



**World Intellectual Property Organization
34 chemin des Colombettes,
1211 Geneva 20
Switzerland**

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

15 January 2017

MARQUES' Comments on the "Questionnaire on Graphical user interface (GUI), ICON and Typeface/Type Font Designs" as presented at the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) of the World Intellectual Property Organization (WIPO), held in Geneva from October 17 to 19, 2016.

Dear Sir/Madam,

MARQUES is an official non-governmental organisation that was granted observer status at the World Intellectual Property Organization - WIPO in 1989 by the Governing Bodies at their Twentieth Series of Meetings (cf. paragraph 213 of General Report, document AB/XX/20).

MARQUES is the European association representing brand owners' interests. **MARQUES'** mission is to be the trusted voice for brand owners. More information about **MARQUES** and its initiatives is available at www.marques.org.

In its capacity of a non-governmental organization with observer status at WIPO, **MARQUES** was invited to submit comments and observations from the perspective of user's experience on the topic of graphical user interface (GUI), icon and typeface/type font designs (see document SCT/36/5, paragraph 8, and the Questionnaire of June 10, 2016, attached to document SCT/36/2) for consideration of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications at its upcoming Thirty-seventh session.

MARQUES is pleased to take this opportunity. However, seen the fact that the Questionnaire had primarily been aimed at gathering information from the relevant national offices regarding the protection provided in the different jurisdictions under the different laws, **MARQUES'** remarks are rather brief since we are not called to question the results put together by national offices. Before looking at the Questionnaire in detail, **MARQUES** would like to recognise the importance of an effective protection of GUIs, ICONs and Typefaces/Type Font Designs.

MARQUES Ltd - Unit Q, Troon Way Business Centre, Humberstone Lane,
Thurmaston, Leicester LE4 9HA United Kingdom
Phone +44 116 274 7355 Fax +44 116 274 7365 Email: info@marques.org - aromeo@marques.org

Accordingly, **MARQUES** commends the Secretariat of WIPO for the work done in this regard for the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, so far.

Question No. 1 – Applicable laws

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.

Question No. 4 – Representations

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.

Questions No. 5 and 6 – Animated ICONS/GUIS

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.

Question No. 10

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.

We would be pleased to address any questions or concerns regarding the above.

Yours Sincerely,

On behalf of **MARQUES**, The European Association of Trademark Owners

MARQUES Designs Team

A handwritten signature in grey ink, appearing to read "Robert Stutz". The signature is fluid and cursive, with a large loop at the end.

Robert Mirko Stutz, Co-Chair of the **MARQUES** Designs Team