

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 SECOND 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 of the survey (*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. At the forty-first session of the SCT, held in Geneva from April 8 to 11, 2019, the Chair requested the Secretariat to invite members and Intergovernmental Intellectual Property Organizations with observer status to submit additional or revised replies to the questionnaire until July 31, 2019, and finalize document SCT/41/2 for consideration at the forty-second session of the SCT (document SCT/41/9, paragraph 9).
6. By July 31, 2019, new replies were received from: Azerbaijan, Chile, Ecuador, Japan, Kenya, Latvia, Norway and the European Union Intellectual Property Office (EUIPO) (8).
7. At the forty-second session of the SCT, held in Geneva from November 4 to 7, 2019, the Chair concluded that the Secretariat was requested to keep the document open until January 10, 2020, for further or revised replies by delegations (document SCT/42/8, paragraph 9). By January 10, 2020, new replies were received from: Iceland and Thailand (2).
8. 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.
9. *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 |
|------------------|-------------|--------------|----------------------------|--|
| Azerbaijan | Yes | Yes | Yes | |
| Brazil | Yes | Yes | No | |
| Canada | Yes | Yes | Yes | In Canada, a “ <i>design</i> ” or “ <i>industrial design</i> ” 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. |
| Chile | | | | Our legislation does not make specific reference to any of these elements. However, they can be protected as two-dimensional designs. In Chile, GUIs, icons and typeface/type fonts can be considered to fall under (the denomination of) industrial designs. The legislation provides that “the term industrial drawing is understood to encompass any disposition, set or combination of figures, lines of colors that are developed on a plane for incorporation into an industrial product for the purposes of ornamentation and that vest that product with a new appearance” |
| 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. |
| Ecuador | No | No | No | Specifically, the jurisdiction does not provide protection for these particular cases. However, they could be covered under certain forms of protection, such as industrial designs, or through other forms, such as copyright. |
| Estonia | Yes | Yes | Yes | |
| Finland | Yes | Yes | Yes | |
| France | Yes | Yes | Yes | |

| Responding Party | GUI designs | Icon designs | Typeface/type font designs | Comments |
|--------------------|-------------|--------------|----------------------------|---|
| Georgia | Yes | Yes | Yes | |
| Germany | Yes | Yes | Yes | |
| Hungary | Yes | Yes | Yes | |
| Iceland | Yes | Yes | Yes | The Icelandic legislation does not differentiate between design types. Art. 2 of the Icelandic Design Protection Act (DA) No. 46/2001 provides protection for: graphic symbols and typographic typefaces. |
| 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. |
| Japan ¹ | Yes | Yes | No | |
| Kazakhstan | Yes | Yes | Yes | |
| Kenya | Yes | Yes | Yes | The Industrial design law in Kenya does not specifically refer to GUI, icons and typeface industrial designs. The law requires an applicant to submit drawings, photographs or other graphic representations of the article embodying the design. In practice, the office registers these types of designs as long as the article/product to which the design is applied to is identified in the application. |
| Latvia | Yes | Yes | Yes | There are no special provisions. These designs can be registered according to the general provisions of Law on Designs. |
| 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. |
| 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 |

¹ As the revised Design Act including the GUI design protection provisions was promulgated on 17 May 2019 in Japan (the GUI design protection provisions are scheduled to come into force within a year from the promulgation of the Design Act), when answers to the questions below are different for the existing law and the revised law, Japan provided answers for both the existing law and the revised law.

| Responding Party | GUI designs | Icon designs | Typeface/type font designs | Comments |
|--------------------------|-------------|--------------|----------------------------|---|
| | | | | 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. |
| Norway | Yes | Yes | Yes | |
| 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 | |
| Thailand | 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). |
| EUIPO | Yes | Yes | Yes | Under the Community Design Regulation, any industrial and handicraft item is considered to be a suitable product subject to a design. Graphical symbols and typographic typefaces are expressly listed in the statutory definition as examples for such products. Icons are covered by the broad notion of graphical symbols. GUIs are also accepted as |

| Responding Party | GUI designs | Icon designs | Typeface/type font designs | Comments |
|------------------|-------------|--------------|----------------------------|---|
| | | | | products, the appearance of which can be a design. However, computer programs as such cannot constitute a suitable product. |

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 |
|------------------|---|--|
| Azerbaijan | No | |
| Brazil | No | |
| Canada | Yes | |
| Chile | | For the analysis and description of a GUI or icon, the link between a GUI or icon design and an item is indicated in the description, where the introduction indicates the object in question and the preferred application. |
| China | Yes | |
| Colombia | Yes | |
| Croatia | No | |
| Czech Republic | No | |
| Denmark | No | |
| Ecuador | No | |
| Estonia | No | |
| Finland | No | |
| France | No | |
| Georgia | No | |
| Germany | No | |
| Hungary | No | |
| Iceland | No | |
| Ireland | No | |
| Japan | Yes | for graphic images filed as a part of an article (existing law and revised law) |
| | No | for graphic image filed as it is (revised law) |
| | | Even though it will become possible to file a graphic image as it is after the revised law comes into force, it will still be possible to file a graphic image as a part of an article. |
| 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." |
| Kenya | Yes | The Kenyan Law, under Section 87 of the Industrial Property Act, 2001 provides that all industrial design applications must indicate the article/product for which the industrial design is to be applied to. |
| Latvia | No | |

| Responding Party | A link between a GUI/icon design and an article is required | Comments |
|--------------------------|---|---|
| Lithuania | No | |
| Mexico | Yes | |
| New Zealand | | |
| Norway | No | |
| 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 | |
| Thailand | Yes | |
| United Kingdom | No | N/A |
| 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).</p> <p>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-</p> |

| Responding Party | A link between a GUI/icon design and an article is required | Comments |
|------------------|---|--|
| | | 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)). |
| BOIP | Yes | |
| EUIPO | No | EUIPO understands in this context that a “link” is the association by way of the representation of the design of a GUI or icon design to an article. Although the representation of the GUI or icon design does not need to show the article into which that GUI or icon design will be incorporated, in accordance with Article 36(2) CDR, an application for a registered Community design must contain the indication of products in which the design is intended to be incorporated. In the case of GUIs that product indication could be “graphical user interface”. For the purpose of this questionnaire, EUIPO considers that “link to an article” does not refer to the indication of products. EUIPO has provided additional clarifications in the comments to questions 3 to 12 even though the requirement of a link is not a prerequisite for registration before it. |

(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 |
|------------------|-------------------------------------|-------------|--------------|----------------------------|-------|
| Azerbaijan | | | | | |
| Brazil | | | | | |
| Canada | Yes | Yes | Yes | Yes | Yes |
| Chile | | | | | |
| China | | Yes | | | |
| Colombia | | Yes | Yes | | |
| Croatia | | | | | |
| Czech Republic | | | | | |
| Denmark | | | | | |
| Ecuador | | | | | |
| Estonia | | | | | |
| Finland | | | | | |
| France | | | | | |
| Georgia | | | | | |
| Germany | | | | | |
| Hungary | | | | | |

| Responding Party | Computer-generated animated designs | GUI designs | Icon designs | Typeface/type font designs | Other |
|--------------------------|-------------------------------------|-------------|--------------|----------------------------|---------------------|
| Iceland | | | | | |
| Ireland | | | | | |
| Japan* | Yes | Yes | Yes | | |
| Kazakhstan | | | | | |
| Kenya | | Yes | Yes | Yes | |
| Latvia | | | | | |
| Lithuania | | | | | |
| Mexico | | Yes | Yes | | |
| New Zealand | | | | | |
| Norway | | | | | |
| 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 | | | | | |
| Thailand | | Yes | Yes | | |
| United Kingdom | | | | | |
| United States of America | | | | | Yes All designs. |
| BOIP | Yes | Yes | Yes | Yes | Yes |
| EUIPO | | | | | |

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** [...]".

Chile

For all types, the applicant must indicated the preferred application.

Japan

* For graphic images filed as a part of an article (existing law and revised law).

A link between the graphic image and the article will be required when a graphic image is filed as a part of an article even after the revised law comes into force. It should be noted that when

a graphic image is filed as it is, a link between the graphic image and the article will not be required.

Kenya

Refer to comment under paragraph 2 Above. The Office does not have any experience with respect to computer generated animated designs.

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.

Thailand

All types of design must indicate a link between a design and the article including GUIs and icons.

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 |
|--------------------------|--|---|-------------------------------------|-------------------------------------|-------|
| Azerbaijan | | | | | |
| Brazil | | | | | |
| Canada | Yes | | Yes | Yes | |
| Chile | | | | | |
| China | Yes | | | Yes | |
| Colombia | Yes | | Yes | | Yes* |
| Croatia | | | | | |
| Czech Republic | | | | | |
| Denmark | | | | | |
| Ecuador | | | | | |
| Estonia | | | | | |
| Finland | | | | | |
| France | | | | | |
| Georgia | | | | | |
| Germany | | | | | |
| Hungary | | | | | |
| Iceland | | | | | |
| Ireland | | | | | |
| Japan* | | | | | Yes |
| Kazakhstan | | | | | |
| Kenya | Yes | Yes | Yes | Yes | |
| Latvia | | | | | |
| Lithuania | | | | | |
| Mexico | | | | Yes | |
| New Zealand | | | | | |
| Norway | | | | | |
| Pakistan | | | | Yes | |
| Peru | Yes | | Yes | | |
| Poland | | | | | |
| Portugal | | | | | |
| Republic of Korea | | | | | |
| Republic of Moldova | | | | | |
| Romania | | | | | |
| Singapore | | | | Yes | |
| Slovakia | | | | | |
| Sweden | | | | | |
| Switzerland | | | | | |
| Thailand | Yes | Yes | Yes | Yes | |
| United Kingdom | | | | | |
| United States of America | | | | | Yes |

| 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 |
|------------------|--|---|-------------------------------------|-------------------------------------|-------|
| BOIP | | | | Yes | |
| EUIPO | | | | | |

COMMENTS:

Chile

It is indicated as a reference. Although it is not specifically established in the legislation, this is done if the description is required to determine the field of application and to classify it in terms of the product in which it is included or used.

Colombia

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

Japan

* For graphic images filed as a part of an article (existing law and revised law). This is because under the existing law, design that is the subject of protection is limited to articles and graphic images will be protected as a part of an article. In addition, in receiving protection as a graphic image for use in operation of articles, the graphic image has to be a graphic image for performing functions of the article. When graphic images are filed as it is, it will become possible to register them without requiring its link to the article after the revised law comes into force. However, its specific requirements are still under consideration.

Kenya

The Industrial design law limits protection to special appearances of products.

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 |
|------------------|--|--------------------------------|--|
| Azerbaijan | | | |
| 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. |
| Chile | | | Applications for registration of GUIs may be submitted showing the design applied to a physical item or the design in isolation. The GUI's description must also mention its application. |
| China | Yes | No | |
| Colombia | Yes | Yes | |
| Croatia | | | |
| Czech Republic | | | |
| Denmark | | | |
| Ecuador | | | |
| Estonia | | | |
| Finland | | | |
| France | | | |
| Georgia | | | |
| Germany | | | |
| Hungary | | | |
| Iceland | | | |
| Ireland | | | |
| Japan | Yes | No | for graphic images filed as a part of an article (existing law and revised law) |
| | No | Yes | for graphic image filed as it is (revised law) Since it will become possible to protect a graphic image itself after the revised law comes into force, it will be possible to protect virtual articles that are |

| Responding Party | Must be embodied in a physical article to be protected | Can apply to a virtual article | Comments |
|--------------------------|--|--------------------------------|---|
| | | | not embodied in an article (e.g., Internet application). |
| Kazakhstan | | | |
| Kenya | Yes | | The law defines "product" to mean anything that is made by hand, tool or machine and it is not clear whether this definition would apply to a virtual article/product. |
| Latvia | | | |
| Lithuania | | | |
| Mexico | Yes | Yes | |
| New Zealand | | | |
| Norway | | | |
| 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 of the GUI as a design under the Registered Designs Act. |
| Slovakia | | | |
| Sweden | | | |
| Switzerland | No | Yes | |
| Thailand | Yes | Yes | The GUI design has to file as a pattern of a product or a pattern of a display screen. |
| United Kingdom | | | N/A |
| United States of America | | | |
| BOIP | No | Yes | See Locarno class 14.04 |
| EUIPO | | | As regards question 5b), it should be noted that the statutory definition of a design or product respectively does not explicitly cover a virtual article. Given that graphical symbols constitute products by law, by extension an article represented virtually only may be considered a design as well. There is, however, no established case law for such an interpretation. |

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? |
|------------------|---|---|
| Azerbaijan | | |
| Brazil | | |
| Canada | No | |
| Chile | No Only the formal aspects are considered. | |
| China | Yes | Limiting the scope of designs. |
| Colombia | No | |
| Croatia | | |
| Czech Republic | | |
| Denmark | | |
| Ecuador | | |
| Estonia | | |
| Finland | | |
| France | | |
| Georgia | | |
| Germany | | |
| Hungary | | |
| Iceland | | |
| Ireland | | |
| Japan* | Yes | When the GUI is provided for use in the operation of an article, the functional aspects of an article are used to assess what kind of function the graphic image enables the article to perform. On the other hand, for display images(except the abovementioned GUI), the functional aspects of an article are used to assess whether the graphic image is a graphic image for making necessary indications for performing the functions of the article. |
| Kazakhstan | | |
| Kenya | No | |
| Latvia | | |

| Responding Party | Functional aspects of the article play a role in assessing the link | If yes, what role? |
|--------------------------|---|-------------------------------------|
| Lithuania | | |
| Mexico | No | |
| New Zealand | | |
| Norway | | |
| Pakistan | No | |
| Peru | No | |
| Poland | | |
| Portugal | | |
| Republic of Korea | No | |
| Republic of Moldova | | |
| Romania | | |
| Singapore | No | |
| Slovakia | | |
| Sweden | | |
| Switzerland | No | |
| Thailand | Yes | To limit the scope of design rights |
| United Kingdom | | |
| United States of America | No | |
| BOIP | No | |
| EUIPO | | |

COMMENTS:

Japan

- * For graphic images filed as a part of an article (existing law and revised law).

Kenya

The law prohibits protection of functional aspects of industrial designs, such as anything in the industrial design for obtaining a technical result or methods or principles of manufacture or construction.

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 |
| Azerbaijan | | | |
| Brazil | | | |
| Canada | Yes | Yes | |
| Chile | Yes It may be provided during processing. | | |
| China | No | | |
| Colombia | Yes | Yes | |
| Croatia | | | |
| Czech Republic | | | |
| Denmark | | | |
| Ecuador | | | |
| Estonia | | | |
| Finland | | | |
| France | | | |
| Georgia | | | |
| Germany | | | |
| Hungary | | | |
| Iceland | | | |
| Ireland | | | |
| Japan* | No | | |
| Kazakhstan | | | |
| Kenya | Yes | Yes | |
| Latvia | | | |
| Lithuania | | | |
| Mexico | Yes | Yes | |
| New Zealand | | | |
| Norway | | | |

| Responding Party | A link can still be provided during prosecution | If yes, who is empowered to provide it? | |
|--------------------------|---|---|------------|
| | | The applicant | The Office |
| Pakistan | Yes | Yes | |
| Peru | Yes | | |
| Poland | | | |
| Portugal | | | |
| Republic of Korea | Yes | Yes | |
| Republic of Moldova | | | |
| Romania | | | |
| Singapore | Yes | Yes | |
| Slovakia | | | |
| Sweden | | | |
| Switzerland | | | |
| Thailand | No | | |
| United Kingdom | | | |
| United States of America | Yes | Yes | Yes |
| BOIP | Yes | Yes | |
| EUIPO | | | |

COMMENTS:

Japan

- * For graphic images filed as a part of an article (existing law and revised law).

Kenya

If the industrial design application does not disclose the article or the article disclosed is not clear, the office invites the applicant to correct the application.

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.

EUIPO

Case law shows that the product to which the design is actually applied/ in which the design is intended to be incorporated or to which it is intended to be applied, is to be taken into account, in so far it makes clear the nature of the product. (Judgement of 18 March 2010, T-9/07, ‘Metal rappers’).

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 |
|------------------|--|--|--|---|---|-------|
| Azerbaijan | | | | | | |
| Brazil | | | | | | |
| Canada | Yes | | Yes | | Yes | |
| Chile | | | | | | Yes* |
| China | | | | | Yes | |

| 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 |
|--------------------------|--|--|--|---|---|-------|
| Colombia | | | Yes | | | Yes* |
| Croatia | | | | | | |
| Czech Republic | | | | | | |
| Denmark | | | | | | |
| Ecuador | | | | | | |
| Estonia | | | | | | |
| Finland | | | | | | |
| France | | | | | | |
| Georgia | | | | | | |
| Germany | | | | | | |
| Hungary | | | | | | |
| Iceland | | | | | | |
| Ireland | | | | | | |
| Japan* | | | Yes | | Yes | |
| Kazakhstan | | | | | | |
| Kenya | | | Yes | | Yes | |
| Latvia | | | | | | |
| Lithuania | | | | | | |
| Mexico | | | Yes | | | |
| New Zealand | | | | | | |
| Norway | | | | | | |
| Pakistan | | | Yes | Yes | | |
| Peru | | Yes | | Yes | | |
| Poland | | | | | | |
| Portugal | | | | | | |
| Republic of Korea | | | Yes | | | |
| Republic of Moldova | | | | | | |
| Romania | | | | | | |
| Singapore | | | Yes | | | |
| Slovakia | | | | | | |
| Sweden | | | | | | |
| Switzerland | | | | | | |
| Thailand | | | | | Yes | |
| United Kingdom | | | | | | |
| United States of America | | | | | | Yes* |
| BOIP | Yes | Yes | Yes | | | Yes |
| EUIPO | | | | | | |

COMMENTS:

Chile

The figures represent the design of the GUI or the icon in the article, where the article is drawn with a dotted or broken line, and also mentioned in the description of the application.

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.

Japan

* For graphic images filed as a part of an article (existing law and revised law). With regard to the answer to the first check box, if it is a graphic image for use in operations and will be displayed on another article that is used with the article to the design registration in an integrated manner, "representation of the GUI or icon design + an indication in words of the article" may be approved (only under the existing law).

Kenya

See also the answer given in paragraph 12 below.

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/2016/001519 |
| Fecha de presentación | 12/02/2015 |
| Inventor(es) | NAGANAGOUNDI REBECCA DEVEN ELLEN PRESCOTT 9168, US |
| Titular | BOSE CORPORATION |
| Agente | SERGIO LUIS O ALVARO OBREGON |
| Prioridad (es) | US29/499,175 |
| Locarno | 14-04 |
| Título | DIBUJO INDUSTRIAL DE UN DISPOSITIVO INALAMBRICO PARA LA GESTIÓN DE |
| Fecha de Puesta en Circulación | 2016-12-14 |

Representation of GUI

Article in dotted line

Title: indication in words of the article

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 |
|------------------|---|--|
| Azerbaijan | | |
| 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. |
| Chile | | The practice in an examining Office is that the examiner performs the search according to the classifier of the drawing, in this case the GUI or icon, but also performs searches with the classifier of the article where this icon or GUI is going to be used. |
| 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. |

| Responding Party | The Office searches for any design with a similar or identical appearance, regardless of the articles to which it applies | Please explain |
|-------------------|---|---|
| Croatia | | |
| Czech Republic | | |
| Denmark | | |
| Ecuador | | |
| Estonia | | |
| Finland | | |
| France | | |
| Georgia | | |
| Germany | | |
| Hungary | | |
| Iceland | | |
| Ireland | | |
| Japan | Yes | For graphic images filed as a part of an article (existing law and revised law). It is necessary to search designs of GUI etc. of different articles in order to assess creativity, which is one of requirement for registration. |
| Kazakhstan | | |
| Kenya | No | The search is limited to the article identified in the application. |
| Latvia | | |
| Lithuania | | |
| Mexico | Yes | The search for prior art is based on Locarno, but is supplemented with terms for similar products. |
| New Zealand | | |
| Norway | | |
| Pakistan | Yes | Yes, Designs Office-IPO-Pakistan is an examination office. Search is conducted for any other article with the same GUI applied 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 |

| Responding Party | The Office searches for any design with a similar or identical appearance, regardless of the articles to which it applies | Please explain |
|--------------------------|---|--|
| | | 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 | | |
| Thailand | Yes | For graphic images filed as a pattern for a display screen, GUI/icon design, it is necessary to search designs with a similar or identical appearance in order to assess novelty, which is the requirement for registration. |
| 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 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. |
| EUIPO | | |

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? |
|------------------|---|---|--|---|
| Azerbaijan | | | | |
| Brazil | | | | |
| Canada | | Yes | Yes | No |
| Chile | | | | |
| China | | | | |

| 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? |
|--------------------------|---|---|--|---|
| Colombia | | | | |
| Croatia | | | | |
| Czech Republic | | | | |
| Denmark | | | | |
| Ecuador | | | | |
| Estonia | | | | |
| Finland | | | | |
| France | | | | |
| Georgia | | | | |
| Germany | | | | |
| Hungary | | | | |
| Iceland | | | | |
| Ireland | | | | |
| Japan* | | | Yes | No |
| Kazakhstan | | | | |
| Kenya | Yes | | | No |
| Latvia | | | | |
| Lithuania | | | | |
| Mexico | | | | |
| New Zealand | | | | |
| Norway | | | | |
| Pakistan | | Yes | | No |
| Peru | | | | |
| Poland | | | | |
| Portugal | | | | |
| Republic of Korea | | Yes | | Yes |
| Republic of Moldova | | | | |
| Romania | | | | |
| Singapore | Yes | | | No |
| Slovakia | | | | |
| Sweden | | | | |
| Switzerland | Yes | | | No |
| Thailand | | | | |
| United Kingdom | | | | |
| United States of America | | | Yes* | No** |
| BOIP | Yes | | | No |
| EUIPO | | | | |

COMMENTS:

Canada

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

Chile

Make known the field in which the design will be used; this is only as a reference for the examination. It is understood that the article does not fall within the scope of protection for the industrial design.

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.

Japan

* For graphic images filed as a part of an article (existing law and revised law).

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.

Thailand

The representation of a design must be displayed with solid line and cannot be displayed with broken lines or dots.

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.

EUIPO

The disclaimed article does not form part of the subject-matter of protection. However, it may support the interpretation of the design as shown in the representation. The same applies for

GUI/icon designs. Furthermore, the product indication under Article 36(6) CDR does not affect the scope of protection.

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 |
|--------------------------|-----------------|---------------------------------|----------------------------------|
| Azerbaijan | | | |
| Brazil | | | |
| Canada | | Yes | |
| Chile | | | |
| China | | Yes | |
| Colombia | | Yes | |
| Croatia | | | |
| Czech Republic | | | |
| Denmark | | | |
| Ecuador | | | |
| Estonia | | | |
| Finland | | | |
| France | | | |
| Georgia | | | |
| Germany | | | |
| Hungary | | | |
| Iceland | | | |
| Ireland | | | |
| Japan | | Yes | |
| Kazakhstan | | | |
| Kenya | | | The article embodying the design |
| Latvia | | | |
| Lithuania | | | |
| Mexico | | Yes | |
| New Zealand | | | |
| Norway | | | |
| Pakistan | Yes | | |
| Peru | | Yes | |
| Poland | | | |
| Portugal | | | |
| Republic of Korea | | Yes | |
| Republic of Moldova | | | |
| Romania | | | |
| Singapore | | Yes | |
| Slovakia | | | |
| Sweden | | | |
| Switzerland | Yes | | |
| Thailand | | | Yes* |
| United Kingdom | | Yes | |
| United States of America | | | |
| BOIP | | Yes | |
| EUIPO | | | |

COMMENTS:

Chile

The description must indicate the product for which protection is sought, and there must be a concordance between what is described and what is represented in the figures. If the figures represent on one plane the article in a continuous line with the design, it can be understood that the protection is for everything (together). Depending on the figures, it can be considered that what is to be protected is everything, which may entail considering the protection of two types of right: the design (article) and the drawing (GUI or icon).

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).

Japan

It is inseparable when both the design and the article are drawn in solid lines.

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.

| Gaceta: | | Ejemplar: | Sección: |
|---|--|---|---|
| 104 | Patentes, Registros de Modelos de Utilidad y de Diseños Industriales | Diciembre de 2013 | 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/r/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.

Thailand

* The scope of the design patent registration would be considered to cover the form or composition of lines or colors and it has to be used with such article.

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 |
|------------------|---|--|
| Azerbaijan | | |
| 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. |
| Chile | Indicate the preferred field of application of the design. For the purposes of analysis, the classification of the article is considered in searches in addition to the classification associated with the design of the GUI or icon. | |
| 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 | | |
| Ecuador | | |
| Estonia | | |
| Finland | | |
| France | | |
| Georgia | | |
| Germany | | |
| Hungary | | |

| Responding Party | Purpose of the identification of the article(s) | Comments |
|--------------------------|--|--|
| Iceland | | |
| Ireland | | |
| Japan | When the GUI is provided for use in the operation of an article, the functional aspects of an article are used to assess what kind of function the graphic image enables the article to perform. On the other hand, for display images, the functional aspects of an article are used to assess whether the graphic image is a graphic image for making necessary indications for performing the functions of the article. | |
| Kazakhstan | | |
| Kenya | The broken lines serves as a disclaimer to features of the article that are not new or are common in the trade. | |
| Latvia | | |
| Lithuania | | |
| Mexico | | Mexican practice requires that the industrial design specifies the product to which the design applies. |
| New Zealand | | |
| Norway | | |
| 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 | | |
| Thailand | | The representation of a design must be displayed with solid lines and cannot be displayed with broken lines or dots. |
| United Kingdom | | ? We are not sure what the question is referring to. If classification, it aids searching. |
| 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. |

| Responding Party | Purpose of the identification of the article(s) | Comments |
|------------------|---|--|
| BOIP | | Protection is for the article, the design is the element for which protection is sought. |
| EUIPO | | |

(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 |
|------------------|--|---|
| Azerbaijan | Yes | |
| Brazil | | The link is optional, either indicated in words or by representing the article in broken lines. |
| Canada | | |
| Chile | | Not applicable. |
| China | | |
| Colombia | | |
| Croatia | Yes | |
| Czech Republic | Yes | |
| Denmark | | |
| Ecuador | | Ecuadorian law does not establish regulations on the issue. |
| 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. |
| Iceland | | There is no legislative requirement for a link between a product and a design. |
| Ireland | | Because there is no legislative requirement for designs to have a link with the article. |
| Japan* | | Since it became possible to provide protection to a graphic image itself by adding "graphic images" to the definition of a design. |

| Responding Party | Because of the nature of new technological designs, which may be used in different articles/environments | Other |
|--------------------------|--|--|
| Kazakhstan | | The legislation of the Republic of Kazakhstan does not provide for a link between a design and an article. |
| Kenya | | |
| Latvia | Yes | |
| 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 | | |
| Norway | Yes | |
| 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 | |
| Thailand | | |
| United Kingdom | | |
| United States of America | N/A | |
| BOIP | | |
| EUIPO | | GUI/icon designs are protectable as graphical symbols which can be applied to any product. Furthermore, protection can be sought for part of a design. GUI/icon designs can be part of any article. |

COMMENTS:

Denmark

N/A

Japan

* For graphic image filed as a graphic image itself (revised law)

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 |
|------------------|---|--|
| Azerbaijan | Yes | The similitude is determined by determining the similitude of the substantive characteristics of the claimed industrial design. |
| 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 | | |
| Chile | | Not applicable. |
| China | | |
| Colombia | | |
| Croatia | No | |
| Czech Republic | Yes | |
| Denmark | No | |
| Ecuador | No | The Ecuadorian Office has not yet received a GUI/icon design application in the form of an industrial design. |
| 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. |

| Responding Party | The Office searches for any design with a similar or identical appearance, regardless of the articles to which it applies | Please explain |
|--------------------------|---|---|
| Iceland | No | N/A, the Icelandic Intellectual Property Office does not carry out a substantive examination. |
| Ireland | No | Novelty searches are not conducted by the Irish Office. |
| Japan* | Yes | It is necessary to search designs of GUI etc. of different articles in order to assess creativity, which is one of requirement for registration. |
| Kazakhstan | Yes | |
| Kenya | | |
| Latvia | No | Our Office is not an examining office. |
| Lithuania | No | |
| Mexico | | |
| New Zealand | | |
| Norway | No | Not applicable. We are not an examining office. |
| 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. |
| Singapore | | |
| Slovakia | No | The different indication of the product and the different Locarno classification. |
| Sweden | | |
| Switzerland | No | The IPI is no examining office. |
| Thailand | | |
| United Kingdom | No | In the UK novelty searching ceased in 2006. |
| United States of America | N/A | |
| BOIP | | |
| EUIPO | No | The EUIPO does not carry out an ex officio search for novelty/individual character of designs. Its examination is limited to two grounds for non-registrability: whether the design corresponds to the definition set out in Article 3(1) CDR or if it is contrary to public policy or to accepted principles of morality (Article 9 CDR). The EUIPO examines novelty/individual character only based on an invalidity request. |

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.

Japan

* For graphic image filed as a graphic image itself (revised law)

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 |
|------------------|---|
| Azerbaijan | |
| 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 | |
| Chile | Not applicable. |
| China | |
| Colombia | |
| 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 | |
| Ecuador | The Organic Code of the Social Economy of Knowledge, Creativity and Innovation and Decision No. 486 of the Andean Community do not contain special provisions for graphical user interface (GUI), icon or typeface/type font designs. There has not yet been a search for the mentioned subjects. However, if there were such a search request, it would be conducted on the basis of what the applicant requests to be searched. |
| 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. |

| Responding Party | Freedom to Operate (FTO) searches |
|--------------------------|--|
| 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. |
| Iceland | Users could use the International Classification for Industrial design to conduct an FTO search. |
| Ireland | That is a matter for users. |
| Japan | We are planning to create a new classification etc. for searching graphic image designs and assigning them to the registered designs, in time with the revision of the Design Act. |
| Kazakhstan | |
| Kenya | |
| Latvia | Users can conduct searches by using databases on our Office's website: https://www.lrpv.gov.lv/en/industrial-designs/databases or hire a patent attorney for professional help. |
| Lithuania | Searches may be conducted by the indication of the product or Locarno Class. |
| Mexico | |
| New Zealand | |
| Norway | We have a Locarno class for GUIs; LOC 14-04. They may perform searches in that class. |
| 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. |
| Thailand | |
| 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 | |

| Responding Party | Freedom to Operate (FTO) searches |
|------------------|--|
| EUIPO | GUIs and Icons are classified in Class 14-04 of the Locarno Classification and can be searched in that class. Typographic typefaces are all classified in class 18-03. |

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? |
|------------------|----------|-----------|---|
| Azerbaijan | Yes | | An article is not considered as a substantive characteristic in respect of a claimed industrial design. |
| Brazil | Yes | | The indication of an article (in words or represented in broken lines) might influence the search scope. |
| Canada | | | |
| Chile | | | Not applicable. |
| 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. |
| Ecuador | Yes | | N/A |
| Estonia | Yes | | It can be used for illustrating purposes or when seeking a protection for the product as a whole, provided that only the |

| Responding Party | Optional | Mandatory | What is the effect of such indication? |
|--------------------------|----------|-----------|--|
| | | | 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 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. |
| Iceland | Yes | | |
| Ireland | | Yes | To enable the design to be classified according to Locarno. |
| Japan | | | |
| Kazakhstan | Yes | | |
| Kenya | | | |
| Latvia | Yes | | The indication of article is purely administrative, it aids classification. It does not affect the scope of protection. |
| Lithuania | Yes | | |
| Mexico | | | |
| New Zealand | | | |
| Norway | Yes | | They may indicate the product on which the GUI shall be applied but it has no effect on the scope of protection. However, if the article is indicated it might, potentially, have an impact. |
| 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. |
| Thailand | | | |
| 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 | |

| Responding Party | Optional | Mandatory | What is the effect of such indication? |
|------------------|----------|-----------|--|
| BOIP | | | |
| EUIPO | | Yes | As stated above under question 2, the EUIPO understands that the “link to an article” is to be distinguished from the indication of product. On the other hand, if this question aims to determine whether an indication of product is necessary, we note that, the product indication is one of the compulsory requirements when filing an application for a registered Community design. The product indication must correspond to the graphic representation, therefore, unless the article itself also forms part of the design, the product indication should be for Graphical user interfaces [computer screen layout] or Icons [for computers]. If, on the other hand, the article is part of the design, the product indication should be for the article itself (e.g. computers) and the graphic user interface or icon. The product indication does not affect the scope of protection of the design as such (see Art. 36(6) CDR). |

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.

Japan

Although the filing procedures for graphic image itself which will become registrable after the revised law comes into force are under consideration, the Design Act provides that applicants have to state the “usage of the graphic image” in the application.

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? |
|------------------|--|---|
| Azerbaijan | Yes | Yes |
| Brazil | Yes | Yes |
| Canada | | |
| Chile | Not applicable. | |
| China | | |
| Colombia | Yes | Yes |
| Croatia | Yes | Yes |
| Czech Republic | Yes | Yes |

| 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? |
|--------------------------|--|---|
| Denmark | Yes | Yes |
| Ecuador | Yes | Yes |
| Estonia | Yes | N/A |
| Finland | Yes | Yes |
| France | Yes | Yes |
| Georgia | Yes | Yes |
| Germany | Yes | Yes |
| Hungary | Yes | Yes |
| Iceland | Yes | |
| Ireland | Yes | Yes |
| Japan | No for graphic images filed as a part of an article (existing law and revised law) Yes for graphic image filed as it is (revised law) | The matter is under consideration. |
| Kazakhstan | Yes | Yes |
| Kenya | No | |
| Latvia | Yes | Yes |
| Lithuania | Yes | Yes |
| Mexico | No | |
| New Zealand | | |
| Norway | Yes | Yes |
| 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 |
| Thailand | | |
| United Kingdom | Yes | Yes |
| United States of America | N/A | |
| BOIP | | |
| EUIPO | Yes | Yes |

COMMENTS:

Azerbaijan

Without infringing upon the rights of the right holders to the previously registered articles.

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.

Iceland

The illustration defines the scope of the protection.

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/1/2013/001913 | |
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| Inventor(es) | KIM MIN HYUNG [KR]; CHANGSOO LEE [KR]; PILKYOUNG MOON [KR]; GANGNAM-GU, SEUL, 443-742, KR | |
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| Agente | RAFAEL BELTRAN RIVERA; Homero 534 8, Col. Chapultepec Morales, 11570, MIGUEL HIDALGO, Distrito Federal, México | |
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| 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=6811971 | |

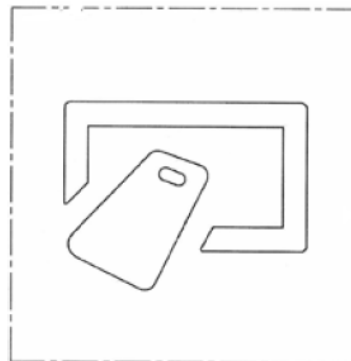


FIG. 2

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 | | |
| Azerbaijan | | | | | Yes | |
| 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 | |
| Chile | | | | | | |
| China | | | jpg tiff | not exceeding 150mm×220mm | 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. |

| 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 | | |
| Czech Republic | | | | | | |
| Denmark | | | jpg pdf | | Yes | |
| Ecuador | Yes | | Yes | | 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 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 | |
| Iceland | | | pdf jpg | | Yes | |
| Ireland | | | jpeg | 4 MB with 17 cm x 24 cm maximum size | Yes | 17x24 cm maximum size. |
| Japan | | | jpeg tiff | 1181 x 889 dots 2362 x 1779 dots | Yes | |
| Kazakhstan | | | | | | |
| Kenya | | | | | Yes | |
| Latvia | | | jpeg, jpg, bmp, tiff, png; | not exceeding 15MB; resolution min.300 DPI | Yes | On paper format the size of each perspective of the image shall not exceed A4 and shall |

| 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 | | |
| | | | | | | not be less than 9x12 cm. |
| 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 | | | | | | |
| Norway | | | jpeg, png, tiff, pdf | | Yes | |
| 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 | |
| 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 | 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 | | |
| | | | | 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. | | |
| Slovakia | | | pdf jpeg tiff png gif svg | 35 MB | Yes | |
| Sweden | | | jpeg png gif | | Yes | |
| Switzerland | | | | | | |
| Thailand | | | jpg png | Not exceeding 50 MB per image | Yes | For animated designs that are a series of static images, static images both in electronic and in paper format must be submitted separately one image per one application. |
| United Kingdom | * | * | jpeg | Each file 4MB max, 12 images max | Yes** | |
| United States of America | | | pdf | 100MB | | |
| BOIP | | | jpg jpeg | Size: minimum 100x100 pixels ; maximum 3000x3000 pixels | Yes* | |
| EUIPO | | 20MB | jpg pdf | 5000 x 5000 pixels 2 MB | Yes | on separate sheets of paper; reproduced on opaque white paper; |

| 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 | | |
| | | | | | | size DIN A4 (29.7cm x 21 cm) and the space used for the reproduction shall be no larger than 26.2 cm x 17 cm |

COMMENTS:

Azerbaijan

Alternating static images creating animation.

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.

Chile

Chilean legislation does not provide for moving images. We have not received any applications.

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.

Ecuador

Any means of graphic representation of the design would be admissible.

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.

Norway

We write an annotation to the registration that it concerns an "animated design".

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

EUIPO

Moving images can only be considered as an additional technical means of viewing the design and does not replace the conventional static views. Moving images as support to the static images can be represented using the file format obj, stl, x3d up to a maximum size of 20 MB.

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 |
|------------------|---------------|------------------------------------|-------------------------------|
| Azerbaijan | | | Yes |
| Brazil | | Yes | |
| Canada | | | Yes |
| Chile | | | |
| China | | Yes | |
| Colombia | | Yes | |
| Croatia | | | Yes |
| Czech Republic | | Yes | |
| Denmark | | Yes | |
| Ecuador | | Yes | |
| Estonia | | Yes | |
| Finland | | Yes | |
| France | | | |
| Georgia | | Yes | Yes |
| Germany | | Yes | |
| Hungary | | | Yes |
| Iceland | | Yes | |

| Responding Party | Moving images | Static images in electronic format | Static images in paper format |
|--------------------------|---------------|------------------------------------|-------------------------------|
| Ireland | | Yes | |
| Japan | | | Yes |
| Kazakhstan | | | |
| Kenya | | | Yes |
| Latvia | | Yes | |
| Lithuania | | | |
| Mexico | | | Yes |
| New Zealand | | | |
| Norway | | Yes | |
| 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 | | | |
| Thailand | | | Yes |
| United Kingdom | | Yes | |
| United States of America | | Yes | |
| BOIP | | Yes | |
| EUIPO | | Yes | |

COMMENTS:

Canada

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

Chile

Not applicable.

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.

Ecuador

In relation to industrial design applications submitted in general.

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.

Kenya

The only method available is static images in paper format.

Latvia

Moving images are currently not allowed for technical reasons.

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.

Thailand

Moving images or the series of static images are not accepted.

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 |
|-------------------------|---|---|
| Azerbaijan | No | |
| Brazil | No | |
| Canada | No | |
| Chile | | |
| 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. |
| Ecuador | No | |
| 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 | |
| Iceland | | N/A, animated designs not accepted. |
| Ireland | No | |
| Japan | Yes | |
| Kazakhstan | | |
| Kenya | No | |
| Latvia | Yes | The applicant must represent a set of static images showing a sequence. |
| Lithuania | No | |
| Mexico | No | |
| New Zealand | | |

| Responding Party | Additional/special requirements for animated designs | If yes, please specify |
|--------------------------|--|--|
| Norway | Yes | Series of static images and a written description of the movement. Video files are optional. Short sequence of views used to show a single animated design at different specific moments in time, in a clearly understandable progression. 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. |
| 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. |
| 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 | | |
| Thailand | No | |
| 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 |

| Responding Party | Additional/special requirements for animated designs | If yes, please specify |
|------------------|--|--|
| | | are associated with the process or period in which one image transitions to another image.” MPEP § 1504.01(a)(IV) |
| BOIP | No | |
| EUIPO | Yes | |

COMMENTS:

Chile

Not applicable.

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.

Japan

The graphic images are for the same function and they are images that have relevance in form.

Peru

Not applicable.

Switzerland

The IPI does not accept animated designs at all.

Thailand

All designs have to represent one product per one application. All images must represent the design in a consistent manner. It cannot represent the series of static images or other images that are not consistent with each other.

EUIPO

In accordance with the Common Practice (CP6) on the graphic representations of designs (<https://www.tmdn.org/network/graphical-representations>), all views of an animated icon or graphical user interface need to be visually related, which means that they must have features in common. It is the applicant's responsibility to order the views in such a way as to give a clear perception of the movement/progression.

The Office accepts a maximum of 7 views.

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 |
|-------------------------|--------------------------------------|--|---|---|--------------------------------------|
| Azerbaijan | | | | Yes | |
| Brazil | | | | | Yes Video files are not allowed. |
| Canada | | | | | |
| Chile | | | | | |
| China | | | | | |
| Colombia | | | | | |
| Croatia | | | | Yes | |
| Czech Republic | | | | | Yes We do not accept video files. |
| Denmark | | | | | |
| Ecuador | | | | | Yes |
| Estonia | | | | Yes | |
| Finland | | | | | Yes Video files are not allowed. |
| France | | | | | |
| Georgia | | | | | |
| Germany | | | | | |
| Hungary | | | | | |
| Iceland | | | | | |
| Ireland | | | | | |
| Japan | | | | | |
| Kazakhstan | | | | | |
| Kenya | | | | | |
| Latvia | | | | | |
| Lithuania | | | | | |
| Mexico | | | | Yes | |
| New Zealand | | | | | |
| Norway | | | | Yes | |

| 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 |
|--------------------------|-------------------------------|---|--|--|--|
| 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 | | | | | |
| Thailand | | | | | |
| United Kingdom | | | | | |
| United States of America | | | | | |
| BOIP | | | | | |
| EUIPO | | | | | Yes |

COMMENTS:

Chile

Not applicable.

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.

Ecuador

The online platform allows static images to be uploaded in JPEG format.

Georgia

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

Germany

Not applicable.

Iceland

N/A, video files not accepted.

Japan

We do not accept video files.

Kenya

Not applicable

Latvia

Video files are not currently acceptable.

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.

Thailand

Video files are not accepted.

United Kingdom

N/A

United States of America

The USPTO currently does not accept video files.

BOIP

N/A

EUIPO

Moving images can only be considered as an additional technical means of viewing the design and does not replace the conventional static views. In accordance with the Common Practice (CP6) on the graphic representations of designs (<https://www.tmdn.org/network/graphical-representations>), all views of an animated icon or graphical user interface need to be visually related, which means that they must have features in common. It is the applicant's responsibility to order the views in such a way as to give a clear perception of the movement/progression. The Office accepts a maximum of 7 views.

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 |
|------------------|-------------------------------|---|---|
| Azerbaijan | | | Yes |
| Brazil | | | |
| Canada | | | |
| Chile | | | |
| China | | | |
| Colombia | | | Yes |
| Croatia | | | Yes |
| Czech Republic | | | |
| Denmark | | | Yes |
| Ecuador | | | Yes |
| Estonia | | | Yes |
| Finland | | | Yes |
| France | | | |
| Georgia | | | Yes |
| Germany | | | |
| Hungary | | | |
| Iceland | | | Yes |
| Ireland | | | |
| Japan | | | |
| Kazakhstan | | | |
| Kenya | | | |
| Latvia | | | |
| Lithuania | | | |
| Mexico | | | Yes |
| New Zealand | | | |
| Norway | | | Yes |

| 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 |
|--------------------------|-------------------------------|---|---|
| Pakistan | | | Yes |
| Peru | | | Yes |
| Poland | | | |
| Portugal | | | |
| Republic of Korea | | | Yes |
| Republic of Moldova | | | Yes |
| Romania | | | |
| Singapore | | | |
| Slovakia | | | Yes |
| Sweden | | | |
| Switzerland | | | |
| Thailand | | | |
| United Kingdom | | | |
| United States of America | | | |
| BOIP | | | |
| EUIPO | | | Yes |

COMMENTS:

Brazil

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

Chile

Not applicable.

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.

Ecuador

The online system allows static images to be uploaded in JPEG format.

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.

Iceland

Only static images accepted.

Japan

We do not accept video files.

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.

Kenya

Not applicable

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.

Thailand

Both series of static images and video files are not accepted.

United Kingdom

N/A

United States of America

N/A. See answer 21.

BOIP

N/A

EUIPO

Moving images can only be considered as an additional technical means of viewing the design and does not replace the conventional static views.

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 |
| Azerbaijan | Yes | | Yes | Yes | Yes 20 alternating static images. Using over 20 alternating images is possible subject to payment of certain fees. | |
| Brazil | Yes | | Yes | | | |
| Canada | No | | | | | |
| Chile | | | | | | |
| China | Yes | Yes | Yes | Yes | | |
| Colombia | Yes | | Yes | Yes | Yes | |
| Croatia | Yes | | Yes | Yes | Yes | |
| Czech Republic | | | | | | |
| Denmark | Yes | | Yes | Yes | | Yes |
| Ecuador | No | | | | | |
| Estonia | No | | | | | |
| Finland | No | | | | | |
| France | Yes | | Yes | Yes | 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 |
| | | | | | 100 | |
| Georgia | Yes | | Yes | Yes | | |
| Germany | Yes | Yes | Yes | Yes | Yes | |
| Hungary | No | | | | | |
| Iceland | No | | | | | |
| Ireland | Yes | Yes | Yes | Yes | Yes | |
| Japan | Yes | | | | | |
| | for graphic images filed as a part of an article (existing law and revised law) | Yes | Yes | Yes | | |
| | for graphic image filed as it is (revised law) | | Yes | Yes | | Yes* |
| Kazakhstan | | | | | | |
| Kenya | Yes | | Yes | | | |
| Latvia | Yes | | Yes | Yes | | |
| Lithuania | Yes | | Yes | Yes | | |
| Mexico | Yes | | | Yes | | Yes* |
| New Zealand | | | | | | |
| Norway | Yes | | Yes | Yes | | |
| 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 | | | |
| Switzerland | | | | | | |
| Thailand | | | | | | |
| United Kingdom | | | Yes | Yes | If filed electronically there is a maximum of 12 images allowed though there is no limit with paper filed applications. | |

| 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 |
| United States of America | | | | | | |
| BOIP | | Yes | Yes | Yes | | |
| EUIPO | Yes | | 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.

Chile

Not applicable.

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.

Iceland

According to Art. 4(1) of the Design Regulation (DR) No. 706/2001 each illustration may only show one design from one point of view. If more than one illustration is submitted of the same design, the illustrations shall be distinguished from each other and marked in alphabetical or numerical order.

Japan

* All images related to the same function.

Kenya

The office does not have experience with industrial design applications relating to animated designs.

Latvia

The number of images is not limited.

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.

Thailand

Series of static images or a sequence of drawings or photographs are not accepted.

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.

EUIPO

According to CP6 (Convergence in graphic representations of designs), the sequence of snapshots needs to be visually related (they 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. On another note, the maximum number of views, namely 7, applies to all design applications.

Question 24 - In which format are animated designs granted?

| Responding Party | Paper registration/ patent | Electronic (e-grant) | Other | Comments |
|------------------|-------------------------------|-------------------------|-------|--|
| Azerbaijan | Yes | | | |
| Brazil | | Yes | | |
| Canada | Yes | | | |
| Chile | | | | Not applicable. |
| 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. |
| Ecuador | | | Yes | No animated design application has been received to date. |
| Estonia | Yes | | | |
| Finland | Yes | | | |
| France | Yes | Yes | | Electronic grant and issuance of a paper registration certificate. |
| Georgia | Yes | | | |

| Responding Party | Paper registration/ patent | Electronic (e-grant) | Other | Comments |
|--------------------------|-------------------------------|-------------------------|-------|--|
| Germany | | Yes | | |
| Hungary | Yes | Yes | | |
| Iceland | | | | N/A The Icelandic Intellectual Property Office (ISIPO) does not accept animated designs. |
| Ireland | Yes | | | |
| Japan | | Yes | | |
| Kazakhstan | | | | In Kazakhstan, a patent for a utility model is issued on paper, regardless of the type of model. |
| Kenya | | | | The office grants industrial designs registrations in paper form. The office does not have experience in registering animated designs. |
| Latvia | Yes | Yes | | The applicant may choose to receive the registration certificate either electronically or in paper form. |
| Lithuania | Yes | | | |
| Mexico | | Yes | | |
| New Zealand | | | | |
| Norway | Yes | Yes | | |
| 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. |
| Thailand | Yes | | | All designs are granted in paper registration as one design per one application. So animated designs are granted as many applications of a pattern for a display screen. |
| United Kingdom | | | | ? We are unclear on this question. |
| United States of America | Yes | | | Namely an issued U.S. design patent. |
| BOIP | | Yes | | |

| Responding Party | Paper registration/ patent | Electronic (e-grant) | Other | Comments |
|------------------|-------------------------------|-------------------------|-------|---|
| EUIPO | | Yes | | Since 15/11/2010, registration certificates have been issued only as online e-certificates. Holders of Community design registrations are invited to download the certificate from the day after publication, using the 'eSearch plus' tool on the Office's website. However, this e-certificate shows the static views, not the moving images; the 3D object is provided only for search purposes. |

Question 25 - In which format are animated designs published?

| Responding Party | Paper publication | Electronic publication | Other | Comments |
|------------------|-------------------|------------------------|-------|---|
| Azerbaijan | Yes | | | |
| 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. |
| Chile | | | | Not applicable. |
| China | Yes | Yes | | |
| Colombia | | Yes | | |
| Croatia | | Yes | | |
| Czech Republic | | | | We do not register animated industrial designs. |
| Denmark | | Yes | | |
| Ecuador | | | Yes | No industrial design application has been received to date. |
| 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 | | |
| Iceland | | | | N/A, see comments Q. 24. |
| Ireland | Yes | | | |
| Japan | | Yes | | |
| Kazakhstan | | | | |
| Kenya | | | | Applications are published in paper format but the office does not have experience in registering animated designs. |
| Latvia | | Yes | | Electronic publication - The Official gazette https://www.lrpv.gov.lv/en/vestnesis |

| Responding Party | Paper publication | Electronic publication | Other | Comments |
|--------------------------|-------------------|------------------------|-------|--|
| Lithuania | | Yes | | |
| Mexico | | Yes | | |
| New Zealand | | | | |
| Norway | | Yes | | |
| 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. |
| Thailand | | Yes | | All designs are published in electronic publication format as one design per one application on the DIP's website. So animated designs are published as many applications of a pattern for a display screen. |
| 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 | | |
| EUIPO | | Yes | | All registered Community designs are published in the Community Designs Bulletin, which is published in electronic format only, on the Office's website. |

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

| Responding Party | Special publication procedures for animated designs | Comments |
|------------------|---|---|
| Azerbaijan | No | |
| Brazil | No | |
| Canada | No | |
| Chile | | Not applicable. |
| China | No | |
| Colombia | No | |
| Croatia | No | |
| Czech Republic | | We do not register animated industrial designs. |
| Denmark | No | |
| Ecuador | No | |
| Estonia | No | |
| Finland | No | |
| France | No | |
| Georgia | No | |
| Germany | No | |

| Responding Party | Special publication procedures for animated designs | Comments |
|--------------------------|---|--|
| Hungary | No | |
| Iceland | | N/A, see comments Q. 24. |
| Ireland | | |
| Japan | No | |
| Kazakhstan | | |
| Kenya | No | |
| Latvia | No | |
| Lithuania | No | |
| Mexico | No | |
| New Zealand | | |
| Norway | No | |
| 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. |
| Thailand | No | |
| United Kingdom | No | |
| United States of America | No | |
| BOIP | No | |
| EUIPO | No | What is published is the static images, not the moving images. |

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 |
| Azerbaijan | Yes | Yes | | | |
| Brazil | No | | | | |
| Canada | Yes | | | | Yes* |
| Chile | | | | | |
| China | Yes | Yes | Yes | Yes | |
| Colombia | No | | | | |
| Croatia | No | | | | |
| Czech Republic | No | | | | |

| 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 |
| Denmark | Yes | | | Yes | |
| Ecuador | No | | | | |
| Estonia | No | | | | |
| Finland | No | | | | |
| France | Yes | | | | Yes |
| Georgia | No | | | | |
| Germany | Yes | | Yes | Yes | |
| Hungary | No | | | | |
| Iceland | Yes | | | Yes | |
| Ireland | No | | | | |
| Japan | Yes for graphic images filed as a part of an article (existing law and revised law) | Yes | Yes | | Yes* |
| | for graphic image filed as it is (revised law) | Yes | Yes | | |
| Kazakhstan | | | | | Yes* |
| Kenya | No | | | | |
| Latvia | Yes | | | | Yes* |
| Lithuania | Yes | Yes | Yes | Yes | |
| Mexico | Yes | Yes | | | |
| New Zealand | Yes | | | | Yes* |
| Norway | 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 | | | | |
| Thailand | Yes | Yes | | Yes | |
| United Kingdom | No | | | | |
| United States of America | | | | | Yes |
| BOIP | No | | | | |
| EUIPO | Yes | | | | Yes |

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 |
|------------------|--|---|
| Azerbaijan | | |
| Brazil | | |
| Canada | | |
| Chile | | |
| 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 | | |
| Ecuador | | |
| Estonia | | |
| Finland | | |
| France | | |
| Georgia | | |
| Germany | | |
| Hungary | | |
| Iceland | | |
| Ireland | | |
| Japan | For graphic images filed as a part of an article (existing law and revised law): Since graphic images representing “contents” or those for ornamental purposes only do not display images required to perform functions of the article they are displayed on, nor are images provided for performing functions of an article, they do not fall under the definition of designs provided under Article 2 of the Design Act. | The graphic images that fall under either (i) or (ii) below. (i) The graphic image displayed on the display part of the article is a graphic image for making necessary indications for performing the functions of the article, and also is a graphic image recorded in the article. (ii) The graphic image on a screen is provided for use in the operation of the article in order to enable the article to perform its functions, and is displayed on the article itself or another article that is used with the article in an integrated manner, and also has been recorded in the article. |
| | For graphic image filed as it is (revised law): Since graphic images representing “contents” or those provided only for decorative purposes are not provided for use in the operation of a device, nor displayed as a result of the device performing its functions, they do not fall under the definition of designs provided under Article 2 of the Design Act. | Graphic images (limited to images provided for use in the operation of a device or those displayed as a result of the device performing its functions) are images which create an aesthetic impression through the eye. |

| Responding Party | Justification of the exclusion from protection | Definition of the graphic images subject to protection |
|--------------------------|---|--|
| Kazakhstan | | An examination is performed in order to determine the scope of protection. |
| Kenya | | |
| Latvia | | |
| 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. | |
| Norway | | |
| 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 | | |
| Romania | The legal provisions of Design Law. | |
| Singapore | | |
| Slovakia | | |
| Sweden | | |
| Switzerland | | |
| Thailand | Any image that is considered to be contrary to public morality or order would be excluded. Moreover, the designs aimed at the following characteristics cannot be registered. -Aimed for its use or improvement, -Methods or basic concepts such as organizing of items, computer software, or IC -Layout of ideas such as organization of book pages -Designs which cannot be seen with the naked eye. | The graphic images are defined as a pattern of a product. |
| United Kingdom | | |
| United States of America | | |
| BOIP | | |
| EUIPO | | |

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 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

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.

Iceland

A design is not registered if it is against public policy and morality or if it includes government signs or other internationally recognized signs used without authorization, as indicated in Article 3 of the Icelandic Design Protection Act (DA) nr. 46/2001. Graphic images subjected to protection are defined by disclaimers.

Japan

* The graphic images that do not fall under (i) nor (ii) below.

(i) The graphic image displayed on the display part of the article is a graphic image for making necessary indications for performing the functions of the article, and also is a graphic image recorded in the article.

(ii) The graphic image on a screen is provided for use in the operation of the article in order to enable the article to perform its functions, and is displayed on the article itself or another article that is used with the article in an integrated manner, and also has been recorded in the article.

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.

Latvia

Designs excluded from protection are:

- designs of graphic images or icons contrary to public policy and/or morality are excluded from protection.

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.

Norway

* A design is not registrable if it is contrary to public morality or order.

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 have 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 do 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.

EUIPO

Only those that are contrary to public order or principles of morality would be refused (Article 47 CDR).

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 |
|------------------|---|---|
| Azerbaijan | No | |
| Brazil | No | |
| Canada | No | |
| Chile | | |
| China | Yes | Game interface, startup and power off images, webpage text and image, and screen wallpaper. |
| 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 | | |
| Ecuador | No | |
| 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 | |
| Iceland | 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 (6 ^{ter}) or other protected elements. |
| Japan | Yes | For graphic images filed as a part of an article (existing law and revised law): Designs composed only of shapes essential for securing the functions of an article shall not be registered as a design. For graphic image filed as a graphic image itself (revised law): Designs solely consisting of an indication that is indispensable for the usage of graphic images shall not be registered. |
| Kazakhstan | Yes | |
| Kenya | No | |
| Latvia | Yes | Designs contrary to public policy and/or morality are excluded from protection. |
| Lithuania | No | |
| Mexico | | |
| New Zealand | Yes | Same as for graphic images above. |

| Responding Party | Certain kinds of GUI/icon designs are excluded from design protection | If yes, please specify |
|--------------------------|---|---|
| Norway | No | |
| 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://wipo.lex.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. |
| Thailand | Yes | Same as graphic images, Question 27 |
| United Kingdom | No | |
| United States of America | No | |
| BOIP | No | |
| EUIPO | No | |

COMMENTS:

Brazil

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

Chile

Designs whose commercial exploitation must necessarily be prevented in order to protect public order, State security, morals and decency are not protectable.

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? |
|------------------|---|--|---|
| Azerbaijan | No | | |
| 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 solid lines. | Yes |
| Canada | Yes | | Yes |
| Chile | | | |
| China | No | | |
| Colombia | No | | |
| 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 |
| Ecuador | No | | |
| 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 | | If the mentioned part of the GUI design satisfies the requirements defined in Article 1 of the Hungarian Design Act. (1) Design protection shall be granted for any designs which are new and have individual character. (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. | Yes |

| 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? |
|---------------------|---|---|--|
| | | (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. (4) Complex product shall mean a product which is composed of multiple components which can be replaced permitting disassembly and reassembly of the product. | |
| Iceland | | | No |
| Ireland | Yes | By the part being clearly identified and where it meets the requirements for registration. | No |
| Japan | Yes | Through specifying the part seeking design registration by using solid lines and broken lines to distinguish that part, in the same way as for partial design of articles. | Yes |
| Kazakhstan | Yes | | |
| Kenya | No | | |
| Latvia | Yes | | 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. | |
| New Zealand | | | |
| Norway | Yes | | Yes |
| 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 |

| 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? |
|--------------------------|---|--|---|
| 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. | |
| Thailand | No | | |
| 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 |
| EUIPO | Yes | | 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).

Chile

If allowed, the rest of the GUI must follow on a broken line.

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.

Iceland

The illustration defines the scope of the protection.

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.

Latvia

- A part of a GUI can be protected for instance by using visual disclaimers in accordance with CP 6.
- A part of a GUI design can be protected like any other design, no matter if it appears only under certain circumstances.

Norway

The part which is excluded, may be drawn in dotted lines.

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)

EUIPO

Article 3(a) allows for part of a design.

In accordance with the Common Practice (CP6) on the graphic representations of designs (<https://www.tmdn.org/network/graphical-representations>), visual disclaimers indicate that protection is not being sought, and registration has not been granted, for certain features of the design shown in the representation. Thus, they indicate what is not intended to be protected. This can be achieved:

- by excluding with broken lines, blurring or colour shading the features of the design for which protection is not sought; or
- by including the features of the design for which protection is sought within a boundary, thus making it clear that no protection is sought for what falls outside the boundary.

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? |
|------------------|---|---|---|
| Azerbaijan | No | | |
| Brazil | Yes | No | |
| Canada | Yes | Yes | |
| Chile | | | |
| 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 three-dimensional toy that |

| 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? |
|-------------------|---|---|--|
| | | | 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 | |
| Ecuador | No | | |
| Estonia | No | | |
| Finland | Yes | No | |
| France | Yes | No | |
| Georgia | Yes | No | |
| Germany | Yes | No | |
| Hungary | Yes | Yes | Clothes, lampshade, hosiery, graphic symbols etc. |
| Iceland | No | No | |
| Ireland | No | | |
| Japan | Yes | Yes | <p>For graphic images filed as a part of an article (existing law and revised law): Examples include the design of a lampshade which is not apparent unless the lamp is lighted, the design of inflated articles, such as toy balloons, water toys, air mattresses, a laser keyboard (limited to cases where it is projected on articles) and a projection of a speedometer or radio control panel onto a windshield of a car.</p> <p>For graphic image filed as a graphic image itself (revised law): Examples include the design of a lampshade which is not apparent unless the lamp is lighted, the design of inflated articles, such as toy balloons, water toys, air mattresses, a laser keyboard and a projection of a speedometer or radio control panel onto a windshield of a car.</p> |
| Kazakhstan | No | | |
| Kenya | No | | |
| Latvia | 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. |
| Norway | Yes | No | They get protection for what they show in the pictures. We don't ask if it is permanent or what article it is applied to. |
| 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 : | Yes | Like the example of the projection of a speedometer or radio control panel onto a windshield of a car, If the projected (tied) |

| 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? |
|--------------------------|--|---|--|
| | 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 projection of a speedometer or radio control panel onto a windshield of a car. | | article or the display part of the article can be specified, it is eligible for the design protection. |
| 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. |
| Thailand | No | | |
| United Kingdom | Yes | No | |
| United States of America | Yes | Yes | |
| BOIP | Yes | Yes | |
| EUIPO | Yes | No | |

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.

Chile

Not applicable.

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.

Iceland

The illustration defines the scope of the protection. Registration of a non-permanent design is not excluded *per se*.

Japan

In Japan, out of the non-permanent designs, those other than solid matters such as electricity, water, etc., including a fountain that cannot maintain its shape out of the examples indicated in footnote 14, are considered that do not fall under the definition of designs provided under the Design Act.

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 be 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).

EUIPO

In principle yes, but not all the examples provided in footnote 14 would be acceptable. All representations must be clear, precise and enable third parties and competent authorities to understand the scope of protection. Reference is made to the answer of related question 5b): the statutory definition of a design or product respectively does not explicitly cover a virtual or non-permanent article. Given that graphical symbols constitute products by law, by extension, a non-permanent article which can be visually represented may be considered a design as well. There is, however, no established case law for such an interpretation.

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 |
| Azerbaijan | Yes | Yes | | Yes | |
| Brazil | Yes | Yes | | Yes | Yes |
| Canada | No | | | | |
| Chile | | | | | |
| China | Yes | Yes | | | Yes |
| Colombia | Yes | Yes | | Yes | Yes |
| Croatia | Yes | Yes | | Yes | Yes |
| Czech Republic | Yes | Yes | | | Yes |
| Denmark | Yes | Yes | | Yes | |
| Ecuador | Yes | 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 | | | | |
| Iceland | No | | | | |
| Ireland | Yes | Yes | | Yes | |
| Japan | No | | | | |
| Kazakhstan | 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 |
| Kenya | No | | | | |
| Latvia | Yes | Yes | | Yes | Yes |
| Lithuania | Yes | Yes | | Yes | |
| Mexico | No | | | | |
| New Zealand | Yes | Yes | | | Yes |
| Norway | 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 | | | | |
| Thailand | Yes | | Yes | | Yes |
| United Kingdom | No | | | | |
| United States of America | Yes | Yes | Yes | | Yes |
| BOIP | Yes | Yes | | | Yes |
| EUIPO | No | 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 |
|------------------|--|--|
| Azerbaijan | | |
| Brazil | Yes | No |
| Canada | No | No |
| Chile | Yes | |
| China | Yes | Yes |
| Colombia | Yes | No |
| Croatia | Yes | No |
| Czech Republic | Yes | No |
| Denmark | Yes | No |
| Ecuador | Yes | No |
| Estonia | | No |
| Finland | Yes | No |
| France | Yes | No |

| Responding Party | The applicant can challenge or appeal the classification | There is an exception for GUI/icon designs |
|--------------------------|--|--|
| Georgia | No | No |
| Germany | Yes | No |
| Hungary | Yes | No |
| Iceland | Yes | No |
| Ireland | | No |
| Japan | No | No |
| Kazakhstan | Yes | No |
| Kenya | | |
| Latvia | Yes | No |
| Lithuania | Yes | No |
| Mexico | Yes | No |
| New Zealand | No* | |
| Norway | No | 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 |
| Thailand | Yes | No |
| United Kingdom | Yes | No |
| United States of America | No | No |
| BOIP | Yes | No |
| EUIPO | 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.

Chile

The applicant is not obliged to indicate the classification of the design, but the office must deliver a classification and the applicant accepts on publication of the application. The classification can be appealed. It could also be for a GUI or icon.

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.

Iceland

Applicants must specify the product which registration is sought for and the Office assigns the class according to the Locarno Classification which the applicant can challenge.

New Zealand

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

Kenya

There no requirement for applicants to indicate the classification of the product/article in the application form, the office assigns the class according to the Locarno classification.

Latvia

The class may not be specified in the application. Classification is an expert responsibility.

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

EUIPO

Pursuant to Article 36(2) CDR, an application for a Community design must indicate the products in which the design is intended to be incorporated or to which it is intended to be applied. Pursuant also to Article 1(1)(d) CDIR and Article 3(3) CDIR, the indication of products must be worded in such a way as to indicate clearly the nature of the products and to enable each product to be classified in only one class of the Locarno Classification, preferably using the terms appearing in the list of products set out therein. However, under Article 1(2)(c) CDIR an indication of the Locarno classification is not mandatory. As regards the applicant's possibility to challenge or appeal the given classification, the applicant can request a correction of the classification and if this is refused, a decision will be issued to that effect and such decision can be appealed to the Boards of Appeal.

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 |
|------------------|--|---|---|
| Azerbaijan | | Yes | |
| Brazil | | | |
| Canada | | | |
| Chile | | | |
| China | Yes | Yes | Yes |
| Colombia | Yes | | |
| Croatia | | | |
| Czech Republic | Yes | | |
| Denmark | | | |
| Ecuador | | | |
| Estonia | | | |
| Finland | | | |

| 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 |
|--------------------------|--|---|---|
| France | | | |
| Georgia | | Yes | |
| Germany | | | |
| Hungary | Yes | | |
| Iceland | | | |
| Ireland | | | |
| Japan | | | |
| Kazakhstan | | | |
| Kenya | | | Yes |
| Latvia | | | |
| Lithuania | | | |
| Mexico | Yes | | |
| New Zealand | | | |
| Norway | | | |
| Pakistan | | | Yes |
| Peru | | | |
| Poland | Yes | | Yes |
| Portugal | Yes | | |
| Republic of Korea | | | Yes |
| Republic of Moldova | Yes | | |
| Romania | | | |
| Singapore | Yes | | |
| Slovakia | | | Yes |
| Sweden | | | |
| Switzerland | | | |
| Thailand | | | |
| United Kingdom | | | |
| United States of America | | | |
| BOIP | | | |
| EUIPO | | | |

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.

Chile

In practice, the design is considered in relation to the prior art and it is possible to raise the objection of lack of novelty even in the case of different products.

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.

Ecuador

No application for this type of design has been received to date.

Estonia

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

Germany

Not applicable.

Iceland

No prior art searches.

Ireland

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

Japan

The visual features of the GUI and the article are determined by taking into consideration of how they affect the similarity judgment by consumers of the article. That is to say, we are unable to uniformly answer the weight given to them because the weight is relatively assessed in accordance with the individual visual features for each case.

Latvia

The Office controls only formal requirements of the application; no substantive examination.

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.

Norway

We look at the overall impression that designs give. We only consider the visual features and do not reflect on whether it is an active or resting stage. So possibly the same GUI can be applied to different articles, and not constitute an infringement if the totality of the designs give a different overall impression.

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.

Thailand

All design patents are examined for satisfaction of the requirements of novelty in the same manner. There is no exception for GUI/icon designs.

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

EUIPO

It depends on the circumstances of each case which weight is to be given to the article in the comparison of the conflicting designs. Answers as indicated above cannot be given in the abstract. In general, it can be stated that differences in the article do not exclude a similar overall impression of two designs which include a GUI as a part. It is irrelevant, as such, whether a GUI is in an active or a resting state. The Office does not perform an ex officio examination, and such matters would only be examined in inter partes proceedings, and would depend on the prior art relied upon by the invalidity applicant.

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? |
|------------------|--|---|
| Azerbaijan | Yes | |
| Brazil | Yes | |
| Canada | Yes | No |
| Chile | | |
| China | Yes | |
| Colombia | Yes | |
| Croatia | Yes | |
| Czech Republic | Yes | |
| Denmark | Yes | |
| Ecuador | No | No |
| Estonia | | |
| Finland | No | No |
| France | No | No |
| Georgia | Yes | |
| Germany | Yes | |
| Hungary | Yes | |
| Iceland | No | No |
| Ireland | | |
| Japan | Yes | |
| Kazakhstan | No | No |
| Kenya | | |
| Latvia | N/A | |
| Lithuania | No | No |
| Mexico | No | No |
| New Zealand | | |
| Norway | Yes | |

| Responding Party | GUIs can be considered in their active state | If no, is the Office practice to consider them in their active state? |
|--------------------------|--|---|
| 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 | | |
| Thailand | | |
| United Kingdom | | |
| United States of America | N/A | N/A |
| BOIP | Yes | |
| EUIPO | Yes | |

COMMENTS:

Chile

Not applicable.

Estonia

Not applicable.

Iceland

The illustration defines the scope of the protection.

Ireland

There is no mention of GUIs in Irish Design legislation.

Kenya

The law is silent on this matter.

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.

Thailand

There is no special legislation, mentioning the state of design (an active or a passive state). The legislation allows the GUIs that have been filed as a pattern of a display screen.

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? |
|------------------|--|---|
| Azerbaijan | Yes | |
| Brazil | Yes | |
| Canada | Yes | |
| Chile | | |
| China | Yes | |
| Colombia | Yes | |
| Croatia | Yes | |
| Czech Republic | Yes | |
| Denmark | Yes | |
| Ecuador | Yes | |
| Estonia | Yes | |
| Finland | Yes | |
| France | | |
| Georgia | Yes | |
| Germany | Yes | |
| Hungary | Yes | |
| Iceland | Yes | |
| Ireland | Yes | |
| Japan | Yes for graphic images filed as a part of an article (existing law and revised law) No for graphic image filed as it is (revised law) | In addition to general infringement acts (manufacturing, assigning, using, etc.), act of providing designs through an electric telecommunication line and assigning or leasing recording medium with graphic images recorded or devices that have built-in graphic images, constitute infringement. |
| Kazakhstan | Yes | |
| Kenya | Yes | |
| Latvia | Yes | |
| Lithuania | Yes | |
| Mexico | Yes | |
| New Zealand | | |
| Norway | Yes | |
| Pakistan | Yes | |
| Peru | Yes | |
| Poland | Yes | |

| Responding Party | Same infringement criteria as for other types of designs | If no, how are they different? |
|--------------------------|--|--------------------------------|
| Portugal | Yes | |
| Republic of Korea | Yes | |
| Republic of Moldova | Yes | |
| Romania | Yes | |
| Singapore | Yes | |
| Slovakia | Yes | |
| Sweden | Yes | |
| Switzerland | | |
| Thailand | Yes | |
| United Kingdom | Yes | |
| United States of America | Yes | |
| BOIP | | |
| EUIPO | Yes | |

COMMENTS:

Chile

There is no specific indication for infringements of GUI and icon infringements.

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? |
|------------------|---|---|---|---|--|---|---|
| Azerbaijan | | | | | | Yes | Yes |
| Brazil | | | | | | Yes | Yes |

| 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? |
|--|---|---|---|---|--|---|---|
| Canada | | | | | | | |
| Chile | | | | | | | |
| China | | | | | | | |
| Colombia | | | | | | Yes | Yes |
| Croatia | | | | | Yes | Yes | Yes |
| Czech Republic | | | | | | Yes | Yes |
| Denmark | | | | | | | |
| Ecuador | Yes | | | Yes | Yes | Yes | Yes |
| Estonia | Yes | Yes | Yes | Yes | | | |
| Finland | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| France | | | | | | | |
| Georgia | | | | | Yes | Yes | Yes |
| Germany | | | | | | | |
| Hungary | | | | | | | |
| Iceland | | | | | | | |
| Ireland | | | | | | | |
| Japan for graphic images filed as a part of an article (existing law and revised law) | | | | | Yes* | | |
| for graphic image filed as it is (revised law) | Yes | Yes | Yes | | | | |
| Kazakhstan | | | | | | | |
| Kenya | | | | | | | Yes |
| Latvia | Yes | Yes | Yes | Yes | | | |
| Lithuania | | | | | Yes | Yes | Yes |
| Mexico | | Yes | | | | | |
| New Zealand | | | | | | | |
| Norway | | | | | | | |
| Pakistan | | | | | | | Yes |
| Peru | | | | | | | |
| Poland | | | | | | Yes | Yes |
| Portugal | | | | | | Yes | Yes |
| Republic of Korea | | | | | | | |
| Republic of Moldova | | | | | | Yes | Yes |
| Romania | | | | | | | |
| Singapore | | | | | | Yes | |
| Slovakia | | | | | | Yes* | |

| 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? |
|--------------------------|---|---|---|---|--|---|---|
| Sweden | | | | | | Yes | Yes |
| Switzerland | | | | | | | |
| Thailand | | | | | | Yes | Yes |
| United Kingdom | | | | | | | |
| United States of America | | | | | | | |
| BOIP | | | | | | | |
| EUIPO | | | | | | | |

COMMENTS:

Azerbaijan

Any type of unauthorized good.

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.).

Chile

The same criteria apply to infringements of all designs.

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.

Iceland

Infringement requirements are the same for all designs, including GUI's that might be accepted for registration. Infringement, according to Article 5 of the Icelandic Design Protection Act No. 46/2001 is production, use, marketing, offering for sale or lease, import or export of a product who's total appearance is identical or similar to the registered design. As no application for a GUI has been filed in Iceland, we are not in a position to answer this question.

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.

Japan

* It is difficult to provide a criterion for infringement for such case because judicial decisions have not been made for such a case. However, the act of installing a graphic image on the article to the registered design may be regarded as an act of manufacturing an article and constitute an infringement.

When the abovementioned act is conducted as a business, it will constitute an infringement under both the existing law and the revised law.

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.

Kenya

Registration of industrial designs in general confers upon the registered owner the right to prevent third parties from performing any of the following acts:

- (a) reproducing the industrial design in the manufacture of a product;
- (b) importing, offering for sale and selling a product reproducing the protected industrial design;
- or
- (c) stocking of such a product for the purposes of offering it for sale or selling it.

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.

Norway

What acts may constitute the infringement of any design is a matter for the courts to determine.

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.

Thailand

The same criteria apply to infringements of all designs.

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.

EUIPO

In the EU, Community designs are enforced by national courts. Thus EU Member States are better placed to answer these questions.

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 |
|------------------|---|---|
| Azerbaijan | Yes | |
| Brazil | Yes | |
| Canada | No | In Canada, "an application must be limited to one design applied to a single finished |

| Responding Party | The registration covers use in a physical and virtual or computer environment | Comments |
|---------------------|---|--|
| | | article ...". In other words a single design registration covers the use of the design only in a physical environment. |
| Chile | | In practice, the preferred field of application is indicated. |
| 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 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. |
| Ecuador | Yes | |
| Estonia | Yes | |
| Finland | Yes | |
| France | | |
| Georgia | Yes | |
| Germany | | |
| Hungary | Yes | |
| Iceland | Yes | Given that the appearance of the design is the same in both environments. The illustration defines the scope of the protection. |
| Ireland | Yes | |
| Japan | No | |
| Kazakhstan | | |
| Kenya | | Refer to the comment under paragraph 35. |
| Latvia | Yes | |
| Lithuania | | |
| Mexico | No | |
| New Zealand | No | |
| Norway | Yes | |
| Pakistan | Yes | |
| Peru | | |
| Poland | Yes | |
| Portugal | Yes | |
| Republic of Korea | No | |
| Republic of Moldova | Yes | |
| Romania | Yes | |
| Singapore | Yes | Yes, although protection in a "virtual or computer environment" 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 "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". Using a keyboard |

| Responding Party | The registration covers use in a physical and virtual or computer environment | Comments |
|--------------------------|---|--|
| | | 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 | |
| Thailand | Yes | |
| 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 | |
| EUIPO | | |

COMMENTS:

Lithuania

Not specified in the law.

New Zealand

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

EUIPO

Neither the product indication nor the classification affects the scope of protection of a Community design as such (Article 36(6) CDR). A registered Community design confers on its holder the exclusive right to use the relevant design in all types of products, and not only in the product indicated in the application for registration (21/09/2017, C-361/15 P & C-405/15 P, Shower Drains, EU:C:2017:720, § 93). Furthermore, please see answers to questions 5 and 30.

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? |
|--------------------------|---|--|--|
| Azerbaijan | No | | |
| Brazil | No | | |
| Canada | No | | |
| Chile | No | | |
| China | No | | |
| Colombia | No | | Yes |
| Croatia | No | | |
| Czech Republic | No | | |
| Denmark | No | | |
| Ecuador | No | | |
| Estonia | No | | |
| Finland | No | | |
| France | | | |
| Georgia | No | | |
| Germany | | | |
| Hungary | No | | |
| Iceland | | | |
| Ireland | No | | |
| Japan | No | | |
| Kazakhstan | | | |
| Kenya | | | |
| Latvia | No | | |
| Lithuania | | | |
| Mexico | No | | |
| New Zealand | No | | |
| Norway | No | | |
| Pakistan | No | | |
| Peru | | | |
| Poland | No | | |
| Portugal | No | | |
| Republic of Korea | No | | |
| Republic of Moldova | No | | |
| Romania | No | | |
| Singapore | No | | |
| Slovakia | No | | |
| Sweden | No | | |
| Switzerland | | | |
| Thailand | No | | |
| United Kingdom | | | |
| United States of America | No | | |
| BOIP | No | | |
| EUIPO | | | |

COMMENTS:

Iceland

We are not in a position to comment on this as no design infringement case has been filed in our jurisdiction involving an electronic environment.

Kenya

Refer to the comment under paragraph 35.

Lithuania

Not specified in the law.

Switzerland

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

EUIPO

In the EU, Community designs are enforced by national courts. Thus EU Member States are better placed to answer these questions.

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? |
|------------------|-------------------|------------------------|------|---------------------------------|---|
| Azerbaijan | Yes | | | No | |
| 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 | |
| Chile | Yes, if requested | Yes, if applied online | | | |
| 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. |

| Responding Party | Paper format | Electronic format | Both | Can the documents be certified? | If yes, how are they certified? |
|---------------------|--------------|-------------------|------|---------------------------------|---|
| Ecuador | Yes | | | Yes | The certifying officer gives a justification and signs and stamps the document and any copies. |
| Estonia | | | Yes | No | |
| 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. |
| Iceland | | | Yes | Yes | The documents are signed and stamped by the Office. |
| Ireland | Yes | | | Yes | By the signature and seal of the controller. |
| Japan | Yes* | | | Yes | JPO Commissioner's signature and notarized seal will be affixed to the documents. |
| Kazakhstan | Yes | | | Yes | A verified copy of the application is presented. |
| Kenya | Yes | | | Yes | The paper format is certified and sealed. |
| Latvia | Yes | | | Yes | |
| 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. |
| Norway | | | Yes | Yes | |
| 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 | |

| Responding Party | Paper format | Electronic format | Both | Can the documents be certified? | If yes, how are they certified? |
|--------------------------|--------------|-------------------|------|---------------------------------|---|
| Switzerland | Yes | | | Yes | They are certified by the IPI and by the Federal Chancellery. |
| Thailand | Yes | | | Yes | Priority document is printed on special paper, signed and stamped by official stamp. |
| 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. |
| EUIPO | | | Yes | Yes | |

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

| Responding Party | Particulars for priority claims concerning animated designs | Please specify |
|------------------|---|---|
| Azerbaijan | No | |
| Brazil | No | |
| Canada | No | |
| Chile | Not applicable | |
| China | No | |
| Colombia | | |
| Croatia | No | |
| Czech Republic | | We do not register animated industrial designs. |
| Denmark | No | |
| Ecuador | No | |
| Estonia | No | |
| Finland | No | |
| France | No | |
| Georgia | No | |
| Germany | No | |
| Hungary | No | |
| Iceland | No | |
| Ireland | No | |
| Japan | No | |
| Kazakhstan | | |
| Kenya | No | |
| Latvia | No | |
| Lithuania | No | |
| Mexico | No | |
| New Zealand | | |
| Norway | No | |

| Responding Party | Particulars for priority claims concerning animated designs | Please specify |
|--------------------------|---|---|
| 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 | | |
| Thailand | No | |
| United Kingdom | No | |
| United States of America | No | |
| BOIP | No | |
| EUIPO | 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.

Japan

* The electronic exchange of priority documents using WIPO's Digital Access Service (DAS) is scheduled to start on 1 January 2020.

Latvia

The Office 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.

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.

EUIPO

Subject to Article 73 CDIR, the Office shall provide certified or uncertified extracts from the Register on request, on payment of a fee. Requests for an extract from the Register of Community designs may be submitted using the online form, which can be found on the Office's website at <https://euipo.europa.eu/ohimportal/en/forms-and-filings>, or any equivalent request. In the case of an application for multiple designs, certified copies of the application will only be available for those designs that have been accorded a filing date.

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? |
|------------------|--------------|-------------------|------|---|
| Azerbaijan | Yes | | | No |
| Brazil | | | Yes | No |
| Canada | | | Yes | No |
| Chile | | | | Duly certified paper or electronic format. |
| China | | | Yes | Yes |
| Colombia | | | Yes | Yes |
| Croatia | | | Yes | Yes |
| Czech Republic | | | Yes | No |
| Denmark | | | Yes | No |
| Ecuador | | | Yes | Yes |
| Estonia | | | Yes | Yes |
| Finland | Yes | | | No |
| France | | | Yes | Yes |
| Georgia | | | Yes | Yes |
| Germany | Yes | | | No |
| Hungary | | | Yes | Yes |
| Iceland | | | Yes | No |
| Ireland | | | Yes | No |
| Japan | Yes* | | | Yes |
| Kazakhstan | Yes | | | Yes |
| Kenya | Yes | | | Yes |
| Latvia | | | Yes | Yes |
| Lithuania | Yes | | | Yes |
| Mexico | | | Yes | Yes |
| New Zealand | | Yes | | Yes |
| Norway | | | Yes | No |

| Responding Party | Paper format | Electronic format | Both | Does your Office require certification of priority documents? |
|--------------------------|--------------|-------------------|------|--|
| 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 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 |
| Thailand | Yes | | | Yes |
| United Kingdom | | | Yes | No |
| United States of America | | | Yes* | Yes |
| BOIP | | | Yes | No |
| EUIPO | | | 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 |
|------------------|---|--|
| Azerbaijan | No | |
| Brazil | No | |
| Canada | No | |
| Chile | Not applicable. | |
| 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 | |
| Ecuador | No | |
| Estonia | No | |
| Finland | No | |
| France | No | |
| Georgia | No | |
| Germany | No | |
| Hungary | No | |
| Iceland | No | |
| Ireland | No | |
| Japan | No | |
| Kazakhstan | | |
| Kenya | No | |
| Latvia | No | |
| Lithuania | No | |

| Responding Party | Particulars for priority claims concerning animated designs | If yes, please specify |
|--------------------------|---|------------------------|
| Mexico | No | |
| New Zealand | | |
| Norway | No | |
| 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 | | |
| Thailand | No | |
| United Kingdom | No | |
| United States of America | No | |
| BOIP | No | |
| EUIPO | 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.

Japan

* The electronic exchange of priority documents using WIPO's Digital Access Service (DAS) is scheduled to start on 1 January 2020.

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 PRODUCT²

| |
|---|
| 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 link³ 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: |

² 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.

³ 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?⁴

- ☐ 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 aspects⁵ 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:

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

⁵ 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:⁶

- ☐ 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:

⁶ 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?⁷

- ☐ because of the nature of new technological designs, which may be used in different articles/environments
☐ 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?⁸

☐ YES ☐ NO

Please explain

Comments, if any:

15. If no link is required in your jurisdiction, how do users conduct Freedom to Operate (FTO) searches?⁹

Comments, if any:

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

- ☐ optional?
☐ mandatory?

What is the effect of such indication? Please specify

⁷ See the contributions of Hungary, ICC (p. 2), INTA (p. 3) and IPO (p. 4).

⁸ See the contribution of JTA (p. 7).

⁹ *Idem*.

| |
|-------------------|
| Comments, if any: |
|-------------------|

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|---|
| 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 ¹⁰ 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: |

¹⁰ 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?¹¹

☐ 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

¹¹ 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

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| 27. In your jurisdiction, are some graphic images excluded from protection under design law?¹² |
| <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: |

¹² See the contribution of JTA (p. 5).

28. In your jurisdiction, are certain kinds of GUI/icon designs excluded from design protection?¹³

☐ 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 circumstances¹⁴

☐ YES ☐ NO

Comments, if any:

30. In your jurisdiction, is protection provided to non-permanent designs?¹⁵

☐ 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:

¹³ See the contribution of JTA (p. 6).

¹⁴ e.g., in a navigation application: "icons alert" popping up in case of traffic jam, accident, etc.

¹⁵ 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 state¹⁶ 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:

¹⁶ 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 design¹⁷ – In such case, under what circumstances?
- ☐ use of a protected GUI or icon design¹⁸ – 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?¹⁹

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

¹⁹ 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?²⁰

☐ YES ☐ NO

Comments, if any:

37. In your jurisdiction, is there a distinction in the infringement criteria, depending on the particular virtual/electronic environment²¹ 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?

²⁰ See the examples mentioned in the contribution of the United States of America (p. 6).
²¹ 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]