

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

Thirty-Sixth Session
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COMPILATION OF THE REPLIES TO THE QUESTIONNAIRE ON GRAPHICAL USER INTERFACE (GUI), ICON AND TYPEFACE/TYPE FONT DESIGNS

Document prepared by the Secretariat

INTRODUCTION

1. At the thirty-fifth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), held in Geneva from April 25 to 27, 2016, the Chair requested the Secretariat to prepare a questionnaire, based on the proposal made by the Delegations of Israel, Japan and the United States of America, entitled “Industrial Design and Emerging Technologies: Similarities and Differences in the Protection of New Technological Designs” (document SCT/35/6). The Chair further requested the Secretariat to prepare a document containing the replies to that questionnaire, to be presented at the thirty-sixth session of the SCT.
2. Accordingly, the Secretariat prepared and addressed to all Member States of the World Intellectual Property Organization (WIPO) the *Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs* (hereinafter “the questionnaire”), which is reproduced in Annex II to the present document. The questionnaire was also made available, in Arabic, Chinese, English, French, Russian and Spanish, on the SCT Electronic Forum webpage at: <http://www.wipo.int/sct/en/>.
3. By August 12, 2016, closing date to return the completed questionnaire to WIPO, replies from the following Member States were received: Argentina, Australia, Azerbaijan, Belarus, China, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Georgia, Germany, Iceland, Israel, Italy, Japan, Kazakhstan, Latvia, Lithuania, Malaysia, Mexico, Montenegro, Netherlands, Norway, Oman, Peru, Philippines, Poland, Portugal, Republic of Moldova,

Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovakia, South Africa, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States of America (44). The following intergovernmental organizations (IGOs) also replied to the questionnaire: European Union Intellectual Property Office (EUIPO) and African Intellectual Property Organization (OAPI) (2).

4. At the thirty-sixth session of the SCT, held in Geneva from October 17 to 19, 2016, the Secretariat presented a *Compilation of the Replies to the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs* (document SCT/36/2). After discussions, the Chair requested the Secretariat to:

- invite Member States to submit additional and/or revised replies to the *Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs*;
- invite accredited NGOs to submit comments and observations on the topic, from the perspective of their experience;
- compile all replies, comments and observations received in a revised document SCT/36/2, to be presented to the next session of the SCT; and
- prepare a document analyzing the replies, comments and observations received, for consideration of the SCT at its next session.

5. Accordingly, under Circular letters of November 15, 2016, the Secretariat invited Member States to submit additional and/or revised replies to the questionnaire, and accredited NGOs to submit comments and observations, by January 15, 2017. Additional replies from the following Member States were received: Austria, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, France, Honduras, Hungary, Kyrgyzstan, New Zealand, Republic of Korea, Spain and Uganda (15). The following Member States submitted revised replies: Norway, Philippines, Republic of Korea, Republic of Moldova, Russian Federation, Saudi Arabia, and United States of America (7). One intergovernmental organization, EUIPO, also submitted revised replies. The following non-governmental organizations (NGOs) submitted comments and observations: International Association for the Protection of Intellectual Property (AIPPI), International Federation of Intellectual Property Attorneys (FICPI), International Trademark Association (INTA), Japan Patent Attorneys Association (JPAA), MARQUES - Association of European Trade Mark Owners (5).

6. The present document compiles all the replies to the questionnaire in tabulated form (Annex I). Comments provided by Member States and intergovernmental organizations are reproduced *in extenso* at the end of the related question. Comments from NGOs expressly referring to a question are also reproduced *in extenso* at the end of the related question. The full text of submissions made by NGOs is posted on the SCT Electronic Forum webpage at: <http://www.wipo.int/sct/en/comments/>.

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

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I. SYSTEMS OF PROTECTION

Question 1 – Does your jurisdiction provide protection for:

Responding Party	GUIs	Icons	Typefaces/Type fonts
Argentina	Yes	Yes	Yes
Australia	Yes	Yes	Yes
Austria	Yes	Yes	Yes
Azerbaijan	Yes	Yes	Yes
Belarus	Yes	Yes	Yes
Brazil	Yes	Yes	Yes
Bulgaria	Yes	Yes	Yes
Canada	Yes	Yes	Yes
Chile	Yes	Yes	Yes
China	Yes	Yes	Yes
Colombia	Yes	Yes	No
Costa Rica	Yes	Yes	Yes
Croatia	Yes	Yes	Yes
Cyprus	No	No	No
Czech Republic	Yes	Yes	Yes
Denmark	Yes	Yes	Yes
Estonia	Yes	Yes	Yes
Finland	Yes	Yes	Yes
France	Yes	Yes	Yes
Georgia	Yes	Yes	Yes
Germany	Yes	Yes	Yes
Honduras	Yes	Yes	Yes
Hungary	Yes	Yes	Yes
Iceland	Yes	Yes	Yes
Israel	Yes	Yes	Yes
Italy	Yes	Yes	Yes
Japan	Yes	Yes	No
Kazakhstan	Yes	Yes	Yes
Kyrgyzstan	No	No	No
Latvia	Yes	Yes	Yes
Lithuania	Yes	Yes	Yes
Malaysia	Yes	Yes	
Mexico	Yes	Yes	Yes
Montenegro	Yes	Yes	Yes
Netherlands	Yes	Yes	Yes
New Zealand	Yes	Yes	Yes
Norway	Yes	Yes	Yes
Oman	Yes	Yes	Yes
Peru	Yes	Yes	No
Philippines	Yes	Yes	
Poland	Yes	Yes	Yes
Portugal	Yes	Yes	Yes
Republic of Korea	Yes	Yes	Yes
Republic of Moldova	Yes	Yes	Yes
Romania	Yes	Yes	Yes
Russian Federation	Yes	Yes	Yes
Saudi Arabia	Yes	Yes	Yes
Serbia	Yes	Yes	Yes
Singapore	Yes	Yes	Yes
Slovakia	Yes	Yes	Yes

Responding Party	GUIs	Icons	Typefaces/Type fonts
South Africa	Yes	Yes	Yes
Spain	Yes	Yes	Yes
Sweden	Yes	Yes	Yes
Switzerland	Yes	Yes	Yes
Turkey	Yes	Yes	Yes
Uganda	Yes	Yes	Yes
Ukraine	Yes	Yes	Yes
United Kingdom	Yes	Yes	Yes
United States of America	Yes	Yes	Yes
EUIPO	Yes	Yes	Yes
OAPI	Yes	Yes	No

COMMENTS FROM MEMBER STATES AND IGOs:

Australia

GUIs, Icons and Typeface/Type Fonts can achieve protection in some circumstances under the Australian designs, copyright and trademarks systems.

Under design law, protection would be limited to GUIs, icons and typeface/type fonts applied to a product “at rest”. This is because the visual features of the “product” must be assessed when the product is “at rest” (i.e. turned off). The visual feature (e.g. an icon) is not visible on a computer screen when it is turned off. Therefore, when assessing whether the registered design is new or distinctive, the icon cannot be seen, the product being examined is simply a blank computer screen (which is likely to be the same or substantially similar in overall impression) to other computer screens in the prior art field.

Austria

Some at the Austrian Patent Office registered examples of GUIs, Icons can be reviewed here:
<https://www.tmdn.org/tmdsview-web/welcome>
 Icons and GUIs: Locarno Class: 14.04
 Type fonts: Locarno Class: 18.03

Brazil

The protection provided for typefaces under design law is subject to review.

Canada

GUIs, icons and typefaces/typefonts may be considered ornamentation as applied to a finished article in accordance with the Industrial Design Act. Typefaces/typefonts that are not applied to a finished article are not considered registerable industrial design subject matter.

Chile

We apply general rules existing in our legislation. There is not a special regulation for these kinds of designs.

China

The three types of subject matter are protected by different laws.

Colombia

Our legislation makes no particular reference to any of these areas. However, it does make provision for GUIs and icons to be protected as two-dimensional designs.

Costa Rica

Although cases of GUIs, icons and type fonts have been rare in the experience of the office, they are covered under two-dimensional industrial design procedures.

GUI (Graphical User Interface) is understood as a set of perceptible graphical elements in a graphical environment, usually on the screen or projection of a device, which allows users to obtain information and execute functions. The graphical interface can be dynamic, i.e., it changes according to the progress of the user-device communication.

Icon means any of the graphical elements that appears in the graphical interface and that usually have their own meaning.

The fonts or types must represent the entire alphabet, symbols and numbering with which conventional text can be formed, in different sizes. For example, what differentiates Font ("Times") from Font ("Eras"). Of course it must meet the conditions of novelty, originality and independence, just as for GUIs and icons, to be protected as an industrial design.

Honduras

Both GUIs and typefaces/ type fonts. Protection is provided for under the Copyright Law, Decree No. 4-99-E, since they are considered computer programs.

Icons, like industrial drawings, having a two-dimensional shape, are protected under Industrial Property Law, Decree No. 12-99-E.

Malaysia

Yes if it complies with the definition of industrial design in the Malaysian Industrial Designs Act 1996 and if the GUI and/or icon is incorporated to the product to which it is to be used.

Mexico

National legislation does not provide a list of objects that can be protected, but it provides general definitions to be used in analyzing whether a specific element can be protected. In this respect, Articles 9, 10 and 32 of the Industrial Property Law provide that industrial designs can be protected by registration and that they comprise the following:

- (a) Industrial designs, which are any combination of figures, lines or colors incorporated into an industrial product for the purposes of ornamentation, giving it a unique and special appearance; and
- (b) Industrial models, constituting of any three-dimensional form that serves as a type or model for the manufacture of an industrial product, giving it a special appearance, where it does not involve technical effects.

Therefore, GUIs, icons and typefaces/type fonts are encompassed by the definition of industrial drawings and as such can be registered.

Montenegro

General provisions of the law are valid for all type of industrial design and there are no specific provisions of the above indicated types.

Netherlands

Protection is based on both national legislation (patents, copyrights) and Benelux legislation (trademarks and designs).

New Zealand

Please note that New Zealand's intellectual property laws do not explicitly refer to or reference protection for GUIs and icons. Therefore the extent to which actual protection is afforded to GUI's and icons under New Zealand law unclear and untested through the New Zealand courts. The responses provided below should not be relied upon either as legal advice on New Zealand's laws or otherwise guaranteeing that such items are protected in New Zealand.

In accordance with Intellectual Property Office of New Zealand (IPONZ) practice, the fixed appearance of a GUI or icon, in the sense that it forms a new pattern or "ornament" applied to a display screen, may be registered as a design under the Designs Act 1953. The validity of such registrations has not been tested in a New Zealand court. The Designs Act itself has no explicit provision for the registration of GUIs, icons or typefaces/fonts.

Protection of a GUI, icon or typeface/font may be protected as an artistic work under the Copyright Act 1994, provided it meets the relevant requirements of originality etc.

An icon may be registered as a trade mark if it meets the requirements under the Trade Marks Act 2002.

The actual functioning of GUIs and icons may be protectable under patent law, provided that the claims were not directed to "computer programs as such" (Patents Act 2013, section 11). Patent protection would not be available for the appearance, either fixed or changeable, of GUIs or icons.

Norway

Typeface may be illustrated with a document showing all the letters in the alphabet, all the numbers and a sentence showing the typeface in use. The protection concerns the outward appearance of the typeface, and it does not matter whether it is for computer programs or for traditional printing methods.

Peru

Article 113 of Decision 486 of the Commission of the Andean Community states an industrial design means the particular appearance of a product resulting from any arrangement of lines or combination of colors, or any two-dimensional or three-dimensional external form, line, contour, configuration, texture or material that does not change the intended purpose of the product.

Philippines

We provide protection for GUIs and Icons. Under Industrial Design they may be protected as an article of manufacture. Under copyright, they may be protected as drawings or illustrations, or even compilations.

Republic of Korea

GUIs and icons can be protected when if represented on a drawing along with the product that incorporates them on a drawing and the product's indication should be indicated. (i.e. a GUI for a mobile phone).

The term "icon" refers to an element of a GUI and is not independently protected. Stated another way, a GUI can be protected regardless of whether it contains icons or images.

Typefaces can be protected under Article 2.2 of the Design Protection Act if they comply with the requirements prescribed by the Act: the term "typeface" means a set of characters (including those in the form of numbers, punctuation marks, and symbols) made in a style with common characteristics for recording, marking or printing.

Republic of Moldova

Examples:

GUIs, Class 14-04 (http://agepi.gov.md/sites/default/files/bopi/BOPI_09_2012.pdf#page=117, BOPI 9/2012, p. 133-135, application f 2012 0071)



Icons, Class 14-04; 32-00

(http://agepi.gov.md/sites/default/files/bopi/BOPI_02_2016.pdf#page=121, BOPI 2/2016, p. 131-137, application f 2015 0093)



(http://agepi.gov.md/sites/default/files/bopi/BOPI_06_2015.pdf#page=117, BOPI 6/2015, p. 147-150, application f 2015 0042)



Typefaces/Type fonts, Class 18-03

(http://agepi.gov.md/sites/default/files/bopi/BOPI_10_2013.pdf#page=115, BOPI 10/2013,
p. 126-129, application f 2012 0116)

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Romania

These types of products are protected according to the general definition of design.

Design – “the appearance of a product or of a part thereof, in two or three dimensions, resulting from the combination of the main features, particularly lines, outlines, colors, shape, texture and/or materials of the product itself and/or its ornamentation” – art. 3(1)d) of Design Law No 129/1992.

Product – “any article produced through an industrial or handicraft process containing inter alia elements designed to be assembled in a complex product, packages, forms of presentation, arrangements, graphic symbols, typographic symbols; the computer programs shall not be deemed as a product” – art. 3(1)d) of Design Law No 129/1992.

Singapore

It is possible to obtain IP protection in Singapore for GUIs, icons, typefaces and type fonts but this is subject to fulfillment of the requirements of the Registered Designs Act, Trade Marks Act and the Copyright Act.

To obtain registered design protection under the Registered Designs Act, whatever that is claimed as the ‘design’ be it a GUI, icon typeface/type font, etc. has to meet the definition of ‘design’ under our Registered Designs Act. ‘Design’ means the features of shape, configuration, pattern or ornament. It also includes the requirement, amongst others, that the design be “applied to an article by any industrial process”. The “article” for which protection is sought also has to fall within one of the classes and sub-classes of the Third Schedule of the Registered Designs Rules. In general, in the case of typefaces/type fonts registration can be allowed provided that they meet with the definition of a design under the Registered Designs Act. We will however require that the applicant disclaim the letters, symbols, numerals, words, etc. To obtain registered trademark protection under the Trade Marks Act, the sign sought to be registered as a trademark has to first fulfill the definition of “sign” in the Trade Marks Act, as well as satisfy the usual requirements for the obtaining of trade marks protection such as distinctiveness.

To obtain protection under the Copyright Act as an artistic work, the artistic work must be original (there must be some degree of independent effort in the creation of the work).

Ukraine

There are no special provisions in the Law on Protection of Rights to Industrial Designs and in the Law on Copyright and Related Rights concerning Graphical User Interface (GUI), Icon and Typeface/Type Font Designs.

Graphical User Interface (GUI), Icon and Typeface/Type Font Designs are not excluded from the protection.

United Kingdom

Designs: The visual appearance only, computer software is not protected.

Trade Marks: Icons would be more likely to be protectable, possibly fonts. It wouldn't be as easy to gain protection for GUI's, although it may be possible upon evidence.

Copyright: GUIs may be protected under EU law (and hence UK law), as provided for in the InfoSoc Directive, as long as the original work is the author's own intellectual creation. UK law provides for specific categories of works that can qualify for copyright protection. For a work to be protected under UK law, it must fall into one of the categories which are entitled to copyright protection. The most appropriate in the case of GUIs would be literary works (e.g. database/computer programs) or artistic works (e.g. a graphic work). These rights would cover the component parts of a GUI (discussed below) rather than the GUI as a whole. The CJEU has determined that copyright protection is not afforded to GUIs by virtue of the Software Directive, which only allows for the protection for the "expression in any form of a computer program".

The CJEU has ruled that this does not extend to GUIs as they only comprise one feature of the underlying computer program, and not its expression. In its decision in *BSA v Ministervo Kultury*, the Court ruled that the Software Directive relates to "the expression in any form of a computer program", and the preparatory work which allows reproduction or creation of a program, but this does not cover ideas and principles that underlie its interfaces. GUIs are one element of a computer program that users interact with to make use of the computer program; they do not allow its reproduction, and are not a form of expression of the program within the meaning of the Directive.

Icons: Icons are protectable under the UK's copyright regime as an "artistic work". Copyright in an artistic work which lasts until seventy calendar years have elapsed following the year in which the creator dies. In the UK copyright can only subsist in a work that is original in the sense that it is the author's own intellectual creation

Typefaces/Type Font: Typefaces and letter styles can be protected by copyright as artistic works, and both the letter style and each individual letter can be protected. However, an exception is provided in section 54 CDPA which allows for the use of a typeface in the ordinary course of typing, composing text, typesetting or printing, or possessing a computer to do so. As such, it is not an infringement of copyright to use a font when writing text, printing out that text, or having a computer upon which that text is composed, as long as you have legally obtained the font in the first place (e.g. through a licence via word processing software). It is, however, infringing to import or deal with equipment that is specifically adapted or designed for producing material in a particular typeface, without permission or a licence. For example, it would be infringing to sell a printing press comprising a protected font, font packages, or word processing software that includes said font, without a licence.

Where such articles are lawfully marketed, that protection only lasts for 25 years. (This is outlined in section 55 CDPA and in compliance with Art. 9 InfoSoc directive, which provides a national carve out for typefaces).

In summary, although there is no protection for GUIs per se under UK copyright law, it is possible to protect the component parts of a GUI, including typeface and icons. In reality, this could allow for quite effective protection for a GUI.

EUIPO

Under the Community Design Regulation, any industrial and handicraft item is considered to be a suitable product subject to a design.

Graphical symbols and typographic typefaces are expressly listed in the statutory definition as examples for such products.

Icons are covered by the broad notion of graphical symbols.

GUIs are also accepted as products the appearance of which can be a design. However, computer programs as such cannot constitute a suitable product.

OAPI

Our legislation on industrial designs (Article 1, Annex IV of the Bangui Agreement) protects any arrangement of lines or colors and any three-dimensional shape, whether or not associated with lines or colors, as industrial designs, provided that the arrangement or shape gives a special appearance to an industrial or craft product and may serve as a pattern for the manufacture of such products.

Graphic user interfaces and icons are regularly protected under this legislation.

COMMENTS FROM NGOS:

INTA

Overall, INTA Designs Committee wishes to make the following general comments in support of the SCT's work in relation to GUIs, icons and fonts:

1. In the last 10 years, there has been an obvious and acknowledged surge in use of GUIs, icons and fonts in many industries around the world.
2. From a design perspective, many of these GUIs, icons and fonts demonstrate high levels of design innovation.
3. From a consumer perspective, consumers now know, immediately, to associate particular GUIs, icons and fonts with particular producers of goods and providers of services.
4. Since the commercial success of a product or service often depends on these creative and innovative design choices, protecting GUIs, icons and fonts is important to differentiating one product from another in the marketplace.
5. In many instances, GUIs, icons and fonts have become a key aspect of a company's overall brand. They should therefore be considered a part of the overall IP portfolio, and design protection is needed to assure the legal framework for their protection.

6. Providing protection for GUIs, icons and fonts also encourages technological and economic development, in many sectors.

7. In many instances, the lifespan of this kind of technology is very short. The granting of design protection is therefore fitting. Of course, GUIs, icons and fonts may be eligible for overlapping protection via multiple intellectual property rights (such as copyright and/or trademarks).

8. INTA Designs Committee therefore supports design protection for GUIs, icons and fonts. Regarding the Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs, it seems that it is directed at member states to elicit the position of the law currently in their jurisdiction.

Rather than commenting on the existing laws in each member state, INTA Designs Committee would like to provide comments to some of the questionnaire questions to suggest, on behalf of designers and other users of the design registration system, what optimally a harmonised position on GUIs, icons and fonts might look like.

INTA Designs Committee advocates for the reasons set out above that intellectual property protection should be provided for GUIs, icons and fonts.

INTA Designs Committee notes footnote 2 to the Questionnaire – in saying that protection should be provided, INTA Designs Committee supports protection for the GUI, icon or font, independently from any protection available to the computer program or other technical means of creating it.

INTA Designs Committee considers that protection should be available for GUIs, icons and fonts even if they are projected onto a screen or otherwise only appear when technology is activated.

JPAA

Regarding typefaces/typefonts, no in general. If those have creativities, the Copyright Act would provide some protections. It is difficult, however, to recognize such creativities over typefaces/typefonts under our practice.

MARQUES

MARQUES was surprised to learn that apparently, some member states (e.g. Sweden or Germany) state that GUI/icons are not protected under trademark law. This may be a result of different interpretations of what GUIs/ICONS consist of and how they are defined since an ICON could be, for instance, the image of an “app”, which could also be defined as a logo which is protectable under trademark laws of most jurisdictions worldwide.

Responding Party	Design patent law			Registered industrial design law			Unregistered industrial design law			Copyright law			Trademark law			Unfair competition law			Other
	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	
Portugal				■	■	■	■	■	■							■	■	■	
Republic of Korea				■	■	■				■	■		■	■		■	■	■	
Republic of Moldova				■	■	■	■	■	■	■	■		■			■	■	■	
Romania				■	■	■	■	■	■	■	■					■	■	■	
Russian Federation	■	■	■							■	■	■	■	■					
Saudi Arabia				■	■	■													
Serbia				■	■	■													
Singapore				■	■	■				■	■	■	■	■	■				■*
Slovakia				■	■	■				■	■	■	■	■	■	■	■	■	
South Africa	■	■	■	■	■	■				■	■	■		■					
Spain				■	■	■	■	■	■	■	■	■							
Sweden				■	■	■	■	■	■	■	■	■		■					■*
Switzerland				■	■	■				■	■	■		■					
Turkey				■	■	■				■	■	■		■		■	■	■	
Uganda				■						■		■		■					
Ukraine	■	■	■							■	■	■							
United Kingdom				■	■	■	■	■	■	■	■	■	■	■	■				
United States of America	■	■	■							■	■		■	■					
EUIPO				■	■	■	■	■	■				■	■	■				
OAPI	■			■	■					■	■		■	■		■	■		

COMMENTS FROM MEMBER STATES AND IGOs:

Australia

Australian Designs Legislation: The enforceable protection available to GUIs, icons and typeface/type fonts under the Australian designs system is limited to the visual features of a product “at rest” and is further explained below.

Under Australian legislation, a design may be registered on the basis of a formalities check, without substantive examination. A registered design provides an owner with an exclusive right of use. However, in order for an owner to have the ability to enforce that right (such as in cases of infringement), the design must undergo substantive examination, be found new and distinctive, and a certificate of examination be issued.

While applications for GUIs, icons and typefaces/type fonts may pass pre-registration formalities checks (when applied to a “product”) and potentially achieve registration, they are likely to encounter problems when substantively examined.

Australian Trade Marks Legislation: GUIs and icons could receive protection as a trademark where they are sufficiently distinctive on the relevant goods or services. Typefaces/type fonts themselves are unlikely to be protected as a trade mark, for lack of distinctiveness. However, the name of an original typeface/type font could receive protection as a trademark.

Australian Copyright Legislation: GUIs, icons and typefaces/ type fonts may be protected under copyright where they are sufficiently original.

Australian Unfair Competition Law: Australian Consumer Law prohibits persons from, in trade or commerce, engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. This may provide protection for GUIs, icons and typeface/ type fonts where unauthorized use of same results (or is likely to result) in persons being misled or deceived as to their trade origin.

Canada

GUIs and icons may receive protection under different Canadian IP legislation provided they meet respective qualifications for that protection. Typefaces/typefonts may be considered ornamentation as applied to a finished article in accordance with the Industrial Design Act. Typefaces/typefonts that are not applied to a finished article are not considered registerable industrial design subject matter.

Typefaces/typefonts, if considered a work of art, may fall under *Copyright Act* protection.

China

Some icons and fonts may be protected through trademark law and copyright law.

Colombia

Legislation on industrial designs permits the protection of GUIs and icons without any agreement.

Costa Rica

Not literally.

Croatia

For the unregistered industrial design law, the protection on the territory of the Republic of Croatia is provided for by the European Union legislative framework, i.e. Council Regulation (EC) No. 6/2002 of 12 December 2001 – unregistered Community Design (UC) on Community designs.

With regard the Copyright protection, the Croatian Copyright and Related Rights Act (CRRA) defines the copyright work in the Article 5/1): “an original intellectual creation in the literary, scientific and artistic domain, having an individual character, irrespective of the manner and form of its expression, its type, value or purpose...”.

With regard the trademark law, the Croatian legislation provides for the protection of the typeface/type font name but not the typeface/type fonts design.

The relevant unfair competition provisions are provided for by the article 63 of the Croatian Law on Trade: “Unfair trading in the sense of this Act shall be considered in particular: ... the sale of goods with labels, or the data or appearance that create or could create confusion as to the origin, method of manufacture, quantity, quality or other characteristics of goods...”.

Czech Republic

Unregistered industrial design law – unregistered community design, EUIPO

Denmark

Our jurisdiction does not provide protection for GUIs in general. Different elements of the GUI can be protected.

Eg. “The screen display and userface” is protected exclusively, as a “registered industrial design” and as an “unregistered industrial design protection (EU)”, as it appears and not by its technical functions.

As regards to GUI copyright law protection: The text, sound, video, source code and graphic images is protected from an impertinent imitation providing the minimal standards of originality is met.

The logo/brand name of the GUI can be protected as a trademark.

The unfair competition law provides an additional protection of the other intellectual property rights.

Estonia

Estonian Copyright Act provides broad protection for original results in literary, artistic and scientific domain. Section 4(2) stipulates, that “work” means any original result in the literary, artistic or scientific domain which are expressed in an objective form and can be perceived and reproduced in this form either directly or by means of technical devices. A work is original if it is the author’s own intellectual creation. Accordingly, GUI, icon and/or typeface could be protected by copyright if it meets the requirements of the definition of “work”. Nevertheless there have been no court-cases to refer to in this subject and therefore a decision of CJEU could be indicated: in case C-393/09 it was decided that a “graphic user interface is not a form of expression of a computer program within the meaning of Article 1(2) of Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs and cannot be protected by copyright as a computer program under that directive. Nevertheless, such an interface can be protected by copyright as a work by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society if that interface is its author’s own intellectual creation”.

Finland

Our office does not deal with copyright matters or unfair competition. Probably all the new designs (GUIs, icons, typefaces) are protected also under copyright and unfair competition laws but we are not the right authority to answer this.

We do not have a national unregistered industrial designs law but unregistered industrial designs are protected also in Finland according the Regulation on Community Designs.

Germany

Computer programs as such can only be protected by copyright law.

Hungary

The European legal framework for the protection of design, namely Article 11 of Regulation 6/2002/EC provides for the protection of unregistered design.

In Hungary the GUIs, Icons and also Typefaces / Typefronts may fall under the scope of Copyright protection provided that they meet the requirements of “works” regulated by the Copyright Act of Hungary (No. LXXXVI of 1999). According to the Copyright Act all literary, scientific and artistic creations shall enjoy copyright protection due to their individual and original nature deriving from the intellectual activity of the author.

Iceland

Art. 2 of the Icelandic Design Act (DA) provides protection for: graphic symbols and typographic typefaces. Protection for such has rarely been requested; therefore practice in this respect is still to be established.

It is also possible that such design could be protected under the Copyright Act (CA) as computer programs or as applied art.

Israel

Israeli legislation recognizes GUIs, icons and typefaces/ type fonts (hereinafter referred to as “typefaces”) as subject matter for design protection where they are produced or intended to be produced in more than 50 units, and if produced or intended to be produced in smaller quantity may be eligible for copyright protection. Israeli legislation provides for mutual exclusion between copyright and design protection (see Article 7 of the Israel Copyright Act of 2007). However, some Israeli lower courts have held that mass produced icons and typefaces are eligible for copyright protection. The relation between copyright and design protection in general is currently pending before the Israel Supreme Court, and is also addressed in a pending Bill for a new Designs Law (which is currently being debated in the Israeli parliament) that will provide greater statutory certainty regarding the relation between copyright and design law. By way of practicality it should be noted that applications for design registration of typefaces are rare and that may be due to recent court decisions.

Japan

“Design patent law” and “unregistered industrial design law” do not exist in Japan.

* Copyright law: provided that a GUI, icon or typeface/type font constitutes a “work” defined under Article 2(1)(i) of the Copyright Act.

Trademark law: in a case where an application is filed for requesting protection as a figurative trademark of a GUI or icon, it may be registered as such provided that it satisfies requirements for registration under the Trademark Act.

Unfair competition law: provided that the act of alleged infringer constitutes “unfair competition” defined under Article 2(1) of the Unfair Competition Prevention Act.

Other for GUIs and Icons – Patent law: if a certain GUI or icon constitutes an invention and satisfies the prescribed requirements for protection under the patent law, they may also be protected under the patent law.

Kazakhstan

Locarno Agreement Establishing an International Classification for Industrial Designs (the Locarno Classification).

Kyrgyzstan

Under the Law of the Kyrgyz Republic on trademarks, service marks and appellations of origin of goods, Article 4, graphical interfaces (GUI), icons and typefaces/type fonts can be registered as trademarks provided that they have distinctive character.

Lithuania

Unregistered industrial design is protected according to EU Regulation on Community Designs No. 6/2002.

Malaysia

If it complies with the definition of industrial design in the Malaysian Industrial Designs Act 1996.

Mexico

As indicated, under the Industrial Property Law, GUIs, icons and typefaces/type fonts may be protected as industrial designs (specifically as industrial drawings). It is worth noting that Articles 9, 10, 37 and 38 of the Industrial Property Law provide that the exclusive right to exploit an industrial design is granted through registration, while the exclusive right to exploit an invention is granted through a patent, and to obtain the registration of an industrial design, an application must be submitted to the Mexican Institute of Industrial Property and the proper administrative procedure must be followed, including a formal examination and a substantive examination.

Hence it is worth noting that national legislation makes a distinction between the protection of inventions and the protection of industrial designs, so there are no design patents. Moreover, national legislation provides that industrial designs are protected via registration, so there is no legislation governing unregistered industrial designs.

As to protection as “marks”, such protection is granted only if they fulfill the condition of being sufficiently distinct and are constituted as a sign that distinguishes goods or services from others of the same type or class in the market, according to the Industrial Property Law and its regulations.

Netherlands

In the definition of a design in Article 3.1 in paragraphs 3 and 4 of the Benelux Convention on Intellectual Property for the Designs, the product “typefaces” is only mentioned: (...).

“3. The appearance of a product shall be imparted, in particular, through the features of the lines, contours, colors, shape, texture and/or materials of the product itself and/or its ornamentation.

4. A product shall mean any industrial or handicraft item, including inter alia parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces. Computer programs shall not be regarded as a product.

However, in the Implementing Regulations under the Benelux Convention on Intellectual Property (trademarks and designs) under the Rule 2.1 – Filing requirements, it says: (...).

4. A detailed description should be given of the product embodying the design, preferably using the wording in the Alphabetical List of International Classification referred to in the Locarno Agreement Establishing an International Classification for Industrial Designs adopted on 8 October 1968 (hereinafter “Locarno Classification”).

These products are mentioned in the Locarno Classification (Tenth edition):

GUIs	kl.14-04 serial G 0176 in French serial number G 0166
Icons	kl.14-04 serial I 0023 in French serial number I 0001
Typefaces/Type fonts	kl.18-03 serial T 0493 in French serial number P 0597

Trademark protection could be possible for an icon, if it is capable of distinguishing the goods/services of an undertaking.

Copyright protection is possible if the work: has a (creative) character, it must be perceived by the senses, and it must not be largely determined by achieving technical effect.

According to Dutch case law, a copyright-protected work needs to “reflect an original expression and the personal imprint of the author”.

New Zealand

An icon may be registered as a trade mark if it meets the relevant legislative requirements.

It appears unlikely that typefaces/type fonts per would registrable under the Designs Act 1953.

Under the Copyright Act 1994, there are specific exceptions to certain moral rights in respect of the design of a typeface. For example, an author of a typeface is not able to assert a moral right to be identified as the author.

Norway

None of the items are mentioned in the copyright law, but are supposedly included in the term “graphics”.

Republic of Korea

GUI and icons can be protected under Article 2.15 of the Copyright Act if they comply with the requirements prescribed by the Act: the term “works of applied art” means the artistic works that may be copied on the goods in the same shapes, and whose originality may be recognized apart from the relevant applied goods, and that include designs, etc.

GUIs, icons and typefaces can be protected under Article 2.1 of the Unfair Competition

Prevention and Trade Secret Protection Act if they fall under following acts prescribed by the Act:

(i). An act of transferring or lending goods whose shape has been copied (referring to the form, image, color, gloss, or any combination of these, including the shape of any prototype and the shape in goods brochure; hereinafter the same shall apply) from the goods manufactured by any other person; exhibiting such goods for transfer or lending, or importing or exporting such goods: Provided, That either of the following acts shall be excluded herefrom:

(ii). An act of transferring or lending goods whose shape has been manufactured by counterfeiting the shape of the other goods for which three years have elapsed from the date on which the shape of the other goods, including the production of the prototype, was completed, exhibiting such goods for transfer or lending, or importing or exporting such goods

(iii). An act of transferring or lending goods whose shape has been manufactured by counterfeiting the common shape of goods that are identical to the goods manufactured by any other person (where the goods of the same kind are nonexistent, referring to other goods whose function or utility is identical or similar to the relevant goods); exhibiting such goods for transfer or lending or importing or exporting such goods;

Republic of Moldova

Provisions relating to unregistered design are foreseen in the Law on the Protection of Industrial Designs No. 161-XVI of July 12, 2007 (Art. 7, 8, 13, 17, 20, 22, 25, 26, 57).
http://agepi.gov.md/sites/default/files/law/national/l_161_2007-en.pdf

Romania

Violations of designs rights are punished under the Law no 11/1991 on the repression of unfair competition, consolidated.

Russian Federation

Protection of the GUI, icon and typeface/type font designs is exercised according to the provisions of Part Four of the Civil Code of the Russian Federation, namely:

- GUI and icons can be granted legal protection in accordance with the copyright norms as well as the norms regarding industrial designs and trademarks;
- typefaces/type fonts can be protected according to the copyright and industrial design norms/

Singapore

* Tort of passing off

Please see our comments to Question 1 above.

Slovakia

GUIs, icons, typefaces/type fonts are not expressly excluded from the protection of copyright in Slovak Copyright Act. Object of copyright is a work in the area of literature, arts or science which is a unique result of creative and artistic activity of author, perceivable by senses, irrespective of its shape, content, quality, purpose, form of expression or level of completion (Section 3 of the Copyright Act). If all these conditions are fulfilled cumulatively, GUIs, icons,

typefaces/type fonts can be protected by copyright and can enjoy the copyright protection provided by Slovak Copyright Act. Until now, there has not been any special court case in Slovakia which would relate to claim the copyright protection of such subjects.

This is in compliance with the judgment of the European Court of Justice. As results from the judgement of European Court in case C-393/09, interface does not constitute a form of expression of a computer program within the meaning of Article 1(2) of Directive 91/250 and consequently, it cannot be protected specifically by copyright in computer programs by virtue of that directive. However, the court concluded, that this does not mean GUIs are not protected by copyright at all. They can be protected by copyright as separate works.

GUIs, icons, typefaces/type fonts are not expressly excluded from the trade mark protection provided that all the legal requirements are fulfilled (e.g. the capability to distinguish the origin of the goods and/or services).

Sweden

* Marketing law.

Turkey

If GUIs, icon and typeface/type fonts have speciality and aesthetic value, they are protected under the copyright.

United Kingdom

Designs: In the UK the Registered Designs Act 1949 specifically states that graphic symbols and typographical typefaces can be protected, whilst computer software is excluded. We would view GUIs and icons as products and therefore would allow registration. UK Unregistered Designs protect 3D designs only so there is no protection for icons etc. under this legislation, however EU Unregistered Designs do protect 2D so UK designers can enjoy some protection here.

Trade Marks: Legislation requires a sign to be graphically represented, therefore GUIs, icons and fonts could technically be registered.

United States of America

GUIs and Icons: GUI and Icon designs may be protected under design patent, copyright and trade dress regimes in the United States. The design patent system and laws provides protection for GUI and Icon designs, but these designs also can be eligible for protection under copyright and trademark (trade dress) laws. Copyright law can in certain instances be used to protect individual elements of a GUI or icon or compilations of those individual elements as a whole in the GUI or icon if they are original expressions. Trade dress law also may be used to protect GUI and Icon designs if the GUI/Icon is sufficiently distinctive.

Typefaces/Type fonts: Typeface/type font may be protected under the design patent regime in the United States. Trademark law does not provide protection for the design of a typeface, but can provide protection for a specific name for a typeface. Typeface is subject matter that is not eligible for protection under copyright in the United States 37 CFR 202.1. However, computer programs that generate typefaces may be protected under copyright.

EUIPO

The answer applies to the European Union level only and not for its Member States which can provide other protection under national law.

OAPI

Annex VII of the Bangui Agreement (Article 4(1)) confers copyright protection on all original works of the mind, by the mere fact of their creation. Moreover, owing to their technical character, GUIs or icons can also be protected by patents.

I. SYSTEMS OF PROTECTION

Question 3 – To the extent that GUIs, icons, typefaces/type fonts may be eligible for overlapping protection in your jurisdiction via multiple intellectual property rights, such as copyright and a design right (including design patent, registered design or unregistered design), what is the extent of such overlapping rights?

Responding Party	Full copyright and design overlap			Full copyright and design overlap but reduced term of copyright			Copyright overlap only for designs that possess a level of artistic creativity that is of a certain level			Copyright protection excluded where the product is intended for production in more than a specific amount of units			Other
	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	
Argentina				■	■	■							
Australia							■	■	■	■	■	■	
Austria							■	■	■				
Azerbaijan													
Belarus							■	■	■				
Brazil			■				■						
Bulgaria							■	■	■				
Canada													■*
Chile	■	■	■										
China													■
Colombia	■	■											
Costa Rica	■	■	■										
Croatia	■	■	■										
Cyprus													
Czech Republic							■	■	■				
Denmark							■	■	■				
Estonia							■	■	■				
Finland							■	■	■				
France	■	■	■										
Georgia	■	■	■										
Germany							■	■					
Honduras		■					■		■		■		
Hungary	■	■	■										
Iceland													■
Israel										■	■	■	

COMMENTS FROM MEMBER STATES AND IGOs:

Australia

Overlapping protection may occur in a number of circumstances under Australian design and copyright law.

Prior Art: Potentially problematic prior art may be excluded under section 18 of the Designs Act 2003 (Cth).

If the prior art is considered an artistic work under the Copyright Act 1968 (Cth), and the owner of the subject design also owns the copyright in the artistic work then, as long as that work has not been applied industrially by the copyright owner, publication or use of that work should not invalidate a subsequent design application.

There are three key requirements for section 18 of the Designs Act to apply:

1. There must be a relevant artistic work in which copyright subsists.
2. A corresponding design application must be made.
3. The design application must be made “by, or with the consent of, the owner” of the copyright.

Artistic Creativity: An artistic work can be a:

- painting, sculpture, drawing, engraving or photograph, whether the work is of artistic quality or not;
- building or a model of a building, whether the building or model is of artistic quality or not; or
- work of artistic craftsmanship.

If the relevant prior art is an artistic work then the owner of the subject design will retain ownership in the copyright as long as the artistic work has not been industrially applied.

‘Industrially Applied’: A design is taken to be applied industrially if it is applied to:

- more than 50 articles; or
- one or more articles (other than hand-made articles) manufactured in lengths or pieces.

If industrially applied, the prior art is no longer considered an artistic work when the design has subsequently been industrially applied and subsequently sold, hired or exposed to sell and/or hire.

Published editions: “Full copyright and design overlap but reduced term of copyright” may apply to typeface/type fonts in published editions of existing literary works. The publisher of an edition retains copyright in the form of the edition (e.g. typographical arrangements and typeface/type font) for 25 years after publication of that edition. The new form (e.g. a specially designed typeface/type font) is protected under copyright. The copyright owner of these typefaces/type fonts may additionally seek a registered design right.

Brazil

Regarding GUIs, there's an overlapping between copyright and design law in the sense that GUIs contain graphic elements (such as photography, illustrations, cartoons, artworks or even the image of third-parties) that are not protected under design law. These elements are accepted in a design application only if there's an authorization for use. Besides, there aren't tools to protect GUIs that show animation (the protection is granted to each individual frame).

Canada

* *Copyright Act*

Section 64 Non-infringement re certain designs

(2) Where copyright subsists in a design applied to a useful article or in an artistic work from which the design is derived and, by or under the authority of any person who owns the copyright in Canada or who owns the copyright elsewhere,

- (a) the article is reproduced in a quantity of more than fifty, or
- (b) where the article is a plate, engraving or cast, the article is used for producing more than fifty useful articles,

it shall not thereafter be an infringement of the copyright or the moral rights for anyone

(c) to reproduce the design of the article or a design not differing substantially from the design of the article by

- (i) making the article, or
- (ii) making a drawing or other reproduction in any material form of the article, or

(d) to do with an article, drawing or reproduction that is made as described in paragraph anything that the owner of the copyright has the sole right to do with the design or artistic work in which the copyright subsists.

(3) Subsection (2) does not apply in respect of the copyright or the moral rights in an artistic work in so far as the work is used as or for

- (a) a graphic or photographic representation that is applied to the face of an article;
- (b) a trade-mark or a representation thereof or a label;
- (c) material that has a woven or knitted pattern or that is suitable for piece goods or surface coverings or for making wearing apparel;
- (d) an architectural work that is a building or a model of a building;
- (e) a representation of a real or fictitious being, event or place that is applied to an article as a feature of shape, configuration, pattern or ornament;
- (f) articles that are sold as a set, unless more than fifty sets are made; or
- (g) such other work or article as may be prescribed by regulation.

China

The objects of protection of copyright and design are, instead of fully overlapped, different. For example, GUIs or icons that are independent of a product are only the object of copyright protection.

Colombia

If there is a prior copyright, the industrial design loses its novelty and may not be registered.

Costa Rica

Full overlap is understood as the possibility that the creator of the same object applies for both rights cumulatively (industrial design and copyright) for the same object created, with the special conditions of each type of protection (for example, protection for 10 years and 70 years respectively).

The first as from the grant of the right, and the second after the author's lifetime.

Denmark

Please note that our office does not test if the industrial design possesses individual character in the registration process.

Estonia

Industrial Design Protection Act Section 2(3) stipulates that the legal protection of industrial designs provided for in this Act is independent of the protection provided for in the Copyright Act. Copyright Act protects results (including designs) that meet the criterias of work stipulated in Copyright Act (see question 2) and it is independent from the protection of industrial designs. This excludes from copyright protection for instance designs that do not possess a certain level of artistic creativity and only have a functional aim.

Finland

Our office does not deal with copyright matters so we are not the right authority to estimate how copyright and design overlap.

France

Overlapping protection will be granted where the subject matter of the protection meets both the requirements for copyright protection and for protection by a design title.

Georgia

According to the Art. 1 paragraph 3 of the "Design Law" of Georgia - Design, which is not registered and/or to which international registration does not apply is subject to protection under the Georgian Law on "Copyright and Neighboring Rights".

Hungary

Overlap between protection rendered by different IP titles may provide, due to the fact that copyright protection is not limited by the subject matter of the "work".

It is worth noting that copyright protection is limited in time, it lasts during the life and 70 years after the death of the author.

Iceland

Neither the DA nor CA give clear answers in this respect and since there is no practice in this regard in Iceland, it remains to be seen if there is a clear overlap or not.

Israel

Copyright protection excluded where the product is either produced or intended for production in more than 50 units. See also comments to Question 2.

Japan

* There may be possibility of overlapping protection by copyright and a design right. However, it has not yet been determined by courts to which extent they are eligible for overlapping protection.

Latvia

The different protection period under Design law (maximum 25 years) and Copyright law (for the entire lifetime of an author and for 70 years after the death of an author).

Malaysia

Overlapping protection means protection of industrial designs or copyright under respective legislation.

Mexico

The answer to this question must come from other authorities, to determine whether they may be protected under other legislation.

However, it is worth mentioning that there are no express provisions in national legislation to determine the scope of the overlap between intellectual property rights when an element is protectable by one or more legal mechanism, so the view is that there is accumulative protection under which, in each case, the nature of the legislation in question and the Independence among the respective rights are to be considered.

New Zealand

* Copyright protection only for typefaces/type fonts

Under the Copyright Act, artistic works which are industrially applied (i.e., produced/manufactured) is effectively limited to:

- 16 years where the work has a primarily utilitarian function, or
- 25 years if the work is of artistic craftsmanship.

The initial term of protection for a registered design is five years. Registrations can be renewed up to a maximum of 15 years.

Norway

If requirements for trade mark registration are met, GUIs, icons or typefaces/type fonts may be registered as trademarks.

Republic of Korea

Generally, GUIs and Icons can be protected under Design Protection Law. It seems to be protected under Copyright Act when GUI and Icons meet the Copyright ability.

As mentioned in the comments on Question 2, GUIs, icons and typefaces can be protected by the Design Protection Act, Trademark Act, Copyright Act and the Unfair Competition Prevention and Trade Secret Protection Act, and each of these Acts has varied eligibility and scope of protection. Eligibility for protection is not affected by whether a GUI or an icon is also protected under another of these Acts.

Singapore

For designs that have been registered under the Registered Designs Act, artistic work copyright protection is excluded.

For designs that are registrable under the Registered Designs Act, artistic work copyright protection is excluded where the design has been applied to more than 50 articles.

Slovakia

GUIs, icons or typefaces/type fonts are copyright protected only if they are a unique result of creative and artistic activity of author, perceivable by senses, irrespective of its shape, content, quality, purpose, form of expression or level of completion. Until now, there has not been any special court case in Slovakia which would relate to claim the copyright protection of such subjects

Concerning the overlapping protection between copyright law and design law, the Act No. 444/2002 Coll. on Designs, as amended, stipulates that it shall not substitute protection afforded to same subjects pursuant to special regulations (such as e.g. Copyright Act). It means that once a level of artistic creativity is sufficiently high, GUIs, icons or typefaces/type fonts can enjoy simultaneous (parallel) protection by both - design law and copyright law.

Spain

Rather than overlapping, Law No. 20/2003 states that the two forms of protection (registered design and intellectual property) are independent, cumulative and compatible.

Sweden

Copyright is not registrable.

Uganda

GUIs can be protected under Copyright law.

GUIs can also be protected under the Industrial Property Act, 2014, but once protected as an industrial design they cannot at same time be protected under Copyright law.

United States of America

Generally, in the United States GUI and Icon designs can be protected under design patent, copyright or trade dress regimes. Eligibility for protection is not dependent or generally affected by whether a GUI or Icon is also protected under another of these intellectual property regimes.

Each of these regimes has varied eligibility and scope of protection and are individually evaluated.

As previously described, typeface/type font designs are generally protected under design patent law but not under copyright or trademark law.

EUIPO

At European Union level, contrary to trademarks and designs, no copyright protection with unitary character is provided. Therefore, there is no overlap with copyright protection at this level.

However, the unitary European Union trademarks and designs concerning signs/designs may overlap with one another.

OAPI

The term of protection for works of art applied to industry is 25 years as from the creation of the work (Article 26, Annex VII, Bangui Agreement). But property rights last for 70 years after the death of the author, for works of art in general.

COMMENTS FROM NGOS:

INTA

INTA Designs Committee considers that design law is a good tool to provide short term protection for GUIs, icons and fonts. INTA Designs Committee advocates for the availability of registered design law to protect GUIs, icons and fonts.

As noted above, the provision of design law protection for GUIs, icons and fonts should be without prejudice to protection appropriately provided under other laws, such as copyright law, trademark law, or the law of unfair competition/passing off.

II. APPLICATION FOR A DESIGN PATENT/INDUSTRIAL DESIGN REGISTRATION

Question 4 – How may a GUI, icon, typeface/type font be represented in an application for a design patent/industrial design registration in your jurisdiction?

Responding Party	Photographs (black and white)			Photographs (color)			Drawings, including technical drawings			Other graphic representations			Any other format which enables the applicant to accurately represent the design (e.g., video type file)		
	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts
Argentina							■	■	■						
Australia	■	■	■	■	■	■	■	■	■				■	■	■
Austria	■	■	■	■	■	■				■*	■*	■*			

Responding Party	Photographs (black and white)			Photographs (color)			Drawings, including technical drawings			Other graphic representations			Any other format which enables the applicant to accurately represent the design (e.g., video type file)		
	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts
Azerbaijan	■	■	■	■	■	■			■						
Belarus	■	■	■	■	■	■				■*	■*	■*			
Brazil	■	■	■	■	■	■	■	■	■						
Bulgaria	■	■	■	■	■	■				■	■	■			
Canada	■	■	■	■	■	■	■	■	■						
Chile							■	■	■						
China	■	■		■	■		■	■							
Colombia	■	■		■	■		■	■							
Costa Rica	■			■			■	■	■	■	■	■	■	■	
Croatia	■	■	■	■	■	■				■	■	■			
Cyprus															
Czech Republic	■	■	■	■	■	■				■*	■*	■*			
Denmark	■	■	■	■	■	■	■	■	■						
Estonia	■	■	■	■	■	■	■	■	■						
Finland	■	■	■	■	■	■				■*	■*	■*			
France	■	■	■	■	■	■	■*	■*	■*						
Georgia	■	■	■	■	■	■				■*	■*	■*			
Germany	■	■	■	■	■	■	■	■	■						
Honduras		■			■			■							
Hungary	■	■	■	■	■	■				■*	■*	■*			
Iceland	■	■	■	■	■	■	■	■	■						
Israel	■	■	■	■	■	■	■	■	■						
Italy	■	■	■	■	■	■	■	■	■						
Japan	■	■		■	■		■	■							
Kazakhstan	■	■	■	■	■	■	■								
Kyrgyzstan	■	■	■	■	■	■									
Latvia	■	■	■	■	■	■	■*	■*	■*	■*	■*	■*			
Lithuania	■	■	■	■	■	■	■	■	■						
Malaysia	■	■		■	■					■	■				
Mexico	■	■	■	■	■	■	■	■	■						
Montenegro	■	■	■	■	■	■	■	■	■						
Netherlands	■	■	■	■	■	■	■	■	■						
New Zealand	■	■		■	■		■	■							
Norway	■	■	■	■	■	■				■	■	■			
Oman	■	■	■	■	■	■	■	■	■						
Peru	■	■		■	■		■	■							
Philippines	■	■		■	■		■	■							
Poland	■	■	■	■	■	■	■	■	■	■	■	■			
Portugal	■	■	■	■	■	■				■*	■*	■*			
Republic of Korea	■	■		■	■		■	■	■	■	■		■	■	
Republic of Moldova	■	■	■	■	■	■				■*	■*	■*			
Romania	■	■	■	■	■	■	■	■	■						
Russian	■	■	■	■	■	■				■*	■*	■*			

Responding Party	Photographs (black and white)			Photographs (color)			Drawings, including technical drawings			Other graphic representations			Any other format which enables the applicant to accurately represent the design (e.g., video type file)		
	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts
Federation															
Saudi Arabia	■	■	■	■	■	■	■	■	■						
Serbia	■	■	■	■	■	■	■	■	■	■	■	■			
Singapore	■	■	■	■	■	■									
Slovakia	■	■	■	■	■	■						■*			
South Africa	■	■	■	■	■	■	■	■	■						
Spain	■	■	■	■	■	■	■	■	■						
Sweden	■	■	■	■	■	■	■	■	■						
Switzerland	■	■	■	■	■	■	■	■	■	■	■	■			
Turkey	■	■	■	■	■	■	■	■	■						
Uganda	■	■	■	■	■	■		■							
Ukraine	■	■	■	■	■	■	■*	■*	■*	■*	■*	■*			
United Kingdom	■	■	■	■	■	■				■*	■*	■*			
United States of America	■	■	■	■	■	■	■	■	■						
EUIPO	■	■	■	■	■	■	■	■	■	■	■	■			
OAPI	■	■		■	■		■	■							

COMMENTS FROM MEMBER STATES AND IGOs:

Argentina

Printed photographs on A4 sheet are permitted.

Australia

Specimens can be considered so long as they can be photographed to a standard where all the visual features of the design are clear.

Austria

* Drawings excluding technical drawings.

Belarus

* Drawings, excluding technical drawings.

Canada

Typefaces/typefonts may be considered ornamentation as applied to a finished article in accordance with the *Industrial Design Act*. Typefaces/typefonts that are not applied to a finished article are not considered registerable industrial design subject matter.

China

For design patent applications for products incorporating GUIs, the brief descriptions may, where necessary, specify the utility of GUIs, the place where the GUIs appear on the product, the way of human-computer interaction, and changes of state, etc.

Costa Rica

We accept images in black and white and in color. We accept color when specific graphical features with this property are claimed.

In the case of icons and type fonts/typefaces, reproductions must be “final artwork” or be described with a defined line, in actual proportion to each other, without affecting their adaptation to the various standard font sizes. The fonts or types for which an applicant wishes to make a claim as such should include the whole standard alphabet, symbols and numerals.

If animation is also claimed, with changes in proportions, texture and/or color in GUIs and icons, a video and/or audio file must be included, if applicable.

Croatia

Drawings, not including technical drawings for the industrial design application.

Czech Republic

* Drawings, except technical drawings.

Finland

* Drawings, in general technical drawings are not allowed.

France

* Drawings excluding technical drawings.

Georgia

* Computer drawings or graphic images, but not technical drawings.

Germany

The representation of the typefaces must comprise the entire series of characters and a five-line text written in the characters in size 16 font.

Hungary

* Other graphic representations – drawings, including digital ones (e.g. CAD).

Iceland

According to Art. 13(3) DA an application must be accompanied by illustrations (graphic or photographic reproductions) which show clearly the design for which protection is sought.

According to Art. 4(1) of the Design Regulation (DR) each illustration may only show one design from one point of view. If more than one illustration is submitted of the same design, the illustrations shall be distinguished from each other and marked in alphabetical or numerical order. The IPO does not accept video/animation or movement files.

Israel

Drawings should not be “technical drawings” which include measurements or production information.

Japan

In Japan, reproductions of a design made by means of computer graphics are also treated as “Drawings”.

GUI and icon may be protected as long as they constitute an appearance of a part of an article that is understood as a tangible object (e.g. digital camera, music player, etc.). Since both “GUI” and “Icon” are intangible objects and therefore do not constitute prescribed article, they cannot be protected as such.

Latvia

- * excluding technical drawings.
- * Other graphic representations: Computer graphics.

At the moment it is not technically possible to accept video files and publish them in data base.

Malaysia

Applicant may file representation in color or black and white, however the Malaysian Industrial Designs Act 1996 does not protect color.
Drawings are acceptable however not including technical drawings.

Mexico

Pursuant to Article 33(I) of the Industrial Property Law, an application for the registration of an industrial design (legal form under which the elements in question are protected) must be accompanied by a graphical or photographic reproduction of the design, so drawings or photographs may be submitted and should enable the understanding of the industrial design.

In this regard, there has been an Agreement setting forth rules governing the filing of applications with the Mexica Institute of Industrial Property, Article 9 of which enumerates the requirements to be met by the drawings that are filed together with the application, to enable understanding of the industrial design.

Netherlands

Benelux legislation does not foresee protection of design patents.

At the Benelux Office for Intellectual Property (hereinafter: BOIP), one can only introduce design applications.

If an application is made without a claim of color(s) then it is necessary to provide black and white representations.

If in an application color(s) are claimed, then it is necessary to mention the color(s) and provide representations in color.

Note: The Benelux Convention on Intellectual Property does not protect technical drawings as designs.

New Zealand

Representations must be filed electronically, but must be able to be clearly rendered as a printed A4 sheet.

Peru

In the case of GUIs, static images are processed and protected separately as independent applications.

Portugal

* Drawings but not technical.

Republic of Korea

If GUIs and icons can be represented in 3D, a 3D modeling file (3DS, DWG, DWF, IGES, 3DM) will be allowed for filing an application.

For typefaces, “a drawing of the given characters”, “a drawing of the sample sentence” and “a drawing of the typical characters” should be provided in accordance with Article 35.3 of the Enforcement Rule of the Design Protection Act.

Republic of Moldova

* Drawings.

Romania

The graphic representations that are filed together with the application may be of sufficient contrast in order to permit their reproduction by typographic methods.

Russian Federation

* Apart from photographs, product drawings, including those done by means of computer graphics, reproductions, or other means, can be presented as images.

Serbia

Applicants can use computer printed presentations. We will not accept the technical drawings.

Singapore

Drawings are allowed, but not technical drawings. This is because the drawings must clearly show the claimed design. Labeling of the drawings should not include dimensions or wordings that describe all or parts of the designs, or elements of any trade mark.

Slovakia

* Drawings (technical drawings excluded).

South Africa

Color is used only where the article cannot be fully represented in black and white only.

Sweden

We are not sure what is meant by technical drawing – as opposed to drawings.

We have never received an application for a design in any other format - such as video, type file.

Ukraine

* additionally.

* Other graphic representations: Reproductions made by any other means, including by means of computer graphics.

United Kingdom

* Designs: We allow line or CAD drawings but no technical data.

United States of America

We currently understand that computer rendered images would fall under the “drawings, including technical drawings category.” For clarity we note that any images that are computer rendered must satisfy the requirements as set forth for drawings generally. Stated another way, drawings will not be objected to merely because they are computer rendered or generated, however, they will be reviewed and analyzed in the same manner as figures generated through traditional means to determine whether or not the figures clearly and accurately convey the design that is claimed consistent with the USPTO’s drawing requirements of the Office.

EUIPO

A design can be protected by means of any graphic or photographic representation. Apart from the above mentioned photographs and drawings, this includes CAD for instance.

In relation to a design consisting in a typographic typeface, as specific formal requirements, the representation of the design shall consist in a string of all the letters of the alphabet, in both upper and lower case, and of all the Arabic numerals, together with a text of five lines produced using that typeface, both letters and numerals being in the size pitch 16.

OAPI

Designs and representations of designs must, to the extent possible, be drawn in ink, with visible regular lines, on strong, smooth, white paper that makes it possible for them to be reproduced by photographic or other processes (Administrative Instruction No. 509.1).

COMMENTS FROM NGOs:

INTA

INTA Designs Committee's view is that users are best placed to determine how to disclose an innovative design for the purposes of applying for its protection. INTA Designs Committee therefore advocates for user choice, and for as few restrictions as possible on what a designer may file when seeking protection for GUIs, icons and fonts.

Importantly, for users of the design system, rights may be lost, including irrevocably, if an application is rejected on a technical matter such as the nature of the representation. A designer, especially an individual designer or SME, can therefore be disadvantaged if a design application outside the designer's home jurisdiction rejects the application because the "wrong" representation has been used, even though that representation was accepted in the home jurisdiction.

INTA Designs Committee therefore advocates that colour photographs, black and white photographs, drawings (including technical drawings) and other graphic representations, including CAD and video or moving files all be acceptable forms of representations of GUIs, icons and fonts, so long as the representation accurately represents the design.

MARQUES

Regarding the question as to how a GUI, icon, typeface/type font may be represented in an application for a design patent/industrial design registration in the different jurisdictions MARQUES believes that it would have been interesting to understand if there is any difference in comparison to other designs accordingly or if the standard criteria apply.

In relation to the representation of a type-font it was interesting to learn, that Germany explicitly stated that the representation of the typefaces must comprise the entire series of characters and a five-line text written in the characters of 16 font size.

MARQUES strongly believes that it would be utterly helpful for the users to receive the same kind of advice with respect to all jurisdictions and not only regarding one single country.

II. APPLICATION FOR A DESIGN PATENT/INDUSTRIAL DESIGN REGISTRATION

Question 5 – Are additional or special requirements applicable to a GUI and/or icon which is animated (moving images design, transformation, transition, change of colors, or any other animation)?

Responding Party	GUIs	Icons
Argentina	No	No
Australia	No	No
Austria	Yes	Yes
Azerbaijan	Yes	Yes

Responding Party	GUIs	Icons
Belarus	N/A	N/A
Brazil	N/A	N/A
Bulgaria	No	No
Canada	No	No
Chile	N/A	N/A
China	No	No
Colombia	No	No
Costa Rica	No	No
Croatia	Yes	Yes
Cyprus	No	No
Czech Republic	No	No
Denmark	Yes	Yes
Estonia	No	No
Finland	N/A	N/A
France	Yes	Yes
Georgia	Yes	Yes
Germany	Yes	Yes
Honduras	No	No
Hungary	N/A	N/A
Iceland	N/A	N/A
Israel	Yes	Yes
Italy	No	No
Japan	Yes	Yes
Kazakhstan	N/A	N/A
Kyrgyzstan	N/A	N/A
Latvia	Yes	Yes
Lithuania	No	No
Malaysia	N/A	N/A
Mexico	No	No
Montenegro	No	No
Netherlands	No	No
New Zealand	N/A	N/A
Norway	Yes	Yes
Oman	No	No
Peru	No	No
Philippines	Yes	Yes
Poland	Yes	Yes
Portugal	No	No
Republic of Korea	Yes	Yes
Republic of Moldova	No	No
Romania	No	No
Russian Federation	N/A	N/A
Saudi Arabia	N/A	N/A
Serbia	N/A	N/A
Singapore	Yes	N/A
Slovakia	N/A	N/A
South Africa	Yes	Yes
Spain	Yes	Yes
Sweden	N/A	N/A
Switzerland	No	No
Turkey	Yes	Yes
Uganda	N/A	Yes
Ukraine	N/A	N/A
United Kingdom	Yes	No
United States of America	Yes	Yes

Responding Party	GUIs	Icons
EUIPO	Yes	Yes
OAPI	No	No

COMMENTS FROM MEMBER STATES AND IGOs:

Azerbaijan

In accordance with paragraph 7 of Article 9 of the Law of Azerbaijan Republic on Patents, objects without a stable form cannot be recognized as industrial designs.

Belarus

GUI and/or icon which is animated is not protected.

Brazil

The animation (movement, transformation, transition, change of colors...) is not protected. The protection is granted to the set of individual frames of a GUI and to the static representation of icons.

China

For product designs that incorporate GUIs, a comprehensive view of the product design shall be submitted. Where the GUIs are animated images, the applicant shall submit a comprehensive view of the product design in at least one state, and for the other states, views of key frames may be submitted. Such submitted views shall be able to distinctively determine the changing trend of the animation in the animated images.

Colombia

The same requirements apply to any two-dimensional design filed in Colombia. It must: be a single design (single drawing); apply to a product; be presented as a continuous line; not contain distinctive signs, text or measurements. Animated icons are not protected.

Costa Rica

If animation is also claimed, with changes in proportions, texture and/or color in GUIs and icons, a video and/or audio file must be included, if applicable.

Croatia

Graphic representations need to be visually related (must have features in common) and it is the responsibility of the applicant to number the views (max 6) in such a way so as to give a clear perception of the movement/progression.

Czech Republic

We don't register animated industrial designs.

Denmark

As regards to trademark protection it is possible to register a “motion mark”. The requirements for representing a motion mark follows from rule 3 (6) of the Regulation to Singapore Treaty on the Law of Trademarks. As the DKPTO is not yet capable of processing moving images the requirements are a series of still images depicting movement as well as a description. Same approach could be envisaged to be used in relation to design.

France

The filing of a model consisting of an animated icon or interface must comply with the convergence program for the graphic representation of designs of the European Intellectual Property Office (EUIPO).

Under this convergence program, all views of an animated icon or interface must be visually linked to one another.

In other words, they must have common characteristics. It is also incumbent upon the applicant to number the views in such a way as to allow a clear perception of the movement/progression.

Georgia

For the animated GUIs and/or icons, are required series of static images, which shows changes in the sequence of the animated design at different moments in time.

Iceland

The IPO does not accept video/animation or movement files/illustrations.

Israel

Applications for registration of animated GUIs may include more pictures or drawings than applications for registration of other types of designs. The drawings should include a dashed line representing the screen outline on which the animated GUI is represented (see also questions 7 and 8). Such drawings should include a statement of novelty as described in the comments to question 6. No applications for registration of animated icons have yet been submitted, but similar instructions will most likely apply to animated icons as well.

Malaysia

Does not comply with the definition of industrial design under Malaysian Industrial Designs Act 1996.

Mexico

Firstly, it must be made clear that as previously stated, national laws do not have a catalog of protectable elements, but have general definitions under whose terms GUIs and animated icons can be considered as industrial designs and therefore can be registered as such. To this end, they must meet the requirements applicable in general to industrial designs pursuant to the Industrial Property Law and the various administrative agreements, particularly the above-mentioned Agreement to establish rules and criteria for handling various formalities before the Mexican Institute of Industrial Property.

Netherlands

If the application is made in color, the color(s) must be claimed. If an application is in black and white, one should not mention color(s).

It is not possible to show moving images. One may represent the design in various stages (but only represented by static images).

New Zealand

It is unlikely that a design of varying appearance or animation would be registrable under the Designs Act 1953.

Norway

For an animated icon or graphical user interface, the applicant must file a sequence of still images showing the different stages of the movement. In addition, NIPO may require that the applicant send us a written description of the movement and/or a film showing the movement, saved on a memory stick or similar.

Portugal

So far, due to technical constraints, it is not possible to file applications with such characteristics by electronic means.

Republic of Korea

Where a GUI is animated images, it should be recognized that the shapes shown in the course of change are visually related and the movement has a certain pattern in order to meet the principle of "a single application for a single design".

Russian Federation

Registration of an animated GUI and/or an animated icon as an industrial design is not provided for in the Russian Federation. To have an animated icon registered as a trademark it should be represented as a series of static images showing a sequence of movements.

Singapore

See our comments to Question 6 below.

South Africa

Full explanation of manner in which the changes typically occur to be included in the application papers (e.g., the explanatory statement for design applications).

United Kingdom

Designs: The IPO have signed up to the CP6 (Convergence Program) on the graphic representation of designs with the EUIPO. We follow this practice.

EUIPO

According to the Convergence on graphic representations of designs, IP Offices of the European Trade Mark and Design Network have agreed that animated icons and animated GUI

can be protected by means of snapshots, that is a sequence of views used to show a single animated design at different specific moments in time, in a clearly understandable progression. The sequence needs to be visually related (must have features in common).

For further details also as to the implementing offices please consult:

<https://www.tmdn.org/network/documents/10181/20e96f9f-2e5b-431f-9ba5-e429abe7dac8>.

COMMENTS FROM NGOS:

MARQUES

For the sake of clarity, MARQUES believes that it would have been useful to first establish whether animated GUI/ icons are excluded from protection under national design law. This can be deduced - only to a certain extent - from the answers provided to the questions but it is not beyond any doubt. Additionally, MARQUES would have highly appreciated that a link was made between the special requirements and its implications for the scope of protection of animated GUIs/ICONS compared to other designs.

II. APPLICATION FOR A DESIGN PATENT/INDUSTRIAL DESIGN REGISTRATION

Question 6 – What are the additional or special requirements applicable to a GUI and/or icon which is animated?

Responding Party	Series of static images showing a sequence		Video type file		Description		Statement of novelty		Other requirement(s)	
	GUIs	Icons	GUIs	Icons	GUIs	Icons	GUIs	Icons	GUIs	Icons
Argentina										
Australia										
Austria	■	■								
Azerbaijan	■	■			■	■	■	■		
Belarus										
Brazil	■	■								
Bulgaria										
Canada	■	■			■	■			■*	■*
Chile										
China	■	■			■	■				
Colombia										
Costa Rica	■	■	■	■	■	■				
Croatia	■	■								
Cyprus										
Czech Republic										
Denmark	■	■			■	■				
Estonia										
Finland										
France	■	■								
Georgia	■	■			■	■				
Germany	■	■								
Honduras										
Hungary										
Iceland										
Israel	■	■					■	■		

Responding Party	Series of static images showing a sequence		Video type file		Description		Statement of novelty		Other requirement(s)	
	GUIs	Icons	GUIs	Icons	GUIs	Icons	GUIs	Icons	GUIs	Icons
Italy										
Japan	■	■							■*	■*
Kazakhstan										
Kyrgyzstan										
Latvia	■	■								
Lithuania										
Malaysia										
Mexico	■	■			■		■	■		
Montenegro										
Netherlands	■	■								
New Zealand										
Norway	■	■	■	■	■	■				
Oman										
Peru										
Philippines	■	■			■	■				
Poland	■	■								
Portugal	■	■								
Republic of Korea	■	■	■	■	■	■				
Republic of Moldova										
Romania	■	■			■	■	■	■		
Russian Federation										
Saudi Arabia										
Serbia										
Singapore	■						■			
Slovakia										
South Africa	■	■			■	■	■	■		
Spain	■	■								
Sweden										
Switzerland										
Turkey	■	■			■	■				
Uganda	■	■	■		■	■		■		
Ukraine										
United Kingdom	■	■								
United States of America	■	■			■	■				
EUIPO	■	■								
OAPI	■	■								

COMMENTS FROM MEMBER STATES AND IGOs:

Austria

For example: application MU 336/2013.

Bulgaria

Our office still lacks necessary equipment.

Canada

* *Industrial Design Act*

Section 7 Certificate to be evidence of contents

(3) The certificate, in the absence of proof to the contrary, is sufficient evidence of the design, of the originality of the design, of the name of the proprietor, of the person named as proprietor being proprietor, of the commencement and term of registration, and of compliance with this Act.

China

Indicating changes of state or furnishing explanation by way of brief descriptions is not an additional or special requirement, but a basic formality requirement as prescribed by the Patent Law of China to clearly present the design patents.

Colombia

A static image is required; sequences are not accepted.

Georgia

Description is not mandatory, but is allowed, at the discretion of the applicant.

Honduras

National legislation does not stipulate additional requirements for new technological designs.

Israel

The statement of novelty that accompanies an application for registration of an animated GUI or icon should be drafted as follows: "The novelty lies in the entire sequence as shown in the drawings" (e.g., the design is the entire sequence and not each single static image).

Japan

Video type file: not accepted.

* There is no limitation in the number of views to be submitted, however, any design in an application must comply with the "one application per design" rule (unity of design requirement). In order to satisfy this requirement, both of the following requirements must be satisfied: (i) all the graphic images (animated images) must be for the same function of the article; (ii) the graphic images before and after the change must have certain relevance in appearance to each other.

Malaysia

Not applicable. Does not comply with the definition of industrial design under Malaysian Industrial Designs Act 1996.

Mexico

As previously stated, there are no specific requirements for just these items. For registration, these items must meet the requirements for industrial designs. In this light, the following is worth noting:

Pursuant to Article 31 of the Industrial Property Law, industrial designs that are new and industrially applicable may be registered.

Pursuant to Articles 33, 34, 37 and 47 of the Industrial Property Law, applications for registration must include a graphical or photographic reproduction of the relevant design; the indication of the type of product for which the design will be used; a description enabling understanding of the industrial design; and a claim.

In this connection, Article 34 of the Industrial Property Law stipulates that applications for the registration of industrial designs must include a description which refers briefly to the graphical or photographic reproduction of the design, clearly indicating the perspective from which it is illustrated.

Considering that the description is intended to enable a thorough understanding of the industrial design in question, fulfilment of this requirement will depend on the nature of the industrial design for which protection is sought.

Hence, with regard to GUIs or animated icons, when a series of images which represent a sequence are depicted, to show that they are an animation, the description must specify that it is precisely a sequence of images and not independent images, such as to afford understanding of the industrial design for which protection is sought.

Montenegro

Do not exist additional or special requirements applicable to a GUI and/or icon which is animated.

Netherlands

The design is protected as such, in its evolution, static image by static image.

Norway

A description and video type file is not mandatory, but NIPO may request it if we think it is necessary.

Republic of Korea

For GUIs or icons, a video file can be additionally submitted as “a reference drawing” to facilitate understanding of the design. The video file will be provided along with other drawings that show the process in which one image transitions to another image forms. The video clip should be in the form of SWF, WMV, MPEG, Animated GIF files and its size should not exceed 200 MB.

Romania

e.g., GUI representation in a design application.

Fig.1(BOPI 4/2005)



Fig.2(BOPI 4/2005)



Fig.3(BOPI 4/2005)



Fig.4(BOPI 4/2005)



Fig.5(BOPI 4/2005)



Fig.6(BOPI 4/2005)



Russian Federation

Requirements to represent an animated GUI and/or icon as a series of static images showing a sequence and submit their description are applicable only to the registration of a GUI and/or icon as a trademark.

Singapore

When applying for registered design protection, at least 2 views should be filed for a single dynamic GUI. A total of up to 40 different views of the same GUI may be filed as representations of the design. The parts for which protection is sought are to be identified in solid lines. The parts for which protection is not claimed are to be indicated by means of broken or stippled lines, or shaded portions.

Uganda

Video type file for GUIs is required for Copyright protection.

United States of America

See USPTO Manual of Patent Examining Procedure (MPEP) section 1504.01(a) entitled "Computer-Generated Icons".

--MPEP 1504(a) Computer-Generated Icons.

IV. CHANGEABLE COMPUTER GENERATED ICONS

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.” --

OAPI

The series of static images makes it possible to clearly distinguish the object of the protection.

COMMENTS FROM NGOs:

INTA

INTA Designs Committee advocates that no additional requirements be applicable for GUIs, icons (or indeed fonts) that are animated. Again, so long as the design is accurately represented, that should be sufficient to obtain a design registration.

Technical developments are such that Offices should be able to accept video files within appropriate guidelines.

MARQUES

For the sake of clarity, MARQUES believes that it would have been useful to first establish whether animated GUI/ icons are excluded from protection under national design law. This can be deduced - only to a certain extent - from the answers provided to the questions but it is not beyond any doubt. Additionally, MARQUES would have highly appreciated that a link was made between the special requirements and its implications for the scope of protection of animated GUIs/ICONS compared to other designs.

II. APPLICATION FOR A DESIGN PATENT/INDUSTRIAL DESIGN REGISTRATION

Question 7 – Can a GUI and/or icon be patented/registered as such (i.e., independently of the product that incorporates it or in relation to which it is to be used, e.g., smartphone, tablet computer, computer screen)?

Responding Party	GUIs	Icons
Argentina	Yes	Yes
Australia	No	No
Austria	Yes	Yes
Azerbaijan	Yes	Yes
Belarus	Yes	Yes
Brazil	Yes	Yes
Bulgaria	Yes	Yes
Canada	No	No
Chile	Yes	Yes
China	No	No
Colombia	Yes	Yes
Costa Rica	No	Yes
Croatia	Yes	Yes
Cyprus	No	No
Czech Republic	Yes	Yes
Denmark	Yes	Yes
Estonia	Yes	Yes
Finland	Yes	Yes
France	Yes	Yes
Georgia	Yes	Yes
Germany	Yes	Yes
Honduras	Yes	Yes
Hungary	Yes	Yes
Iceland	Yes	Yes
Israel	Yes	Yes
Italy	No	No
Japan	No	No
Kazakhstan	Yes	Yes
Kyrgyzstan	N/A	N/A
Latvia	Yes	Yes
Lithuania	Yes	Yes
Malaysia	No	No
Mexico	No	No
Montenegro	Yes	
Netherlands	No	No
New Zealand	No	No
Norway	Yes	Yes
Oman	No	No
Peru	Yes	Yes
Philippines	Yes	Yes
Poland	Yes	Yes
Portugal	Yes	Yes
Republic of Korea	No	No
Republic of Moldova	Yes	Yes
Romania	Yes	Yes
Russian Federation	Yes	No
Saudi Arabia	Yes	Yes
Serbia	Yes	Yes
Singapore	Yes	Yes

Responding Party	GUIs	Icons
Slovakia	Yes	Yes
South Africa	Yes	Yes
Spain	Yes	Yes
Sweden	Yes	Yes
Switzerland	No	No
Turkey	Yes	Yes
Uganda	No	No
Ukraine	N/A	N/A
United Kingdom	Yes	Yes
United States of America	No	No
EUIPO	Yes	Yes
OAPI		No

COMMENTS FROM MEMBER STATES AND IGOs:

Australia

For a GUI/icon to achieve a design registration it needs to include / be applied to a product of manufacture (i.e. computer/smartphone screen).

Austria

Icons and GUIs: Locarno Class: 14.04
Type fonts: Locarno Class: 18.03

Canada

All designs must be applied to a finished article.

Colombia

Provided it relates to an electronic product, whatever it may be.

Costa Rica

Given that GUIs allow a user to interact with a device, they must be inherent in the environment in which they occur, i.e., they cannot be independent of the device. Icons can be independent, because they are short messages with a specific meaning to be used in different environments (for example, the icon of a microphone that gives the user the message that he or she can input a voice).

France

Only as part of a filing of a design.

Georgia

GUI and / or icon can be registered with the product that incorporates it or in relation to which it is to be used (Locarno cl.14-03) or as such, (i.e., independently of the product that incorporates it or in relation to which it is to be used), e.g., graphic symbol or ornamentation or logos (Locarno cl.32-00).

Honduras

Icons can be protected under industrial designs, as industrial designs that are incorporated into a final product. In some cases, they can be protected as partial designs, where the device can be displayed in broken lines.

GUIs and moving icons fall under the Copyright Law.

Iceland

Cf. comments on question 4 – the illustration defines the scope of protection.

Japan

As mentioned in the answer to Question 4, GUI and icon may be protected as long as they constitute an appearance of a part of an article that is understood as a tangible object (e.g., digital camera, music player, etc.). Since both “GUI” and “Icon” are intangible objects and therefore do not constitute prescribed article, they cannot be protected as such (independently of a tangible object).

Malaysia

No. GUI must be incorporated to the product to which it is to be used.

Mexico

As previously stated, under the definition provided in Article 32 of the Industrial Property Law, GUIs and icons may be protected by registration as industrial designs, specifically as industrial drawings within the meaning of Article 32(I) of the Industrial Property Law.

Article 32(I) of the Industrial Property Law states that industrial drawings are any combination of figures, lines or colors incorporated into an industrial product for the purposes of ornamentation, giving it a unique and special appearance; therefore, for GUIs and icons to be protected, they must be part of an industrial product.

Moreover, Article 33 of the Industrial Property Law requires that applications for the registration of industrial designs include a statement of the type of product for which the industrial design will be used.

Netherlands

The Benelux Convention on Intellectual Property (trademarks and designs) protects only the design but in no case its application while used.

National patent legislation foresees no specific protection of GUIs as such. GUI software may under specific circumstances be eligible for patent protection solely in combination with the product that incorporates it.

New Zealand

A design cannot be registered independent of the application to a product.

The actual working or functioning of an icon or GUI (but not the appearance or appearances *per se*) may be patentable if new and inventive and if the invention is not a “computer program as such”.

Norway

The protection is not restricted to what kind of product the GUI or icon is used on.

Peru

It is considered under the Locarno Classification as 32-00.

Philippines

We register GUIs and Icons in relation to the article of manufacture where it is to be used (ex. cellular phones etc.)

Republic of Korea

As mentioned in the answer to Question 1, GUIs and Icons can be protected if they are represented on the product that incorporates them. In this case, the classification will be dictated by the class of the product that incorporates GUIs and icons.

Republic of Moldova

In cases where the indication of the product is “Graphic symbol”, the Class 32-00 should be mentioned (http://agepi.gov.md/sites/default/files/bopi/BOPI_03_2015.pdf#page=129, BOPI 3/2015, p. 138, application f 2015 0004)



In cases where the indication of the product is “ GRAPHICAL USER INTERFACE”, the Class 14-04 should be mentioned (http://agepi.gov.md/sites/default/files/bopi/BOPI_05_2016.pdf#page=115, BOPI 5/2016, p. 132-137, application f 2016 0014)



Romania

A GUI or an icon can be registered as such. Sometimes, the applicant mentions in the title that the model is e.g. for computer screen or the fact that the icon will be applied on a product. These mentions did not affect the scope of protection.

e.g., Rail panel display



Russian Federation

While presenting an icon, the title of the industrial design should indicate the product that incorporates it or in relation to which it is to be used.

Serbia

It cannot be patented in Serbia. It can be protected as copyrighted work or as registered designs.

Singapore

See our comments to Question 1 above.

United Kingdom

The GUI or icon would be seen as a product under the definition of design in the Registered Designs Act 1949.

United States of America

Design application must be directed to ornamental design for an “article of manufacture” to be proper subject matter for a design patent. The USPTO’s MPEP 1504.01(a) sets forth this analysis. To be directed to statutory subject matter, design applications for computer-generated icons must comply with the “article of manufacture” requirement of 35 U.S.C. 171.

See MPEP 1504.01(a).

Like all design patent applications in the United States, applications directed to GUI/icon designs must satisfy the requirements under 35 USC 171 which precludes a claim for a “disembodied design” or a design not embodied in an article of manufacture. There are a variety of ways applicants may present a GUI or icon design depending on the scope of protection being sought including depiction of a GUI/icon on a device with the device being disclaimed using broken lines and an associated description or by depicting the GUI or icon with broken lines surrounding the GUI/icon indicating the boundary of the claim and an appropriate description.

Alternatively, if desired, an applicant may illustrate a GUI/icon design and the associated device or portions of the associated device in solid lines, however, in such an instance the device or portions of the device shown in solid lines will then form part of the claimed design along with the GUI or icon aspects and would be considered as part of the claimed design for enforcement/infringement considerations. Accordingly, applicants wishing to focus protection on the GUI/icon irrespective of a particular electronic device will not depict an electronic device in solid lines in the reproductions.

OAPI

With regard to the technical effect, patent protection may be granted to the GUI or to an icon as such. For designs, protection is granted independently of the product incorporating them.

II. APPLICATION FOR A DESIGN PATENT/INDUSTRIAL DESIGN REGISTRATION

Question 8 – If a GUI and/or icon can be patented/registered as *such* in your jurisdiction, how must it be represented in an application for a design patent/industrial design registration?

Responding Party	Representation of the GUI or icon alone, without the product that incorporates it or in relation to which it is to be used		Representation of the GUI or icon in solid lines + the product that incorporates it or in relation to which it is to be used in dotted or broken lines		Representation of the GUI or icon in solid lines + the product that incorporates it or in relation to which it is to be used in solid lines + a description disclaiming the product		Other form(s) of representation	
	GUIs	Icons	GUIs	Icons	GUIs	Icons	GUIs	Icons
Argentina			■	■				
Australia			■	■				
Austria	■	■	■	■				
Azerbaijan	■	■	■	■				
Belarus	■	■						
Brazil	■	■						
Bulgaria	■	■						
Canada								
Chile	■	■	■	■			■	■
China								
Colombia	■	■						
Costa Rica		■		■				
Croatia	■	■	■	■				
Cyprus								
Czech Republic	■	■	■	■				
Denmark	■	■	■	■				
Estonia	■	■	■	■				
Finland	■	■	■	■				
France	■	■	■	■				
Georgia	■	■	■	■				
Germany	■	■	■	■				
Honduras				■		■		
Hungary	■	■						

Responding Party	Representation of the GUI or icon alone, without the product that incorporates it or in relation to which it is to be used		Representation of the GUI or icon in solid lines + the product that incorporates it or in relation to which it is to be used in dotted or broken lines		Representation of the GUI or icon in solid lines + the product that incorporates it or in relation to which it is to be used in solid lines + a description disclaiming the product		Other form(s) of representation	
	GUIs	Icons	GUIs	Icons	GUIs	Icons	GUIs	Icons
Iceland	■	■	■	■				
Israel	■	■	■	■				
Italy	■		■	■	■	■	■	■
Japan								
Kazakhstan	■	■						
Kyrgyzstan								
Latvia	■	■	■	■				
Lithuania	■	■	■	■				
Malaysia			■	■				
Mexico								
Montenegro	■	■	■	■				
Netherlands	■	■	■	■				
New Zealand								
Norway	■	■	■	■				
Oman								
Peru	■	■	■	■	■	■		
Philippines			■	■				
Poland	■	■	■	■	■	■	■*	■*
Portugal	■	■	■	■				
Republic of Korea								
Republic of Moldova	■	■	■	■				
Romania	■	■	■	■				
Russian Federation	■	■	■	■				
Saudi Arabia	■	■	■	■				
Serbia	■	■	■	■	■	■		
Singapore			■	■				
Slovakia	■	■						
South Africa			■	■	■	■		
Spain	■	■	■	■				
Sweden	■	■						
Switzerland	■	■	*	*				
Turkey	■	■	■	■				
Uganda	■	■						
Ukraine								
United Kingdom								
United States of America								
EUIPO	■	■	■	■				
OAPI			■	■	■	■		

COMMENTS FROM MEMBER STATES AND IGOs:

China

GUIs and/or icons may not be patented/registered independently of the product.

Iceland

Cf. comments on question 4 – the illustration defines the scope of protection.

Israel

Alternative possibilities.

Philippines

If the product that incorporates the GUI/icon is in solid lines, it might create the impression that the entire product is the one sought to be protected and not just the GUI/icon.

Poland

* GUIs: Other forms of disclaimers such as: blurring, color shading, boundary can be used.
Icons: Other forms of disclaimers such as: blurring, color shading, boundary can be used.

Russian Federation

The presentation of a GUI is allowed both without the product that incorporates it or in relation to which it is to be used and with the product that incorporates it or in relation to which it is to be used, and the product has to be represented in dotted lines.

If an icon is represented separately, without the product that incorporates it or in relation to which it is to be used, the title of the industrial design should indicate the product that incorporates it or in relation to which it is to be used.

South Africa

Either the second and the third options may be used, depending on the specific situation.

Sweden

See our comments to question 9. The second option: icon in solid lines + dotted or broken lines could be registered but it we do not recommend it as a design is not protected in relation to a specific product or use.

Switzerland

* Second response may also be applicable ... but not necessarily.

United Kingdom

A GUI or icon would be acceptable shown either alone or incorporated into a product for illustration purposes only. Or, additionally it could be protected as a whole, i.e. a phone + icon.

United States of America

See Answer to Question 7.

EUIPO

In addition to dotted or broken lines, other types of visual disclaimers are available as well (please see Convergence on graphic representations of designs, available under: <https://www.tmdn.org/network/documents/10181/20e96f9f-2e5b-431f-9ba5-e429abe7dac8>). However, in case an applicant wants to visual disclaim parts of the representation, dotted or broken lines are the preferred means.

COMMENTS FROM NGOS:

INTA

The very real transference in practice of GUIs, icons and fonts across technology means that it is essential, if protection for GUIs, icons and fonts is to be real, that it is NOT dependent on the product that incorporates it.

INTA Designs Committee therefore advocates, as above, that the designer be given the choice as to how best to represent the design. If the designer wishes to apply to register the GUI or icon in relation to a specific product, she/he should be able to do so. If the designer wishes to register the GUI or icon in the abstract, she/he should be able to do so.

II. APPLICATION FOR A DESIGN PATENT/INDUSTRIAL DESIGN REGISTRATION

Question 9 – Must letters, numerals, words or symbols contained in a GUI and/or icon be disclaimed?

Responding Party	GUIs	Icons
Argentina	No	No
Australia	No	No
Austria	No	No
Azerbaijan	No	No
Belarus	No	No
Brazil	N/A	N/A
Bulgaria	No	No
Canada	No	No
Chile	No	No
China	No	No
Colombia	Yes	Yes
Costa Rica	N/A	N/A
Croatia	No	No
Cyprus	N/A	N/A
Czech Republic	No	No
Denmark	N/A	N/A
Estonia	N/A	N/A
Finland	No	No
France	Yes	Yes
Georgia	No	No
Germany	No	No
Honduras	No	No
Hungary	No	No

Responding Party	GUIs	Icons
Iceland	No	No
Israel	Yes	Yes
Italy	Yes	Yes
Japan	No	No
Kazakhstan	Yes	Yes
Kyrgyzstan	N/A	N/A
Latvia	No	No
Lithuania	No	No
Malaysia	Yes	Yes
Mexico	No	No
Montenegro	No	No
Netherlands	No	No
New Zealand	Yes	Yes
Norway	No	No
Oman	No	No
Peru	No	No
Philippines	No	No
Poland	No	No
Portugal	No	No
Republic of Korea	No	No
Republic of Moldova	No	No
Romania	Yes	Yes
Russian Federation	No	No
Saudi Arabia	No	No
Serbia	No	No
Singapore	Yes	Yes
Slovakia	N/A	N/A
South Africa	Yes	Yes
Spain	No	No
Sweden	No	No
Switzerland	Yes	Yes
Turkey	No	No
Uganda	No	Yes
Ukraine	No	No
United Kingdom	No	No
United States of America	No	No
EUIPO	No	No
OAPI	N/A	N/A

COMMENTS FROM MEMBER STATES AND IGOs:

Australia

The design registration includes all visual features of the GUI / icon, including lettering, numbering and symbols.

Brazil

Letters, numerals, words and symbols must not be included in the representation.

Colombia

They must be removed from the design.

Costa Rica

Regarding GUIs and icons, elements such as letters, numerals, words or symbols can only be contained in a set that defines the GUI or the icon. These elements cannot be claimed independently; hence the N/A answer.

As for an icon, if it only consists of one or more letters, numerals, words or symbols, without a characteristic environment or other graphical elements, its registration will be cancelled (for example, with the Facebook icon, the environment of the “f” is within a square background).

Naturally, registration will be denied if the set is contrary to public order or morality and does not meet the requirements of novelty, originality and independence of the design.

France

If they are disclaimed, this must be consistent with the convergence program for the graphic representation of designs of the EUIPO.

Georgia

According to Article 4 of the law of Georgia “On Design”, Scope of legal protection shall not extend on word or words interpolated in the design, and references to their disclaim is not required, but if the letters, numerals, words or symbols are part of the design, protection of the such design is available, if it meets the criteria for design protection: novelty and individual character.

Germany

Letters, numerals, words or symbols can be disclaimed if they are features for which protection is not sought. In these cases broken/dotted lines, color-shading, blurring or boundaries can be used.

Honduras

In such cases it is clarified that an exclusive right over the letter or number is not granted; it is protected as part of the icon of the industrial design/drawing in the form expressed, that is to say, as a whole.

Iceland

Not specifically disclaimed but according to Art. 4 DR the illustration may only, for explanatory purposes, be given descriptive labels (e.g., “up”, “down”, “cross-section”).

Israel

Letters, numerals, words or symbols which have been stylized may form part of the design. Non-stylized letters, numerals, words or symbols are not eligible for design protection and must be disclaimed. A disclaimer may be expressed by dashed lines forming the letters, numerals, words or symbols.

Kazakhstan

Rule 27 of the Regulation on Filling in, Filing and Examination Procedure of Applications for Registration of Industrial Designs, the entry of data into the State Register of Industrial Designs of the Republic of Kazakhstan, as well as the issuance of the Registration Certificate.

Malaysia

No claim is made to any right to the exclusive use of letters, words and numerals appearing in the design.

No claim is made to any right to the exclusive use of letters, words and numerals appearing in the representation.

Mexico

Article 35 of the Industrial Property Law stipulates that in the application for registration of an industrial design, the name of the design must be expressed as a claim, followed by the words "as referred to and illustrated" so that the protection provided corresponds to that of the industrial design as illustrated, serving only to enable understanding of the description of the design.

Netherlands

Neither the Benelux Convention on IP nor its Implementing Regulation foresee disclaimers.

New Zealand

Where any word(s), letter(s) or numeral(s) is not of the essence of the design then they are required to be removed from the representations (design images) in any application to register a design. If they form an essential part of the design then a disclaimer of any right to their exclusive use must be attached to the design record.

Norway

That is up to the applicant. If they seek protection for letters, numerals, words or symbols as well, it is ok to include them. If not, they must be removed or drawn with dotted lines.

For trade marks: if the office considers that the element is eligible to create confusion regarding the scope of protection, the registration office can request the applicant to accept a disclaimer as a condition for registration.

Peru

The resolution granting the registration notes that letters, numbers, words or symbols are not part of the design and are not protectable by the regulations governing industrial designs.

Philippines

It is the option of the applicant/s to decide whether such letters, numerals, words or symbols contained in GUIs and Icons applications be disclaimed or not. If GUIs and/or Icons are presented as photograph, letters, numeral, words or symbols are disclaimed by including a disclaimer phrase to the description. If GUIs and/or Icons are presented using technical drawings, disclaimed letters, numeral, words or symbols are shown in broken or dotted lines.

Republic of Korea

Letters, numerals, words or symbols contained in a GUI and/or icon can be disclaimed if they are represented in broken lines.

Republic of Moldova

Rule 95 of the Regulation on the procedure of Filing, Examination and Registration of Industrial Designs No.1496 of 29.12.2008 foresees: "The industrial designs containing verbal elements are accompanied by the remark: the semantics of the verbal part is not subject to protection".

Romania

The registration decision contains a verbal disclaimer as follows: "The verbal elements are not protected".

Russian Federation

Registration of an animated GUI and/or an animated icon as an industrial design is not provided for in the Russian Federation.

Serbia

It is not obligatory to disclaim letters, numerals, etc., but it is possible.

Singapore

They are to be disclaimed in our "Application for registration of design" form.

Slovakia

IPO of the Slovak Republic has no experience as regards this particular topic.

In general the Act No. 444/2002 Coll. on Designs as amended does not regulate disclaimers by no means and representations showing only the claimed design are preferred. However visual disclaimers may be used to indicate that protection is not being sought for certain features of the design shown in the representation. Where a disclaimer is used, broken lines are recommended; color shading, blurring and boundaries are acceptable as well.

South Africa

These are disclaimed in the definitive and/or explanatory statements.

Sweden

The applicant has an option to excluded letters, numerals or symbols (if they are not to be included) by using dotted lines.

Switzerland

Such a claim would be accepted in the form of dotted or broken lines.

Uganda

Words should be disclaimed for use except as represented on application for protection as a trademark.

OAPI

Exclusion from protection is depicted by dotted or broken lines.

COMMENTS FROM NGOs:

INTA

This question seeks an answer on a difficult issue at the heart of protection of GUIs (more so than icons). A GUI for a read-out for, for example, a fitness monitor, will include a digital read-out showing the number of steps taken in a day, heart-rate etc. In seeking protection, the designer is most likely seeking to protect the design of the read-out, rather than any specific read-out of number of steps etc.

Again, INTA Designs Committee advocates that the designer seeking protection should be given the option to protect her/his design as she/he thinks best.

Design law protects innovative designs – designs have to be novel in order to be protected (albeit that the level of novelty is set at different levels in different jurisdictions). A GUI which incorporates a not-novel image of a telephone may still be novel, but its novelty will not lie in the telephone image. Similarly, a design registered for a GUI which shows a digital read-out for a number will not be novel so far as that number is concerned – but may be for the innovative way in which the number is presented.

II. APPLICATION FOR A DESIGN PATENT/INDUSTRIAL DESIGN REGISTRATION

Question 10 – Is a GUI and/or icon excluded from protection if it appears only *temporarily* when a program is loaded?

Responding Party	GUIs	Icons
Argentina	No	No
Australia	Yes	Yes
Austria	No	No
Azerbaijan	No	No
Belarus	No	No
Brazil	No	No
Bulgaria	N/A	N/A
Canada	No	No
Chile	N/A	N/A
China	*	*
Colombia	Yes	Yes
Costa Rica	No	No
Croatia	No	No
Cyprus	N/A	N/A
Czech Republic	No	No
Denmark	No	No
Estonia	N/A	N/A
Finland	No	No

Responding Party	GUIs	Icons
France	No	No
Georgia	No	No
Germany	No	No
Honduras	No	No
Hungary	No	No
Iceland	No	No
Israel	No	No
Italy	Yes	Yes
Japan	Yes	Yes
Kazakhstan	Yes	Yes
Kyrgyzstan		
Latvia	No	No
Lithuania	No	No
Malaysia	N/A	N/A
Mexico	No	No
Montenegro	N/A	N/A
Netherlands		
New Zealand	No	No
Norway	*	*
Oman	No	No
Peru	No	No
Philippines	No	No
Poland	No	No
Portugal	No	No
Republic of Korea	No	No
Republic of Moldova	No	No
Romania	No	No
Russian Federation	N/A	N/A
Saudi Arabia	No	No
Serbia	Yes	Yes
Singapore	No	
Slovakia	No	No
South Africa	No	No
Spain	No	No
Sweden	N/A	N/A
Switzerland	Yes	Yes
Turkey	No	No
Uganda	No	No
Ukraine	N/A	N/A
United Kingdom	No	No
United States of America	No	No
EUIPO	No	No
OAPI	N/A	N/A

COMMENTS FROM MEMBER STATES AND IGOs:

Australia

During a substantive examination (to provide an enforceable right), the product bearing the design is considered when it is 'at rest'. Therefore, it is unlikely that a GUI and / or icon, only seen when computer is on (loaded), will be afforded an enforceable right.

Azerbaijan

According to replies to Questions 5 and 6 of the Questionnaire.

China

* Electric screen wallpaper (and animated screensaver) and booting and shutdown animations are not under the GUI protection.

Costa Rica

They are not excluded because they are part of progress in the user-device interface.

Honduras

GUIs and temporary moving icons are protected under the Copyright Law.

Iceland

Cf. comments to question 4 - the illustration defines the scope of protection and the IPO does not accept video/animation or movement files/illustrations.

Japan

Since protectable “design” under the Japanese design law must be an appearance of an article itself, protectable graphic images need to be a graphic image that has been adhesively recorded in the article and displayed on the display screen which is a part of the article. Accordingly, a graphic image which is displayed based on a signal sent from outside of the article, such as a graphic image of a television program, a graphic image sent via the Internet (e.g. websites) or a graphic image displayed based on a signal sent from another article (e.g. a graphic image displayed on a “computer display”) and a graphic image which is displayed based on the data recorded on a recording medium which is connected to or inserted in the article, is not found to be a graphic image constituting a “design” of the article.

Norway

* We have not had any examples of this and are unsure how to answer. There is no exception stated in our law or practice.

Philippines

Even though GUI and Icon appears only temporarily when loaded it is still protected as long as it is represented in the drawing as it appeared/displayed.

Romania

Depending on how the design is presented in the application. You can see below the example where the icon is changeable in some moments of time.



Serbia

It can be protected as copyright work, but as an industrial design.

Slovakia

If GUI/icon fulfills conditions stated in Copyright Act and therefore it is protected as work, it is protected by copyright also if it appears only temporarily.

United Kingdom

Copyright: Copyright protection for works is generally life of author plus 70 years after death, and this is the case for works of artistic and literary works. Whilst use of typefaces is not protected by copyright, there is protection in the articles that can be used for their reproduction, for example a word processor comprising a collection of fonts. For that article, copyright protection only lasts for 25 years.

COMMENTS FROM NGOs:

INTA

As set out above, INTA Designs Committee advocates that protection for GUIs and icons should NOT be excluded if the GUI/icon appears only temporarily when a program is loaded. To do so would be to exclude from protection the vast majority of GUIs/icons, and would stymie innovation.

MARQUES

In relation to the question if a GUI and/or icon is excluded from protection if it appears only temporarily when a program is loaded, MARQUES strongly believes that it cannot be decisive for the protection how long a GUI or an ICON is visible if this duration is not so short that the eye cannot perceive it consciously. If the user can decide for how long the program is loaded and the GUI or ICON is visible, the criteria of visibility should accordingly be met.

II. APPLICATION FOR A DESIGN PATENT/INDUSTRIAL DESIGN REGISTRATION

Question 11 – Can typefaces/type fonts be registered as a set?

Responding Party	
Argentina	Yes
Australia	No
Austria	Yes
Azerbaijan	Yes
Belarus	Yes
Brazil	Yes
Bulgaria	Yes
Canada	*
Chile	
China	*
Colombia	No
Costa Rica	No
Croatia	Yes
Cyprus	Yes
Czech Republic	Yes
Denmark	Yes
Estonia	Yes
Finland	Yes
France	Yes
Georgia	Yes
Germany	N/A
Honduras	Yes
Hungary	Yes
Iceland	Yes
Israel	N/A
Italy	Yes
Japan	N/A
Kazakhstan	Yes
Kyrgyzstan	No
Latvia	Yes
Lithuania	Yes
Malaysia	N/A
Mexico	Yes
Montenegro	*
Netherlands	*
New Zealand	No
Norway	Yes
Oman	Yes
Peru	No
Philippines	
Poland	Yes
Portugal	Yes
Republic of Korea	Yes
Republic of Moldova	Yes
Romania	No
Russian Federation	Yes
Saudi Arabia	Yes
Serbia	Yes
Singapore	Yes
Slovakia	Yes

South Africa	Yes
Spain	Yes
Sweden	Yes
Switzerland	Yes
Turkey	Yes
Uganda	Yes
Ukraine	Yes
United Kingdom	No
United States of America	Yes
EUIPO	N/A
OAPI	N/A

COMMENTS FROM MEMBER STATES AND IGOs:

Austria

For example: application number MU 1712/2002 until number MU 1715/2002.

Brazil

The typefaces must always be claimed as a set.

Chile

We will provide protection to the whole set, not to each font separately.

Canada

* According to the definition in the *Industrial Design Act*, **set** means a number of articles of the same general character ordinarily on sale together or intended to be used together, to each of which the same design or variants thereof are applied.

China

* Typefaces/type fonts are currently not the subject matter for design patent protection in China.

Costa Rica

No, they are not sets in the functional sense; a type font or typeface is an integral tool.

Denmark

Industrial design: The typefaces can be registered as a set but will only enjoy the protection as it is seen (as a set). Otherwise the letters can be registered one by one ("co registration").

Typefaces and fonts are also subject to copyright protection, although copyright cannot be registered in Denmark.

The law of unfair competition protects typefaces against exclusionary market use. The typeface must have been on the market to be protected.

Finland

In Finland we have such practice that one type of typefaces and type fonts from A to Z is considered to be one design. Same practice is also for numbers from 0 to 10.

Germany

Typefaces are by nature a set. The representation of the typefaces must comprise the entire series of characters.

Iceland

According to Art. 15 DA a single application may be made for protection for one or more designs if the products connected with the designs form a set or belong to the same classification under the Locarno Agreement of 8 October 1968 on international classification of designs.

Furthermore, in the case of such multiple registrations, each individual design must have its own name according to Art. 2(6) DR and a specific fee for each individual design in excess of one be paid in accordance with the current fee regulation.

Israel

See comments to question 15.

Japan

Typefaces/type fonts cannot be protected under the design law.

Montenegro

* General provisions of the law are valid for all type of industrial design, but there are no specific provisions of the above indicated types.

Netherlands

* We are unable to answer this question.

Norway

All the letters of the alphabet plus all numbers and grammatical signs may be registered as a set.

Republic of Korea

Please refer to the comments on Question 1 and 4. Type fonts can be registered only in case they are composed of the whole alphabet from A to Z (the entire series of characters of each language).

Republic of Moldova

Typefaces/Type fonts, Class 18-03

(http://agepi.gov.md/sites/default/files/bopi/BOPI_10_2013.pdf#page=115, BOPI 10/2013, p. 126-129, application f 2012 0116)

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Singapore

Under our Registered Designs Act, ‘set of articles’ means 2 or more articles of the same general character that are ordinarily on sale together or intended to be used together. Read together with our response and comments to Question 1, the typefaces/type fonts will have to meet the requirements of ‘set of articles’ to be registered as a set.

United Kingdom

Designs: We would allow the whole alphabet to be registered as a single design as we see this as a font. Alternatively, applicants could file a multiple application with each element (letter/number/character) protected individually.

EUIPO

The product indication does not affect the scope of protection of the design as such (see Art. 36(6) CDR). Therefore, in the application procedure the product indicated by the applicant, in principle, will only be objected to when there is a mismatch between the representation and the product indications. Typefaces/type fonts can thus be registered with the product indication “typographic typefaces” or as a set.

Therefore, when applying for a typographic typeface in accordance with the specific formal requirements, as set out in Art. 4(4) CDIR, it is recommended to indicate the product “typographic typeface” accordingly.

COMMENTS FROM NGOS:

INTA

Question 11 is difficult to answer without a single understanding of what is meant by a “set”.

II. APPLICATION FOR A DESIGN PATENT/INDUSTRIAL DESIGN REGISTRATION

Question 12 – With respect to typefaces/type fonts, are there any requirements to provide representation for the entire series of characters (such as the whole alphabet) or for an illustrative group of the entire series of characters in the typeface/type font?

Responding Party	
Argentina	No
Australia	No
Austria	No
Azerbaijan	No
Belarus	Yes
Brazil	No
Bulgaria	Yes
Canada	N/A
Chile	No
China	*
Colombia	N/A
Costa Rica	Yes
Croatia	Yes
Cyprus	No
Czech Republic	No
Denmark	N/A
Estonia	No
Finland	Yes
France	Yes
Georgia	Yes
Germany	Yes
Honduras	No
Hungary	No
Iceland	Yes
Israel	N/A
Italy	No
Japan	N/A
Kazakhstan	Yes
Kyrgyzstan	N/A
Latvia	No
Lithuania	No
Malaysia	N/A
Mexico	No
Montenegro	*
Netherlands	*
New Zealand	N/A
Norway	No
Oman	No
Peru	No
Philippines	
Poland	No
Portugal	No
Republic of Korea	Yes
Republic of Moldova	No
Romania	Yes
Russian Federation	Yes
Saudi Arabia	Yes
Serbia	No

Responding Party	
Singapore	N/A
Slovakia	N/A
South Africa	Yes
Spain	Yes
Sweden	*
Switzerland	No
Turkey	Yes
Uganda	No
Ukraine	No
United Kingdom	No
United States of America	No
EUIPO	Yes
OAPI	N/A

COMMENTS FROM MEMBER STATES AND IGOs:

Belarus

The entire series of characters should be represented in a single image.

Bulgaria

Representation of typefaces/type fonts must be fulfilled in size with a height of at least 16 characters and contain a series of all uppercase and lowercase letters of the alphabet, all Arabic numerals and five lines text in the typeface/type font.

China

* Typefaces/type fonts are currently not the subject matter for design patent protection in China.

Costa Rica

Yes, the whole alphabet, numerals and useful symbols in standard text.

Croatia

Regulations on Industrial Designs, Art. 7 para 2: Where an industrial design application refers to a design consisting in a typographic typeface, the representation of such a design shall consist in a string of all the letters of the alphabet, in both upper and lower case, and of all the Arabic numerals from zero to nine, with a text of five lines produced using that typeface, both letters and numerals being in the size pitch 16.

Denmark

Industrial design: Our office does not have any requirements to providing representation for the entire series of characters. If desired by the applicant single letters of the entire alphabet can be registered one by one as a "co registration" to get a full protection of a typeface.

France

All letters must be represented for complete protection of the alphabet as part of a design filing.

Georgia

According to article 7 of the "Instruction On Design Registration", if the application is related to the design which includes a typefaces/type fonts, the image shall contain all letters of alphabet and all Arabic numerals, along with five-strophe text in which this font is used in the form of letters as well as numerals. The font size shall be 16.

Germany

The representation of the typefaces must comprise the entire series of characters and a five-line text written in the characters in size 16 font.

Hungary

There is no need to represent the full set of characters, whoever the protection is determined on the basis of the representation.

Iceland

See comments to question 11.

Israel

There are no specific requirements regarding representation of typeface. See also comments to question 15.

Japan

Typefaces/type fonts cannot be protected under the design law.

Latvia

In applicant's interest is to show the typeface/type font as a whole.

Montenegro

* General provisions of the above indicated laws are valid for all type of industrial design and there are no specific provisions of the above indicated types.

Mexico

There is no provision that specifically regulates the typefaces/type fonts, so there is no requirement that the whole series of characters must be presented. However, Article 35 of the Industrial Property Law stipulates that in the application for registration of an industrial design, the claim of an industrial design must be expressed by stating the name of the design, followed by the words "as referred to and illustrated", so that the protection provided corresponds to the industrial design as illustrated.

Netherlands

* We are unable to answer this question.

Norway

The applicant may file all letters, numbers and other signs, or only some, but they will only get protection for the letters, numbers and characters that they show.

Republic of Korea

In accordance with paragraph 3 of Article 35 of the Enforcement Rule of the Design Protection Act, "a drawing of the given characters", "a drawing of the sample sentence" and "a drawing of the typical characters" should be submitted as follows.

< view of the given characters >



< view of the sample sentence >



< view of the typical characters >



Sweden

* Yes and no. A to Z are usually regarded as an illustrative group but the entire series of characters including special characters are not needed.

United Kingdom

Designs: Protection is given to the illustration shown. The applicant can choose which characters they wish to include.

Trade mark: Protection granted to mark as filed.

United States of America

Depending on the subject matter that an applicant wishes to protect, applicants may submit applications containing full alphabets, groups of characters, single or multiple characters or numbers to name a few examples.

EUIPO

Article 4(4) CDIR setting out specific formal requirements for typographic typefaces reads:

“Where an application concerns a design consisting in a typographic typeface, the representation of the design shall consist in a string of all the letters of the alphabet, in both upper and lower case, and of all the Arabic numerals, together with a text of five lines produced using that typeface, both letters and numerals being in the size pitch 16.”

COMMENTS FROM NGOS:

INTA

Question 11 is difficult to answer without a single understanding of what is meant by a “set”.

In our view, the registration of fonts does require additional specifications to ensure that the design is fully disclosed, and that users of the system are able to understand, without undue difficulty, what is protected (and as importantly, what is not). Therefore, INTA Designs Committee understands that various member states have introduced additional requirements for fonts, such as, for example, including all the letters of the relevant alphabet in the font (in upper and lower case if relevant), as well as numbers. Some require that a designated number of lines of text be included to show the use of the font as an example.

So long as the requirements are clear and not overly onerous, INTA Designs Committee supports such requirements as an aide to clarity.

Responding Party	Novelty			Originality			Individual character			Creative difficulty			Non-obviousness			Public order / morality			Other
	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	GUIs	Icons	Typefaces Type fonts	
Philippines																			
Poland																■	■	■	
Portugal	■	■	■				■	■	■							■	■	■	*
Republic of Korea	■	■	■							■	■	■				■	■	■	■*
Republic of Moldova	■	■	■				■	■	■							■	■	■	■*
Romania	■	■	■				■	■	■							■	■	■	■*
Russian Federation	■	■	■	■	■	■										■	■	■	
Saudi Arabia																			*
Serbia	■	■	■	■	■	■	■	■	■							■	■	■	
Singapore																■	■	■	
Slovakia	■	■	■				■	■	■				■	■	■	■	■	■	
South Africa																			*
Sweden																■	■	■	*
Spain	■	■	■				■	■	■							■	■	■	
Switzerland																■	■	■	*
Turkey	■	■	■				■	■	■	■	■	■	■	■	■	■	■	■	
Uganda	■	■		■		■											■		
Ukraine																■	■	■	
United Kingdom																■	■	■	
United States of America	■	■	■	■	■	■							■	■	■				■*
EUIPO																■	■	■	■*
OAPI																			*

COMMENTS FROM MEMBER STATES AND IGOs:

Argentina

There is no substantive examination.

Australia

The eligibility criteria examined with respect to GUIs, icons or typefaces/type fonts include whether the registration is both:

- new; and
- distinctive; that is, not substantially similar in overall impression to another design.

* Public order/morality is not a substantive eligibility criterion during substantive examination. However designs that are scandalous, or might reasonably be taken to be scandalous, must be refused registration or, if already registered, revoked. A scandalous design is one which is shocking or offensive to the public or an individual's sense of propriety or morality.

Belarus

Only a formal examination for GUIs, icons, typefaces/type fonts is carried out by the IP Office of the Republic of Belarus.

Canada

A design must be original in order to be entitled to registration. Section 7(3) of the *Industrial Design Act* states that the certificate of registration is evidence of the originality of the design. Section 6 of the *Act* also specifies that a design will not be registered if:

- the design is identical to or closely resembles any other design already registered; or
- the design was published more than one year prior to the date of filing in Canada; or
- a similar design available to the public.

“Originality for the purpose of an industrial design under the Industrial Design Act demands a higher degree of originality than is required for copyright. It involves at least a spark of inspiration on the part of the designer either in creating an entirely new design or on hitting upon a new use for an old one. *Bata Industries Ltd v Warrington Inc.*, [1985] FCJ No 239, 5 CPR (3rd) 339.

Typefaces/typefonts may be considered ornamentation as applied to a finished article in accordance with the *Industrial Design Act*. Typefaces/typefonts that are not applied to a finished article are not considered registerable industrial design subject matter.

China

* China has adopted the Preliminary Examination System, through which obvious substantive defects of the application documents as well as formalities and fees will be examined. The obvious substantive defects include, for instance: obvious contradiction to the laws or to social morality, or obvious detriment to public interest; designs of two-dimensional printing goods, made of patterns, colors or their combination, which serve mainly as indicators; and designs obviously fall into the category of prior designs.

Colombia

* That it contains or has purely technical characteristics or a technical function, e.g. a circuit diagram.

Costa Rica

Sufficiency and unity of the design. The former implies that the description of the figures and the figures themselves are sufficient to describe the design. As to the latter, the GUI, icon and font/typeface will be considered respectively to have unity of design.

Croatia

* Others substantive examination requirements:

The Article 6ter of the Paris Convention for the Protection of Industrial Property (hereinafter referred to as the Paris Convention), or of badges, emblems and escutcheons other than those covered by the said Article of the Paris Convention, which are of particular interest to the Republic of Croatia and the article 1 of the Nairobi Treaty on the Protection of the Olympic Symbol, 1981.

The design is not a design within the meaning of Article 2 item 1 of the Industrial Design Act.

Finland

* We also examine the following criteria:

A design shall not be registered, if it without the proper permission includes:

1. the coat of arms, flag or other emblem or the designation or abbreviation of the designation of a state, municipality or an international intergovernmental organization, or a figure, designation or abbreviation of a designation that may be confused with such emblem, sign, designation or abbreviation of a designation;
2. an official mark or stamp of inspection or guarantee for the same or similar articles as those for which the design is intended;
3. anything that may be understood to be another person's trade name or a trade symbol or trademark established for another in Finland or the surname, pseudonym or similar name or the portrait of another, unless the name or portrait manifestly refers to a person long since deceased;
4. anything that may be interpreted as the title of another person's protected literary or artistic work, provided such title is distinctive, or anything which infringes another's copyright to such a work or right to a photographic illustration;
5. anything that does not substantially differ from a design or utility model registered in Finland in the name of another person.

Georgia

* The design shall not be registered if:

1. Wholly or by any consisting element coincides with the state herald, flag, money sign, full or abbreviated name of Georgia or its territorial entity or the foreign country and no consent of a competent body is available.
2. Wholly or by any composing element coincides with the herald, flag, full or abbreviated name of an international organization and this coincidence is evident to the expert and if no consent of this organization is available.
3. Design or its composing element displays an appellation of the place of product origin or geographic indication which has been granted protection on the Georgian territory based on the local registration, bilateral or international agreement.

In the course of establishing novelty Sakpatenti takes into consideration designs filed in office or designs registered in International Bureau with the requirement to extend rights on the Georgian territory.

Germany

Novelty and individual character are only examined in invalidity proceedings.

Honduras

* Both icons and industrial designs/drawings must meet the industrial application requirement.

Hungary

Creative difficulty is interpreted under the term degree of freedom of designer (Art. 3(2) of Act. XLVIII of 2001 on the legal protection of designs).

Iceland

* Other(s): Art. 2(1)(1) and 7(1)(1) & (2) of the DA.

According to Art. 17(1) the IPO shall determine whether an application refers to a design in the understanding of point 1 of Article 2 and is in accordance with Points 1 and 2 of Article 7 (public order/morality and if it constitutes unauthorized use of indications protected under Article 6 of the Paris Convention for the Protection of Industrial Property of 20 March 1883, or of other badges, emblems and escutcheons which are of particular public interest.

Other criteria may be examined in cancellation proceedings according to Art. 27 DA.

Israel

Note that current Israeli design law does not require both “novelty” and “originality” as a condition for eligibility, rather “novelty” alone will suffice or where even though the design is not “novel” per se, its implementation is “original”. The Israeli design law does not use the term “original” in the sense of meaning “not being copied”.

Japan

Typefaces/type fonts cannot be protected under the design law.

* (i) Industrial applicability namely: (a) whether stipulated “design” is constituted, (b) whether the design is specific, (c) whether the design is for repeated production; (ii) one application per design (unity of design); (iii) first-to-file rule; (iv) not to be identical with or similar to part of a design in a prior application published afterwards.

Latvia

* Compliance with the definition of design.

Lithuania

* Official name and symbols of Republic of Lithuania, state symbols according to Article 6ter of Paris Convention.

Malaysia

* Registrability. If it complies with the definition of industrial design in the Malaysian Industrial Designs Act 1996.

Mexico

* Under the provisions of Article 37 of the Industrial Property Law, applications for the registration of industrial designs are processed, where relevant, in accordance with the administrative procedure applicable to patent applications (Chapter V of the Industrial Property Law) which, under Articles 50 and 53 of the Industrial Property Law, means carrying out a formal examination and a substantive examination.

The substantive examination is intended to determine whether the object for which protection is sought meets the requirements to be considered an industrial design (Article 31 of the Industrial Property Law); is not contrary to public order, morality, good customs or legal provisions (Article 4 of the Industrial Property Law); and whether the application relates to a single design or a group of interrelated designs so that they constitute a single concept (Article 43 of the Industrial Property law).

For clarity, it should be noted that Article 31 of the Industrial Property Law states that to be registrable industrial designs must be new and industrially applicable, with “new” meaning that the designs are created independently and differ in a significant degree from known designs or combinations of characteristics of known designs.

Article 31 further states that an industrial design will not be protected if its appearance only includes:

- elements or characteristics dictated solely by technical considerations or by
- performance of a technical function, and does not incorporate any arbitrary contribution by the designer;
- elements or features whose exact reproduction was necessary to allow the product
- incorporating the design to be mechanically assembled or connected to another product of which it constitutes an integral part or component (this limitation does not apply to products in which the design is based in a manner that permits the assembly or multiple connection of the products or their connection within a modular system).

Also, if an industrial design that includes such features or elements is registered, the protection afforded by such registration will not include such features or elements.

Montenegro

Examination of substantial reasons for the registration of industrial design by the Intellectual Property Office:

- whether a design match with the design notion defined by the Law;
- whether a design entails unauthorized exploitation of any of the elements referred to under Article 6 of the Paris Convention for the Protection of Industrial Property, or marks, or symbols or coats of arms not referred to under Article 6 of the Paris Convention but are of special interest to Montenegro.

Netherlands

BOIP doesn't perform a substantive examination of a design application. This is not foreseen in the Benelux Convention for IP nor its Implementing Regulation.

Norway

Novelty and individual character is a criteria for a valid registration, but it is not included in our examination. There is however always a possibility to ask for a review by the office or the court on these matters after registration.

Peru

* Under Article 113 of Decision 486, an industrial design means the particular appearance of a product resulting from any arrangement of lines or combination of colors, or any two-dimensional or three-dimensional external form, line, contour, configuration, texture or material that does not change the intended purpose of the product.

Philippines

We only conduct formality examination.

Portugal

* The requisites of novelty and individual character are only assessed if an opposition is filed. The same applies to the existence of unfair competition or infringement of other intellectual property rights.

Besides the ones that were indicated on the tables above, the inclusion of certain symbols or emblems of public or private bodies and, in specific conditions, the use of the Portuguese national flag are grounds for a refusal ex officio. For a better understanding, below you can find enclosed the Industrial Property Code articles that set grounds for an examination.

Article 188 Examination as to form and ex officio examination:

1. After a registration application has been submitted to the National Industrial Property Institute, the formal requirements set forth in Articles 173 and 174, Article 180(3) and 180(5) and Articles 184 to 187 shall be examined within one month.
2. During the time limit mentioned in the previous paragraph, the National Industrial Property Institute shall ascertain ex officio whether the application incurs any of the prohibitions set forth in Article 197(1) to 197(3).
3. If the National Industrial Property Institute finds formal irregularities in the application or any of the grounds 181 Industrial Property Code for refusal set forth in Article 197(1) to 197(3), the applicant shall be given one month to correct or remedy the objections made.
4. At the applicant's request, the time limit mentioned in the previous paragraph may be extended once only for the same period.
5. If, in the applicant's response, the irregularities are corrected or the objections remedied, the application shall be published for the purposes set forth in the following article.

6. If, on the other hand, the irregularities or objections persist, registration shall be refused and the decision published in the Industrial Property Bulletin, with a reproduction of the design or model.

7. If the objections have regard to only some of the products, the application shall be published for the others, with a mention of the products related to which there are objections that have not been remedied.

8. Immediate notification will be made of the refusal set forth in paragraph 6, pursuant to Article 16(1), with an indication of the Industrial Property Bulletin in which the decision was published.

9. The provisions of this article shall not prevent the National Industrial Property Institute from invoking breach of the requirements mentioned in paragraph 1 or the existence of the prohibitions mentioned in paragraph 2, after the time limits set forth in Article 17 and instructing the applicant to correct or remedy the objections made on the terms and within the time limits set forth in this article.

Article 197 Reasons for refusal:

1. In addition to the provisions of Article 24, registration of a design or model shall be refused if it contains: a) Symbols, crests, emblems or distinctions of the state, municipalities or other Portuguese or foreign public or private bodies, the emblem and name of the Red Cross or other similar bodies and any signs covered by Article 6-ter of the Paris Convention for the Protection of Industrial Property, unless authorised; b) Signs of a high symbolic value, such as religious symbols, unless authorised; c) Expressions or figures against the law, morality, public policy and accepted principles; d) (Revoked.); e) (Revoked.); f) (Revoked.); g) (Revoked.).

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

3. Registration of a design or model containing the Portuguese flag, among other elements, is also refused if it is likely to: a) Mislead a consumer into thinking that the products or services come from an official body; b) Result in disrespect for the Portuguese flag or any of its elements.

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

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

Republic of Korea

* Other examination: Industrial applicability, First-to file rule, the principle of a single application for a single design, the legitimacy of product indications, whether the product that incorporates a design constitutes the “article of manufacture” (GUIs/Icons can be protected only if they are represented on the product that incorporates them).

Republic of Moldova

* Law on the Protection of Industrial Designs No. 161-XVI of July 12, 2007
http://agepi.gov.md/sites/default/files/law/national/l_161_2007-en.pdf

Article 26. Grounds for refusal of an application for registration. Grounds for recognition of invalidity (extract)

1. An application for the registration of an industrial design shall be refused and a registered or unregistered industrial design recognized as invalid if:

- (e) the industrial design includes a protectable distinguishing sign, the owner of which is entitled to refuse permission for its use;
- (e1) a protected sign is used in an industrial design, and the applicant for the registration of the industrial design does not possess the right to use the protected sign according to the legislation in force;
- (f) the industrial design uses, without permission, works protectable under copyright legislation;
- (g) the industrial design unlawfully includes one of the elements listed in Article 6^{ter} of the Paris Convention for the Protection of Industrial Property of March 20, 1883 (hereinafter the Paris Convention);
- (h) the registration contravenes other normative acts than those in intellectual property.

Romania

* Designs determined exclusively by a technical function cannot be registered.

Saudi Arabia

* The Office does not carry-out substantive examination and protection is granted after formal examination (noting that formal examination includes the non-violation of morality). The requirements of novelty and distinctive character are considered, but only in case of judicial litigation.

Singapore

In Singapore, only formalities examination is done.

South Africa

* Not applicable.

Sweden

* Others:

- 1) PRV's ex officio examination also includes the prerequisite of whether the object of the application is actually the appearance of a product and
- 2) if the design includes, without authorization, a State coat of arms, a State flag or another State emblem, a State control or guarantee warrant, another designation which alludes on the Swedish State and thereby gives the design an official character, a Swedish municipal coat of arms or such an international designation which is protected under the Act on the Protection of Coats of Arms and Certain Other Official Designations, or anything that may be easily confused with a coat of arms, a flag, an emblem or a designation as referred to above.

Switzerland

* With respect to GUIs, icons or typefaces/type fonts violation of national or international law is considered.

United States of America

* Design applications generally including those directed to designs for GUIs, Icons, and Typeface/Type font designs are examined for compliance with section 171 of Title 35 of the United States Code. The criteria examined includes novelty, originality, non-obviousness and whether the application is directed to an ornamental design for an article of manufacture (see MPEP 1504.01-1504.06).

EUIPO

* In addition to public order / morality, the EUIPO also assesses whether the design corresponds to the definition of a design, that is the appearance of the whole or part of a product resulting from its features.

OAPI

* Our office does not carry out substantive examinations so we cannot answer the questions in this part.

III. EXAMINATION OF THE APPLICATION

Question 14 – Are the eligibility criteria for GUIs, icons or typefaces/type fonts different from those applied to other industrial designs?

Responding Party	GUIs	Icons	Typefaces/ Type fonts
Argentina	No	No	No
Australia	No	No	No
Austria	No	No	No
Azerbaijan	No	No	No
Belarus	No	No	No
Brazil	No	No	No
Bulgaria	No	No	No
Canada	No	No	No
Chile	No	No	No
China	No	No	

Responding Party	GUIs	Icons	Typefaces/ Type fonts
Colombia	No	No	N/A
Costa Rica	No	No	No
Croatia	No	No	No
Cyprus	No	No	No
Czech Republic	No	No	No
Denmark	No	No	No
Estonia	No	No	No
Finland	No	No	No
France	No	No	No
Georgia	No	No	No
Germany	No	No	No
Honduras	No	No	No
Hungary	No	No	No
Iceland	No	No	No
Israel	No	No	No
Italy	No	No	No
Japan	No	No	N/A
Kazakhstan	No	No	No
Kyrgyzstan	N/A		N/A
Latvia	No	No	No
Lithuania	No	No	No
Malaysia	No	No	
Mexico	No	No	No
Montenegro	No	No	No
Netherlands			
New Zealand	No	No	N/A
Norway	No	No	No
Oman	N/A	N/A	N/A
Peru	No	No	
Philippines	No	No	
Poland	No	No	No
Portugal	No	No	No
Republic of Korea	No	No	No
Republic of Moldova	No	No	No
Romania	No	No	No
Russian Federation	No	No	No
Saudi Arabia	No	No	No
Serbia	No	No	No
Singapore	No	No	No
Slovakia	No	No	No
South Africa	No	No	No
Spain	No	No	No
Sweden	No	No	No
Switzerland	No	No	No
Turkey	No	No	No
Uganda	No	No	N/A
Ukraine	No	No	No
United Kingdom	No	No	No
United States of America	No	No	No
EUIPO	No	No	No
OAPI	No	No	No

COMMENTS FROM MEMBER STATES AND IGOs:

Argentina

Captions or slogans are excluded.

China

Typefaces/type fonts are currently not the subject matter for design patent protection in China.

Costa Rica

No, they are considered special cases within two-dimensional designs.

Honduras

For icons presented as industrial designs/drawings, the admissibility criteria are the same as for all industrial designs, since we consider the icon to be a two-dimensional shape.

Hungary

The Hungarian Design Act does not provide for a special provision on GUIs, Icons or Typefaces / Type fonts, therefore the same eligibility criteria are applicable as for other forms of design.

Japan

Typefaces/type fonts cannot be protected under the design law.

Netherlands

We are unable to answer this question.

Republic of Korea

To register typefaces under Korean Design Protection Law, the following special reproductions should be contained in an application for a design of typefaces: views of the given characters, a sample sentence, and typical characters.

Singapore

To register typefaces under the Korean Design Protection Act, the following special reproductions should be contained in an application for a design of typefaces: drawings of the given characters, a sample sentence, and typical characters.

III. EXAMINATION OF THE APPLICATION

Question 15 – Do you have any further remarks on the examination of GUIs, icons or typefaces/type fonts carried out by your IP Office?

Responding Party	
Argentina	
Australia	
Austria	
Azerbaijan	
Belarus	
Brazil	
Bulgaria	
Canada	Yes
Chile	
China	Yes
Colombia	
Costa Rica	Yes
Croatia	
Cyprus	No
Czech Republic	
Denmark	
Estonia	
Finland	
France	Yes
Georgia	
Germany	
Honduras	
Hungary	
Iceland	
Israel	Yes
Italy	No
Japan	Yes
Kazakhstan	
Kyrgyzstan	
Latvia	
Lithuania	
Malaysia	No
Mexico	
Montenegro	No
Netherlands	No
New Zealand	Yes
Norway	
Oman	
Peru	
Philippines	No
Poland	
Portugal	
Republic of Korea	
Republic of Moldova	
Romania	
Russian Federation	
Saudi Arabia	No
Serbia	No
Singapore	

Responding Party	
Slovakia	
South Africa	Yes
Spain	
Sweden	No
Switzerland	
Turkey	
Uganda	
Ukraine	
United Kingdom	
United States of America	
EUIPO	
OAPI	Yes

COMMENTS FROM MEMBER STATES AND IGOs:

Canada

Computer-generated animated designs are examined as a single design applied to a finished article. The drawings submitted with the application are viewed as a sequence of frames and should sufficiently disclose the animated design for which protection is sought. Unanimated computer-generated icons or images are examined as a static design applied to a finished article.

China

The Patent Law of China and its Implementing Rules are under the 4th amendment, and the Revised Draft of the Patent Law of China (Draft for Review) introduces partial protection for products incorporating the designs, and the relevant proposed amendment reads “design means new design of the shape, pattern, color, or their combination, of a product or parts thereof, which creates an aesthetic sense and is fit for industrial application”. This revision may relate to the applications of GUIs and icons.

Costa Rica

Since there has not been much practice with these, and they are not expressly regulated, the guidelines set out here are drawn from the analysis of cases that come up.

France

Animations may only be filed in the form of separate sequences; filings in video format of a design are not yet accepted by our office.

Israel

See comments to question 2. Note that by way of practicality applications for design registration of typefaces are rare and that may be due to recent court decisions as mentioned there. Therefore the actual examination of typefaces in Israel is rare and no such examinations have been carried out in recent years.

Japan

To obtain protection under the design law, a design in an application must be of an “article”, that is understood as a tangible object, in order to constitute the “design” defined in the Design Act. Therefore, GUIs and Icons are treated as follows:

i) GUI and Icon may be protected as long as they constitute an appearance of a part of an article. However, GUI and Icon cannot be registered as such (independently of a tangible object).

e.g. Applications for design registration with the indication of article to the design (indication of product) like “GUI on a display screen” or “Icon on a screen” cannot be registered, because GUI and Icon are not regarded as a graphic image of the article itself.

ii) Any object which is independent from the article (so-called “contents”), such as a scene from a movie or a graphic image showing a computer game, is treated as an element that does not constitute a design, and therefore, a design including such contents will be refused.

iii) A computer with specific function developed by integrating a software will constitute a new article (a computer with [additional specific] function) which is different from a mere “computer”. In this case, a graphic image that has been recorded in the article will be treated as an element which constitutes a “design”. However, in the case where the article to the design is indicated as mere “computer”, a graphic image displayed by software does not constitute an element of a “design” because the function of a “computer” is limited to information processing and does not include any specific functions.

New Zealand

In New Zealand, registration applications are considered based on the appearance of the decorated article, rather than on the decoration itself.

South Africa

Only formal examination is conducted.

OAPI

Our legislation has no specific provisions for GUIs, icons or typeface/type fonts. We apply our legislation depending on whether protection is sought for a patent or for an industrial design.

IV. SCOPE AND DURATION OF PROTECTION

Question 16 – Is the scope of protection of GUI, icon or typeface/type font designs limited by the classification of the industrial design?

Responding Party	GUIs	Icons	Typefaces/Type fonts
Argentina	No	No	No
Australia	No	No	No
Austria	No	No	No
Azerbaijan	No	No	No
Belarus	No	No	No
Brazil	No	No	No
Bulgaria	Yes	Yes	Yes
Canada	No	No	No
Chile	No	No	No
China	Yes	Yes	
Colombia	No	No	N/A
Costa Rica	Yes	Yes	Yes
Croatia	No	No	No
Cyprus			
Czech Republic	No	No	No
Denmark	No	No	No
Estonia			
Finland	No	No	No
France	No	No	No
Georgia	No	No	No
Germany	No	No	No
Honduras	No	Yes	No
Hungary	No	No	No
Iceland	Yes	Yes	Yes
Israel	Yes	Yes	Yes
Italy	Yes	Yes	Yes
Japan	No	No	N/A
Kazakhstan	Yes	Yes	Yes
Kyrgyzstan	N/A	N/A	N/A
Latvia	No	No	No
Lithuania	No	No	No
Malaysia	No	No	N/A
Mexico	No	No	No
Montenegro	No	No	No
Netherlands	No	No	No
New Zealand	No	No	N/A
Norway	No	No	No
Oman	N/A	N/A	N/A
Peru	No	No	
Philippines	No	No	
Poland	No	No	No
Portugal	No	No	No
Republic of Korea	No	No	Yes
Republic of Moldova	No	No	No
Romania	No	No	No
Russian Federation	No	No	No
Saudi Arabia			
Serbia	Yes	Yes	Yes
Singapore	No	No	No

Responding Party	GUIs	Icons	Typefaces/Type fonts
Slovakia	No	No	No
South Africa	No	No	No
Spain	No	No	No
Sweden	No	No	No
Switzerland	No	No	No
Turkey	No	No	No
Uganda	Yes	Yes	No
Ukraine	N/A	N/A	N/A
United Kingdom	No	No	No
United States of America	No	No	No
EUIPO	No	No	No
OAPI	No	No	No

COMMENTS FROM MEMBER STATES AND IGOs:

Australia

No, Australia considers the product as a 'thing', irrespective of its use or purpose.

Canada

The Canadian classification system classifies the finished article to which the design is applied, not the industrial design itself. The scope of protection is limited to the class or analogous classes of the finished article to which the GUI, icon or typeface/typefont is applied.

China

Typefaces/type fonts are currently not the subject matter for design patent protection in China.

Costa Rica

In the 10th edition of the Locarno Classification, Class 32 includes screen displays and icons and Class 18-3 has typefaces. They would be limited by this classification.

Denmark

The classification of the industrial design (Locarno classifications system) is exclusively a tool for administration and has no legal effect for this reason.

Georgia

According of the article 6 of the "Instruction on Design Registration", information on the classification index does not affect the scope of protection.

Honduras

Because they are considered as industrial drawings, icons are classified under industrial designs.

Iceland

The illustration defines the scope of protection. The applicant shall according to Art. 13(2) & (3) DA specify the product or products covered by the design and the accompanying illustrations (graphic or photographic reproductions) show clearly the design for which protection is sought.

Israel

The scope of protection for any registered design is limited to the class of designs in respect of which the design is registered.

Japan

Typefaces/type fonts cannot be protected under the design law.

Malaysia

No, the period of registration for all registered industrial designs as stipulated under section 25, Malaysian Industrial Designs Act 1996.

Mexico

Article 35 of the Industrial Property Law provides that in the application for registration of industrial design, the claim of the design will be expressed by stating the name of design followed by the words "as referred to and illustrated", and pursuant to Article 12(V), the claim is the essential characteristic of the object for which protection is sought precisely and specifically in the application for registration and this is the protection afforded, where appropriate, in the corresponding title.

Thus, the protection provided corresponds to the industrial design as illustrated, once it is determined during the substantive examination that it meets the requirements for the granting of the requested registration, with no provision stating that the protection is granted having regard to the classification applicable to the design.

Netherlands

No limitation in the classification of the design.

Peru

Article 129 of Decision 486 states that the registration of an industrial design confers on its owner the right to prohibit others from using the design. Thus, the owner of the registration is entitled to proceed against any third party who, without his consent, manufactures, imports, offers for sale, introduces into trade or makes commercial use of products that incorporate or reproduce the industrial design. The registration also confers the right to act against any person who produces or markets a product whose design presents only minor differences with respect to the protected design, or whose appearance is equal to the design.

Poland

According to Art.105. 5 of the Industrial Property Law: The right conferred by the registration of an industrial design shall be limited to the kind of products, in respect of which the protection has been applied for.

Saudi Arabia

The scope is not limited since the protection is granted for the shape, regardless of the classification. However, judicial authorities may decide otherwise.

Serbia

It belongs to class 32-00, 14-04 and 18-03.

Singapore

The scope of protection of a design is dependent on the articles in respect of which the design has been registered.

Uganda

Typefaces/Type fonts are protected under Copyright and therefore classification is not applicable.

GUIs and Icons are limited by classification once protected as industrial designs.

EUIPO

The product indication does not affect the scope of protection of the design as such (see Art. 36(6) CDR).

COMMENTS FROM NGOS:

JPAA

The scope of protection of GUI an icon are limited within the range of identical and similar products.

IV. SCOPE AND DURATION OF PROTECTION

Question 17 – Is a GUI and/or icon protected in relation to one product (e.g., a smartphone) also protected against its use in relation to another product (e.g., the display of a car)?

Responding Party	GUIs	Icons
Argentina	Yes	Yes
Australia	Yes	Yes
Austria	Yes	Yes
Azerbaijan	No	No
Belarus	Yes	Yes
Brazil	Yes	Yes
Bulgaria	Yes	Yes
Canada	No	No
Chile	Yes	Yes
China	No	No
Colombia	Yes	Yes
Costa Rica		

Responding Party	GUIs	Icons
Croatia	Yes	Yes
Cyprus		
Czech Republic	Yes	Yes
Denmark	N/A	N/A
Estonia	N/A	N/A
Finland	Yes	Yes
France	N/A	N/A
Georgia	Yes	Yes
Germany	Yes	Yes
Honduras	No	No
Hungary	N/A	N/A
Iceland		
Israel	Yes	Yes
Italy	No	No
Japan		
Kazakhstan	Yes	Yes
Kyrgyzstan	N/A	N/A
Latvia	Yes	Yes
Lithuania	Yes	Yes
Malaysia	Yes	Yes
Mexico	No	No
Montenegro	Yes	Yes
Netherlands		
New Zealand	No	No
Norway	Yes	Yes
Oman	N/A	N/A
Peru	Yes	
Philippines	No	No
Poland	Yes	Yes
Portugal	N/A	N/A
Republic of Korea		
Republic of Moldova	Yes	Yes
Romania	No	No
Russian Federation	No	No
Saudi Arabia	Yes	Yes
Serbia	No	No
Singapore	No	No
Slovakia	Yes	Yes
South Africa	No	No
Spain	No	No
Sweden	N/A	N/A
Switzerland	N/A	N/A
Turkey	Yes	Yes
Uganda	No	No
Ukraine	N/A	N/A
United Kingdom	No	No
United States of America	Yes	Yes
EUIPO	Yes	Yes
OAPI	Yes	No

COMMENTS FROM MEMBER STATES AND IGOs:

Australia

Yes, Australia considers the product as a 'thing', irrespective of its use or purpose.

Azerbaijan

If, for example, specific protection is sought for a particular device or for a particular purpose.

Canada

A design is not considered to be new and original if it is already being applied to an article of analogous character, i.e. in the same class of goods and capable of performing the same function. *Clatworthy & Son Limited v. Dale Display Fixtures Limited* (1929), Ex. C.R. 429 at 434.

China

Currently, China does not have partial designs, and GUIs must be based on products and protected as a whole.

Costa Rica

The applicant states that his or her graphical interface features are part of the environment generated by the use of a device, but are not limited to such a device. An analogy could be a zipper fitting into a garment without being limited to the specific garment.

Denmark

In relation to industrial design protection, the design is protected for whatever product it is used in. Except if there is a particular product pictured in the design registration. In that case the protection is limited to the used in that particular product.

As regard for the trademark protection. The protection is limited to which classification the registration/use covers.

The copyright protection (e.g., a source code, a sound, a video, a picture) is not limited to a specific product.

Georgia

According to the article 6 of the "Instruction on Design Registration", Information on the name of product does not affect the scope of protection, therefore, if GUI and/or icon is protected in relation to one product, it is protected against its use in relation to another product.

Hungary

Design protection is not limited by the type of product, like that is the case in the area of trademarks, where the list of goods or services (specification) defines the scope of protection.

GUIs, Icons and Typefaces / Type fronts are protected against the unlawful use of design that has been realized in relation to any kind of product.

Iceland

See comment to question 16, this would depend on the specification by the applicant, but difficult to say since this practice is still to be established.

Israel

The scope of protection for a registered GUI or icon is limited to the class in which they are registered.

Japan

Protection conferred by a design right covers articles identical with and similar to the article of the registered design. In the practice of similarity judgement of articles, similarity of usage and function of the articles is considered.

Malaysia

Only one product is sufficient as the protection applied is for GUIs and icon, where it has been incorporated to the product which it is to be used.

Netherlands

We are unable to answer this question.

New Zealand

The icon in a particular position on the screen of a phone may be registrable as a design, but registration may not necessarily protect the same icon in a different position on the same phone or in relation to a different product/display.

Peru

Article 129 of Decision 486 states that the registration of an industrial design confers on its owner the right to prohibit others from using the design. Thus, the owner of the registration is entitled to proceed against any third party who, without his consent, manufactures, imports, offers for sale, introduces into trade or makes commercial use of products that incorporate or reproduce the industrial design. The registration also confers the right to act against any person who produces or markets a product whose design presents only minor differences with respect to the protected design, or whose appearance is equal to the design.

Philippines

GUI and/or Icon are protected in relation to one product and not of its use in relation to another product.

Republic of Korea

Generally, GUIs and/or icons can be protected when they are in relation to the article of manufacture where it is to be used. But the protection scope will be examined individually, case by case.

Romania

As mentioned before, a GUI or an icon is protected as such. The title for a GUI is “Graphical User Interface” and for an icon is “Graphic”.

e.g., “Graphic symbols” In the description is mentioned that these graphic symbols are for refrigerator display.

Fig.1(BOPI 3/2012)



Fig.2(BOPI 3/2012)



Fig.3(BOPI 3/2012)



Fig.4(BOPI 3/2012)



Fig.5(BOPI 3/2012)



Fig.6(BOPI 3/2012)



Russian Federation

If a GUI and/or an icon is protected in relation to one product (e.g. a smartphone) and this fact is reflected in the title, it will not be protected against its use in relation to another product (e.g., a car display).

Singapore

The scope of protection of a design is dependent on the articles in respect of which the design has been registered.

South Africa

Protection is according to the class in which the design is registered.

Spain

No, because the law protects the design independently of the product to which it is applied.

Sweden

A design is not protected in relation to a specific product or use.

United States of America

The scope of protection is highly dependent on individual circumstance of each design application and any issuing design patent.

EUIPO

The product indication does not affect the scope of protection of the design as such (see Art. 36(6) CDR).

OAPI

Protection for a GUI or an icon obtained in relation to a product is independent of the product into which it is incorporated, so the protection prohibits the use of the same GUI or icon in relation to any other product. Unauthorized use is therefore an infringement of rights.

IV. SCOPE AND DURATION OF PROTECTION

Question 18 – Is the duration of protection of GUI, icon or typeface/type font designs the same as the duration of protection of other industrial designs?

Responding Party	GUIs	Icons	Typefaces/Type fonts
Argentina	Yes	Yes	Yes
Australia	Yes	Yes	Yes
Austria	Yes	Yes	Yes
Azerbaijan	Yes	Yes	Yes
Belarus	Yes	Yes	Yes
Brazil			
Bulgaria	Yes	Yes	Yes
Canada	Yes	Yes	N/A
Chile	Yes	Yes	Yes
China	No	No	
Colombia	Yes	Yes	N/A
Costa Rica	Yes	Yes	Yes
Croatia	Yes	Yes	Yes
Cyprus			
Czech Republic	Yes	Yes	Yes
Denmark	Yes	Yes	Yes
Estonia	Yes	Yes	Yes
Finland	Yes	Yes	Yes
France	Yes	Yes	Yes
Georgia	Yes	Yes	Yes
Germany	Yes	Yes	Yes
Honduras	No	Yes	No
Hungary	Yes	Yes	Yes
Iceland	Yes	Yes	Yes
Israel	Yes	Yes	Yes
Italy	Yes	Yes	Yes
Japan	Yes	Yes	N/A

Responding Party	GUIs	Icons	Typefaces/Type fonts
Kazakhstan	Yes	Yes	Yes
Kyrgyzstan	N/A	N/A	N/A
Latvia	Yes	Yes	Yes
Lithuania	Yes	Yes	Yes
Malaysia	Yes	Yes	N/A
Mexico	Yes	Yes	Yes
Montenegro	Yes	Yes	Yes
Netherlands	Yes	Yes	Yes
New Zealand	Yes	Yes	N/A
Norway	Yes	Yes	Yes
Oman	No	No	No
Peru	Yes	Yes	
Philippines	Yes	Yes	
Poland	Yes	Yes	Yes
Portugal	Yes	Yes	Yes
Republic of Korea	Yes	Yes	Yes
Republic of Moldova	Yes	Yes	Yes
Romania	Yes	Yes	Yes
Russian Federation	Yes	Yes	Yes
Saudi Arabia	Yes	Yes	Yes
Serbia	Yes	Yes	Yes
Singapore	Yes	Yes	Yes
Slovakia	Yes	Yes	Yes
South Africa	Yes	Yes	Yes
Spain	Yes	Yes	Yes
Sweden	Yes	Yes	Yes
Switzerland	Yes	Yes	Yes
Turkey	Yes	Yes	Yes
Uganda	Yes	Yes	No
Ukraine	Yes	Yes	Yes
United Kingdom	Yes	Yes	Yes
United States of America	Yes	Yes	Yes
EUIPO	Yes	Yes	Yes
OAPI	Yes	Yes	

COMMENTS FROM MEMBER STATES AND IGOs:

China

Typefaces/type fonts are currently not the subject matter for design patent protection in China.

Costa Rica

The same applies, 10 years, as with industrial designs.

Georgia

According to Article 5 of the Law of Georgia “on Design” the duration of protection of GUI, icon and typeface / type font designs, as well as other designs, is maximum 25 years from the date of filing of the application at Sakpatenti.

Honduras

For industrial drawings/designs, article 33 of the Industrial Property Law, Decree No. 12-99-E, grants protection for five years. Article 34 of the law offers the possibility to request an extension for two more periods. For GUIs and type fonts, the law on Copyright and Related Rights applies.

Israel

See also comments to question 2. Where protection under Copyright Law or Trademark Law is available for GUI, icon or typeface, the duration of protection is the same as the duration of protection for other copyrighted works or trademarks, respectively.

Japan

Typefaces/type fonts cannot be protected under the design law.

Malaysia

Yes, as stipulated in Section 25, Malaysian Industrial Designs Act 1996.

Mexico

Pursuant to Article 36 of the Industrial Property Law, the registration of an industrial design is valid for 15 years without possibility of extension, with effect from the date of submission of the application, and is subject to payment of the appropriate fee.

Netherlands

The Benelux Convention on Intellectual Property (trademarks and designs) foresees a single term of protection for all designs.

Peru

Article 128 of Decision 486 states that the registration of an industrial design is valid for 10 years from the date of filing of the application in the Member Country.

Philippines

The duration of protection of GUI and/or Icon have the same duration of protection as compared with other industrial designs (i.e. five years and renewal of two consecutive five years of protection).

Romania

The term of protection of a certificate of registration of the design is of ten years counting from the date of constituting the regular deposit and it may be renewed for three successive five-year periods. Total period of protections: 25 years

Singapore

Protection in the Registered Designs Act is for up to 15 years (initial period of registration is for 5 years with the possibility of 2 periods of extension of 5 years each).

United States of America

The term of a design patent is the same for all industrial designs whether the design is for a GUI, icon, typeface/type font or other industrial designs.

COMMENTS FROM NGOS:

INTA

INTA Designs Committee advocates that the examination criteria for GUIs and icons be no different to those for other forms of industrial design. INTA Designs Committee accepts that for fonts, the additional elements discussed above may also be examined.

Similarly, INTA Designs Committee advocates that the duration of protection for GUI, icon and font designs ought to be the same as for other industrial designs.

[Annex II follows]

QUESTIONNAIRE ON GRAPHICAL USER INTERFACE (GUI), ICON AND
TYPEFACE/TYPE FONT DESIGNS^{1,2}

prepared by the Secretariat

8. At the thirty-fifth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), held in Geneva from April 25 to 27, 2016, an exchange of views took place on the proposal by the Delegations of the United States of America, Japan and Israel, contained in document SCT/35/6 and entitled “Industrial Design and Emerging Technologies: Similarities and Differences in the Protection of New Technological Designs”. The Chair of SCT/35 requested the Secretariat to prepare a questionnaire, based on that document, to be addressed to all Member States of WIPO. He further requested the Secretariat to prepare a document containing the replies to that questionnaire, to be presented at the thirty-sixth session of the SCT, which will be held in Geneva from October 17 to 19, 2016.

9. The present *Questionnaire on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs* was prepared by the Secretariat. The questionnaire is divided in four sections covering the range of issues discussed in document SCT/35/6. The purpose of the questionnaire is to collect information regarding the practice of Member States of WIPO in relation to the protection of graphical user interface, icon and typeface/type font designs.

10. So as to enable the Secretariat to prepare the requested document containing the replies of the Member States of WIPO to be discussed at the thirty-sixth session of the SCT, the completed questionnaire should be returned to WIPO by August 12, 2016, to the following addresses: e-mail: sct.forum@wipo.int; surface mail: World Intellectual Property Organization (WIPO), 34, chemin des Colombettes, 1211 Geneva 20, Switzerland; or via facsimile: +41 22 338 87 45.

¹ GUI and icon designs are identified as illustrative examples of “new technological designs” in document SCT/35/6.

² The terms “type font”, “font”, “type face” or other related terms may possess varied definitions and understandings from jurisdiction to jurisdiction. This questionnaire uses the term “typefaces/type fonts” broadly to refer to type fonts, typefaces or related designs and contexts which may be considered analogous to type fonts or typefaces regardless of whether the type font or typeface is created and utilized on computer display screens via electronic means (however, please note that the term does not refer to the computer program itself) or utilizes traditional mechanical printing mechanisms.

BACKGROUND INFORMATION

Your name:
Job title:
Office name:
Country:
E-mail:
Telephone number:

I. SYSTEMS OF PROTECTION

QUESTION 1 - Does your jurisdiction provide protection for:

GUIs	Icons	Typefaces/ Type fonts³
NO <input type="checkbox"/> YES <input type="checkbox"/>	NO <input type="checkbox"/> YES <input type="checkbox"/>	NO <input type="checkbox"/> YES <input type="checkbox"/>
Any comment:		

³ Respondents are encouraged to treat this category broadly and to especially identify particulars relating to treatment of typefaces/type fonts, particularly when treatment, requirements, or applicability varies dependent on whether the typeface / type font is by electronic means, such as by computer programs, or traditional printing methods, wherever applicable in the questionnaire.

Please answer question 2 if GUIs, icons or typefaces/type fonts are protected in your jurisdiction.

QUESTION 2 - Protection for GUIs, icons, typefaces/type fonts is provided in your jurisdiction under one or several of the following laws:

Please tick the appropriate box(es)

	GUIs	Icons	Typefaces/ Type fonts
Design patent law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Registered industrial design law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unregistered industrial design law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copyright law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trademark law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unfair competition law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other – <i>Please specify</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any comment:			

QUESTION 3 – To the extent that GUIs, icons or typefaces/type fonts may be eligible for overlapping protection in your jurisdiction via multiple intellectual property rights, such as copyright and a design right (including design patent, registered design or unregistered design), what is the extent of such overlapping rights?

Please tick the appropriate box(es)

	GUIs	Icons	Typefaces/ Type fonts
Full copyright and design overlap	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Full copyright and design overlap but reduced term of copyright	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copyright overlap only for designs that possess a level of artistic creativity that is of a certain level	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Copyright protection excluded where the product is intended for production in more than a specific amount of units	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other – <i>Please specify</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any comment:			

II. APPLICATION FOR A DESIGN PATENT/INDUSTRIAL DESIGN REGISTRATION

Please answer the following questions if GUIs, icons or typefaces/type fonts are protected in your jurisdiction by a design patent or an industrial design registration.

QUESTION 4 - How may a GUI, icon, typeface/type font be represented in an application for a design patent/industrial design registration in your jurisdiction?

Please tick the appropriate box(es)

	GUIs	Icons	Typefaces/ Type fonts
Photographs (black and white)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Photographs (color)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Drawings, including technical drawings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other graphic representations – <i>Please specify</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any other format which enables the applicant to accurately represent the design (e.g., video type file) – <i>Please specify</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any comment:			

QUESTION 5 - Are additional or special requirements applicable to a GUI and/or icon which is animated (moving images design, transformation, transition, change of colors, or any other animation)?

GUIs	Icons
NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>	NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>
Any comment:	

Please answer question 6 if, in your jurisdiction, there are additional or special requirements applicable to a GUI and/or icon which is animated. If not, please proceed to question 7 and subsequent questions.

QUESTION 6 - What are the additional or special requirements applicable to a GUI and/or icon which is animated?

Please tick the appropriate box(es)

	GUIs	Icons
Series of static images showing a sequence	<input type="checkbox"/>	<input type="checkbox"/>
Video type file	<input type="checkbox"/>	<input type="checkbox"/>
Description	<input type="checkbox"/>	<input type="checkbox"/>
Statement of novelty	<input type="checkbox"/>	<input type="checkbox"/>
Other requirement(s) – <i>Please specify</i>	<input type="checkbox"/>	<input type="checkbox"/>
Any comment:		

QUESTION 7 - Can a GUI and/or icon be patented/registered *as such* (i.e., independently of the product that incorporates it or in relation to which it is to be used, e.g., smartphone, tablet computer, computer screen)?

GUIs	Icons
NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>	NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>
Any comment:	

Please answer question 8 if, in your jurisdiction, a GUI and/or icon can be patented/registered as such. If not, please proceed to question 9 and subsequent questions.

QUESTION 8 – If a GUI and/or icon can be patented/registered as *such* in your jurisdiction, how must it be represented in an application for a design patent/industrial design registration?

Please tick the appropriate box(es)

	GUIs	Icons
Representation of the GUI or icon alone, without the product that incorporates it or in relation to which it is to be used	<input type="checkbox"/>	<input type="checkbox"/>
Representation of the GUI or icon in solid lines + the product that incorporates it or in relation to which it is to be used in dotted or broken lines	<input type="checkbox"/>	<input type="checkbox"/>
Representation of the GUI or icon in solid lines + the product that incorporates it or in relation to which it is to be used in solid lines + a description disclaiming the product	<input type="checkbox"/>	<input type="checkbox"/>
Other form(s) of representation – <i>Please specify</i>	<input type="checkbox"/>	<input type="checkbox"/>
Any comment:		

QUESTION 9 - Must letters, numerals, words or symbols⁴ contained in a GUI and/or icon be disclaimed?

GUIs	Icons
<p>NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/></p> <p><i>If YES, please specify how the letters, numerals, words or symbols must be disclaimed</i></p>	<p>NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/></p> <p><i>If YES, please specify how the letters, numerals, words or symbols must be disclaimed</i></p>
<p>Any comment:</p>	

⁴ Such as representative symbols for communication (e.g., telephone and mail symbols).
See document SCT/35/6, page 6.

QUESTION 10 - Is a GUI and/or icon excluded from protection if it appears only temporarily when a program is loaded?

GUIs	Icons
NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>	NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>
Any comment:	

QUESTION 11 - Can typefaces/type fonts be registered as a *sef*?

NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>
Any comment:

QUESTION 12 - With respect to typefaces/type fonts, are there any requirements to provide representation for the entire series of characters (such as the whole alphabet) or for an illustrative group of the entire series of characters in the typeface/type font?

NO YES N/A

Any comment:

III. EXAMINATION OF THE APPLICATION

QUESTION 13 – To the extent that your IP office carries out a substantive examination of an application for a design patent/an industrial design registration, what eligibility criteria are examined with respect to GUIs, icons or typefaces/type fonts?

Please tick the appropriate box(es)

	GUIs	Icons	Typefaces/ Type fonts
Novelty	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Originality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Individual character	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Creative difficulty	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Non-obviousness	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public order / morality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other(s) – <i>Please specify</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Any comment:			

QUESTION 14 – Are the eligibility criteria for GUIs, icons or typefaces/type fonts different from those applied to other industrial designs?

GUIs	Icons	Typefaces/ Type fonts
<p>NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/></p> <p><i>If YES, please specify</i></p>	<p>NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/></p> <p><i>If YES, please specify</i></p>	<p>NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/></p> <p><i>If YES, please specify</i></p>
<p>Any comment:</p>		

QUESTION 15 - Do you have any further remarks on the examination of GUIs, icons or typefaces/type fonts carried out by your IP office?

Remarks:

IV. SCOPE AND DURATION OF PROTECTION

QUESTION 16 - Is the scope of protection of GUI, icon or typeface/type font designs limited by the classification of the industrial design?

GUIs	Icons	Typefaces/ Type fonts
NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>	NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>	NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>
Any comment:		

QUESTION 17 - Is a GUI and/or icon protected in relation to one product (e.g., a smartphone) also protected against its use in relation to another product (e.g., the display of a car)?

GUIs	Icons
NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>	NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/>
Any comment:	

QUESTION 18 - Is the duration of protection of GUI, icon or typeface/type font designs the same as the duration of protection of other industrial designs?

GUIs	Icons	Typefaces/ Type fonts
<p>NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/></p> <p><i>If NO, please specify</i></p>	<p>NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/></p> <p><i>If NO, please specify</i></p>	<p>NO <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/></p> <p><i>If NO, please specify</i></p>
<p>Any comment:</p>		

[End of Questionnaire]

[End of Annex II and of document]