

Information Session on Graphical User Interface (GUI), Icon and Typeface/Type Font Designs



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GUI and Icon

U.S. Design Patents (Industrial Designs)

Agenda

- Prevalence of Graphical User Interface (GUI) and Icon Designs
- Protection of GUI/Icon designs in the United States
- Issues & opportunities on the horizon with respect to new technology designs.



* From WIPO SCT 35/6



Top Five Classes with Most Design Applications Filed in 2016

Title of US Design Classes	US Class	Applications Filed in 2016	% increase from 2011
Recording, communication, or information retrieval equipment	D14	6088	68%
Transportation	D12	2878	66%
Apparel and haberdashery	D02	2300	69%
Medical and laboratory equipment	D24	2295	37%
Furnishings	D06	2275	30%



GUI and Icon

U.S. Design Patents (Industrial Designs)

The Statute:

35 U.S.C. 171 Patents for designs.

Whoever invents any **new, original, and ornamental design** for an **article of manufacture** may obtain a patent therefor, subject to the conditions and requirements of this title.

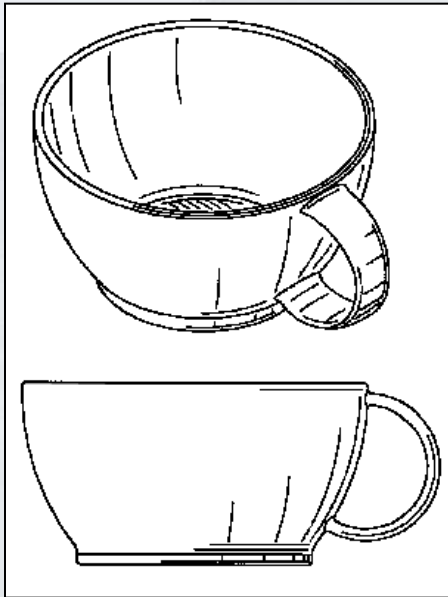
The provisions of this title relating to patents for inventions shall apply to patents for design, except as otherwise provided for.



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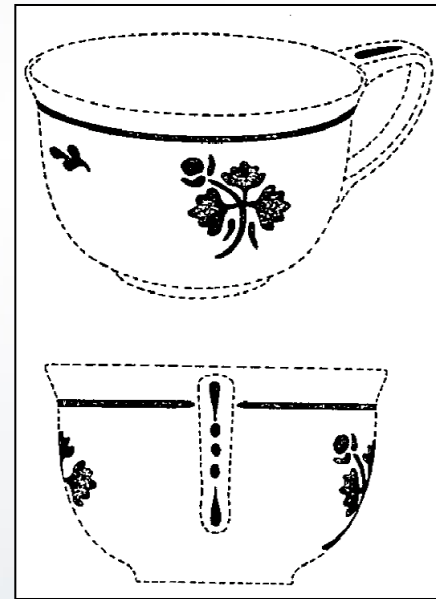
3 Types of Design Claims for Articles of Manufacture



Configuration of an article



Configuration of an article and surface ornamentation for an article

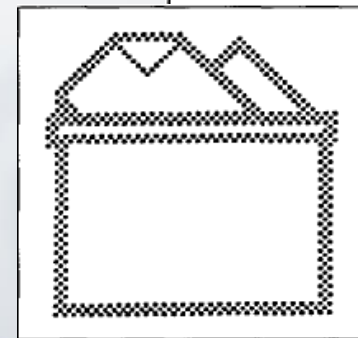
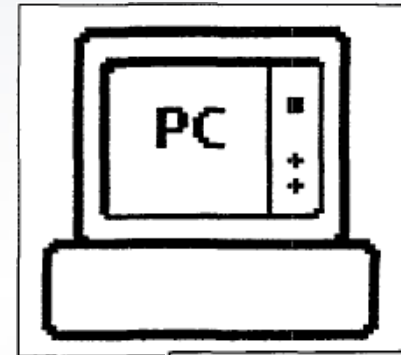


Surface ornamentation for an article



How It All Began

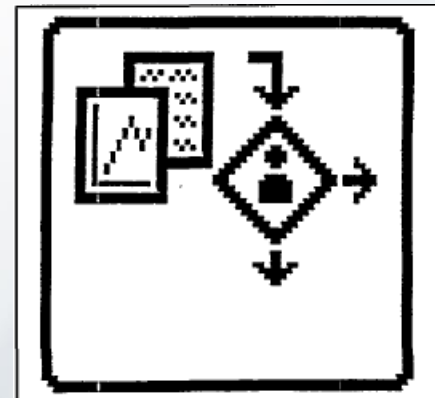
- In Mid 1980s design patent applications filed for design patents on icons related to software.
- This led to first USPTO decisions on GUIs and icons and whether they could be properly protected under design patents.
- Culminated in Two BPAI Cases
 - *Ex parte Strijland*
 - *Ex parte Donaldson*





The Board Decisions

- Are GUIs/icons properly considered “designs for articles of manufacture”?
YES!
- The structure or form of the article of manufacture does not have to be included in the design.





Where We Are Now

- Subject matter for designs is “any new, original and ornamental design for an article of manufacture.” 35 U.S.C. 171
- “Article of manufacture”? → a computer
“the intended design is not merely a displayed picture, but an integral and active component in the operation of a programmed computer displaying the design.” *Ex Parte Strijland*
- GUIs/icons are proper subject matter for protection under U.S. law.



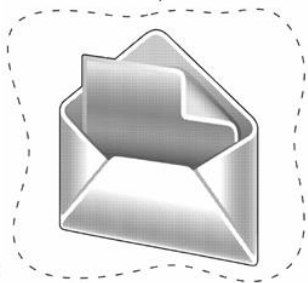
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Computer Generated Icons

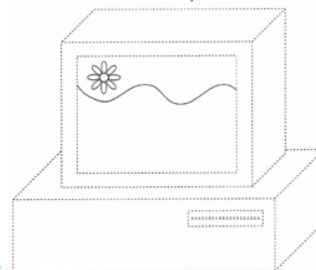
If an application claims a computer-generated icon shown on a computer screen, monitor, other display panel, or a portion thereof, the claim complies with the “article of manufacture” requirement of 35 U.S.C. 171.

D586,822



Title:
Portion of a display screen showing an icon

D434,778



Title:
Computer screen with an icon image

D655,710



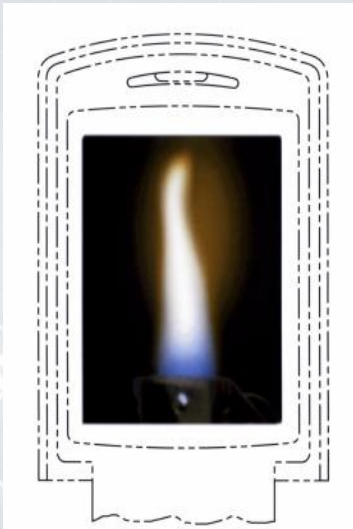
Title: Computer display with a graphical user interface



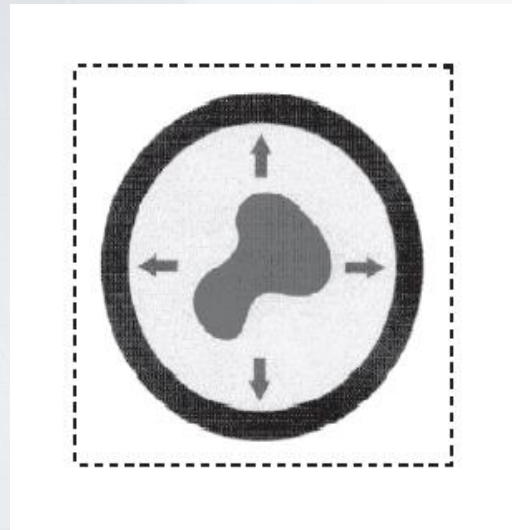
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Icon Examples?



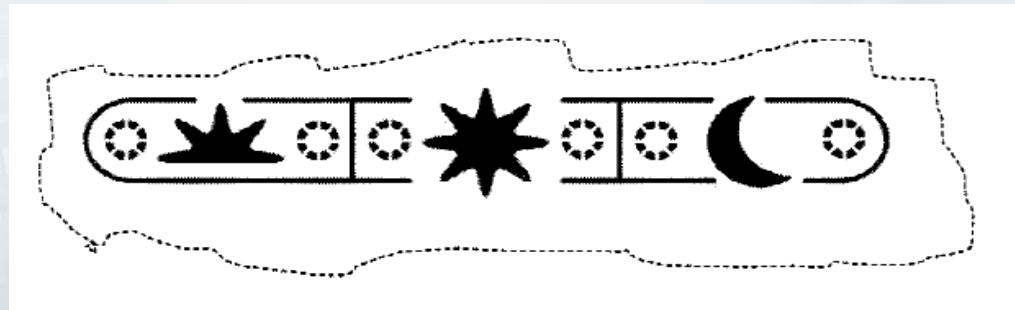
D577,035



D649,975



D635,582



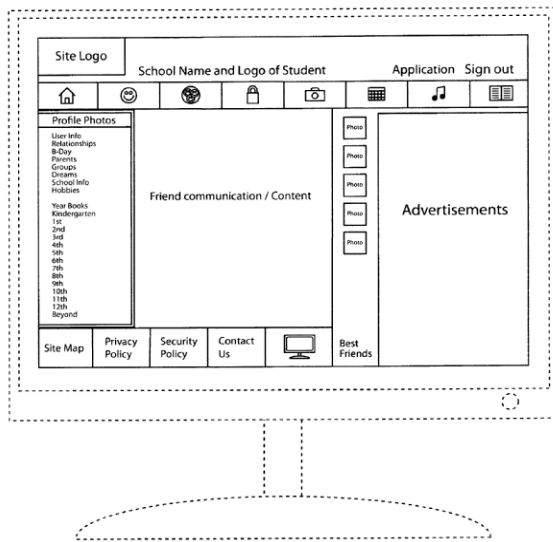
D654,926



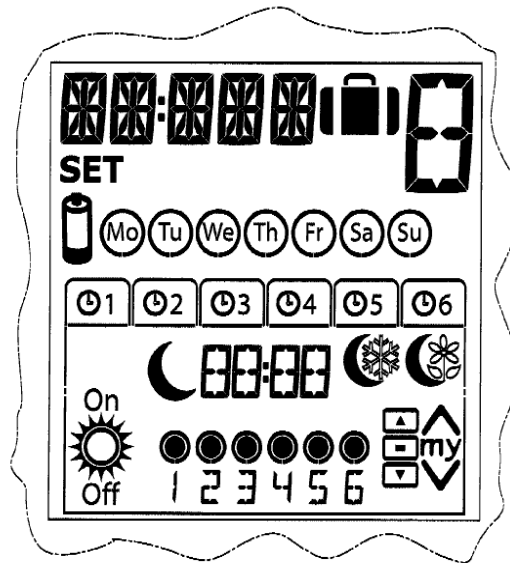
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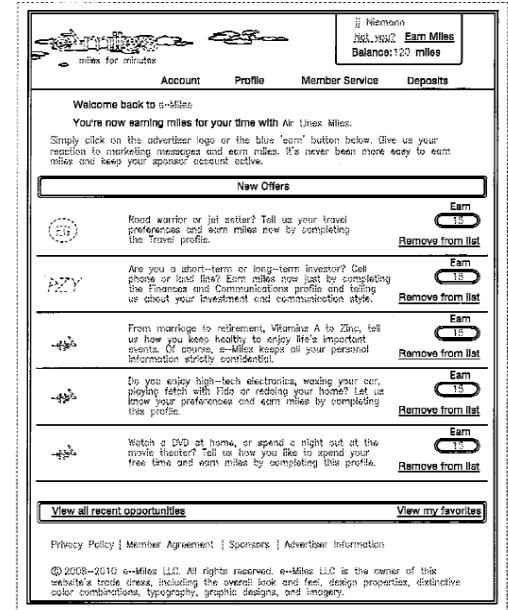
Graphical User Interfaces Examples?



D663,737



D649,557



D656,503



Transitional (Changeable) Computer Generated Icons

Computer generated icons that include **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.

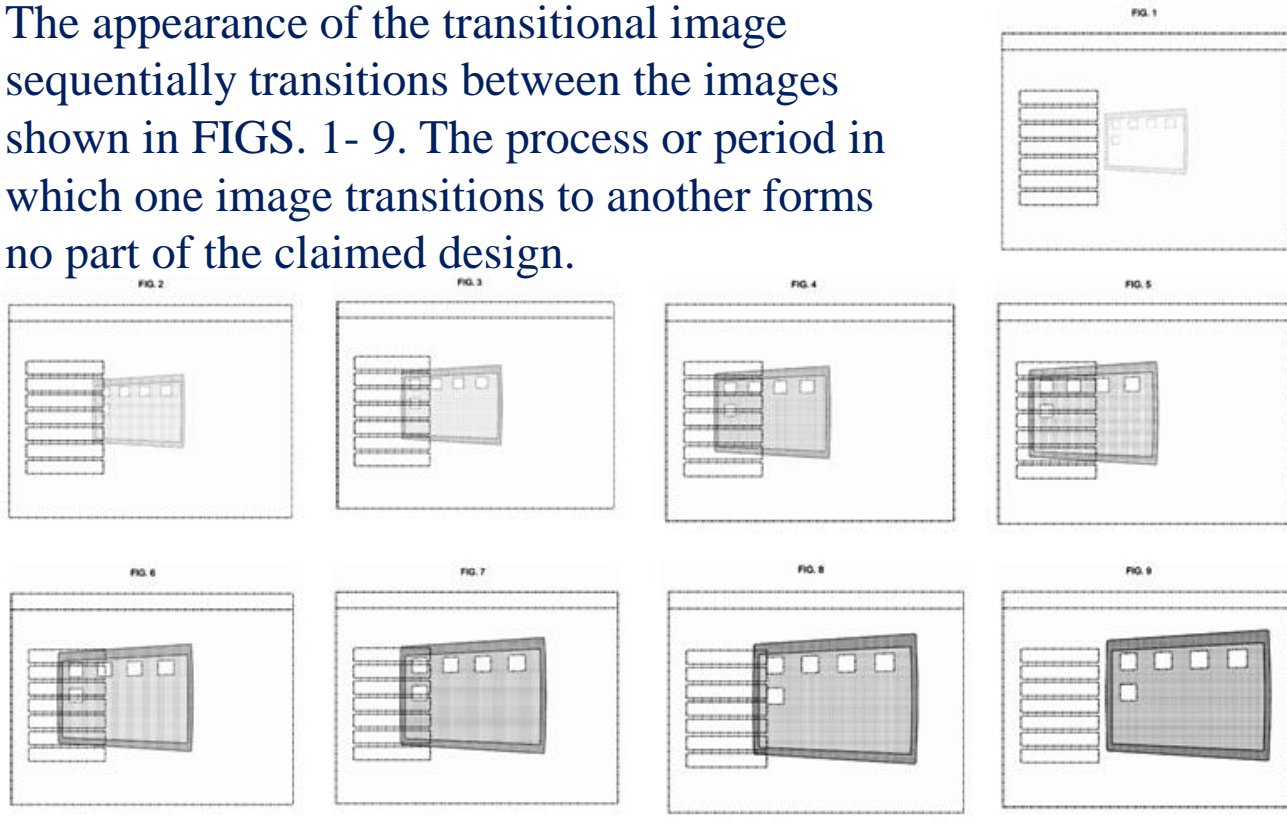
A **descriptive statement must be included** in the specification **describing the transitional nature of the design** and making it clear that the scope of the claim does not include anything that is not shown.



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The appearance of the transitional image sequentially transitions between the images shown in FIGS. 1- 9. The process or period in which one image transitions to another forms no part of the claimed design.



D565,584

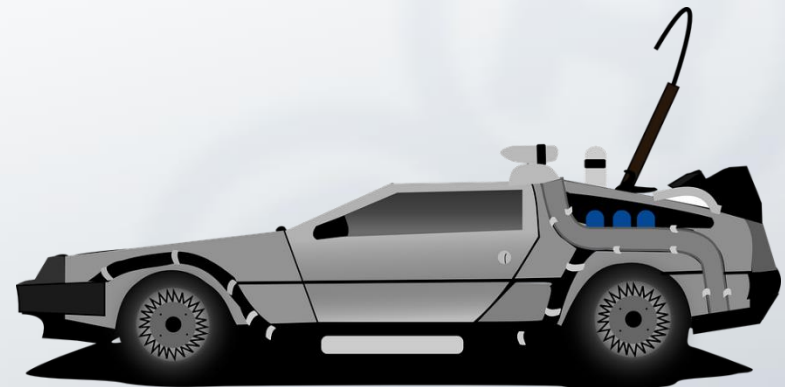


The Future: A Look Ahead – Emerging Designs

U.S. Design Patents (Industrial Designs)

Emerging Designs: **Opportunities**

1. **New types of designs** or new manners of using or presenting designs.
2. **New technological developments** related to:
 - i. Filing
 - ii. Examination
 - iii. Publication and Grant





The Future?: A Look Ahead

U.S. Design Patents (Industrial Designs)

Emerging Designs: **New Types of Designs**

- **Graphical user interfaces [computer screen/display layout]**
 - Static and dynamic graphical user interfaces
 - Other types of content displayed on an electronic display (websites, screen savers, etc.,)
- **Icons [displayed on electronic display] including static and animated icons**
- **Transitional Images**
 - Across a plurality of screens/displays
- **Animated characters**
- **Computer related typeface/type font**
- **Virtual reality environments**
 - Holographic and projected images [including interactive holograms] (e.g. virtual keyboards)
 - 3D dimensional virtual spaces
 - Other types of virtual designs



The Future?: A Look Ahead

U.S. Design Patents (Industrial Designs)

Emerging Designs: **New Technological Developments**

- Industrial design application **electronic filing systems and features** (includes acceptable electronic file types)
 - Industrial design application paper filing procedure and features
 - Retention, Use and Storage of industrial design application information
 - **Formality examination** of applications **and capabilities** available to examiners
 - **Substantive examination** of applications **and capabilities** available to examiners
- Ability for **examiners to manipulate reproductions and images** provided by the applicant to better understand the design
 - Electronic publication of industrial design applications
 - Grant of industrial design rights including **electronic grants** (e.g., **e-registration or e-patents**) and associated effect of e-grant in enforcement
 - **Searching capabilities** of published and granted design rights. (e.g., **image searching**)



The Future: A Look Ahead – Emerging Designs

U.S. Design Patents (Industrial Designs)

www.id-five.org



ABOUT ID5

The ID5 is an Industrial design framework comprised of the European Union Intellectual Property Office(EUIPO), the Japan Patent Office(JPO), the Korean Intellectual property office(KIPO), the State Intellectual Property Office of the People's Republic of China(SIPO) and the United States Patent and Trademark Office (USPTO).

The ID5 members are

Considering the value and the significance of industrial design in global and domestic markets, and its expanding role in innovation ;
Recognizing the importance to promote and further the development of user-friendly, highly-efficient and interoperable industrial design protection systems ;
Acknowledging that such aims can be achieve through mutual understanding and collaboration in initiatives, aimed at improving, promoting awareness of, and work efficiency, quality and user-friendliness of industrial design systems.

PROJECTS

Compilation of Industrial Design Statistics Led by JPO	Development and Maintenance of ID5 Website Led by KIPO	Catalog of Eligibility for Industrial Design Protection Led by KIPO	Study of Priority Document Exchange by ID5 Offices Led by USPTO, SIPO	Study of Practices of Priority Right by ID5 Offices Led by SIPO
Catalogue of the View and Drawing Requirements for Designs Led by EUIPO	Analysis of Underlying Economic Factors and IP Office Actions on How They Impact Global Design Filings Led by EUIPO	Design Classification Conventions & Practices Led by JPO, KIPO	Comparative Study of Practices Concerning Product Indications Led by EUIPO	Comparative Study of the Application of a Grace Period for Industrial Design Application Led by USPTO
Comparative Study of Partial Designs as Effective Means of Protection Industrial Design Innovation Led by USPTO	Study of Practices on Protection of New Technology Designs Led by USPTO, EUIPO			

ID5 NEWS

“Study of Practices on Protection of New Technology Designs”

Comparative Study of Partial Designs as Effective Means of Protection Industrial Design Innovation Led by USPTO	Study of Practices on Protection of New Technology Designs Led by USPTO, EUIPO
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ID5 NEWS

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Thank You!