 - In which format are animated designs published?

Responding Party	Paper publication	Electronic publication	Other	Comments
Brazil		Yes		
Canada			Yes	The Office does not actively publish Industrial Design Registrations (e.g. in a Journal or Bulletin), however applications made available to the public are entered in the Canadian Industrial Designs Database. The Office also makes paper copies of applications available to the public, which may be consulted in person via CIPO's Client Service Centre.
China	Yes	Yes		
Colombia		Yes		
Croatia		Yes		
Czech Republic				We do not register animated industrial designs.
Denmark		Yes		
Estonia		Yes		
Finland				
France	Yes			Paper publication of designs in the BOPI (<i>Bulletin Officiel de la Propriété Intellectuelle</i>) and electronic publication of data.
Georgia	Yes	Yes		
Germany		Yes		
Hungary		Yes		
Ireland	Yes			
Kazakhstan				
Lithuania		Yes		
Mexico		Yes		
New Zealand				
Pakistan				Pakistan does not publish any Industrial Designs.
Peru		Yes		
Poland		Yes		
Portugal		Yes		
Republic of Korea	Yes	Yes		
Republic of Moldova	Yes	Yes		Electronic publication - The Official Bulletin of Intellectual Property (BOPI) http://agepi.gov.md/en/publication/48
Romania	Yes	Yes		
Singapore		Yes		
Slovakia		Yes		
Sweden	Yes	Yes		
Switzerland				The IPI does not accept animated designs at all.
United Kingdom		Yes		
United States of America				As an issued U.S. design patent. The U.S. does not publish design applications prior to grant. See answer 24.
BOIP		Yes		

Question 26 - Are there any special publication procedures for animated designs?

Responding Party	Special publication procedures for animated designs	Comments
Brazil	No	
Canada	No	
China	No	
Colombia	No	
Croatia	No	
Czech Republic		We do not register animated industrial designs.
Denmark	No	
Estonia	No	
Finland	No	
France	No	
Georgia	No	
Germany	No	
Hungary	No	
Ireland		
Kazakhstan		
Lithuania	No	
Mexico	No	
New Zealand		
Pakistan	No	
Peru	No	
Poland	No	
Portugal	No	
Republic of Korea	No	
Republic of Moldova	No	
Romania	No	
Singapore	No	
Slovakia	No	
Sweden	No	
Switzerland		The IPI does not accept animated designs at all.
United Kingdom	No	
United States of America	No	
BOIP	No	

ADDITIONAL QUESTIONS

Question 27 – (I) In your jurisdiction, are some graphic images excluded from protection under design law?

Responding Party	Some graphic images excluded from protection	If yes, which of the following types of images are excluded from protection:			
		Graphic images representing “contents” that are independent from the function of the article (e.g., a scene of a film or images from a computer/TV game)	Graphic images provided only for decorative purposes (such as a desktop wallpaper)	Graphic images provided only for conveying information	Other
Brazil	No				
Canada	Yes				Yes*
China	Yes	Yes	Yes	Yes	
Colombia	No				
Croatia	No				
Czech Republic	No				
Denmark	Yes			Yes	
Estonia	No				
Finland	No				
France	Yes				Yes*
Georgia	No				
Germany	Yes		Yes	Yes	
Hungary	No				
Ireland	No				
Kazakhstan					Yes*
Lithuania	Yes	Yes	Yes	Yes	
Mexico	Yes	Yes			
New Zealand	Yes				Yes*
Pakistan	No				
Peru	No				
Poland	No				
Portugal				Yes	Yes*
Republic of Korea	Yes				
Republic of Moldova	Yes				Yes
Romania	Yes				Yes
Singapore	No				
Slovakia	No				
Sweden	Yes	Yes			
Switzerland	No				
United Kingdom	No				
United States of America					Yes
BOIP	No				

Question 27 – (II) If YES, how is the exclusion justified? If yes, how are the graphic images subject to protection defined?

Responding Party	Justification of the exclusion from protection	Definition of the graphic images subject to protection
Brazil		
Canada		
China	The protected GUI shall meet the following two conditions: 1. It is linked to the implementation of the function of the article; 2. It is linked to human-computer interaction.	
Colombia		
Croatia		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Georgia		
Germany		
Hungary		
Ireland		
Kazakhstan		An examination is performed in order to determine the scope of protection.
Lithuania	The design must be presented in the neutral background without any additional elements which are out of scope of protection.	The design photography or graphic images are a key document that contains information about a registered design and defines the scope of protection.
Mexico	The industrial design must be represented in accordance with the protection requested and can be complemented with at least one reproduction of an "example of use" that shows the independent contents of the design. Elements that do not constitute part of the sought protection are considered to be foreign to the design.	
New Zealand	Designs Act 1953 section 51.	
Pakistan		
Peru		
Poland		
Portugal	<i>"Graphic images provided only for conveying information"</i> would be rejected by our Office because they do not comply with the legal definition of design. (Article 173. ^o of the IPC)	
Republic of Korea	It is excluded where the designs are the part of well-known copyright works/trademark/design under the Article 33(2) or 34(3) of Design Protection Act, or where the contents that is liable to contravene the public order or morality under 34(2) of the same law.	
Republic of Moldova		

Responding Party	Justification of the exclusion from protection	Definition of the graphic images subject to protection
Romania	The legal provisions of Design Law.	
Singapore		
Slovakia		
Sweden		
Switzerland		
United Kingdom		
United States of America		
BOIP		

COMMENTS:

Brazil

Contents which are independent from the function of the article might be subject to other intellectual property rights (e.g., copyrights) and must be authorized by the content owner. Graphic images that convey information using text or words are not allowed and must be amended by excluding words and text.

Canada

* In Canada, a design is not registrable if it is contrary to public morality or order (ref. para 7(e) of the *Industrial Design Act*). Consequently any image that is considered to be contrary to public morality or order would be excluded. See s.13.03.02 of the Industrial Design Office Practice Manual (IDOP): [...] the Office "considers whether an application is "contrary to public morality" on a case-by-case basis, taking into account generally accepted mores of the time".

Croatia

An industrial design shall not subsist in a design that is contrary to public interests or accepted principles of morality. Also, if the design constitutes an unauthorized use of any of the items listed in Article 6ter of the Paris Convention for the Protection of Industrial Property (hereinafter referred to as the Paris Convention), or of badges, emblems and escutcheons other than those covered by the said Article of the Paris Convention, which are of particular interest to the Republic of Croatia, will not be registered.

Denmark

As a part of our examination of applications we assess whether or not a design is against public order or morality.

Graphic images containing information are not excluded per se. If the images represent a characteristic type font it might be recognized as a design. Images containing plain text/information do not represent "a design" hence they are excluded from registration. The text might be covered by copyright law.

France

Exclusions are provided for by legislative provisions that apply to all designs, namely: articles L511-1 to L511-8, article L512-2 and article L512-4. For example, designs of graphic interfaces or icons contrary to public policy and/or morality are excluded from protection as designs.

Kazakhstan

* In accordance with Article 8(2) of the Republic of Kazakhstan Patent Law, the following designs are not recognized as utility models:

- 1) those that are determined exclusively by the technical function of the articles;
- 2) architectural objects (other than small-scale architectural forms), industrial, hydraulic engineering, and other permanent structures;
- 3) objects with an unstable form that are made of liquid, gaseous, loose, or similar materials;
- 4) articles that are counter to the public interest and the principles of humanity and morality.

Designs that can cause confusion include designs that reproduce or include elements which are identical to or give a general impression that would result in confusion:

- with state seals, flags, and other state symbols and emblems;
- with the abbreviated or full names of international and intergovernmental organizations, their seals, flags, symbols, and emblems;
- with official inspection, warranty, or assay stamps, seals, awards, and other marks of distinction;
- elements are included in the design of the external appearance of an article with the approval of the relevant competent authority;
- with elements that may not undergo state registration in the Republic of Kazakhstan as trademarks in accordance with an international treaty, because the elements are protected in one of the states that are parties to the international treaty as a designation that allows for the identification of articles as originating from its territory (produced within the boundaries of a geographical area of this state) and that have a special quality, reputation, or other characteristics that are defined by their origin, if the utility model is intended for the packaging or labelling of articles not originating from the territory of the given geographical area;
- with official names or images of especially valuable cultural heritage objects of the peoples of the Republic of Kazakhstan or of global cultural or natural heritage objects, or with images of cultural assets, if a patent is being requested in the name of persons who are not their owners, without the consent of the owners or persons authorized by the owners to register such designs as utility models;
- with trademarks of other persons that are protected in the Republic of Kazakhstan that are known as of the date an application is filed, including protection in accordance with an international treaty of the Republic of Kazakhstan, with respect to goods that are the same as the article in question;
- with trademarks of other persons recognized in accordance with the Republic of Kazakhstan Law on Trademarks, Service Marks, and Designations of Origin of Goods, as generally known trademarks in the Republic of Kazakhstan with respect to goods that are the same as the article in question;
- with well-known names, pseudonyms, or designations derived from them, portraits or facsimiles of persons well-known in the Republic of Kazakhstan as of the date the application is filed, without the consent of these persons or their heirs.

Mexico

Mexican practice allows the description of the application to present the figures in terms of "example of use" representation of the design.

New Zealand

* Contrary to law or morality, and reserved images, e.g the image of the flag of a nation or the logos of an international organization or a registered trademark.

Portugal

* The exclusions which apply to designs are those stated in articles 197.^o from IPC*

Article 197.^o REASONS FOR REFUSAL

1 - In addition to the provisions of Article 24.^o, registration of a design or model shall be refused if it contains:

- a) Symbols, crests, emblems or distinctions of the state, municipalities or other Portuguese or foreign public or private bodies, the emblem and name of the Red Cross or other similar bodies and any signs covered by Article 6^{ter} of the Paris Convention for the Protection of Industrial Property, unless authorized;
- b) Signs of a high symbolic value, such as religious symbols, unless authorized;
- c) Expressions or figures against the law, morality, public policy and accepted principles;
- d) (Revoked.)
- e) (Revoked.)
- f) (Revoked.)
- g) (Revoked.)

2 - Registration of a design or model shall also be refused if it consists exclusively of the Portuguese flag or some of its elements.

3 - Registration of a design or model containing the Portuguese flag, among other elements, is also refused if it is likely to:

- a) Mislead a consumer into thinking that the products or services come from an official body;
- b) Result in disrespect for the Portuguese flag or any of its elements.

4 - When invoked in an objection, registration shall be refused if:

- a) A design or model does not fulfil the conditions set forth in Articles 176 to 180;
- b) There is a breach of Article 58 or 59, with the necessary adaptations;
- c) A design or model interferes with a previous design or model disclosed to the public after the date of the application or priority claim and protected since a prior date by a design or model application or registration;
- d) A distinctive sign is used in a later design or model and EU law or the provisions regulating this sign confer the right to prohibit its use;
- e) A design or model constitutes unauthorized use of a work protected by copyright.

5 - Recognition that the applicant wishes to engage in unfair competition or that this is possible, irrespective of his intention, is also grounds for refusal of a design or model registration when involved in an objection.

Republic of Moldova

LAW on the Protection of Industrial Designs No. 161-XVI of July 12, 2007
Article 11. Unprotectable industrial designs

(4) No industrial design shall be protected if it infringes public order or accepted moral standards.

<https://wipo.lex.wipo.int/en/text/421794>

Romania

The following categories of graphic representations are excluded from protection:

- those that do not a neutral background;
- technical drawings presenting the product in cross-section, schematically or in rupture plane with dimensions, with explanatory texts or legends;
- graphic representations that cannot be reproduced by typographic methods;
- those that not completely render the design that is the subject of the application for registration.

Sweden

We are unsure about the meaning of:

- ☐ graphic images provided only for decorative purposes (such as a desktop wallpaper)
- ☐ graphic images provided only for conveying information

Contents that are not part of the design, we generally advise applicants to leave out of the graphical representation of the design.

United Kingdom

Only computer software is excluded.

United States of America

In the United States, there are not per se exclusions relating to graphic images. However, if a claimed design fails to satisfy the requirements of 35 U.S.C. 171 – namely if the claimed subject matter is not a design for an article of manufacture – the application will be rejected.

A picture (or a scene from a movie) standing alone is not patentable under 35 U.S.C. 171. The factor which distinguishes statutory design subject matter from mere picture or ornamentation, per se (i.e., abstract design), is the embodiment of the design in an article of manufacture. Consistent with 35 U.S.C. 171, case law and USPTO practice, the design must be shown as applied to or embodied in an article of manufacture. MPEP § 1504.01.

Question 28 - In your jurisdiction, are certain kinds of GUI/icon designs excluded from design protection?

Responding Party	Certain kinds of GUI/icon designs are excluded from design protection	If yes, please specify
Brazil	No	
Canada	No	
China	Yes	Game interface, startup and power off images, webpage text and image, and screen wallpaper.

Responding Party	Certain kinds of GUI/icon designs are excluded from design protection	If yes, please specify
Colombia	Yes	Typography, words that can constitute a distinctive sign, numbers, elements that contravene the moral or public order, technical plans or everything that involves technical considerations.
Croatia	No	
Czech Republic	No	
Denmark		
Estonia	Yes	Legal protection is not granted to an industrial design which: 1) derives solely from the technical function of the product, unless the industrial design allows specific assembly or connection of products within a modular system or parts of products; 2) is contrary to good practice; 3) is unstable; 4) is a layout design of integrated circuits; 5) is a spare part or component which is not visible upon normal use when assembled in the product. Industrial Design Protection Act § 9 https://www.riigiteataja.ee/en/eli/521012015002/consolide
Finland	No	
France	Yes	See answer to Question 27
Georgia	No	
Germany	No	
Hungary	No	
Ireland	Yes	When the design is contrary to public policy or accepted principles of morality. Where the design constitutes an infringement of a copyright mark, or where it contains protected State emblems (6ter) or other protected elements.
Kazakhstan	Yes	
Lithuania	No	
Mexico		
New Zealand	Yes	Same as for graphic images above.
Pakistan	No	
Peru		
Poland	No	
Portugal	Yes	IPC, in article 197. ° (please confirm above [see comment reproduced under Question 27]) specifies what is excluded from design protection.
Republic of Korea	No	
Republic of Moldova	Yes	LAW on the Protection of Industrial Designs No. 161-XVI of July 12, 2007 - Article 11. Unprotectable industrial designs (4) No industrial design shall be protected if it infringes public order or accepted moral standards. https://wipolex.wipo.int/en/text/421794
Romania	Yes	Designs excluded from protection are: - does not correspond to the definition, - contrary to public order or morality, - determined exclusively by a technical function.
Singapore	No	
Slovakia	No	
Sweden	No	
Switzerland	Yes	GUI/icon designs are excluded if they are unlawful.

Responding Party	Certain kinds of GUI/icon designs are excluded from design protection	If yes, please specify
United Kingdom	No	
United States of America	No	
BOIP	No	

COMMENTS:

Brazil

Icons that are also trademarks cannot be protected through design registration.

Croatia

An industrial design shall not subsist in a design that is contrary to public interests or accepted principles of morality. Also, if the design constitutes an unauthorized use of any of the items listed in Article 6^{ter} of the Paris Convention for the Protection of Industrial Property (hereinafter referred to as the Paris Convention), or of badges, emblems and escutcheons other than those covered by the said Article of the Paris Convention, which are of particular interest to the Republic of Croatia, will not be registered.

Denmark

N/A

Kazakhstan

In accordance with Article 8(2) of the Republic of Kazakhstan Patent Law, the following designs are not recognized as utility models:

- 1) those that are determined exclusively by the technical function of the articles;
- 2) architectural objects (other than small-scale architectural forms), industrial, hydraulic engineering, and other permanent structures;
- 3) objects with an unstable form that are made of liquid, gaseous, loose, or similar materials;
- 4) articles that are counter to the public interest and the principles of humanity and morality.

Designs that can cause confusion include designs that reproduce or include elements which are identical to or give a general impression that would result in confusion:

- with state seals, flags, and other state symbols and emblems;
- with the abbreviated or full names of international and intergovernmental organizations, their seals, flags, symbols, and emblems;
- with official inspection, warranty, or assay stamps, seals, awards, and other marks of distinction;
- elements are included in the design of the external appearance of an article with the approval of the relevant competent authority;
- with elements that may not undergo state registration in the Republic of Kazakhstan as trademarks in accordance with an international treaty, because the elements are protected in one of the states that are parties to the international treaty as a designation

that allows for the identification of articles as originating from its territory (produced within the boundaries of a geographical area of this state) and that have a special quality, reputation, or other characteristics that are defined by their origin, if the utility model is intended for the packaging or labelling of articles not originating from the territory of the given geographical area;

- with official names or images of especially valuable cultural heritage objects of the peoples of the Republic of Kazakhstan or of global cultural or natural heritage objects, or with images of cultural assets, if a patent is being requested in the name of persons who are not their owners, without the consent of the owners or persons authorized by the owners to register such designs as utility models;
- with trademarks of other persons that are protected in the Republic of Kazakhstan that are known as of the date an application is filed, including protection in accordance with an international treaty of the Republic of Kazakhstan, with respect to goods that are the same as the article in question;
- with trademarks of other persons recognized in accordance with the Republic of Kazakhstan Law on Trademarks, Service Marks, and Designations of Origin of Goods, as generally known trademarks in the Republic of Kazakhstan with respect to goods that are the same as the article in question;
- with well-known names, pseudonyms, or designations derived from them, portraits or facsimiles of persons well-known in the Republic of Kazakhstan as of the date the application is filed, without the consent of these persons or their heirs.

Peru

Article 116 of Decision 486 states that industrial designs whose commercial exploitation in the territory of the Member Country in which registration is sought must necessarily be prevented in order to protect morals or public order shall not be registrable. To this end, the commercial exploitation of an industrial design shall not be considered contrary to morality or public order solely owing to the existence of a legal or administrative provision prohibiting or regulating such exploitation.

United Kingdom

The only time an objection would be raised would be if the GUI/icon were contrary to public policy and morality or if it contained a protected emblem.

Question 29 - In your jurisdiction, can a *part of a GUI design (i.e., some elements only of the GUI design)* be protected?

Responding Party	A part of a GUI design can be protected	If yes, how?	If yes, can a part of a GUI design be protected if it appears only under certain circumstances?
Brazil	Yes	The application must represent only the claimed part of the GUI design in solid lines. Optionally, an additional image of the complete GUI design can be shown in broken lines. In both images the claimed part of the GUI design must be shown in in solid lines.	Yes
Canada	Yes		Yes
China	No		
Colombia	No		

Responding Party	A part of a GUI design can be protected	If yes, how?	If yes, can a part of a GUI design be protected if it appears only under certain circumstances?
Croatia	Yes	By representing the exact part of the GUI design or representing the GUI design with disclaimer and clear indication of the product "Part of -"	Yes
Czech Republic	Yes	Representation contains only a part of a GUI or a disclaimer can be used.	Yes
Denmark	Yes	A part of a GUI can be protected for instance by using visual disclaimers in accordance with CP 6.	Yes
Estonia	No		
Finland	Yes	Showing only the part of the GUI.	Yes
France	Yes	The non-protection claim must comply with Convergence Program 6: Convergence in the Graphic Representations of Designs.	Yes
Georgia	Yes		
Germany	Yes	With representations that only show this part or with a graphical disclaimer.	Yes
Hungary		<p>If the mentioned part of the GUI design satisfies the requirements defined in Article 1 of the Hungarian Design Act.</p> <p>(1) Design protection shall be granted for any designs which are new and have individual character.</p> <p>(2) Design shall mean the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colors, shape, texture or materials of the product itself or its ornamentation.</p> <p>(3) Product shall mean any industrial or handicraft item. Products shall include <i>inter alia</i> packaging, get-up, graphic symbols, typographic typefaces and parts intended to be assembled into a complex product. Computer programs shall not be regarded as products.</p> <p>(4) Complex product shall mean a product which is composed of multiple components which can be replaced permitting disassembly and reassembly of the product.</p>	Yes
Ireland	Yes	By the part being clearly identified and where it meets the requirements for registration.	No
Kazakhstan	Yes		
Lithuania	Yes	Provided that other parts of GUI design are marked as not protected, a part of GUI design can be protected.	No
Mexico	Yes	Showing in the figures by means of continuous lines the portion of the design requested for protection and by means of dotted lines what is excluded from protection.	

Responding Party	A part of a GUI design can be protected	If yes, how?	If yes, can a part of a GUI design be protected if it appears only under certain circumstances?
New Zealand			
Pakistan	Yes		Yes
Peru			
Poland	Yes	Visual disclaimers should be used.	Yes
Portugal	Yes	The applicant can exclude some parts of the GUI by the means of visual exclusions such as blurring or broken lines.	Yes
Republic of Korea	Yes	Representation of the claimed GUI or icon + disclaimed area in broken lines + the article in broken lines.	Yes It is desirable to describe the certain circumstance or the function in Description of the Design where the design is transformative.
Republic of Moldova	Yes		Yes
Romania	Yes	According to the design definition.	
Singapore	Yes	The parts for which protection is sought are to be identified in solid lines. The parts for which protection is not claimed are to be indicated by means of broken or stippled lines, or shaded portions, and these disclaimed portions are to be indicated in Form D3 accordingly.	Yes
Slovakia	Yes	A part of a GUI design can be protected by using a visual disclaimer.	No
Sweden	Yes	If the part is represented graphically we believe it can be protected.	Yes
Switzerland	Yes	- By representing the article around the GUI or icon design, that is not part of the protection, by dotted or broken lines. - By representing the GUI or icon design, that is part of the protection, in an isolated manner.	
United Kingdom	Yes	We allow both visual and verbal disclaimers. For example, broken lines may be used to denote areas for which protection are not sought.	Yes
United States of America	Yes	As previously described, structure that is not part of the claimed design, but is considered necessary to show the environment in which the design is associated, may be represented in the drawing by broken lines. This applies to GUI designs just like any other type of design. MPEP 1503.02 (III).	Yes*
BOIP	Yes	By disclaiming the other elements.	Yes

COMMENTS:

Canada

Any part of the representation that is shown in solid line will be considered to be part of the design. Parts of the GUI disclaimed by a written statement or by the use of drawing techniques such as of dotted or broken lines, boundary line, contrasting colour tones, or blurring are considered not to form part of the design (ref. 8.06.02 of the IDOP).

Colombia

Our jurisdiction clearly differentiates between PART and SECTION. If the claimed subject matter is a section of a GUI or icon, it is not accepted. The design must be represented in its entirety.

Georgia

According to Article 3 of the Design law of Georgia - as a design, may be protected appearance of the whole product or its part in compliance with the applicant's request.

Kazakhstan

An independent part of an article is understood to mean a separate part thereof which is visible in the process of the article's normal operation, and specifically articles that comprise a set (suite) of articles, drawings, icons, or logos applied to the surface of an article.

Switzerland

A part of a GUI design can be protected just like any other design, no matter if it appears only under certain circumstances.

United States of America

* Computer generated icons including images that change in appearance during viewing may be the subject of a design claim. MPEP 1504.01(a)(IV)

Question 30 - In your jurisdiction, is protection provided to non-permanent designs?

Responding Party	Protection is provided to non-permanent designs	If yes, is the non-permanent design deemed to be embodied in, or tied, to an article?	If yes, what is the article?
Brazil	Yes	No	
Canada	Yes	Yes	
China	Yes	Yes	The article to which non-permanent designs are attached.
Colombia	Yes	Yes	The article is a medium (screen of a device, a wall where a hologram is projected) and is mutable (e.g., a

Responding Party	Protection is provided to non-permanent designs	If yes, is the non-permanent design deemed to be embodied in, or tied, to an article?	If yes, what is the article?
			three-dimensional toy that transforms itself). Consequently, what is protected is the end-result, namely the GUI or icon as used by the end-user.
Croatia	No		
Czech Republic	Yes	No	
Denmark	Yes	No	
Estonia	No		
Finland	Yes	No	
France	Yes	No	
Georgia	Yes	No	
Germany	Yes	No	
Hungary	Yes	Yes	Clothes, lampshade, hosiery, graphic symbols etc.
Ireland	No		
Kazakhstan	No		
Lithuania	No		
Mexico	Yes	Yes	The product is defined in the claim of the application for registration.
New Zealand	Yes	Yes	Whatever the design is applied to and is visible on under some circumstances.
Pakistan	No		
Peru	Yes	Yes	
Poland	Yes	No	
Portugal	Yes	Yes	The article must be the one that allows the non-permanent design to be revealed.
Republic of Korea	Yes Among the examples : the design of a woman's hosiery which is not apparent unless it is in place on her legs, the design of inflated articles, such as toy balloons, air mattresses, which are not apparent in the absence of the compressed air which gives them form and a	Yes	Like the example of the projection of a speedometer or radio control panel onto a windshield of a car, If the projected (tied) article or the display part of the article can be specified, it is eligible for the design protection.

Responding Party	Protection is provided to non-permanent designs	If yes, is the non-permanent design deemed to be embodied in, or tied, to an article?	If yes, what is the article?
	projection of a speedometer or radio control panel onto a windshield of a car.		
Republic of Moldova	Yes	No	
Romania	Yes		
Singapore	Yes	Yes	The article would be based on the function of the design. E.g. If the design is an inflated toy balloon, the article name will be "toy balloon".
Slovakia	Yes	Yes	e.g., in the design of a lampshade is the article a lampshade.
Sweden	Yes	Yes	It will [be] decided based on the product indication.
Switzerland	Yes	Yes	For instance a balloon or a mattress.
United Kingdom	Yes	No	
United States of America	Yes	Yes	
BOIP	Yes	Yes	

COMMENTS:

Brazil

Regarding the examples in footnote 14: water design in a fountain or the design of a lampshade which is not apparent unless the lamp is lighted are not subject to protection under current legislation, since the object of design registration protection must be subject to industrial manufacturing.

Canada

A non-permanent design is protected as long as it is applied to a finished article. The non-permanent elements will be considered to represent features of the article in use.

China

Protected non-permanent designs shall have a fixed status that can be clearly illustrated in the application.

Denmark

A non-permanent design is not excluded per se, but the registration of the design is dependent on a reproducible representation of the product. The representation of the design defines the design and the registration only covers the design as it appears in the registration.

Georgia

According to the Article 3 of the Design law of Georgia – as a design may be protected the appearance of the whole product or its part, if may be expressed from the features, including lines, contours, colors, shape, texture and/or material or decoration of the product. Connection between a design and an article is not required as a prerequisite for registration.

Hungary

This does not apply to GUIs, as a GUI can be protected without being tied to an article.

Romania

Could be treated as snapshots.

Sweden

One product can be shown in alternate positions.

United Kingdom

We would protect a single design which is shown in an alternate configuration, for example, a light which randomly changes colour through a set sequence.

United States of America

The non-permanent design may deemed to be embodied in, or tied, to an article.

“We do not see that the dependence of the existence of a design on something outside itself is a reason for holding it is not a design ‘for an article of manufacture.’” See *In re Hruby*, 373 F.2d 997, 1001, 153 USPQ 61, 66 (CCPA 1967) (design of water fountain patentable design for an article of manufacture). The dependence of a computer-generated icon on a central processing unit and computer program for its existence itself is not a reason for holding that the design is not for an article of manufacture. MPEP § 1504.01(a)(I).

Question 31 (I) - In your jurisdiction, is an indication of the class required in a design application?

Responding Party	Indication of the class is required in a design application	If yes, which classification system is applied in your Office?		If yes, the class is:	
		The Locarno classification	The domestic classification	Indicated by the applicant	Assigned by the Office
Brazil	Yes	Yes		Yes	Yes
Canada	No				
China	Yes	Yes			Yes
Colombia	Yes	Yes		Yes	Yes

Responding Party	Indication of the class is required in a design application	If yes, which classification system is applied in your Office?		If yes, the class is:	
		The Locarno classification	The domestic classification	Indicated by the applicant	Assigned by the Office
Croatia	Yes	Yes		Yes	Yes
Czech Republic	Yes	Yes			Yes
Denmark	Yes	Yes		Yes	
Estonia	Yes	Yes		Yes	
Finland	Yes	Yes		Yes	Yes
France	Yes	Yes			Yes
Georgia	Yes	Yes		Yes	Yes
Germany	Yes	Yes		Yes	Yes
Hungary	No				
Ireland	Yes	Yes		Yes	
Kazakhstan	Yes	Yes		Yes	Yes
Lithuania	Yes	Yes		Yes	
Mexico	No				
New Zealand	Yes	Yes			Yes
Pakistan	Yes		Yes	Yes	
Peru	No	Yes			Yes
Poland	No				
Portugal	Yes	Yes		Yes	Yes
Republic of Korea	Yes	Yes		Yes	
Republic of Moldova	Yes	Yes		Yes	
Romania	Yes	Yes And the Design Class launched in the frame of the EUIPO Convergence Program.			Yes
Singapore	Yes		Yes	Yes	
Slovakia	Yes	Yes			Yes
Sweden	Yes	Yes		Yes	
Switzerland	No				
United Kingdom	No	Yes			Yes
United States of America	Yes	Yes	Yes		Yes
BOIP	Yes	Yes			Yes

Question 31 (II) - If the Office assigns the class, can the applicant challenge or appeal the classification? - Is there an exception for GUI/icon designs?

Responding Party	The applicant can challenge or appeal the classification	There is an exception for GUI/icon designs
Brazil	Yes	No
Canada	No	No
China	Yes	Yes
Colombia	Yes	No
Croatia	Yes	No
Czech Republic	Yes	No
Denmark	Yes	No

Responding Party	The applicant can challenge or appeal the classification	There is an exception for GUI/icon designs
Estonia		No
Finland	Yes	No
France	Yes	No
Georgia	No	No
Germany	Yes	No
Hungary	Yes	No
Ireland		No
Kazakhstan	Yes	No
Lithuania	Yes	No
Mexico	Yes	No
New Zealand	No*	
Pakistan		No
Peru	Yes	No
Poland	No	No
Portugal	Yes	No
Republic of Korea		No
Republic of Moldova	Yes	No
Romania	Yes	No
Singapore		No
Slovakia	No	No
Sweden		No
Switzerland	Yes	No
United Kingdom	Yes	No
United States of America	No	No
BOIP	Yes	No

COMMENTS:

Brazil

The class must be indicated by the user but might be changed or complemented by the Office.

Canada

The applicant can provide information on what they believe to be the correct classification but it is the Office that makes the final determination of the relevant classification.

China

A GUI is assigned two classification symbols: one is 14.04, the other is the symbol for the article.

Colombia

The class may or may not be indicated in the application. However, the design title enables the office to classify it. If the office considers that the classification does not correspond to what was requested it may change the class, providing justification for its decision. In the case of GUIs or icons, all shall be considered as belonging to class 32, unless the applicant wishes to use classes such as 14, 24 or 26.

Denmark

The applicants indicate the class, but if we disagree we ask the applicant to change the classification and we suggest another class. If the applicant refuses to change the class we reject the classification and the applicant can appeal our decision.

Georgia

The scope of legal protection of a design shall be determined by its appearance and the class of the classification has no influence on the scope of protection, its reference serves only for administrative purposes.

New Zealand

But they can comment if they think the classes assigned are not appropriate.

Poland

Office assigns Locarno classification before registration.

Romania

There may be a correspondence between the Office and the applicant on this issue.

Sweden

The applicant is required to state the Locarno class in their application. However, if not class has been indicated by the applicant or if it appears to be wrong, the examiner will notify the applicant, who will be able to respond/change.

United Kingdom

The applicant can suggest classification if they so wish. If they disagree with the classification the Office has assigned they can notify us but the final decision lies with us.

United States of America

A domestic classification is assigned by the Office to promote efficient access to industrial designs that have been granted patent.

U.S. Design patents issued after May 6, 1997, are assigned a Locarno International Classification for Industrial Designs in addition to the U.S. classification. Dual classification is provided to improve access to U.S. Design patents in foreign search files that are based on the Locarno International Classification system, which is administered by the World Intellectual Property Office (WIPO).

[https://www.uspto.gov/patent/laws-and-regulations/examination-policy/seven-classification-design-patents#Locarno International Classification of Designs](https://www.uspto.gov/patent/laws-and-regulations/examination-policy/seven-classification-design-patents#Locarno%20International%20Classification%20of%20Designs)

Question 32 - Where GUIs are applied to an article, how are they examined in terms of weight given to the visual features where:

Responding Party	The GUI is the same or similar but applied to different articles in the prior art base	The article is the same but shown in active/resting state in the prior art base vs. active/resting state in the application	The article and GUI in the prior art base is the same or similar to one or more but not all of the representations provided showing different stages of the GUI
Brazil			
Canada			
China	Yes	Yes	Yes
Colombia	Yes		
Croatia			
Czech Republic	Yes		
Denmark			
Estonia			
Finland			
France			
Georgia		Yes	
Germany			
Hungary	Yes		
Ireland			
Kazakhstan			
Lithuania			
Mexico	Yes		
New Zealand			
Pakistan			Yes
Peru			
Poland	Yes		Yes
Portugal	Yes		
Republic of Korea			Yes
Republic of Moldova	Yes		
Romania			
Singapore	Yes		
Slovakia			Yes
Sweden			
Switzerland			
United Kingdom			
United States of America			
BOIP			

COMMENTS:

Brazil

In all cases stated above, the examination relies only on the appearance of the GUI in its active state, excluding the visual features of the article where it is applied, or its resting state.

Canada

- 1) If the GUI is the same or similar but it is applied to a different article that is not analogous, then the design is registrable.
- 2) If it is the same article or analogous to the prior art, the Office will examine what is shown in the representation regardless of the active/resting state. If the design is substantially different then it is registrable.
- 3) If the GUI design is the same or similar to one or more, but not all, of the representations in the prior art, the Office will determine whether what we can see is "substantially" similar to the prior art. If it is, then the design is not registrable.

China

Factors to be considered in examination include:

1. Whether the articles embodying the GUIs belong to the same or similar categories;
2. Whether the GUIs are the same or similar;
3. Reaching a comprehensive judgement after holistic observation.

Croatia

It is not examined in the registration procedure at the Office.

Denmark

Our Office does not search for earlier rights.

Estonia

In Estonia, the Office controls only formal requirements of the application; no substantive examination will be done.

Germany

Not applicable.

Ireland

During the examination of design applications the Irish Office does not search prior art.

Lithuania

No examination relating to novelty and individual character is conducted by examiner. It is the matter of Appeal which is processed by the Appeals Division.

Mexico

The design is valued relative to the prior art, as objection can be made as to lack of novelty even in the case of different products.

Portugal

When the application concerns only the GUI its protection is wider than in the cases in which the application shows the GUI in the article.

Republic of Korea

Examination of similarity between animated screen design vs static screen design: If the static appearance of animated screen design is dominated by the aesthetics of the whole, and there is no specificity of the animation, two designs are similar. And if there is specificity of the animation, two designs are not similar.

Romania

Since the registration is not linked with an article, the examination is done as for the other types of designs. A design shall be deemed to be new if no identical design was rendered available to the public prior to the date of filing the application for registration or, if priority was claimed, before the priority date. The designs shall be deemed to be identical if their characteristic features differ only in immaterial details.

Sweden

We are unable to answer this question.

Switzerland

Not applicable.

United Kingdom

N/A

United States of America

All U.S. design patents are examined for satisfaction of the requirements of novelty and nonobviousness in the same manner whether the design is in relation to a GUI type design or another type of design. See MPEP §§ 1504.02 and 1504.03.

BOIP

N/A

Question 33 - Does your legislation allow for GUIs to be considered in their active state?

Responding Party	GUIs can be considered in their active state	If no, is the Office practice to consider them in their active state?
Brazil	Yes	
Canada	Yes	No
China	Yes	
Colombia	Yes	
Croatia	Yes	
Czech Republic	Yes	
Denmark	Yes	
Estonia		
Finland	No	No
France	No	No
Georgia	Yes	
Germany	Yes	

Responding Party	GUIs can be considered in their active state	If no, is the Office practice to consider them in their active state?
Hungary	Yes	
Ireland		
Kazakhstan	No	No
Lithuania	No	No
Mexico	No	No
New Zealand		
Pakistan	No	No
Peru		
Poland	Yes	
Portugal	Yes	
Republic of Korea	No	No
Republic of Moldova	No	No
Romania	No	Yes
Singapore	Yes	
Slovakia	Yes	
Sweden	No	No
Switzerland		
United Kingdom		
United States of America	N/A	N/A
BOIP	Yes	

COMMENTS:

Estonia

Not applicable.

Ireland

There is no mention of GUIs in Irish Design legislation.

Portugal

Our legislation does not specify this matter. The applicant should present the GUI both in its active and resting state in order to ensure a broader protection.

Romania

There is no special provision in this sense.

Switzerland

The question does not seem clear. It is up to the applicant to file the design in an active or a passive state.

United Kingdom

If the question refers to the sequence of events of a design we will allow this as long as the full sequence, start to finish, is clearly shown. We will not protect any form of computer software.

Question 34 - In your jurisdiction, are the infringement criteria the same for GUI/icon designs as for other types of designs?

Responding Party	Same infringement criteria as for other types of designs	If no, how are they different?
Brazil	Yes	
Canada	Yes	
China	Yes	
Colombia	Yes	
Croatia	Yes	
Czech Republic	Yes	
Denmark	Yes	
Estonia	Yes	
Finland	Yes	
France		
Georgia	Yes	
Germany	Yes	
Hungary	Yes	
Ireland	Yes	
Kazakhstan	Yes	
Lithuania	Yes	
Mexico	Yes	
New Zealand		
Pakistan	Yes	
Peru	Yes	
Poland	Yes	
Portugal	Yes	
Republic of Korea	Yes	
Republic of Moldova	Yes	
Romania	Yes	
Singapore	Yes	
Slovakia	Yes	
Sweden	Yes	
Switzerland		
United Kingdom	Yes	
United States of America	Yes	
BOIP		

COMMENTS:

Ireland

All design types are treated the same.

Switzerland

Not applicable, because the IPI is not an examining office.

United Kingdom

Yes, but ultimately this would be for the Courts to determine.

BOIP

Presumably yes. We are not aware of any case law.

Question 35 - In your jurisdiction, which of the following acts constitute infringement of design rights?

Responding Party	Creation of software for displaying a protected GUI	Reproduction of software for displaying a protected GUI	Transfer of software for displaying a protected GUI	Upload of software for displaying a protected GUI	Installation of a protected GUI or icon design – In such case, under what circumstances?	Use of a protected GUI or icon design – In such case, under what circumstances?	Placement of a protected GUI or icon design on a physical article or vice-versa – In such case, under what circumstances?
Brazil						Yes	Yes
Canada							
China							
Colombia						Yes	Yes
Croatia					Yes	Yes	Yes
Czech Republic						Yes	Yes
Denmark							
Estonia	Yes	Yes	Yes	Yes			
Finland	Yes	Yes	Yes	Yes	Yes	Yes	Yes
France							
Georgia					Yes	Yes	Yes
Germany							
Hungary							
Ireland							
Kazakhstan							
Lithuania					Yes	Yes	Yes
Mexico		Yes					
New Zealand							
Pakistan							Yes
Peru							
Poland						Yes	Yes
Portugal						Yes	Yes
Republic of Korea							
Republic of Moldova						Yes	Yes
Romania							
Singapore						Yes	
Slovakia						Yes*	
Sweden						Yes	Yes
Switzerland							
United Kingdom							
United States of America							
BOIP							

COMMENTS:

Brazil

In both cases (the use of a protected GUI/icon design and the placement of a protected GUI/icon design on a physical environment or *vice-versa*), infringement criteria is the

commercial purpose of such activity. The article 42 of the Brazilian Industrial Property Law states that: "Art. 42: The patent confers on its owner the right to prevent a third party, without his consent, from producing, using, offering for sale, selling or importing for these purposes: I – product subject to patent; (...)".

Canada

Design protection allows the proprietor of the design to make, import for the purpose of trade or business, or sell, rent, or offer or expose for sale or rent, any article in respect of which the design is registered and to which the design or a design not differing substantially therefrom has been applied (i.e. you cannot make or sell a display screen with a protected GUI etc.).

China

Criteria for asserting infringement of designs:

1. The articles embodying the GUIs belong to the same or similar categories;
2. The GUIs are the same or similar;
3. Reaching a comprehensive judgement after holistic observation.

Colombia

GUIs or icons, are graphic designs per se. Therefore, the use of a protected design in another article or circumstance, must be assumed to be an infringement, as is the case with a three-dimensional design that incorporates a registered industrial design.

Croatia

If installed/used/placed without owner's consent/approval/agreement/licence.

Denmark

N/A

Finland

Not if only for personal use or for educational or research purposes.

Germany

Infringements of design rights have to be pursued primarily under civil law. The holder of the registered design can sue for design infringement in the regional courts.

Hungary

According to Article 22 of the Hungarian Design Act where the subject matter of a design application or design protection has been taken unlawfully from the design of another person, the injured party or his successor in title may claim a statement to the effect that he is entitled

wholly or partly to the design protection and may claim damages under the rules of civil liability. According to Article 23(1) any person who unlawfully exploits a protected design commits infringement of design protection.

Ireland

It is not possible to accurately answer this question as what acts may constitute the infringement of any design is a matter for the courts and is decided on the particular circumstances of the case.

Kazakhstan

Article 15 of the Republic of Kazakhstan Patent Law

Any person using protected industrial property in violation of the Republic of Kazakhstan Patent Law is considered to be infringing upon the exclusive right of the patent holder (infringing on the patent).

The unauthorized manufacture, application, import, storage, offering for sale, sale, and other introduction into public circulation of a product created with the use of protected industrial property, as well as the application of a protected method or introduction into public circulation of a product manufactured directly using a protected method, are recognized as an infringement of the exclusive right of the patent holder (an infringement of the patent). A new product is considered to have been obtained by a protected method in the absence of evidence to the contrary.

Lithuania

If a protected Design is used for personal purposes only, it is not considered to be an act of infringement of design rights. If the protected Design is used for commercial purposes by the third parties, it may constitute infringement of design rights.

Pakistan

It is very early to ascertain the infringement proceedings, the Office is waiting for any case law to be established in this regard.

Portugal

In our jurisdiction, the article regarding the infringement of a registered Design states the following:

Article 322.^o VIOLATION OF EXCLUSIVE RIGHTS TO DESIGNS OR MODELS

The following acts, without the consent of the holder of the respective right, are punishable by a prison sentence of up to three years or a fine of up to three hundred and sixty days:

- a) Reproduction or imitation of the whole or some of the characteristic parts of a registered design or model;
- b) Exploiting a registered design or model belonging to another person;
- c) Importing or distributing designs or models obtained through any of the means mentioned in the preceding subparagraphs

Republic of Korea

Where an act engaging in producing, transferring, leasing, exporting, or importing any product used only for producing a product which has embedded the screen design, associated with a registered design or any similar design or engaging in offering the sale or rental of such article shall be deemed infringement of the relevant design right or exclusive license. Use of protected GUI or placement of a protected GUI on a physical article can constitute infringement where the article falls within a range of similarity to that of the registered GUI.

Romania

Article 30 of Romanian Design Law provides the exclusive rights of the design holder – “Throughout the period of validity of design registration, the holder has the exclusive right to use the design and to prevent any third party not having his consent from using it. The right holder has the right to prohibit third parties from performing, without his permission, the following acts: reproducing, manufacturing, marketing or offering for sale, putting on the market, importing, exporting or using a product having the design incorporated or applied thereto or storing such a product for the above-mentioned purposes.”

The acts which constitute an infringement for any type of designs can be established by a judicial expert within an infringement trial.

Singapore

Computer programs (ie. “software”) are not registrable in Singapore (section 7(1) of the Registered Designs Act). Software per se therefore cannot form the subject matter of design protection, or in turn, give rise to any cause of action for infringement. Use of a protected GUI or icon design may be infringing if it falls within the circumstances provided in sections 30(1) - (2) of the Registered Designs Act.

The registration of a design under the Registered Designs Act gives to the registered owner the following exclusive rights:

(a) to make in Singapore, or import into Singapore, for sale or hire, or for use for the purpose of trade or business —

(i) any article in respect of which the design is registered and to which that design, or a design not substantially different from that design, has been applied; or

(ii) any device for projecting a non-physical product (being a non-physical product in respect of which the design is registered and to which that design, or a design not substantially different from that design, has been applied);

(b) to sell, hire, or offer or expose for sale or hire, in Singapore —

(i) any article or non-physical product in respect of which the design is registered and to which that design, or a design not substantially different from that design, has been applied; or

(ii) any device for projecting a non-physical product mentioned in sub-paragraph (i).

The right in a registered design is infringed by any person who, without the consent of the registered owner and while the registration is in force

(a) does anything which by virtue of subsection (1) is the exclusive right of the registered owner;

(b) makes anything for enabling any article referred to in subsection (1) to be made in Singapore or elsewhere;

(c) does anything in relation to a kit that would constitute an infringement of the design if it had been done in relation to the assembled article; or

(d) makes anything for enabling a kit to be made or assembled, in Singapore or elsewhere, if the assembled article would be an article referred to in subsection (1).

Given the above, placement of a protected GUI or icon design (or vice-versa) would generally not be infringing because protection is restricted to the article or non-physical product in respect of which the GUI or icon design is registered. Using the example in footnote 18, the GUI/icon design registered in respect of an electronic device will not be infringed if applied to furniture (because that is not the article in respect of which the design is registered).

Slovakia

* Use of a GUI or icon in electronic devices.

Sweden

The same infringement rules apply to all designs.

Switzerland

Not applicable.

United Kingdom

For the Courts to determine.

United States of America

Chapter 28 of Title 35 of the United States Code sets forth United States law with regard to patent infringement including U.S. design patents.

In particular, 35 U.S.C. 271 sets forth that, "[e]xcept as otherwise provided in this title, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States or imports into the United States any patented invention during the term of the patent therefor, infringes the patent".

BOIP

As a non-examining office, BOIP cannot answer this question.

Question 36 - In your jurisdiction, can a *single design registration* cover use of the design in a physical environment and in a virtual or computer environment?

Responding Party	The registration covers use in a physical and virtual or computer environment	Comments
Brazil	Yes	
Canada	No	In Canada, "an application must be limited to one design applied to a single finished article ...". In other words a single design registration covers the use of the design only in a physical environment.
China	No	
Colombia	Yes	If a GUI or icon is reproduced from a design that will be used on a computer or mobile device screen, it should be understood that being a graphic design it can be reproduced, copied or used in

Responding Party	The registration covers use in a physical and virtual or computer environment	Comments
		physical circumstances, such as an advertising printout.
Croatia	Yes	
Czech Republic	Yes	
Denmark	Yes	A design registration can cover use in both environments if the appearance of the design is the same. If the overall impression of the design vary the registration does not cover use of the design in both environments.
Estonia	Yes	
Finland	Yes	
France		
Georgia	Yes	
Germany		
Hungary	Yes	
Ireland	Yes	
Kazakhstan		
Lithuania		
Mexico	No	
New Zealand	No	
Pakistan	Yes	
Peru		
Poland	Yes	
Portugal	Yes	
Republic of Korea	No	
Republic of Moldova	Yes	
Romania	Yes	
Singapore	Yes	Yes, although protection in a “ <i>virtual or computer environment</i> ” is limited to designs that are applied to non-physical products under Singapore law. Section 2(1) of the Registered Designs Act defines a non-physical product as “ <i>any thing that does not have a physical form, is produced by the projection of a design on a surface or into a medium (including air) and has an intrinsic utilitarian function that is not merely to portray the appearance of the thing or to convey information</i> ”. Using a keyboard design as an example, a single application can be made for that design to cover an article (ie. a physical keyboard) as well as a non-physical product (ie. virtual keyboard that is projected on a surface or into a medium). The same classification (ie. for keyboards) would be used whether or not the design is applied to a physical article or a non-physical product.
Slovakia	Yes	
Sweden	Yes	
Switzerland	No	

Responding Party	The registration covers use in a physical and virtual or computer environment	Comments
United Kingdom		This would depend on whether the design in the physical environment is identical to or, differs in only immaterial differences with the computer environment.
United States of America	Yes	Potentially, yes.
BOIP	No	

COMMENTS:

Lithuania

Not specified in the law.

New Zealand

Several registrations for the design applied to different articles would be required.

Question 37 - In your jurisdiction, is there a distinction in the infringement criteria, depending on the particular virtual/electronic environment in which the design is used?

Responding Party	Distinction in the infringement criteria depending on the particular virtual/electronic environment	If yes, how are the environments delineated?	If yes, would a single design registration be capable of protecting the design in each of these varied environments?
Brazil	No		
Canada	No		
China	No		
Colombia	No		Yes
Croatia	No		
Czech Republic	No		
Denmark	No		
Estonia	No		
Finland	No		
France			
Georgia	No		
Germany			
Hungary	No		
Ireland	No		
Kazakhstan			
Lithuania			
Mexico	No		
New Zealand	No		
Pakistan	No		
Peru			
Poland	No		
Portugal	No		

Responding Party	Distinction in the infringement criteria depending on the particular virtual/electronic environment	If yes, how are the environments delineated?	If yes, would a single design registration be capable of protecting the design in each of these varied environments?
Republic of Korea	No		
Republic of Moldova	No		
Romania	No		
Singapore	No		
Slovakia	No		
Sweden	No		
Switzerland			
United Kingdom			
United States of America	No		
BOIP	No		

COMMENTS:

Lithuania

Not specified in the law.

Switzerland

Not applicable, because the IPI is not an examining office.

Question 38 (I) - In what format does your Office provide documents for priority claim purposes?

Responding Party	Paper format	Electronic format	Both	Can the documents be certified?	If yes, how are they certified?
Brazil			Yes	Yes	The Office provides the official documents and may provide certified copies of the documents by request of the owner. The Office does not provide documents in electronic format for priority claim purposes at this time, since very few countries accept priority documents in such format.
Canada	Yes			Yes	
China			Yes	Yes	1. To affix a stamp of the Examining Office; 2. To exchange through DAS.
Colombia			Yes	Yes	
Croatia	Yes				
Czech Republic	Yes			Yes	Priority document is printed on special paper, signed and stamped by official stamp.
Denmark	Yes			Yes	The documents are signed by an employee of the office.
Estonia			Yes	No	

Responding Party	Paper format	Electronic format	Both	Can the documents be certified?	If yes, how are they certified?
Finland	Yes			Yes	They can be stamped and signed.
France	Yes			No	
Georgia	Yes			Yes	
Germany	Yes			Yes	
Hungary			Yes	Yes	Electronic documents shall be certified with advanced electronic signature or electronic stamp of the Hungarian Intellectual Property Office.
Ireland	Yes			Yes	By the signature and seal of the controller.
Kazakhstan	Yes			Yes	A verified copy of the application is presented.
Lithuania	Yes			Yes	The copies of the priority documents contain signs of officials and stamp of the department.
Mexico	Yes			Yes	Through documents that include a legal agreement paragraph and signature of the certifier.
New Zealand			Yes	Yes	Autocertification from online case management facility.
Pakistan	Yes			Yes	
Peru	Yes			Yes	
Poland	Yes			Yes	
Portugal			Yes	Yes	By digital signature of the Office or Official Stamp/Seal.
Republic of Korea			Yes	Yes	Provided a true copy describe with issue number, application number, filing date and applicant.
Republic of Moldova	Yes			Yes	It should be applied the signature of the Office's Head and the stamp of the Office that certified the priority documents.
Romania	Yes			Yes	The priority document will be released in original, signed and stamped.
Singapore			Yes	Yes	
Slovakia	Yes			Yes	The documents for priority claim purposes are certified by the stamp of the Industrial Property Office of the Slovak Republic.
Sweden			Yes	No	
Switzerland	Yes			Yes	They are certified by the IPI and by the Federal Chancellery.
United Kingdom	Yes			Yes	
United States of America			Yes	Yes	Records available from the USPTO may be certified as true copies by the Patent and Trademark Copy Fulfillment Branch. Certified copies are authenticated by the USPTO ribbon and seal with the signature of an authorized certifying officer.
BOIP			Yes	Yes	A paper certified copy can be obtained.

Question 38 (II) - Are there any particulars for priority claims concerning animated designs?

Responding Party	Particulars for priority claims concerning animated designs	Please specify
Brazil	No	
Canada	No	
China	No	
Colombia		
Croatia	No	
Czech Republic		We do not register animated industrial designs.
Denmark	No	
Estonia	No	
Finland	No	
France	No	
Georgia	No	
Germany	No	
Hungary	No	
Ireland	No	
Kazakhstan		
Lithuania	No	
Mexico	No	
New Zealand		
Pakistan	Yes	For claiming priority, priority document should be certified from the commissioner of the Office of first filing.
Peru	No	
Poland	No	
Portugal	No	
Republic of Korea	No	
Republic of Moldova	No	
Romania	No	
Singapore	No	
Slovakia	No	
Sweden	No	
Switzerland		
United Kingdom	No	
United States of America	No	
BOIP	No	

COMMENTS:

Canada

The client may submit a request for certified documents to CIPO's Client Service Centre and pay the appropriate fee. For more details on how to request copies (certified and uncertified) please visit CIPO's Client Service Centre.

Colombia

The jurisdiction has not yet regulated the acceptance of animations.

Denmark

As a general rule we use paper format, but in some cases we use electronic format when requested by the applicant.

Georgia

The documents for priority claim have to be certified with the signature of the responsible person.

Romania

Our Office can also provide the original document scanned by email but it was not the case by now.

Switzerland

Not applicable.

United Kingdom

Priority documents are provided in paper format only and presented with a ribbon and seal.

Question 39 (I) - What format of documents does your Office accept for priority claim purposes?

Responding Party	Paper format	Electronic format	Both	Does your Office require certification of priority documents?
Brazil			Yes	No
Canada			Yes	No
China			Yes	Yes
Colombia			Yes	Yes
Croatia			Yes	Yes
Czech Republic			Yes	No
Denmark			Yes	No
Estonia			Yes	Yes
Finland	Yes			No
France			Yes	Yes
Georgia			Yes	Yes
Germany	Yes			No
Hungary			Yes	Yes
Ireland			Yes	No
Kazakhstan	Yes			Yes
Lithuania	Yes			Yes
Mexico			Yes	Yes
New Zealand		Yes		Yes
Pakistan	Yes			Yes
Peru	Yes			Yes
Poland	Yes			Yes
Portugal			Yes	No
Republic of Korea			Yes	Yes
Republic of Moldova	Yes	Yes		Yes
Romania	Yes			Yes

Responding Party	Paper format	Electronic format	Both	Does your Office require certification of priority documents?
				The priority document will be released in original, signed and stamped.
Singapore			Yes	Yes
Slovakia	Yes			Yes
Sweden			Yes	No
Switzerland	Yes	Yes	Yes	No
United Kingdom			Yes	No
United States of America			Yes*	Yes
BOIP			Yes	No

Question 39 (II) - Are there any particulars for priority claims concerning animated designs?

Responding Party	Particulars for priority claims concerning animated designs	If yes, please specify
Brazil	No	
Canada	No	
China	Yes	The prior application must indicate the medium of the article.
Colombia		
Croatia	No	
Czech Republic		We do not register animated industrial designs.
Denmark	No	
Estonia	No	
Finland	No	
France	No	
Georgia	No	
Germany	No	
Hungary	No	
Ireland	No	
Kazakhstan		
Lithuania	No	
Mexico	No	
New Zealand		
Pakistan	No	
Peru	No	
Poland	No	
Portugal	No	
Republic of Korea	No	
Republic of Moldova	No	
Romania	No	
Singapore	No	
Slovakia	No	
Sweden	No	
Switzerland		
United Kingdom	No	
United States of America	No	
BOIP	No	

COMMENTS:

Canada

Certified priority documents may be required if a review of the priority claim is necessary for the novelty assessment.

Colombia

The jurisdiction has not yet regulated the acceptance of animations.

Denmark

We can require certification of the documents according to the Danish legislation, but we usually do not.

Estonia

The Office requires original documents.

Georgia

Our Office accepts priority documents in electronic format, if it contains an identification code (ID code) which allows our Office to verify the authenticity of the document through the website of the Office of the first filing.

Ireland

Certification of priority documents may only be requested if there is any question as to the legal standing of the priority claimed.

Portugal

Article 13.^o PROOF OF PRIORITY RIGHT

1 - The National Industrial Property Institute **may require** anyone invoking a priority right to, within two months of the order, submit an authenticated copy of the first application, a certificate of the date of its submission and, if necessary, a Portuguese translation.

Switzerland

Not applicable.

United States of America

* The USPTO accepts paper format and electronic format if through certain designated mechanisms. Electronic format is acceptable when retrieved by the USPTO in accordance with a priority document exchange program. The USPTO will attempt electronic retrieval of foreign applications to which priority is claimed in a U.S. design application via the WIPO DAS Exchange where possible.

<https://www.uspto.gov/patents-getting-started/international-protection/electronic-priority-document-exchange-pdx>

[Annex II follows]

QUESTIONNAIRE ON GRAPHICAL USER INTERFACE (GUI), ICON AND
TYPEFACE/TYPE FONT DESIGNS

considered by the SCT at its fortieth session

1. At the fortieth session of the *Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications* (SCT), held in Geneva from November 12 to 16, 2018, the SCT considered document SCT/40/2, entitled “*Graphical User Interface (GUI), Icon, Typeface/Type Font Designs: Draft Questionnaire*”, as well as a revised version of the draft questionnaire (document SCT/40/2 Rev.). The SCT requested the Secretariat to “circulate the questionnaire as contained in document SCT/40/2 Rev. to SCT members and Intergovernmental Intellectual Property Organizations with observer status, for returns by January 31, 2019; and compile all returns into a document for consideration by the forty-first session of the SCT, it being understood that, due to the limited time for the preparation of this document, the SCT agreed that this document would be made available not later than March 8, 2019” (see document SCT/40/9, paragraph 11).
2. The present *Questionnaire on Graphical User Interface (GUI), Icon, Typeface/Type Font Designs* aims at collecting information regarding, in particular, (1) the requirement for a link between GUI, Icon, Typeface/Type Font Designs and the article or product and (2) the methods allowed by offices for the representation of animated designs.
3. So as to enable the Secretariat to prepare the requested document compiling the replies of SCT members and the aforementioned Organizations, the completed questionnaire should be returned to WIPO **by January 31, 2019**, by e-mail to: sct.forum@wipo.int; or by surface mail to the World Intellectual Property Organization (WIPO), 34, chemin des Colombettes, 1211 Geneva 20, Switzerland; or by facsimile: +41 22 338 87 45.

QUESTIONS CONCERNING THE REQUIREMENT FOR A LINK BETWEEN GUI, ICON, TYPEFACE/TYPE FONT DESIGNS AND THE ARTICLE OR PRODUCT¹

1. Does your jurisdiction provide protection for:
GUI designs <input type="checkbox"/> YES <input type="checkbox"/> NO
Icon designs <input type="checkbox"/> YES <input type="checkbox"/> NO
Typeface/type font designs <input type="checkbox"/> YES <input type="checkbox"/> NO
Comments, if any:

2. In your jurisdiction, is a link² between a GUI/icon design and an article required as a prerequisite for registration?
<input type="checkbox"/> YES <input type="checkbox"/> NO
If NO , please proceed to question 13 and the subsequent questions
Comments, if any:

(a) Requirement for a link

3. In your jurisdiction, for which type of designs is a link with an article required?
<input type="checkbox"/> computer-generated animated designs
<input type="checkbox"/> GUI designs
<input type="checkbox"/> icon designs
<input type="checkbox"/> typeface/type font designs
<input type="checkbox"/> other – Please specify
Comments, if any:

¹ For the sake of simplicity, only the term “article” will be used hereafter in the present questionnaire, it being understood that it covers also the term “product”, where applicable.

² For the purpose of this questionnaire, the term “link” refers to the fact that a GUI or icon design should be associated with an article.

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4. For which reason is such a link required in your jurisdiction?³

- ☐ facilitating searches by examining Offices
- ☐ facilitating Freedom to Operate (FTO) searches by users
- ☐ facilitating searches by applicants
- ☐ limiting the scope of design rights
- ☐ other - Please specify

Comments, if any:

5. In your jurisdiction, a GUI design:

a) must be embodied in a physical article to be protected

☐ YES ☐ NO

b) can apply to a virtual article?

☐ YES ☐ NO

Comments, if any:

6. In your jurisdiction, do functional aspects⁴ of the article displaying the GUI/icon design play a role in assessing the link between such design and the article?

☐ YES ☐ NO

If YES, what role?

Comments, if any:

³ See the contributions of Chile, INTA (p. 1-3), IPO (p. 4) and JTA.

⁴ For the purpose of this questionnaire, the terms "functional aspects" refer to the manner in which the article works.

7. In your jurisdiction, if a link between a GUI, icon, typeface/type font design and an article is required, but not provided in the design application, can it still be provided during prosecution?

☐ YES ☐ NO

If **YES**, who is empowered to provide it?

- ☐ the applicant
☐ the Office

Comments, if any:

8. In your jurisdiction, if a link between a GUI/icon design and an article is required, how can/must the GUI/icon design be represented in the application?

- ☐ representation of the GUI or icon design alone + an indication in words of the article
☐ representation of the GUI or icon design + the article in dotted or broken lines
☐ representation of the GUI or icon design + the article in dotted or broken lines + an indication in words of the article
☐ representation of the GUI or icon design + the article in solid lines
☐ representation of the GUI or icon design + the article in solid lines + an indication in words of the article
☐ other – Please specify

Comments, if any:

9. If a link between a GUI/icon design and an article is required in your jurisdiction and your Office is an examining Office, does your Office search for any design with a similar or identical appearance, regardless of the articles to which it applies?

☐ YES ☐ NO

Please explain

Comments, if any:

10. If a design is represented within an article which is disclaimed (e.g., broken lines), what is the effect of the article on the scope of protection of the design?

The scope of protection is limited:

- ☐ only to the specific type of article that was disclaimed
- ☐ to articles that fall within the same classification
- ☐ other – Please specify

Is there an exception for GUI/icon designs?

☐ YES ☐ NO

Comments, if any:

11. If a design is represented within an article which appears in solid lines, the scope of the design patent/design registration would be considered to cover:⁵

- ☐ only the design
- ☐ both the design and the article
- ☐ other – Please specify

Comments, if any:

12. If a design is represented within an article which is disclaimed (e.g., broken lines) and the identification of the article(s) in relation to which the industrial design is to be used is required, what is the purpose of that identification?

Comments, if any:

⁵ See the contributions of INTA (p. 1-2) and IPO (p. 3-4).

(b) No requirement for a link

13. In your jurisdiction, why is no link between a GUI/ icon design and an article required?⁶
<input type="checkbox"/> because of the nature of new technological designs, which may be used in different articles/environments <input type="checkbox"/> other - Please specify
Comments, if any:

14. If no link is required in your jurisdiction and your Office is an examining Office, does your Office search for any design with a similar or identical appearance, regardless of the articles to which it applies?⁷
<input type="checkbox"/> YES <input type="checkbox"/> NO Please explain
Comments, if any:

15. If no link is required in your jurisdiction, how do users conduct Freedom to Operate (FTO) searches?⁸
Comments, if any:

16. If no link is required in your jurisdiction, is the indication of an article:
<input type="checkbox"/> optional? <input type="checkbox"/> mandatory? What is the effect of such indication? Please specify

⁶ See the contributions of Hungary, ICC (p. 2), INTA (p. 3) and IPO (p. 4).

⁷ See the contribution of JTA (p. 7).

⁸ *Idem*.

Comments, if any:

17. Can a patent design/design registration be obtained for a GUI/icon design <i>per se</i> if it is represented alone (without any article such as a screen or a device)?
<input type="checkbox"/> YES <input type="checkbox"/> NO If YES , does the patent design/design registration cover use of the claimed GUI/icon design in any article/environment? <input type="checkbox"/> YES <input type="checkbox"/> NO
Comments, if any:

QUESTIONS CONCERNING THE METHODS ALLOWED BY OFFICES FOR THE REPRESENTATION OF ANIMATED DESIGNS

18. In your jurisdiction, which methods of representation can applicants use to claim protection for animated designs?
<input type="checkbox"/> Moving images ⁹ Please specify the file format (e.g., avi, flv, wmv, wav, mov, mp4): Please specify the maximum size, if any: <input type="checkbox"/> Static images in electronic format Please specify the file format (e.g., pdf): Please specify the maximum size, if any: <input type="checkbox"/> Static images in paper format Please specify any additional requirements:
Comments, if any:

⁹ The term “images” is used as a synonym of the term “views”.

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19. Where a choice of different methods of representation is available in your jurisdiction, what method is used the most by applicants?

- ☐ Moving images
☐ Static images in electronic format
☐ Static images in paper format

Comments, if any:

20. Are there any additional/special requirements regarding the contents of the application for animated designs?

☐ YES ☐ NO

If YES, please specify

Comments, if any:

21. Where video files can be used by applicants to represent animated designs in your jurisdiction:

- ☐ video files *only* are accepted
☐ video files + series of static images are mandatory
☐ video files are mandatory + series of static images are optional
☐ video files are optional + series of static images are mandatory
☐ other - Please specify

Comments, if any:

22. Where both series of static images and video files are contained in the application, which format determines the scope of protection?

- ☐ both formats, treated equally

- ☐ video files prevail and static images are treated just as a reference information - Please specify
- ☐ static images prevail and video files are treated just as reference information – Please specify

Comments, if any:

23. If animated designs are represented by series of static images or a sequence of drawings or photographs, are there additional requirements regarding the images?¹⁰

☐ YES ☐ NO

If YES, is it required that:

- ☐ all images relate to the same function of the article
- ☐ all images be visually related
- ☐ all images give a clear perception of the movement/change/progression
- ☐ the number of images does not exceed a maximum number – Please specify
- ☐ other – Please specify

Comments, if any:

24. In which format are animated designs granted?

- ☐ paper registration/patent
- ☐ electronic (e-grant)
- ☐ other

Comments, if any:

25. In which format are animated designs published?

- ☐ paper publication

¹⁰ See the contributions of United States of America (p. 3-4), EUIPO (p. 3-5), ICC (p. 3-4), INTA (p. 4), JPAA (p. 4-7), and JTA (p. 9).

<input type="checkbox"/> electronic publication <input type="checkbox"/> other
Comments, if any:

26. Are there any special publication procedures for animated designs?
<input type="checkbox"/> YES <input type="checkbox"/> NO
Comments, if any:

ADDITIONAL QUESTIONS

27. In your jurisdiction, are some graphic images excluded from protection under design law?¹¹
<input type="checkbox"/> YES <input type="checkbox"/> NO If YES , which of the following types of images are excluded from protection: <input type="checkbox"/> graphic images representing “contents” that are independent from the function of the article (e.g., a scene of a film or images from a computer/TV game) <input type="checkbox"/> graphic images provided only for decorative purposes (such as a desktop wallpaper) <input type="checkbox"/> graphic images provided only for conveying information <input type="checkbox"/> other – Please specify If YES , how is the exclusion justified? Please specify If YES , how are the graphic images subject to protection defined? Please specify
Comments, if any:

¹¹ See the contribution of JTA (p. 5).

28. In your jurisdiction, are certain kinds of GUI/icon designs excluded from design protection?¹²

☐ YES ☐ NO

If YES, please specify

Comments, if any:

29. In your jurisdiction, can a *part of a GUI design (i.e., some elements only of the GUI design)* be protected?

☐ YES ☐ NO

If YES, how?

If YES, can a part of a GUI design be protected if it appears only under certain circumstances¹³

☐ YES ☐ NO

Comments, if any:

30. In your jurisdiction, is protection provided to non-permanent designs?¹⁴

☐ YES ☐ NO

If YES, is the non-permanent design deemed to be embodied in, or tied, to an article?

☐ YES ☐ NO

If YES, what is the article?

Comments, if any:

¹² See the contribution of JTA (p. 6).

¹³ e.g., in a navigation application: "icons alert" popping up in case of traffic jam, accident, etc.

¹⁴ The following are examples of non-permanent designs: the design of a lampshade which is not apparent unless the lamp is lighted, the design of a woman's hosiery which is not apparent unless it is in place on her legs, the design of inflated articles, such as toy balloons, water toys, air mattresses, which are not apparent in the absence of the compressed air which gives them form, a water design in a fountain, a laser keyboard and a projection of a speedometer or radio control panel onto a windshield of a car. See the contribution of the United States of America referring to Hruby, 373 F.2d 997, 153 USPQ 61 (CCPA 1967) (p. 6).

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31. In your jurisdiction, is an indication of the class required in a design application?

☐ YES ☐ NO

If YES, which classification system is applied in your Office?

- ☐ the Locarno classification
☐ the domestic classification

If YES, the class is:

- ☐ indicated by the applicant
☐ assigned by the Office

If the Office assigns the class, can the applicant challenge or appeal the classification?

☐ YES ☐ NO

Is there an exception for GUI/icon designs?

☐ YES ☐ NO

Comments, if any:

32. Where GUIs are applied to an article, how are they examined in terms of weight given to the visual features where:

- ☐ the GUI is the same or similar but applied to different articles in the prior art base
☐ the article is the same but shown in active/resting state¹⁵ in the prior art base vs. active/resting state in the application
☐ the article and GUI in the prior art base is the same or similar to one or more but not all of the representations provided showing different stages of the GUI

Comments, if any:

¹⁵ For the purpose of this questionnaire, the terms “resting state” refer to the appearance of the article before interaction with the user e.g., the user turning on, waking, or otherwise interacting with the device that contains the GUI design. The terms “active state” refer to the design as it appears after interaction or during use with the user.

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33. Does your legislation allow for GUIs to be considered in their active state?

☐ YES ☐ NO

If NO, is the Office practice to consider them in their active state?

☐ YES ☐ NO

Comments, if any:

34. In your jurisdiction, are the infringement criteria the same for GUI/icon designs as for other types of designs?

☐ YES ☐ NO

If NO, how are they different?

Comments, if any:

35. In your jurisdiction, which of the following acts constitute infringement of design rights?

- ☐ creation of software for displaying a protected GUI
- ☐ reproduction of software for displaying a protected GUI
- ☐ transfer of software for displaying a protected GUI
- ☐ upload of software for displaying a protected GUI
- ☐ installation of a protected GUI or icon design¹⁶ – In such case, under what circumstances?
- ☐ use of a protected GUI or icon design¹⁷ – In such case, under what circumstances?
- ☐ placement of a protected GUI or icon design on a physical article or *vice-versa* – In such case, under what circumstances?¹⁸

¹⁶ See the contribution of IPO referring to indirect infringement doctrines, such as induced infringement (p. 3), and the contribution of JTA (p. 8).

¹⁷ See the contribution of IPO referring to indirect infringement doctrines, such as induced infringement (p. 3), and the contribution of JTA (p. 8).

¹⁸ For example, if a GUI/icon design, protected in the context of an electronic device, is placed on a table top as surface ornamentation and sold as contemporary furniture, would that constitute infringement? What about the reverse, *i.e.*, if a design on the top of an end table is used as a GUI/icon design for a furniture store app, would that constitute infringement?

Comments, if any:

36. In your jurisdiction, can a *single design registration* cover use of the design in a physical environment *and* in a virtual or computer environment?¹⁹

☐ YES ☐ NO

Comments, if any:

37. In your jurisdiction, is there a distinction in the infringement criteria, depending on the particular virtual/electronic environment²⁰ in which the design is used?

☐ YES ☐ NO

If YES, how are the environments delineated?

If YES, would a single design registration be capable of protecting the design in each of these varied environments?

☐ YES ☐ NO

Comments, if any:

38. In what format does your Office provide documents for priority claim purposes?

- ☐ paper format
☐ electronic format
☐ both

Can the documents be certified?

☐ YES ☐ NO

If YES, how are they certified?

¹⁹ See the examples mentioned in the contribution of the United States of America (p. 6).
²⁰ e.g., computer game, virtual reality world, Internet application.

Are there any particulars for priority claims concerning animated designs?

☐ YES ☐ NO

Please specify

Comments, if any:

39. What format of documents does your Office accept for priority claim purposes?

- ☐ paper format
☐ electronic format
☐ both

Does your Office require certification of priority documents?

☐ YES ☐ NO

Are there any particulars for priority claims concerning animated designs?

☐ YES ☐ NO

If YES, please specify

Comments, if any:

[End of Annex II and of document]