

ID5



Catalogue on the Practices on the Protection of New Technological Design

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INTRODUCTION

ID5 is an industrial design forum that studies and develops industrial design systems and industrial design office practices and brings together in a collaborative manner the European Union Intellectual Property Office (EUIPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the National Intellectual Property Administration of the PRC (CNIPA), and the United States Patent and Trademark Office (USPTO), (hereinafter referred to as the “Partner Offices”).

Over the past years, new and emerging industrial designs have gained prominence in the commercial market. Once a niche area of industrial design, graphical user interfaces (GUIs), icons, transitional images and animated images now constitute relevant business and are first level of user interaction that drive purchases and success of many consumer products today. Currently, all of the ID5 jurisdictions employ some level of protection for a variety of new and emerging industrial designs. However, the scope of protection and application requirements and presentation for these types of industrial designs varies from one jurisdiction to another.

By better understanding current policies and practices relating to the scope and treatment of cutting-edge industrial designs, the Partner Offices will better understand how practices converge and diverge, and how to better assist applicants in providing robust design protection for their new designs. The public will also better understand the requirements of the Partner Offices, and may better understand how to effectively file applications consistent with these practices. Finally, in understanding current practices used at counterpart Partner Offices, each of the Partner Offices can assess whether updated practices may prove to be advantageous for their own practices and for applicants seeking design protection.

Enclosed follows the results of the aforementioned study, a result of input directly from each of the Partner Offices to agreed areas and questions of focus on the topic of emerging designs. The EU IPO and USPTO were honored to serve as lead Offices in

preparing this study and the attached catalogue of results from the study and thank the ID5 Partner Offices for their efforts and contributions in this project.

A. IDENTIFICATION OF INDUSTRIAL DESIGNS IN EMERGING TECHNOLOGIES

A.1 CNIPA

A.1.1 PROTECTABLE DESIGNS

Generally speaking, protection in China currently exists for¹:

- static (i.e., not moving) graphical user interfaces;
- dynamic (i.e., moving) graphical user interfaces;
- static(i.e., not moving) icons;
- dynamic (i.e., moving) icons;
- transitional images;
- animated characters;
- holographic designs; and
- projected image (e.g., projection onto a windshield, optical/laser projection keyboard).

However, China does not currently provide protection for:²

- screen display designs that are displayed only when corresponding signals are sent from external environment (i.e., those displayed in a network environment e.g., the internet, website pages, server and client system, etc.);³
- screen savers;⁴
- computer related typeface type font⁵
- screen display designs that are merely displayed apart from practical/functional human interaction (e.g., ornamental patterns (including wallpapers), photo, a scene of computer games and/or

¹ These type of graphical user interfaces are patentable when they applied to or embodied in physical products.

² These type of graphical user interfaces are not patentable since they are irrelevant to human interaction.

³ The carrier of screen display designs is not a product and thus is not patentable subject matter.

⁴ This type of design is not related to man-machine interaction is not a product and thus this type of design is not patentable subject matter.

⁵ The carrier of screen display designs is not a product and thus is not patentable subject matter.

- movies, etc.);⁶ and
- virtual three-dimensional designs.⁷

A.1.2 DESIGN IDENTIFICATIONS

Static graphical user interface is a static interface on a product display device which is displayed graphically and relates to human interaction and product functionality.

Dynamic graphical user interface is a dynamic interface on a product display device which is displayed graphically and relates to human interaction and product functionality.

Screen display designs that are displayed only when corresponding signals are sent from external environment are designs in which there is no specific product. The graphical user interface is only displayed on the display screen.

Screen saver is a screen saver interface displayed on the product display device.

Static icon is a static icon on a product display device which is displayed graphically and relates to human interaction and product functionality.

Dynamic icon is a dynamic icon on a product display device which is displayed graphically and relates to human interaction and product functionality.

Transitional image is a transitional image on a product display device which is displayed graphically and relates to human interaction and product functionality.

Animated character is an animated character on a product display device which is displayed graphically.

Computer related typeface type font is a design for which there is no specific product; the type font is only displayed on the product display device.

Screen display designs that are merely displayed apart from practical/functional human interaction are designs for which the interface

⁶ The carrier of screen display designs is not a product and thus is not patentable subject matter.

⁷ The carrier of three-dimensional designs is not a product and thus is not patentable subject matter.

displayed on the display screen does not have the function of man-machine interaction.

Holographic design is 3d image interface on display device related to man-machine interaction and product functionality and using virtual imaging technology.

Projected image is a projection image projected on a projection device related to human-machine interaction and product functionality.

Virtual three-dimensional design is a 3d virtual image generated by computer software.

A.1.3 CLASSIFICATION

Type of Design	Locarno
Static Graphical User Interfaces	14-04
Dynamic Graphical User Interfaces	14-04
Screen display designs that are displayed only when corresponding signals are sent from external environment	14-04
Screen Savers	14-04
Static Icons	14-04
Dynamic Icons	14-04
Transitional Images	14-04
Animated Characters	14-04
Computer Related Typeface Type Font	18-03
Screen display designs that are merely displayed apart from practical/functional human interaction	14-04
Other types electronic screen display designs	14-04
Holographic Designs	14-04, 16-02
Projected image	14-04, 16-02
Virtual three-dimensional designs	Consistent with the classification of physical product

A.1.4 EXAMPLES

Static Graphical User Interfaces



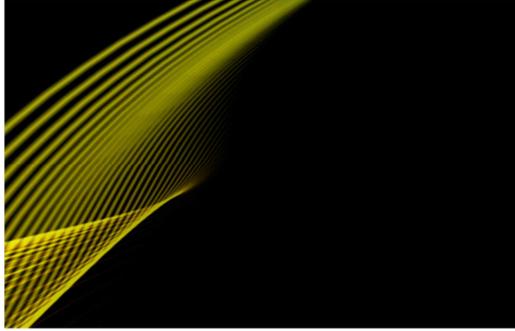
Dynamic Graphical User Interfaces



Screen display designs that are displayed only when corresponding signals are sent from external environment



Screen Savers



Static Icons

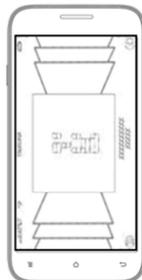


A cell phone with an icon interface

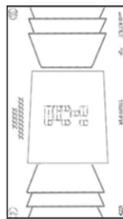
Dynamic (i.e., moving) Icons

None

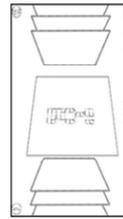
Transitional Images



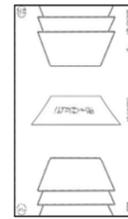
front view
diagram3



Interface state diagram1



Interface state diagram2



Interface state
diagram3

Animated Characters



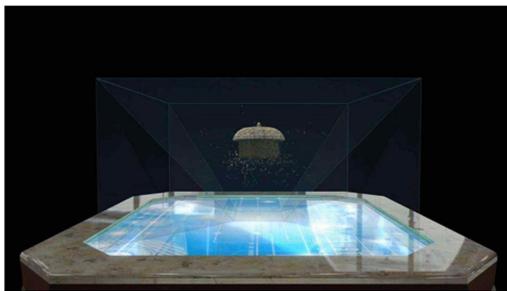
Computer Related Typeface Type Font

None

Screen display designs that are merely displayed apart from practical/functional human interaction



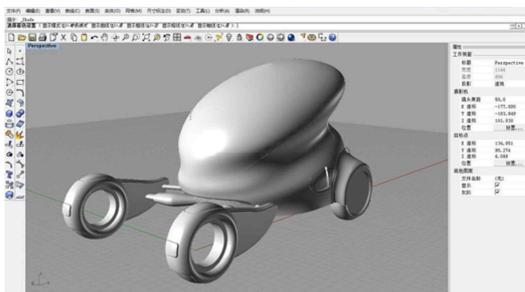
Holographic Designs



Projected image (e.g., projection onto a windshield, optical/laser projection keyboard)



Virtual three-dimensional designs



A.2 EUIPO

A.2.1 PROTECTABLE DESIGNS

Generally speaking, protection in the European Union currently exists for:

- static (i.e., not moving) graphical user interfaces;
- dynamic (i.e., moving) graphical user interfaces;
- screen display designs that are displayed only when corresponding signals are sent from external environment (i.e., those displayed in a network environment e.g., the internet, website pages, server and client system, etc.);
- screen savers; static (i.e., not moving) icons;
- static (i.e., not moving) icons;
- dynamic (i.e., moving) icons;
- transitional images;
- animated characters;
- computer related typeface type; and
- screen display designs that are merely displayed apart from practical/functional human interaction (e.g., ornamental patterns (including wallpapers), photo, a scene of computer games and/or movies, etc.).
- holographic designs;
- projected image designs (e.g., projection onto a windshield, optical/laser projection keyboard); and
- virtual three-dimensional designs.⁸

A.2.2 DESIGN IDENTIFICATIONS

Static graphical user interface: graphical user interfaces

Dynamic graphical user interface: animated graphical user interfaces or graphical user interfaces

Screen display designs that are displayed only when corresponding signals are sent from external environment: screen displays

Screen saver: screen savers

Static icon: icons

⁸ All 3D objects (of any Locarno class) can be depicted either by 2D graphic representations or 3D dynamic images.

Dynamic icon: animated icons or just icons

Transitional image: transitional images for a portion of display screens

Animated character: animated characters

Computer related typeface type font: typographic typefaces, typefaces, typefonts

Screen display designs that are merely displayed apart from practical/functional human interaction: screen displays

Holographic design: holograms

Projected image: No corresponding indication in Locarno for projections. It can be “ornamentation.”

Virtual three-dimensional design: All 3D objects (of any Locarno class) can be depicted either by 2D graphic representations or 3D dynamic images.

A.2.3 CLASSIFICATION

Type of Design	Locarno
Static Graphical User Interfaces	14-04
Dynamic Graphical User Interfaces	14-04
Screen display designs that are displayed only when corresponding signals are sent from external environment	14-04
Screen Savers	14-04
Static Icons	14-04
Dynamic Icons	14-04
Transitional Images	14-04
Animated Characters	14-04
Computer Related Typeface Type Font	18-03
Screen display designs that are merely displayed apart from practical/functional human interaction	14-04
Other types electronic screen display designs	N/A
Holographic Designs	32-00
Projected image	32-00
Virtual three-dimensional designs ⁹	

⁹ All 3D objects (of any Locarno class) can be depicted either by 2D graphic representations or 3D dynamic images.

A.2.4 EXAMPLES¹⁰

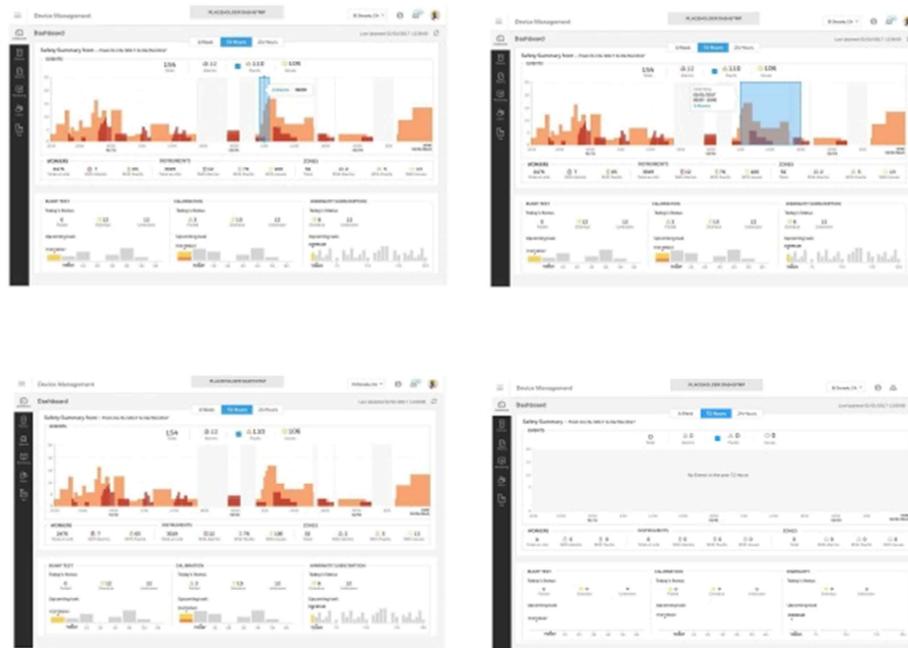
Static graphical user interface:

RCD 004603009-0001



Dynamic graphical user interface:

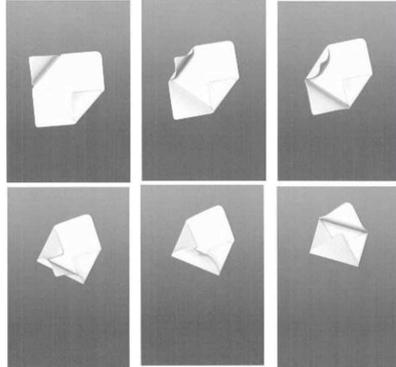
RCD 4695312-0002



¹⁰ Legislative reform phase II will allow for different formats for representation, including moving designs, in 2026

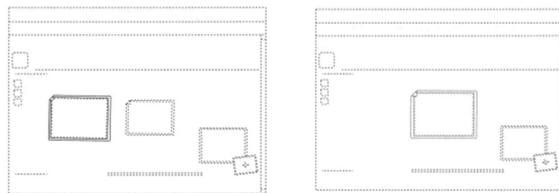
Dynamic icon:

RCD 1068001-0002



Transitional image:

RCD001088314-0013



Animated character:

RCD 2690867-0007



Computer related typeface type font:

RCD 40074433-0015

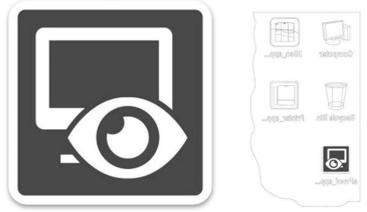
ABCDEFGHIJKLMNOPQRSTUVWXYZ
 abcdefghijklmnopqrstuvwxyz
 0123456789 1/2 3/4 0 1 2 3 4 5 6 7 8 9 0 1 2 3 4 5 6 7 8 9
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 \$ € ¥ £ ¢ ₣ ₧ ₨ ₩ ₪ ₫ € ₭ ₮ ₯ ₰ ₱ ₲ ₳ ₴ ₵ ₶ ₷ ₸ ₹ ₺ ₻ ₼ ₽ ₾ ₿

Big fjords vex quick waltz nymph. Quirky spud boys can jam after zapping five worthy Polysixes. Zelda might fix the job growth plans very quickly on Monday. A quick movement of the enemy will jeopardize six gunboats. Bobby Klun awarded Jayme sixth place for her very high quiz. Jim quickly realized that the beautiful gowns are expensive.

IBM Mono Bold

Screen display designs that are merely displayed apart from practical/functional human interaction:

RCD 4730720-0002



Holographic design:

RCD002164186-0001



Projected image:

Hypothetical example



Virtual three-dimensional design:

RCD 2806463-0001 (1st 3D dynamic image filed in 2015)



A.3 JPO

A.3.1 PROTECTABLE DESIGNS

Generally speaking, protection in Japan currently exists for:

- static (i.e., not moving) graphical user interfaces;
- dynamic (i.e., moving) graphical user interfaces;¹¹
- static (i.e., not moving) icons;
- dynamic (i.e., moving) icons;¹²
- transitional images;¹³
- animated characters;¹⁴
- other types electronic screen display designs;
- holographic designs;
- projected image (e.g., projection onto a windshield, optical/laser projection keyboard).
- screen display designs that are displayed only when corresponding signals are sent from external environment (i.e., those displayed in a network environment e.g., the internet, website pages, server and client system, etc.);
- virtual three-dimensional designs.

However, Japan does not currently provide protection for:

- screen savers;¹⁵

¹¹ Any design in an application must comply with the "one application per design" principle (unity of design requirement). In order for an image represented by several different figures to be recognized as the single changing image, both of the following requirements must be satisfied.

i) All the graphic images (animated images) must be for the same function.

ii) The graphic images before and after the change must have certain relevance in appearance to each other.

¹² See footnote 11

¹³ *Following the past discussion as to the outline of this questionnaire, "Transitional Images" is understood as the term that represents "graphic images displayed across a plurality of screens/displays".

In addition, any design in an application must comply with the "one application per design" principle (unity of design requirement). See footnote 11

¹⁴ However, images of content, such as a scene of a movie or a computer game, are created with the content itself as the center of expression, regardless of the device that displays it, and thus are not treated as legitimate designs as images used in the operation of a device or displayed as a result of the device performing its function.

In addition, any design in an application must comply with the "one application per design" principle (unity of design requirement). See footnote 11

¹⁵ Since screen savers are not legitimate designs as images used in the operation of a device or displayed as a result of the device performing its function, they may not be protected under the Japan Design Act.

- computer related typeface type font;¹⁶
- screen display designs that are merely displayed apart from practical/functional human interaction (e.g., ornamental patterns (including wallpapers), photo, a scene of computer games and/or movies, etc.);

A.3.2 DESIGN IDENTIFICATIONS

Static graphical user interface:

These designs are protected under the Japan Design Act in two ways: as a part of an article or as an image itself, only if they are used in the operation of a device or displayed as a result of the device performing its function.

Dynamic graphical user interface:

These designs are protected under the Japan Design Act in two ways: as a part of an article or as an image itself, only if they are used in the operation of a device or displayed as a result of the device performing its function. The movement is identified by multiple views. There is no limit to the number of views submitted.

Screen display designs that are displayed only when corresponding signals are sent from external environment:

These designs are protected under the Japan Design Act in two ways: as a part of an article or as an image itself, only if they are used in the operation of a device or displayed as a result of the device performing its function.

Screen saver:

These designs are not registrable under the Japan Design Act.

Static icon:

These designs are protected under the Japan Design Act in two ways: as a part of an article or as an image itself, only if they are

¹⁶ Since “Computer Related Typeface/Type Font” are not legitimate designs as images used in the operation of a device or displayed as a result of the device performing its function, they may not be protected under the Japan Design Act.

used in the operation of a device or displayed as a result of the device performing its function.

Dynamic icon:

These designs are protected under the Japan Design Act in two ways: as a part of an article or as an image itself, only if they are used in the operation of a device or displayed as a result of the device performing its function. The movement is identified by multiple views. There is no limit to the number of views submitted.

Transitional image:

These designs are protected under the Japan Design Act in two ways: as a part of an article or as an image itself, only if they are used in the operation of a device or displayed as a result of the device performing its function. The movement is identified by multiple views. There is no limit to the number of views submitted.

Animated character:

These designs are protected under the Japan Design Act in two ways: as a part of an article or as an image itself, only if they are used in the operation of a device or displayed as a result of the device performing its function. The movement is identified by multiple views. There is no limit to the number of views submitted.

Computer related typeface type font:

These designs are not registrable under the Japan Design Act.

Screen display designs that are merely displayed apart from practical/functional human interaction:

These designs are not registrable under the Japan Design Act.

Holographic design:

These designs are protected under the Japan Design Act in two ways: as a part of an article or as an image itself, only if they are used in the operation of a device or displayed as a result of the device performing its function.

Projected image:

These designs are protected under the Japan Design Act in two

ways: as a part of an article or as an image itself, only if they are used in the operation of a device or displayed as a result of the device performing its function.

Virtual three-dimensional design:

These designs are protected under the Japan Design Act in two ways: as a part of an article or as an image itself, only if they are used in the operation of a device or displayed as a result of the device performing its function.

A.3.3 CLASSIFICATION

Designs provided above which can be protected will be classified as “W,” which is a classification for GUI/icon for the Japanese Design Classification. Also, D-term, one or more of which can be applied according to the characteristics of the GUI/icon, will be given to those designs.

Japanese Design Classification for GUI/icon (N3-10, N3-11, N3-12)

A single letter “W” to indicate that the design is a GUI/icon

D-term (Available in 108 terms, each identified by the 3-letter ranging from VAA to VNF. One or more can be applied to a design.)

An example of classification applied to a design:

Japanese Design Classification: N3-11W

D-term: N3-11VDA, N3-11VHG, N3-11VKC

The design in this example will be classified as Locarno Class 14-04.
As for a design which cannot be protected, it will be classified as N0-0.

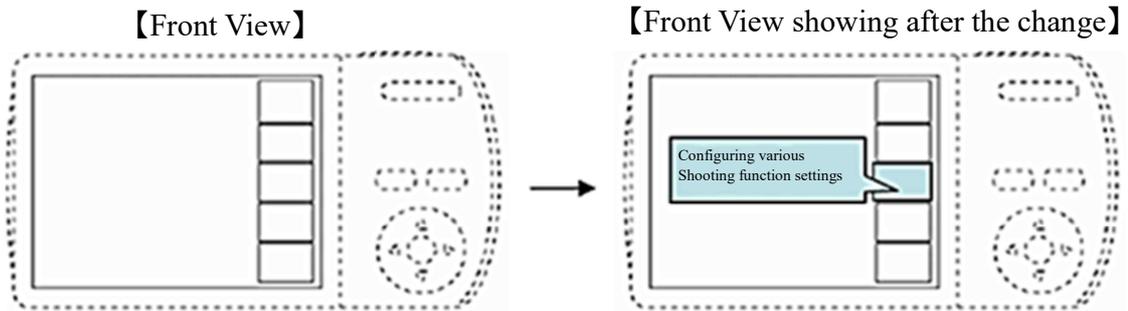
A.3.4 EXAMPLES

Static graphical user interface:

"Graphic image for displaying medical measurement results"



Dynamic graphical user interface:



Screen display designs that are displayed only when corresponding signals are sent from external environment:

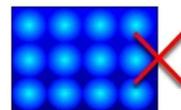
"Graphic image for product purchasing"
(Graphic image on a website)



Screen saver:

This type of design is not registrable under the Japanese Design Act.

- Graphic images provided only for decorative purpose (e.g. desktop wallpaper)



- Graphic images representing "contents" that are independent from the function of the article (e.g. movies, TV programs, games)



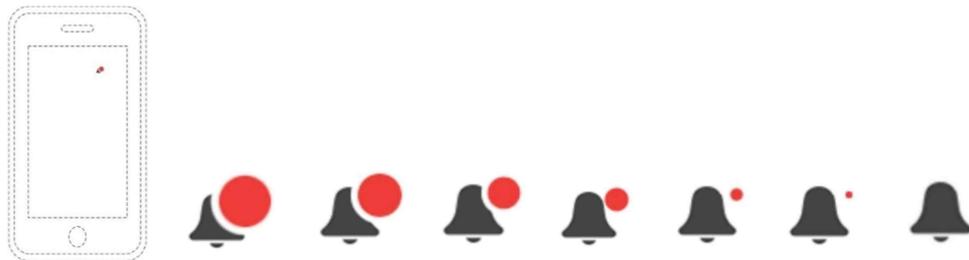
Static icon:

"Graphic image of an icon"
(Operation button to start software by clicking)

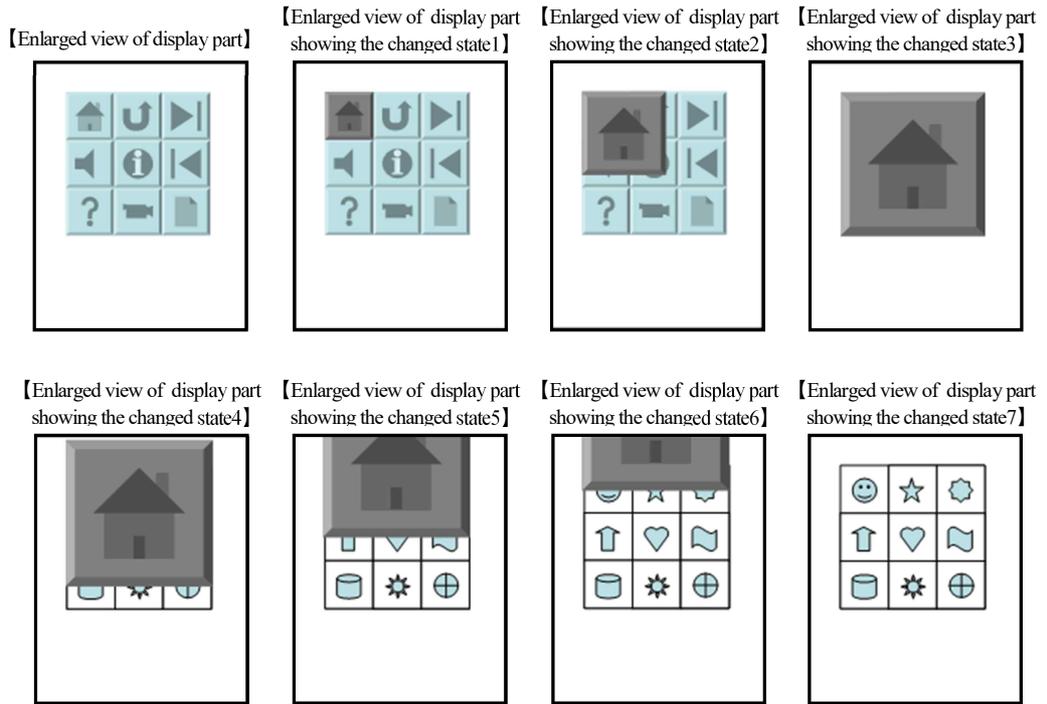


Dynamic icon:

* Registration No.1573180 Computer with news viewing function

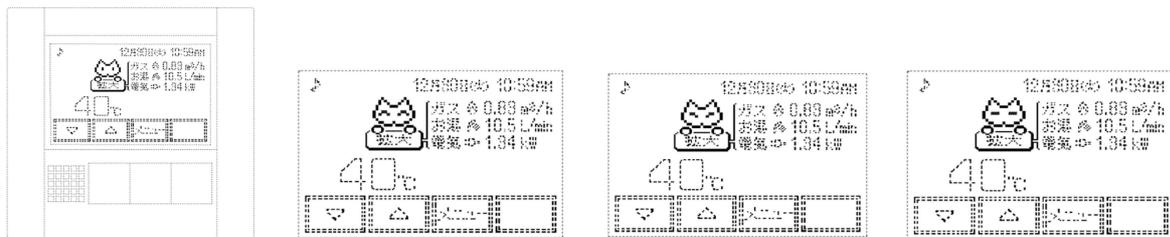


Transitional image:



Animated character:

* Registration No.1386243 Remote controller with light and heat consumption display function



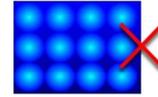
Computer related typeface type font:

This type of design is not registrable under the Japanese Design Act.

Screen display designs that are merely displayed apart from practical/functional human interaction:

This type of design is not registrable under the Japanese Design Act.

- Graphic images provided only for decorative purpose (e.g. desktop wallpaper)



- Graphic images representing "contents" that are independent from the function of the article (e.g. movies, TV programs, games)

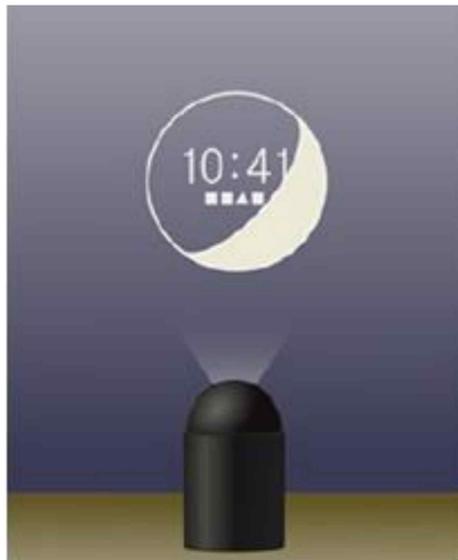


Holographic design:

This type of design is not registrable under the Japanese Design Act.

Projected image:

"Graphic image for displaying time"
(Graphic image projected on the wall)

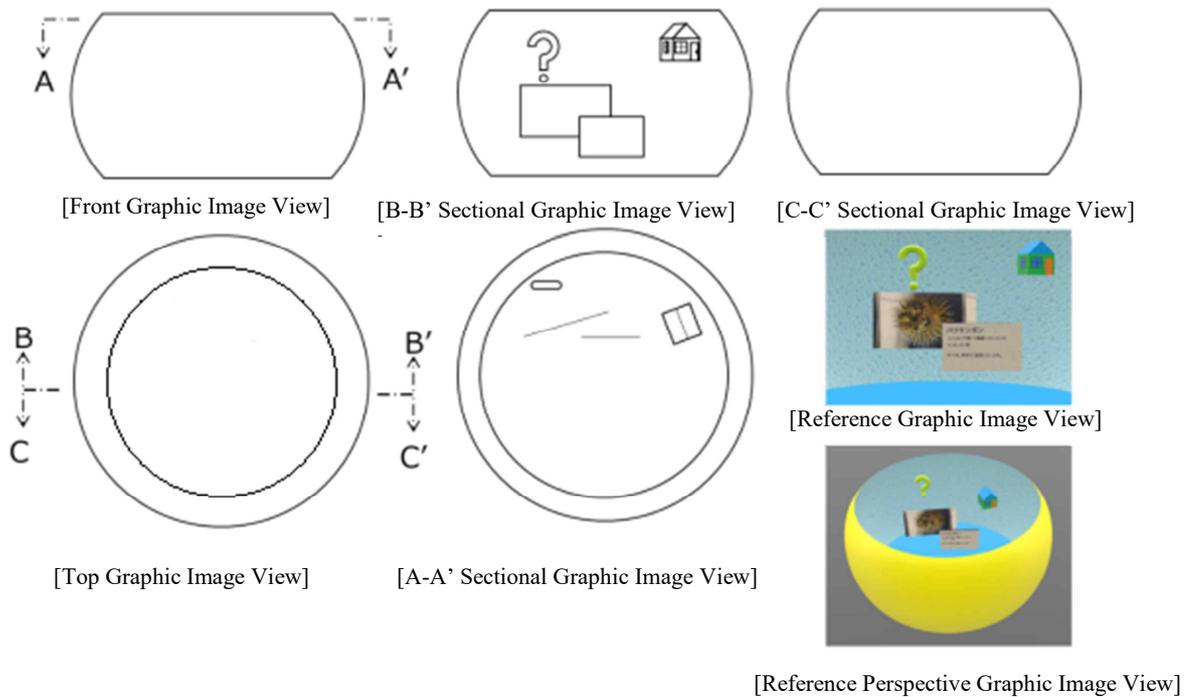


Virtual three-dimensional design:

[Article embodying the Design] Graphic image for displaying virtual space information

[Description of the Article embodying the Design] This graphic image is used as an app image for confirming various information in a virtual underwater environment. An explanation will be displayed when the user clicks or gazes at the icon positioned in the space. The user can return to the top page by clicking the house-shaped icon on the upper right in the cross-sectional graphic image view taken along the B-B'' line, and can view additional information by clicking the "?" icon on the upper left.

[Description of the Design] Parts shown in the solid lines are the part for which the design registration is requested.



A.4 KIPO

A.4.1 PROTECTABLE DESIGNS

In Republic of Korea, there are two main methods for registering new designs like GUIs. The first method follows the design examination guideline (July 1st, 2003) that were in place before 2021, which allows for the registration of designs displayed on the screens of electronic devices. In this method, the indication of the physical product where the GUI is used must be included in the application.

The second method, introduced by the revised design protection act [Article 2(2-2)] in 2021, allows for the registration of the image itself as a design. This approach does not require the physical product to be illustrated in drawings; having just the image is sufficient. However, it must clearly indicate the intended use in the indication of product and description of design. Furthermore, this registration is limited to figure or symbol, etc. expressed by digital technology or electronic means [limited to those that are used for the operation of devices or that exhibit a function, and including parts of an image]

Before the 2021 revised design protection act [Enforcement Date Oct 21th, 2021.] [Act No.18093, April 20th, 2021., Partial Amendment], the following types of industrial designs did not qualify for industrial design protection per se. Instead, if these types of designs were temporarily displayed on a display screen, they can be protected as part of an article.

- static (i.e., not moving) graphical user interfaces;
- dynamic (i.e., moving) graphical user interfaces;
- screen display designs that are displayed only when corresponding signals are sent from external environment (i.e., those displayed in a network environment e.g., the internet, website pages, server and client system, etc.);
- screen savers; static (i.e., not moving) icons;
- static (i.e., not moving) icons;
- dynamic (i.e., moving) icons;
- transitional images;
- animated characters;
- screen display designs that are merely displayed apart from practical/functional human interaction (e.g., ornamental patterns (including wallpapers), photo, a scene of computer games and/or movies, etc.).

Under the law after 2021, even if holograms or projection images are separate from the product, they can be registered independently if they are used for operating the product or as a result of its functionality

Lastly, computer related typeface/type font is protected under Article 2(1) of the Design Protection Act as a subject matter of design protection.

Traditional method (before 2021)		Under the design protection act after 2021
 Electronic Device with GUI	 Display Panel with GUI	<p>(Applications using the method on the left are also eligible)</p>  Icon for information device

A.4.2 DESIGN IDENTIFICATIONS

Static graphical user interface:

The examination practice of GUI is treated the same as defined in the design industry. Since 2003, it was considered that GUI could only meet the registration requirements if it was represented as part of the product in a drawing. Following the 2021 amendment, if the purpose (e.g., operation of the device or function) is clearly stated in the indication of the article, the GUI can be registered as a standalone item.

Dynamic graphical user interface:

A dynamic GUI design is defined as a design in which figures in a GUI design are moved, reduced or rotated, or colors of the design are changed but there is relevance in shape and consistency throughout those changes.

(Chapter 8 of the Design Examination Standards)

Screen display designs that are displayed only when corresponding signals are sent from external environment:

KIPO does not distinguish the screen display design from GUI

designs.

Screen saver:

KIPO does not distinguish the screen saver design from GUI designs.

Static icon:

KIPO does not distinguish the static icon from GUI designs.

Dynamic icon:

KIPO does not distinguish the dynamic icon from GUI designs.

Transitional image:

Transitional images do not qualify for industrial design protection per se but if transitional images are displayed on a display screen, they can be protected as part of an article. This is applied to the case where static GUIs are temporarily shown on a display screen.

Animated character:

KIPO does not distinguish animated characters from GUI designs.

Computer related typeface type font:

Typeface means a set of printable or displayable fonts that share common features (numbers, punctuation marks, and symbols).

Screen display designs that are merely displayed apart from practical/functional human interaction:

KIPO does not distinguish screen display designs that are merely displayed apart from the practical/functional human interaction from GUI designs.

Holographic design:

KIPO does not distinguish the holographic design from GUI designs.

Projected image:

KIPO does not distinguish the Projected image from GUI designs.

Virtual three-dimensional design:

KIPO does not distinguish virtual three-dimensional designs from GUI designs.

A.4.3 CLASSIFICATION

Emerging designs will be classified in accordance with the Locarno Classification and the domestic classification system depending on the article on which the GUI design is represented. (Note: No design can be registered under Class 32 of the Locarno Classification) **Most of GUIs itself are classified under the Locarno International Classification 14-04 (eg. GUI for operating virtual reality, Icon for operating VR). If the GUI is represented as part of the product, the corresponding Locarno classification code for that product will be assigned. (eg. 14-03 mobile device with GUI, 12-16 Display Panel for automobile with GUI)**

A.4.4 EXAMPLES

Static graphical user interface:



Registered Design 30-0967286

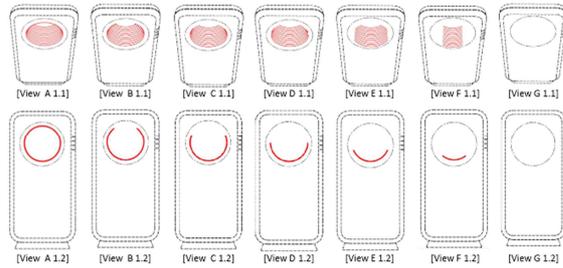
A display panel on which a graphic design is displayed
Class 14 of the Locarno Classification



Registered Design 30-0757255

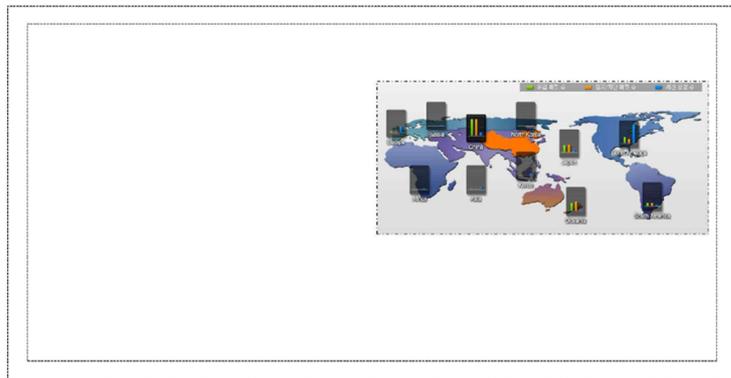
A portable device on which a graphic design is displayed
Class 14 of the Locarno Classification

Dynamic graphical user interface:



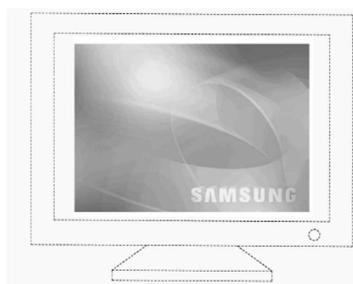
Registered Design 30-0679944
 Air purifier in which GUI is indicated
 Class 23 of the Locarno Classification

Screen display designs that are displayed only when corresponding signals are sent from external environment:



Registered Design 30-0848804
 A display panel with image design
 Class 14 of the Locarno Classification

Screen saver:



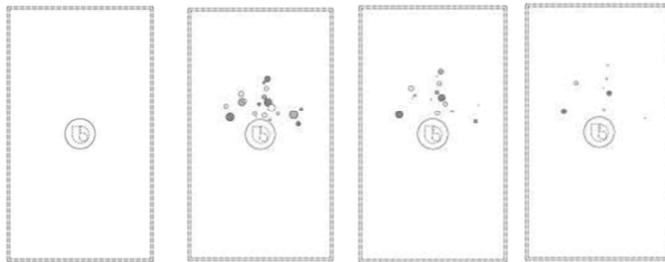
Registration No. 30-0352433
 A computer monitor on which a GUI design is displayed.

Static icon:



Registration No. 30-0913114-00-01
Display panel with an icon

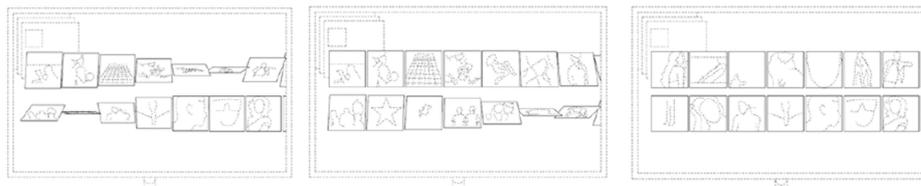
Dynamic icon:



[View 1.1] [View 1.2] [View 1.3] [View 1.4]

Registration No. 30-0921087
Display panel on which GUI designs are displayed

Transitional image:



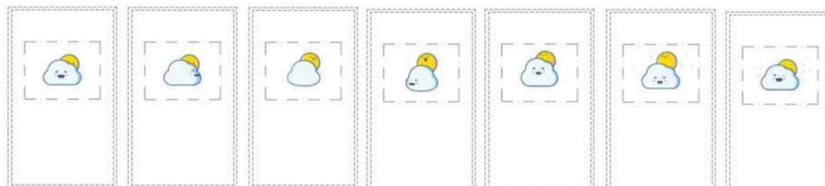
[View 1.1]

[View 1.2]

[View 1.3]

<A computer monitor on which GUI designs are displayed>

Animated character:



[View A 1.1]

[View B 1.1]

[View C 1.1]

[View D 1.1]

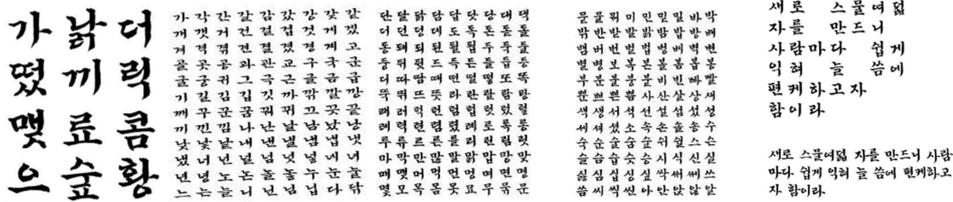
[View E 1.1]

[View F 1.1]

[View G 1.1]

Registration No. 30-0944880
 A display panel on which a GUI is displayed

Computer related typeface type font:



Registration No. 30-0946290
 Korean typefaces

Screen display designs that are merely displayed apart from practical/functional human interaction:



Registration No. 30-0546772
 An Internet phone on which a GUI design is displayed (background or wallpaper of the phone)

Holographic design:

There are currently no registered cases. However, images projected from a holographic projector that are the result of device operation or functionality may be eligible for registration.

Projected image:

There are currently no registered cases. However, images projected from a projector that are the result of device operation or functionality may be eligible for registration

Virtual three-dimensional design:

KIPO allows for the upload of 3D modeling file with the application. However, the scope of protection is not determined by the file itself; it is

limited by the indication of the product and drawings. While a 3D modeling file can be submitted for an automobile design, it is interpreted that design right cannot be enforced if someone uses the same automobile design as a digital item in a metaverse environment, such as in a game.

A.5 USPTO

A.5.1 PROTECTABLE DESIGNS

Generally speaking, protection in the U.S. currently exists for¹⁷:

- static (i.e., not moving) graphical user interfaces;
- dynamic (i.e., moving) graphical user interfaces;
- screen savers;
- static (i.e., not moving) computer-generated icons;
- dynamic (i.e., moving) computer-generated icons;
- transitional computer-generated graphical user interfaces and icons;
- animated characters¹⁸; and
- computer related typeface type font.

Depending on the particular facts and circumstances of an application, other types of designs, in addition to those listed above, might be eligible for U.S. design patent protection, provided that they requirements of 35 U.S.C. 171 are satisfied. See MPEP 1504.01 *et seq.*

The following types of designs are examples of areas of emerging designs for which the USPTO is currently evaluating and developing policy. To be eligible for design patent protection, such designs would need to comply with the requirements of 35 U.S.C. § 171:

- holographic designs¹⁹;

¹⁷ To be eligible for design patent protection, designs for computer-generated icons and graphical user interfaces must comply with the requirements of 35 U.S.C. 171. Computer-generated icons, such as full screen displays and individual icons, are 2-dimensional images which alone are surface ornamentation. See, e.g., *Ex parte Strijland*, 26 USPQ2d 1259 (Bd. Pat. App. & Int. 1992) (computer-generated icon alone is merely surface ornamentation). The USPTO considers designs for computer-generated icons embodied in articles of manufacture to be statutory subject matter eligible for design patent protection under 35 U.S.C. 171. Thus, if an application claims a computer-generated icon shown on a computer screen, monitor, other display panel, or a portion thereof, the claim complies with the “article of manufacture” requirement of 35 U.S.C. 171. Since a patentable design is inseparable from the object to which it is applied and cannot exist alone merely as a scheme of surface ornamentation, a computer-generated icon must be embodied in a computer screen, monitor, other display panel, or portion thereof, to satisfy 35 U.S.C. 171. See MPEP 1504.01(a).

¹⁸ Such designs must be transitional computer-generated icons or graphical user interfaces.

¹⁹ One may expect that *In re Hruby*, 373 F.2d 997 (C.C.P.A.) is informative on designs of this type *In re Hruby*, 373 F.2d at 1001, “[T]he dependence of the existence of a design on something outside itself is [not] a reason for holding

- projected image designs (e.g., projection onto a windshield, optical/laser projection keyboard); and
- virtual three-dimensional designs.

However, the USPTO does not yet have any U.S. jurisprudence specifically addressing holographic designs, projected image designs, or virtual three-dimensional designs and the protection of these types of design in U.S. design patents.

A.5.2 DESIGN IDENTIFICATIONS

Static graphical user interface: These types of designs would be broadly evaluated under computer-generated icons under MPEP 1504.01(a).

Dynamic graphical user interface: These types of designs would be broadly evaluated under computer-generated icons under MPEP 1504.01(a).

Screen display designs that are displayed only when corresponding signals are sent from external environment: These types of designs would be broadly evaluated under computer-generated icons under MPEP 1504.01(a).

Screen saver: These types of designs would be broadly evaluated under computer-generated icons under MPEP 1504.01(a). Additionally, as provided in MPEP 1504.01(a), subsection IV, computer generated icons including images that change in appearance during viewing may be the subject of a design claim. Under this definition, screen savers are treated as changeable computer generated icons.

Therefore, both static and dynamic screensavers qualify for design protection.

Static icon: These types of designs would be broadly evaluated under computer-generated icons under MPEP 1504.01(a).

Dynamic icon: These types of designs would be broadly evaluated under computer-generated icons under MPEP 1504.01(a).

Transitional image: These types of designs would be broadly evaluated

it is not a design "for an article of manufacture." Many such designs depend upon outside factors for the production of the appearance which the beholder observes. The design of a lampshade may not be apparent unless the lamp is lighted. The design of a woman's hosiery is not apparent unless it is in place on her legs. The designs of inflated articles such as toy balloons, water toys, air mattresses, and now even buildings are not apparent in the absence of the compressed air which gives them form, as the water pressure here gives shape to the fountain."

under computer-generated icons under MPEP 1504.01(a).

Animated character: These types of designs would be broadly evaluated under computer-generated icons under MPEP 1504.01(a).

Computer related typeface type font: The USPTO identifies this type of design as a type front. See MPEP 1504.01(a), subsection III.

Screen display designs that are merely displayed apart from practical/functional human interaction: These types of designs would be broadly evaluated under computer-generated icons under MPEP 1504.01(a).

Holographic design: The USPTO is currently evaluating and developing policy regarding these types of designs.

Projected image: The USPTO is currently evaluating and developing policy regarding these types of designs.

Virtual three-dimensional design: The USPTO is currently evaluating and developing policy regarding these types of designs. These types of designs would likely be evaluated under computer-generated icons under MPEP 1504.1(a).

A.5.3 CLASSIFICATION

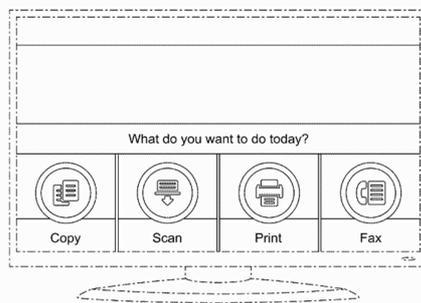
Type of Design	Locarno	USPC
Static Graphical User Interfaces	14-04	D14/486, D14/487, D14/488
Dynamic Graphical User Interfaces	14-04	D14/486, D14/487, D14/488
Screen display designs that are displayed only when corresponding signals are sent from external environment	14-04	D14/485-495
Screen Savers	14-04	D14/485, D14/486, D14/488 ²⁰
Static Icons	14-04	D14/488, 489-495
Dynamic Icons	14-04	D14/488, 489-495

²⁰ USPC does not separately classify screen savers. Screensavers could be classified in a D14/486 because they are designs that fill the entire display area of a computer screen. Screensavers could also be classified in D14/488 if the application claims distinct, separate, plural images or symbols.

Transitional Images	14-04	D14/485-495
Animated Characters	14-04	D14/485
Computer Related Typeface Type Font	18-03	D18/24, D18/26
Screen display designs that are merely displayed apart from practical/functional human interaction	14-04	D14/485, D14/486, D14/489-495
Other types electronic screen display designs	14-04	N/A
Holographic Designs	14-04, 16-02	
Projected image	32-00	

A.5.4 EXAMPLES

Static graphical user interface:



D804,528 titled “Display Screen with GUI Menu for a Multifunction Office Machine”

Dynamic graphical user interface:

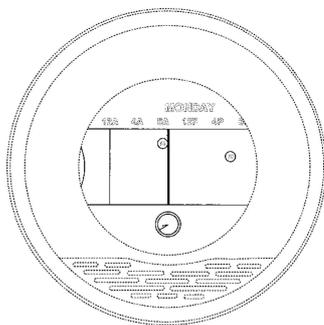


FIG. 8

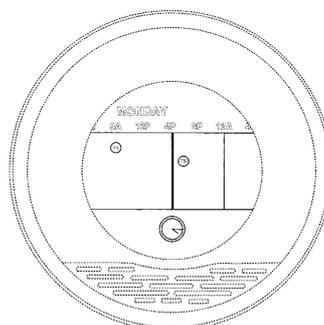


FIG. 9

D687,047 titled “Display screen with an animated graphical user interface”

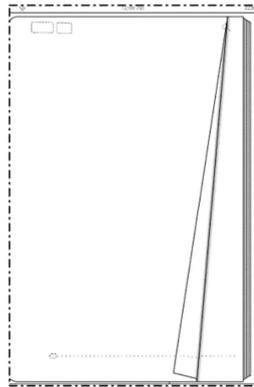


FIG. 1

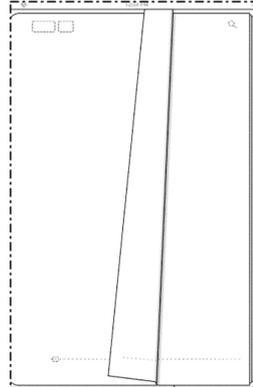
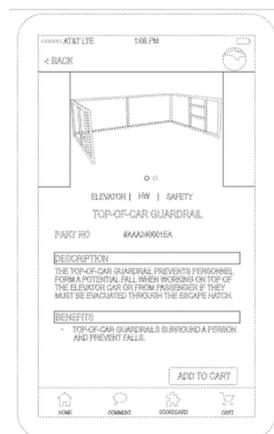


FIG. 2

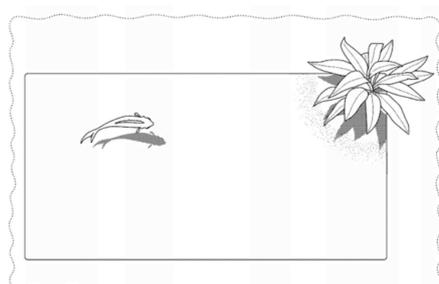
D670,713 Titled “Display Screen or Portion Therefor with Animated Graphical User Interface”

Screen display designs that are displayed only when corresponding signals are sent from external environment:



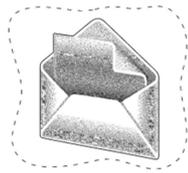
D822,038 Display screen or portion thereof with graphical user interface

Screen saver:



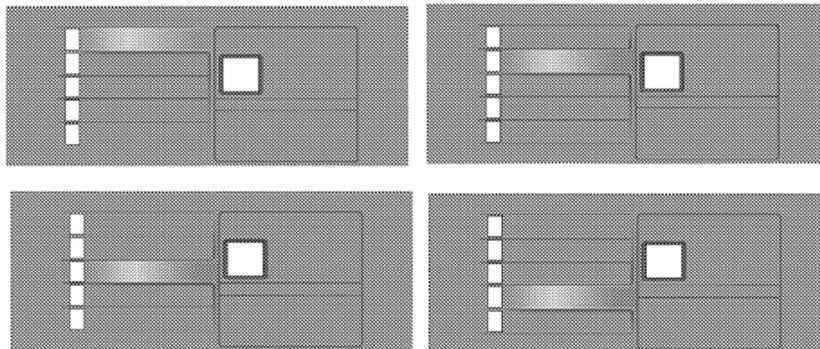
D629,006 titled “Graphical User Interface for a Portion of a Display Screen”

Static icon:



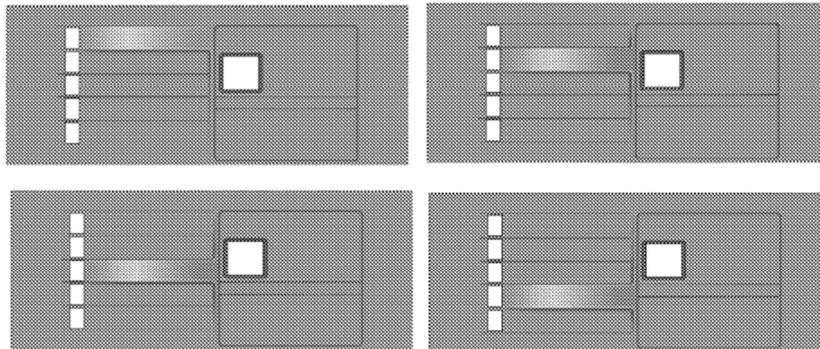
D586,822 titled “Portion of a display screen showing an icon”

Dynamic icon:



D565,584 titled “User Interface for a portion of a display screen”

Transitional image:



D565,584 titled “User Interface for a portion of a display screen”

Animated character:

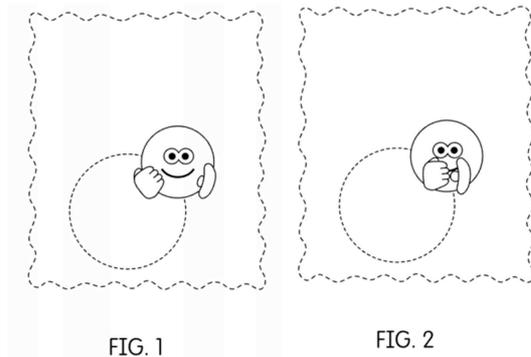


FIG. 1

FIG. 2

D803,889 titled “Display Screen with Animated Graphical User Interface”

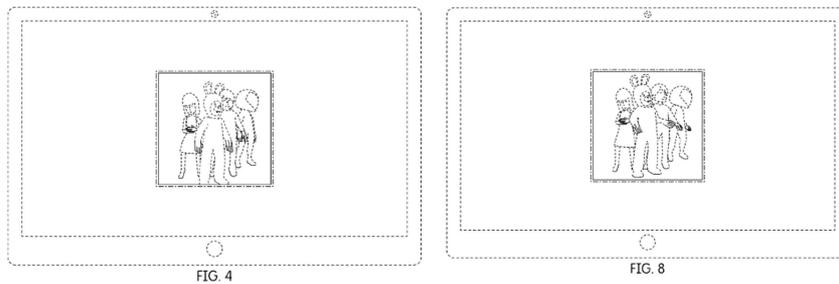


FIG. 4

FIG. 8

D768,722 titled “Display Screen with Animated Graphical User Interface”

Computer related typeface type font:



D737,372 titled “Typeface”

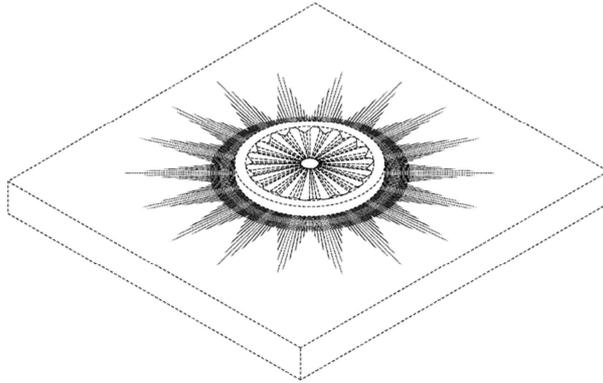
Screen display designs that are merely displayed apart from practical/functional human interaction:

N/A

Holographic design:

N/A

Projected image:



D609,947 titled "Tabletop with an applied pattern of projected light"

Virtual three-dimensional design:

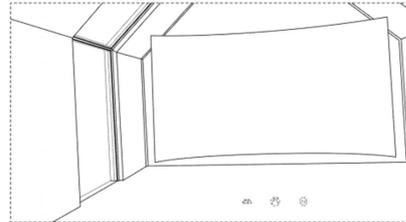
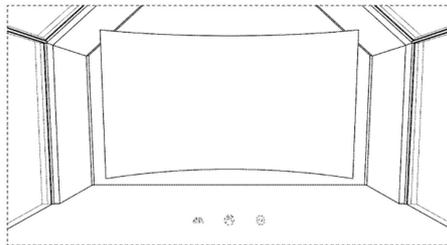


FIG. 2

D797,767 titled "Display system with a virtual three-dimensional graphical user interface"

A.6 INDUSTRIAL DESIGNS FILINGS IN EMERGING TECHNOLOGIES

	CNIPA	EUIPO	JPO	KIPO	USPTO
Static Graphical User Interfaces	Quite Common	14281 filings from the beginning of the Community design (01/04/2003) for both static and dynamic GUIs	<p>Total numbers of applications filed for designs containing graphic images are as follows.</p> <p>2010: 564 2011: 623 2012: 968 2013: 992 2014: 863 2015:1,007 2016:1,049 2017: 878 2018:1,109 2019:1,243 2020:1,330 2021:1,952 2022:2,180</p> <p>JPO does not collect the detailed statistics on the number of applications filed in relation to categories of emerging designs herein.</p>	<p>KIPO does not produce statistics for these types of graphic interfaces.</p>	<p>USPTO does not produce statistics for these individual types of graphic interfaces.</p>
Dynamic Graphical User Interfaces	Quite Common	14281 filings from the beginning of the Community design (01/04/2003) for both static and dynamic GUIs			
Screen display designs that are displayed only when corresponding signals are sent from external environment	Almost None	6685 filings			
Screen Savers	None	9 filings			
Static Icons	Not Many	10090 filings in total for both static and animated icons			
Dynamic Icons	Very Few	10090 filings together with static icons			
Transitional Images	Not Many	18 in total			
Animated Characters	None	180 filings			
Computer Related Typeface Type Font	None	584 in total			
Screen display	Almost	6685 filings			

designs that are merely displayed apart from practical/functional human interaction	None			produce statistics for these types of graphic interfaces.	
Other types electronic screen display designs	None	N/A			
Holographic Designs	None	1			
Projected image	Very Few	None			
Virtual three-dimensional designs	None	All 3D objects (of any Locarno class) can be depicted either by 2D graphic representations or 3D dynamic images			

A.7 DESIGNS OF TANGIBLE PRODUCTS IN THE ELECTRONIC SCREEN DISPLAY ENVIRONMENT

A.7.1 Is it possible to protect a design in a computer or virtual reality environment with an industrial design registration? Specifically, is it possible to protect the use of a design of an automobile in a computer or virtual reality environment, such as in a computer game, Second Life® (<http://secondlife.com/>) or Turbosquid (<https://www.turbosquid.com/>) virtual reality environment?) If not, why does it not qualify for protection?

CNIPA

No, it can't be protected. The carrier of this type of designs is not a product, therefore it is not a patentable subject matter.

EUIPO

Yes, pursuant to Art 3(1),(2) EUDR. The "product" definition refers to any industrial or handicraft item, other than a computer program, regardless of whether it is embodied in a physical object or materialises in a non-physical form

JPO

It is not possible to clearly answer to this question because no judicial decision has been made as to whether the use of a registered design of a certain article (e.g. an automobile) in a computer or virtual reality environment is admitted as an act which constitutes the work of a design prescribed for in the Design Act.

The Japanese Design Act provides that a holder of a design right shall have the exclusive right to work the registered design and designs similar thereto as a business (Art. 23) and that "work" of a design shall mean the manufacturing, using, assigning, leasing, exporting or importing, or offering for assignment or lease (including displaying for the purpose of assignment or lease) of an article embodying the design (Art. 2(3)).

There is a possibility that a design of an automobile used in a computer or virtual reality environment may not be a "design" prescribed for in the Design Act. Even if the design in question is admitted as a legitimate "design", there will also be a possibility that the use of a design of an automobile in a computer or virtual reality environment does not constitute the work of a design (manufacturing, using or displaying for the purpose of assignment or lease etc. of an article embodying the design).

KIPO

There is no definition of "virtual" design in the design laws and regulations in Korea. In the "Design Protection Act," however, we put the definition of "image" in

2021, through which digital designs are not necessarily applied to a physical product any longer.

However, there are still limitations that require the (graphic) image to be used in device operations or to be exhibited by a function. If there is user interaction, it can be registered, but a mere item image without user interaction may not be eligible for registration.

The term "image" means a figure, symbol, etc. expressed by digital technology or electronic means [limited to those that are used for operation of devices or that exhibit a function, and including parts of an image] (Article 2 (Definition) 2-2. of the Design Protection Act)

However, images of automobiles in the metaverse may be difficult to register if there is no user interaction. Nevertheless, when claiming a partial design that outlines electronic devices with a dotted line and represents the automobile image on the screen with a solid line, it can be registered without being subject to the restrictions of Article 2(2-2).

USPTO

The United States currently lacks jurisprudence in relation to whether design patents can be successfully enforced in relation to use in virtual spaces.²¹

A.7.2 Is it possible for an applicant obtain a single design registration that would cover use of the design in a physical product environment and as represented in a virtual or computer environment? (For example, could an applicant obtain a single design right that could effectively protect both the design for an automobile and the automobile as used in a computer game or other virtual environment?)

If not, what prevents the applicant from being able to protect the same design in two different environments? (e.g., requirement for application to be tied to a certain product classification, requirement for tie to a physical product rather than virtual reality etc.)

CNIPA

²¹ Complaints based on accused infringement of design rights in the virtual space have already 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).

Designs should be protected under the same or approximate category of applied physical products.

EUIPO

Indeed, what is protected is the appearance of the product regardless of the indication and classification of the product.

JPO

As stated in A.7.1, it is not possible to answer to this question because no judicial decision has been made as to whether the use of a registered design of a certain article (e.g. an automobile) in a computer or virtual reality environment is admitted as an act which constitutes the work of a design prescribed for in the Design Act.

KIPO

No. A single design right cannot cover both the design for an automobile and the automobile represented in a computer environment. An individual application for each design needs to be filed to seek protection.

The scope of a design right extends to the products which fall into the same or similar product category to that of the registered design. Thus, the GUI design is represented on the product which fall into the same or similar kind of the product of the registered design, the design right can cover both designs. If the products do not fall into the same product category, an individual application for each design needs to be filed: one for a physical product design and the other for a GUI design.

USPTO

It is not clear whether a single design patent could successfully provide protection for a design in both the tangible environment as well as in virtual environments. The United States currently lacks jurisprudence in relation to whether design patents can be successfully enforced in relation to use in virtual spaces

A.7.3 Is there a distinction in your law or practice depending on which virtual specific electronic environment – computer game, virtual reality world, internet application, etc. - the design is utilized? Would a single design registration for the design be capable of protecting the design in each of these varied environments?

CNIPA

There is no distinction. Currently no protection for virtual electronic environments.

EUIPO

No distinction in law.

A single design registration for the design is capable of protecting the design in each of these varied environments.

JPO

Regardless of which virtual specific electronic environment where a graphic image would appear, if the image falls under a graphic image used in the operation of a device or displayed as a result of the device performing its function, it will be protected under the Design Act in Japan. Yet, in practice, it is regarded that a graphic image of video games does not fall under any of these two graphic images.

KIPO

No. There are no separate regulations for designs utilized in the virtual specific electronic environment. If a design utilized in the virtual specific electronic environment is displayed on a display screen, it can be protected as a GUI design but it is protected as part of an article on which the GUI design is represented rather than the design itself.

USPTO

No distinction has been identified at this point, however, there is no U.S. jurisprudence on this issue.

A.8 MISCELLANEOUS

A.8.1 Are there any other “types of designs” now being contemplated or pursued at your Office that have not been otherwise identified in this questionnaire? If yes, please describe this type(s) of designs and associated environment in which they occur.

Do these other types of designs not previously identified qualify for protection through an industrial design filing at your office? If not, why does it not qualify for protection?

EUIPO

The Amending Regulation of the designs legislative reform package has clarified that designs can include the movement, transition or animation of its features; that products can be embodied in a

physical object or materialize in a non-physical form and that the spatial arrangements of items intended to form an interior or exterior environment and
- graphical user interfaces are expressly listed as products.

JPO

In 2019, a landmark revision to the Design Act was made to make GUI subject to protection as GUI itself by eliminating the mandatory link between GUI and article. Currently, studies have begun on how to protect designs in virtual space as a medium- to long-term issue.

KIPO

Recently, faces of AI influencers that are rendered in hyper-realistic image are being filed as GUIs for electronic device (described as avatars for chatbots). While trademarks face hurdles related to distinctiveness, designs do not have such barriers, raising the issue of whether they can be rejected based on the definition of design rather than novelty or creativity.

If the avatar does not resemble a person, there may be no grounds for rejection; however, the question remains whether it is appropriate to grant design registration for hyper-realistic depictions of human faces. As of now, there are no clear guidelines or conclusions on this matter.



KR 30-1245593
GUI for displaying information
(Loc. cl 14-04)

vs.



KR 30-1245593
GUI for displaying information
(Loc. cl 14-04)

CNIPA

None.

USPTO

None

B. CURRENT OFFICE PRACTICES RELATED TO FILING, EXAMINATION, PUBLICATION, GRANT AND PROVISION FOR LEGAL PROTECTION OF DESIGNS IN EMERGING TECHNOLOGIES

B.1 FILING TECHNOLOGIES

B.1.1 What forms of images are allowed by your Office for the representation of a design in an application? (Static and dynamic images/transitional images; images of tangible products in the electronic screen display environment, other)?

CNIPA

Applicants can submit drawings or photographs in the same way as for designs applied to physical products. Video files are allowed if it is necessary.

EUIPO²²

Static images (max 7 per design) and dynamic images (one 3D model from which the 7 static views are derived)

JPO

Two dimensional drawings (including such images as line drawings and those made by means of computer graphics and screen capture, etc.) and photographs. Changeable images may be represented by a series of plural static images. Submission of a three -dimensional file and a movie file cannot be allowed.

KIPO

For ordinary designs, drawing lines, pictures and 3D modeling files are allowed to be submitted while only 2D images are available for GUI designs (Drawings and pictures are available both in black and white or colored version). If necessary, video files or a combination of a 2D image and video file can be submitted as references to facilitate understanding of a GUI design.

USPTO

Designs must be represented by a drawing that complies with the requirements of 37 CFR 1.84 and must contain a sufficient number of views to constitute a

²² Requirements will change with Phase II of the Legal Reform in 2026.

complete disclosure of the appearance of the design. Appropriate and adequate surface shading should be used to show the character or contour of the surfaces represented. Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Broken lines may be used to show visible environmental structure, but may not be used to show hidden planes and surfaces that cannot be seen through opaque materials. Alternate positions of a design component, illustrated by full and broken lines in the same view are not permitted in a design drawing. Photographs and ink drawings are not permitted to be combined as formal drawings in one application. Photographs submitted in lieu of ink drawings in design patent applications must not disclose environmental structure but must be limited to the design claimed for the article.

Every design patent application must include either a drawing or a photograph of the claimed design. As the drawing or photograph constitutes the entire visual disclosure of the claim, it is of utmost importance that the drawing or photograph be clear and complete, and that nothing regarding the design sought to be patented is left to conjecture. See MPEP 1503.02.

Additionally, 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. See MPEP 1504.01(a)(IV).

B.1.2 What file formats are available for representations? (i.e., moving picture files, pdf, tif, wav, etc?) Is there a max size for files? If so what?

CNIPA

JPEG format is accepted. The size of the view should not exceed 150mm×220mm, and the resolution of the aforementioned view should be in the range of 72 dpi-300 dpi.

The video file formats include ogg, mp4, and webM. The size of the video file should not exceed 60Mb.

EUIPO²³

Static representation:
JPEG format

²³ This will change with Phase II of the Legal Reform in 2026.

Max of 2Mb per view (max. 7 views)

3D dynamic representation:

OBJ, STL, X3D format

Max. 20Mb

JPO

[File format]

Drawing in black and white (two-value drawing, i.e. line drawing): either PNG, GIF or BMP

Drawing/photograph with color (including gray scale half tone): JPEG

[Maximum size of each representation]

PNG, GIF, BMP: 400 dpi, horizontal 2,362 dots * vertical 1,779 dots (converted dimensions: 150 mm * 113 mm)

JPEG: 200 dpi, horizontal 1,181 dots * vertical 889 dots (converted dimensions: 150 mm * 113 mm)

(In case of paper filing: 150 mm * 113 mm)

Maximum volume per application: 200 MB

KIPO

2D images (such as drawing lines or photographs): TIFF, JPEG (300dpi ~ 400dpi)

3D modeling: **IGES, OBJ, STP, STL**

Video (**only for references**): SWF, MPEG, WMV, Animated GIF **and AVI**

Font : TTF

Note: As for SWF (Small Web Format), MPEG (Moving Picture Experts Group), WMV (Window Media Video), Animated GIF (Graphics Interchange Format) **and AVI (Audio Video Interleave)**, these files shall be in the medium resolution ((640×480), lower than 600~700K/sec in speed and smaller than 200MB in size.

USPTO

For domestic filings, images or representations may be filed electronic in .pdf format or filed in traditional paper filing format. The maximum file size is 25 MB. For international design applications filed under the Hague Agreement, the USPTO accepts as an office of indirect filing .pdf and .jpeg files as well as paper filings.

B.1.3 Are there any special features allowed for identification and claims of color? Other special traits as aspects of the design?

CNIPA

None.

EUIPO

No, the claimed colours must be shown in the representation.
No additional identification of colours is allowed.

JPO

Where design registration is requested for a design with colors, the colors must be shown as such in the representation. Exceptionally, application of either black or white in the representation may be omitted by stating to that effect as a description in the application.

KIPO

Both black and white or colorized drawings are available to represent a design when filing an design application. As for the colorized drawings, if there is any portion uncolorized in a drawing, it should be indicated whether it is the color of the product or the transparent part or hole of the product in the design description column.

USPTO

Color drawings are permitted in design applications when filed in accordance with the requirements of 37 CFR 1.84(a)(2). Color photographs will also be accepted if the conditions for accepting color drawings have been satisfied. See 37 CFR 1.84(b)(2). See also MPEP 1503.02, subsection V.

Color may also be shown in pen and ink drawings by lining the surfaces of the design for color in accordance with the symbols in MPEP 608.02.

If the drawing in an application is lined for color, the following statement should be inserted in the specification for clarity and to avoid possible confusion that the lining may be surface treatment --The drawing is lined for color.-- However, lining entire surfaces of a design to show color(s) may interfere with a clear showing of the design as required by 35 U.S.C. 112(a) (or for applications filed prior to September 16, 2012, 35 U.S.C. 112, first paragraph), as surface shading cannot be used simultaneously to define the contours of those surfaces. See MPEP 1503.02, subsection V.

B.1.4 What special requirements (e.g., special descriptions, demonstration of transitional images) apply to designs for emerging technologies?

CNIPA

For a dynamic GUI, a view of initial state should be submitted as Front view, and

views of the key frames should represent the variation states of GUI, and be able to uniquely indicate the complete changing process of the dynamic GUI clearly. The titles of variations views should be marked according to the sequence of the dynamic changing process.

If GUI could be applied to any kind of electronic device, the applicant may file views representing GUI only.

EUIPO²⁴

All views of an animated icon and 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.

JPO

There is no special requirement for filing a design application with respect to designs for emerging technologies. Basically, the requirements for traditional products equally apply to these designs.

KIPO

When filing an application on a dynamic GUI, applicants are required to describe the movements of the design as well as static and dynamic states of the motion in the design description column.

Example 1) This design shows how a spoiler installed on the back of the car rear is transformed. **Fig. A1 to Fig. A5** show how the spoiler is open wide and **Fig. B1 to Fig. B5** show how it is folded.

Example 2) This design shows a movable robot toy. **Fig 1 to Fig. 7** shows a series of movements of the product.

USPTO

Because of the nature of the designs used in emerging technologies, care should be taken to ensure the design application complies with the article of manufacture requirement of 35 U.S.C. 171.

The USPTO considers designs for computer-generated icons embodied in articles of manufacture to be statutory subject matter eligible for design patent protection under 35 U.S.C. 171. Thus, if an application claims a computer-generated icon shown on a computer screen, monitor, other display panel, or a

²⁴ This will change with Phase II of the Legal Reform in 2026.

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 1504.01(a).

Additionally, computer generated icons including images that change in appearance during viewing may be the subject of a design claim. Such a claim may be shown in two or more views. The images are understood as viewed sequentially, no ornamental aspects are attributed to the process or period in which one image changes into another. A descriptive statement must be included in the specification describing the transitional nature of the design and making it clear that the scope of the claim does not include anything that is not shown. Examples of such a descriptive statement are as follows:

“The subject matter in this patent includes a process or period in which an image changes into another image. This process or period forms no part of the claimed design;” or

“The appearance of the transitional image sequentially transitions between the images shown in Figs. 1-8. The process or period in which one image transitions to another image forms no part of the claimed design;” or

“The appearance of the transitional image sequentially transitions between the images shown in Figs. 1-8. No ornamental aspects are associated with the process or period in which one image transitions to another image.”

See MPEP 1504.01(a)(IV).

B.1.5 What, if any, special filing options or technologies exist for designs related to emerging technologies?

CNIPA

None.

EUIPO²⁵

No special filing options

²⁵ This will change with Phase II of the Legal Reform in 2026.

JPO

At present, there exist no special options.

KIPO

3D modeling formats such **IGES (Initial Graphic Exchange Specification, IGS)**, **OBJ (Object file format)**, **STEP (Standard for the Exchange of Product Data, STP)** or **STL (Stereo Lithography)** are available. In addition, for GUI designs, video clips can be submitted as reference drawings.

USPTO

There are no special filing options or technologies available for emerging technologies.

B.2 SEARCHING AND EXAMINATION PROCESS

B.2.1 What are the searching practices for substantive examinations of designs in emerging technologies (including computerized image searching, use of image recognition software, artificial intelligence, etc.)? Please identify any special searching practices that are utilized in relation to designs in emerging technologies.

CNIPA

Currently there is only static image recognition in searching practice.

EUIPO

No substantive examination is carried out by EUIPO.

JPO

The JPO conducts prior design searches as to previously filed national applications, design gazettes published in and out of Japan, and other published materials including brochures, magazines and information on the Internet websites.

Currently, the JPO is working on the use of similar image search technology to improve the efficiency and quality of prior design searches.

KIPO

A computerized searching system is utilized when determining the domestic classification based on the information indicated in the application such as the class number of the Locarno Classification and the product identification. This will

be a draft classification. Since 2021, the Korean Intellectual Property Office has implemented an AI image search tool in the system used by design examiners for prior design searches.

USPTO

Novelty and nonobviousness of a design claim must generally be determined by a search in the pertinent design classes. It is also mandatory that the search be extended to the mechanical classes encompassing inventions of the same general type. Catalogs and trade journals as well as available foreign patent databases are also to be consulted. See MPEP 1504.

Examiners as experts in the technology and art fields in which they are examining frequently develop understanding as to where to frequently locate art of relevance and have flexibility to search in locations in addition to aforementioned requisite patent databases. For example, examiners may search on internet web locations and other non-patent literature as sources of relevant references.

B.2.2 What are the available tools for the examiners for the use and manipulation of images of filed application to facilitate examination (e.g., examiners' ability for manipulation and rotation of imagery such as 3D imagery)?

CNIPA

We use image view tools, it support view zoom/ contrast/ editing and other functions.

EUIPO

Images remain as filed by the applicants.

JPO

The JPO provides no special tools for the examiners other than those for the operation of static images since the JPO does not currently accept e.g., 3D files and movie files for the filing of design applications.

KIPO

Tools for 3D images: Cadian viewer, Rhino viewer

Tools for video clips: Window media player, GOM player

USPTO

Examiners have the ability to change the orientation and zoom in/out on the two dimensional electronic .tiff and original .pdf images stored in the electronic file wrapper of the application.

B.2.3 Are there any distinctions in examination procedures or processes for designs in emerging technologies (Special requirements; Varied handling or processes; etc.)?

CNIPA

There is no distinction in examination procedures for these types of designs. Only when it is deemed necessary, CNIPA may require the applicant to submit video files that demonstrate the dynamic graphic user interface.

EUIPO

The examination process is the same.

The only requirement for animated designs is the one described above in B.1.4.²⁶

JPO

For the purposes of efficiency and stability of the substantive examination practice, design applications that contain graphic images (GUIs) are allotted to limited number of examiners who are designated as being in charge of the cases.

As for designs that contain graphic images (GUIs), a transverse prior design search i.e. a thorough search beyond the commonality (similarity) of the corresponding article fields is conducted in order to check the fulfillment of the requirements for design registration.

KIPO

(1) Between a dynamic GUI design and a static GUI design

- ① If the posture of the main figure of a dynamic GUI design in the static and dynamic states is similar to that of a static GUI is; and there is no peculiarity in motion, they shall be deemed to be similar designs. In other words, if there are peculiarities in changes of the configuration or motion, they shall be deemed to be different designs.

²⁶ This will change with Phase II of the Legal Reform in 2026.

② If the posture of the main figure of a static GUI is similar with that of a dynamic GUI design in the static and dynamic states; and there is no peculiarity in motion, they shall be deemed to be similar designs.

(2) Between dynamic GUI designs

Similarity between dynamic GUI designs is determined by comparing the posture of the main figure of a dynamic GUI designs in the static and dynamic states of the motion.

USPTO

The examination process is the same.

B.3 PUBLICATION/GRANT

B.3.1 What is the format in which design rights are granted and published by your Office? (e.g., paper registration/patent; e-grant)?

CNIPA

Patent shall be published in the form of electronic bulletin, journals, or other forms prescribed by CNIPA. The electronic bulletin is published on CNIPA's website.

EUIPO

e-publication in the EU Design Bulletin

e-certificate downloaded by the users

JPO

Registration certificate is available in both paper and electronic formats.

KIPO

Both paper registration and e-grant are available. A registration certificate is available both in Korean and English.

USPTO

The Official Gazette for Patents is published each Tuesday in electronic form only, and contains bibliographic text and a representative drawing from each patent issued that week. Full text of each patent can be retrieved electronically from the USPTO Full Text Database. See <https://www.uspto.gov/learning-and-resources/official-gazette/official-gazette-patents>.

A bond paper copy of the patent grant is also mailed to the applicant upon issuance. See MPEP 1309.

B.3.2 What are the tools provided by your Office for search purposes in the publication databases?

CNIPA

The documents of authorized design patent are searched through the retrieval system.

EUIPO

eSearchPlus (only for Registered EU designs)

DesignView (publications of 75 Offices)

JPO

The Japan Platform for Patent Information (J-PlatPat) operated by the National Center for Industrial Property Information and Training (INPIT) provides an on-line search facility of published Design Bulletins.

<https://www.j-platpat.inpit.go.jp/web/all/top/BTmTopEnglishPage>

Also, the INPIT is offering an assist tool for searching designs published in the Design Bulletin which include a graphic image or GUI, called "Graphic Image Park" (GRIP).

<https://www.graphic-image.inpit.go.jp/>

KIPO

Website: kipris.or.kr, designmap.or.kr

USPTO

Patents may be searched in the USPTO Patent Full-Text and Image Database (PatFT). The USPTO houses full text for patents issued from 1976 to the present and PDF images for all patents from 1790 to the present. Other resources available to the public for searching patents are identified on the USPTO Web site at <https://www.uspto.gov/patents-application-process/search-patents>.

B.3.3 What types of documents/copies are *provided* by your Office to the users for priority claim purposes in another Office? (Please explain both paper and electronic format as applicable)

CNIPA

CNIPA could provide paper or electronic copied design priority documents, and deposits its design priority documents via the WIPO Digital Access Service (DAS).

EUIPO

e-documents (PDF) downloaded directly by the users

Certified paper copies issued by EUIPO through Inspection of files

The electronic exchange of priority document has been available through WIPO DAS framework since 2020.

JPO

Certifications in both paper format and electronic format through the WIPO DAS are available.

KIPO

The paper format is available.

Since 2018, The electronic exchange of priority document has been available through WIPO DAS framework. It is available in a total of 27 IP offices, including ID5. (As of September 2024)

<https://www.patent.go.kr/smart/jsp/ka/menu/support/main/WipoAccessCodeHelp.do>

USPTO

Certified copies of an application as originally filed are provided by the USPTO. The copies may be ordered in paper or CDROM via the mail or as PDFs via the internet. See http://ebiz1.uspto.gov/vision-service/Product_Services_P/msgShowProductSets?category=P.

On October 1, 2018, the USPTO will begin depositing U.S. design applications via the WIPO Digital Access Service (DAS), providing design priority documents in black and white, color, and grayscale depending on what format was received from the applicant.

Note: For international design applications (applications for international registration), users will be unable to order a certified copy of the application from the USPTO.

Accordingly, the “Order Certified Application As Filed” hyperlink will be inactive. Users are instructed to contact the International Bureau (IB) of the World

Intellectual Property Organization (WIPO) to obtain a certified copy of international design applications. See <https://www.uspto.gov/patents-application-process/checking-application-status/order-certified-copies>.

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

B.3.4 What types of documents/copies are required by your Office to the users for priority claim purposes from another Office? (Please explain both paper and electronic format as applicable)

CNIPA

Regardless of whether paper or electronic format, the applicant should submit an request for the documents/copies for priority claim purpose.

EUIPO

Decision n. EX-20-7 of the Executive Director

1. For an e-filing application in which the priority of a previous application is claimed (and for which the required documentation is available in WIPO-DAS), the evidence to be provided, pursuant to Article 8(1) EUDIR, will consist of the WIPO DAS access code. The Office shall then download the documents of the previous application from which the priority is claimed using this code and include a copy of the previous applicatiojn in the file of the EU design application.

2. In other cases, the evidence provided by the applicant for an EU design pursuant to Article 8(1) EUDIR, shall consist of a copy of the previous application or registration, emanating from the authority that received it. It shall contain the same information as the original application or registration and state the filing date of the previous application. If the original document contains a representation of the design in colour, the copy shall also be in colour.

3. Where the priority of a previous application for an EU design is claimed, the applicant shall indicate the application number of the previous application for an EU design and its filing date. The Office shall include a copy of the previous application in the file of the EU designs application.

JPO

Effective January 1st, 2024, the filing of a copy of the priority documents and the online filing of the priority documents are available. The certified priority document or its copy may be filed in paper form or online in PDF format.

Electronic exchange of priority documents through the WIPO DAS is also available.

KIPO

Priority documents authenticated by the first Office with which the application was filed need to be submitted and both paper **or** electronic format are allowed. Declaration of claiming priority and the name of county in which the first application was filed as well as the filing date (day, month, year) must be indicated in the application. Supportive documents for the declaration of claiming priority should be submitted within 3 months from the filing date. **See Article 51(4)**. For an international design application, those documents should be attached to the application or submitted within 3 months from the international disclosure. **See Article 188**.

USPTO

35 U.S.C. 119(b)(3) authorizes the Office to require the applicant to furnish a certified copy of the foreign priority application, and the Office requires such a copy pursuant to 37 CFR 1.55. The filing of the foreign priority papers under 35 U.S.C. 119(a)-(d) makes the record of the file of the United States patent complete. See MPEP 215.

The certified copy which must be filed is a copy of the original foreign application with a certification by the patent office of the foreign country in which it was filed. Certified copies ordinarily consist of a copy of the specification and drawings of the applications as filed with a certificate of the foreign patent office giving certain information. Certified copies include those retrieved by the Office in accordance with a priority document exchange program (e.g., via WIPO DAS). See MPEP 215.01. A copy of the certified copy filed by applicant, including a copy filed via EFS Web, will not satisfy the requirement in 37 CFR 1.55(g) for a certified copy. See MPEP 502.02, subsection V. A copy of the foreign patent as issued does not comply since the application as filed is required; however, a copy of the printed specification and drawing of the foreign patent is sufficient if the certification indicates that it corresponds to the application as filed. See MPEP 215, subsection II.

B.4 LEGAL PROVISIONS AND SCOPE OF PROTECTION FOR DESIGN RIGHTS

B.4.1 According to your national/regional law/regulations what is the extent of legal connection between the design and the product in which the design is embodied (e.g., for infringement, is the design required to be embodied in or applied to the product identified in the registration)?

CNIPA

Design sought for protection shall be embodied or applied to a product under the definition of design in Patent Law.

EUIPO

According to Articles 36.2, 36.3, 36.6 EUDR the indication of product as well as the description shall not affect the scope of protection of the design as such.

JPO

The Design Act provides that a holder of a design right shall have the exclusive right to work the registered design and designs similar thereto as a business (Art. 23) and that "work" of a design shall mean the manufacturing, using, assigning, leasing, exporting or importing, or offering for assignment or lease (including displaying for the purpose of assignment or lease) of an article embodying the design (Art. 2(3)).

Accordingly, the expected subject of an injunction in the case of a direct infringement is the article specified in the design registration and similar thereto (Art. 37(1)), while that in the case of an indirect infringement may be any product to be used exclusively for the producing of the article (including a computer program) (Art. 38(1)(i)).

The amount of damages may also be presumed to be the amount of profit per each unit of article (Art. 39(1)).

KIPO

Article 92 of our Design Protection Act does not define the products(articles) in which designs are used. However, the prevailing trend in court rulings is to assess whether both of designs are identical or similar based on the premise that the products are identical or similar.

Article 92 (Effects of Design Rights) The owner of a design right shall have the exclusive right to work the registered design or any similar design commercially.

When filing a design application, the purpose and function of the design should be clearly specified in order to obtain a registration. If a registered design is embodied in a product which has the same purpose or can be used for the same function as the product of the registered design and the dominant features of the both products are determined to be similar, infringement will be sanctioned.

USPTO

The USPTO does not comment on what would constitute infringement of a particular design patent because infringement is a question that is evaluated by

the courts. However, the well-established test for infringement of a design patent was set forth in *Gorham Manufacturing Co. v. White*, 81 U.S. (14 Wall) 511 (1871). In *Gorham* the U.S. Supreme Court set out the ordinary observer test to determine infringement stating, “that if, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, two designs are substantially the same, if the resemblance is such as to deceive such an observer, inducing him to purchase one supposing it to be the other, the first one patented is infringed by the other.” *Id* at 528. Therefore, the focus of the determination of the scope of the rights including whether an accused design or product infringes is focused on whether the two designs are substantially the same in appearance.

B.4.2 According to your national/regional law/regulations how do you determine if designs in new or emerging technologies are something that is eligible for protection (compliance with the definition of design)? How do you determine if the design meets the registrability criteria?

CNIPA

In accordance with Article 2.4 of Patent Law, "Design" means, with respect to an overall or partial product, any new design of the shape, the pattern, or their combination, or the combination of the colour with shape or pattern, which is rich in an aesthetic appeal and is fit for industrial application.

EUIPO

Definition of design according to Art 3(1) EUDR:

- (1) “*design*” means the appearance of the whole or a part of a product resulting from the features, in particular the lines, contours, colours, shape, texture and/or materials, of the product itself and/or of its decoration, including the movement, transition or any other sort of animation of those features;
- (2) “*product*” means any industrial or handicraft item, other than a computer program, regardless of whether it is embodied in a physical object or materialises in a non-physical form, including:
 - (a) *packaging, sets of articles, spatial arrangements of items intended to form an interior or exterior environment, and parts intended to be assembled into a complex product;*
 - (b) *graphic works or symbols, logos, surface patterns, typographic typefaces, and graphical user interfaces;*

JPO

In addition to the requirement for a legitimate “design”, designs in new or emerging technologies must fulfill the same requirements for design registration as designs of other traditional products indicated below.

Conditions for design registration (Article 3 of the Design Act)

- **Industrial applicability** (Whether the design is specific in both “article” and “appearance”.)

- **Novelty*** (Whether the design is identical with or similar to a publicly known design.)

- **Creativity**** (Whether the design is one that could be easily created by a person ordinarily skilled in the art of the design.)

Conditions for design registration (Article 3bis)

(Whether the design is identical with or similar to a part of a design in a prior application.)

Unregistrable designs (Article 5)

(Whether the design is eligible for protection in consideration of public interest, etc.)

One application per design (Article 7)

(Whether only one design based on an appropriate article is claimed in one application.)

Prior application (First-to-file rule) (Article 9)

(Whether the design application was filed at the earliest among those containing same or similar designs.)

Related designs (Exception to the first-to-file rule) (Article 10)

(Whether the design is similar to only the other design (principal design) which was selected from the applicant's own designs filed on the same date or earlier.)

* Judgement on similarity of designs is made based on the aesthetic impression of the "consumers" within the scope of articles that have similar intended use and function to the article of the filed design.

** Judgement on creativity may be made even beyond the scope of articles that have similar intended use and function. "A person ordinarily skilled in the art of the design" is the person who has knowledge on the designs in the industry where the article is manufactured or sold. In the case of a design containing a graphic image on the screen (GUI), general knowledge on graphic image designs irrespective of the fields of industry is also taken into account.

KIPO

Designs in new or emerging technologies must comply with the article in order to be eligible for protection under the Design Protection Act just as other designs do.

However, in order to expand the protection of digital images that are not inherent to the physical products, an amendment to the law in 2021 introduced a new provision, Article 2(2-2), which relaxed the requirements for products

Article 2 (Definitions) The terms used in this Act are defined as follows:

<Amended on Apr. 20, 2021>

2-2. The term "image" means a figure, symbol, etc. expressed by digital technology or electronic means [limited to those that are used for the operation of devices or that exhibit a function, and including parts of an image];

USPTO

New and Emerging designs are subject to the same laws and examination practices as all other designs. Eligibility is determined under 35 U.S.C. 171(a), providing that whoever invents any new, original, and ornamental design for an article of manufacture may obtain a patent therefor.

B.4.3 Are there any specific national/regional law/regulations that have been drafted/passed to specifically update your design law to provide protection for designs in new or emerging technologies?

CNIPA

CNIPA has revised the guidelines for patent examination for several times, three of which refer to design protection of graphic user interface. The first was in 2014, going effect on May 1, 2014. The second was in 2019, coming into force on November 1, 2019. The third was in 2023, becoming effective on January 20, 2024.

EUIPO

Regulation (EU) 2024/2822 of the European Parliament and of the Council of 23 October 2024 amending Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 2246/2002
The Amending Regulation was published on 18 November 2024 and will enter into force on 8 December 2024 (20 days following its publication), but its implementation will be phased. Most amendments will take effect four months after its entry into force (Phase I), while provisions requiring further development through secondary legislation (Implementing and Delegated Regulations) will take effect after 18 months (Phase II).

JPO

A possible new legislative and operational scheme for protecting designs in new or emerging technologies is currently under consideration.

KIPO

The 2021 amendment established a new definition of products to expand the protection of digital images; however, there are still limitations that require the images to be used in device operations or to be exhibited a function. There have been calls from the industry to remove these limitations, and revisions are currently under consideration.

USPTO

No.

B.4.4 What is the connection between contents of grant/ registration and rights conferred to the design holder?

CNIPA

After the grant of the patent for an design, no entity or individual may, without the authorization of the patentee, exploit the patentee's patent, that is, for production or business purposes, manufacture, offer to sell, sell or import the products incorporating the patentee's patented design.

EUIPO

Art. 19.1 EUDR:

A registered EU design shall confer on its holder the exclusive right to use it and to prevent any third party not having the consent of the holder from using it.

2. The following, in particular, may be prohibited under paragraph 1:

- (a) making, offering, placing on the market, or using a product in which the design is incorporated or to which the design is applied;
- (b) importing or exporting a product referred to in point (a);
- (c) stocking a product referred to in point (a) for the purposes referred to in points (a) and (b);
- (d) creating, downloading, copying and sharing or distributing to others any medium or software which records the design for the purpose of enabling a product referred to in point (a) to be made.

Art 10(1) EUDR:

The scope of the protection conferred by an EU design shall include any design which does not produce on the informed user a different overall impression.

Art. 10(2) EUDR:

In assessing the scope of protection, the degree of freedom of the designer in developing his design shall be taken into consideration

JPO

The Design Act provides that a holder of a design right shall have the exclusive right to work the registered design and designs similar thereto as a business (Art. 23) and that "work" of a design shall mean the manufacturing, using, assigning, leasing, exporting or importing, or offering for assignment or lease (including displaying for the purpose of assignment or lease) of an article embodying the design (Art. 2(3)).

KIPO

The owner of a design right shall have the exclusive right to work the registered design or any similar design commercially. (Article 92 of the Design Protection Act)

USPTO

The patent laws provide for the granting of design patents to any person who has invented any new and non-obvious ornamental design for an article of manufacture. The design patent protects only the appearance of an article, but not its structural or functional features. Infringement of a patent consists of the unauthorized making, using, offering for sale, or selling any patented invention within the United States or U.S. Territories, or importing into the United States of any patented invention during the term of the patent.

B.4.5 Please identify legal provisions and regulations relating to acquisition, examination, publication/issuance, or enforcement of designs in emerging technology environments. Please indicate if these same legal provisions or regulations relate only to emerging or technological designs (i.e., certain types of designs) or to all types of industrial designs.

CNIPA

Part 1 Chapter 3, Section 4.5 refers to examination on GUI in Guidelines for Patent Examination.

EUIPO

On 10 October 2024, the EU Design Legislative Reform Package was adopted, including the Amending Regulation on EU designs.

Following the phased roll-out of the EU Design Legislative Reform Package, users will be able to register new types of designs.

Despite its adoption, the Amending Regulation requires an additional legislation package, which is still to come, to ensure its implementation.

JPO

Followings are the relevant provisions of the Japanese Design Act. These provisions apply to all types of designs. For details (English translation), see the following URL.

(<http://www.japaneselawtranslation.go.jp/law/detail/?id=2846&vm=04&re=2&new=1>)

[Acquisition] and [Publication]

Article 20 (Registration of establishment of a design right)

[Examination]

Article 16 (Examination by examiner)

Article 17 (Examiner's decision of refusal)

Article 17-2 (Dismissal of amendments)

Article 18 (Examiner's decision to the effect that a design registration is to be granted)

[Enforcement]

Article 23 (Effect of design right)

Article 24 (Scope of registered design, etc.)

Article 37 (Right to seek injunction)

Article 38 (Acts Deemed to constitute infringement)

Article 39 (Presumption of Amount of Damage, etc.)

Article 40 (Presumption of negligence)

KIPO

In principle, all designs are subject to the same registration requirements. However, since the criteria for digital images have been relaxed regarding product characteristics, a separate chapter has been added to the design examination guidelines. (Part 6, Chapter 1)

USPTO

Emerging designs are subject to the same laws and regulations as all other industrial designs 35 U.S.C. 171; 35 U.S.C. 112; 35 U.S.C. 102; 35 U.S.C. 103.

Similarly, infringement of design patents are all subject to the same laws and regulations. 35 U.S.C. 271, 35 U.S.C. 283, 35 U.S.C. 284, 35 U.S.C. 289.