

Comments by Chile **Circular Letter C.8775**

At the thirty-ninth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), held in Geneva from April 23 to 26 2018, the decision was taken to continue work on some issues raised in documents SCT/39/2 and SCT/39/32 relating in particular to proposals 1, 3, 9 and 10 of document SCT/39/3. Accordingly, SCT requested the Secretariat “to invite Members and Intergovernmental Intellectual Property Organizations with observer status” and accredited non-governmental organizations (NGOs) to submit further inputs, including detailed questions to which they wished to have answers concerning (1) the requirement for a link between graphical user interfaces (GUIs), icons, typeface/type font designs and the article or product, and (2) the methods allowed by offices for the representation of animated designs (see paragraph 9 of document SCT/39/10).

In accordance with that request, the Secretariat invited those Members and to submit further input, including detailed questions, on the two subjects listed in the abovementioned paragraph of Circular letter C.8775 of 2018.

Chile provides below further inputs on: (1) the requirement for a link between GUIs, icons, typeface/type font designs and the article or product; and (2) the methods allowed by offices for the representation of animated designs.

In relation to point (1), Chile considers that a link between GUIs, icons, typeface/type font designs and the article or product must be required because such a link makes it possible to determine and identify the scope of protection granted to the industrial design. The link requirement, for its part, makes it possible in an application review to narrow the classification and, therefore, the search and examination that must be conducted.

In Chile, in accordance with article 54 of the Regulation, it is current practice that the applicant outlines in the description both the industrial purpose and the specific use of the design. For example, the following additional wording has been used in an application for a design: “*which is applied to the screen viewer of a portable terminal.*”

With regard to point (2), Chile considers that it is important to update legislation to reflect current times in view of the trend towards “novel technological designs”. Accordingly, while current design legislation might limit the filing of such applications, an option facilitating and permitting such designs would consist in allowing the inclusion of a sequence of sketches that makes it possible to achieve the animated design. As no such applications have been filed in Chile to date, a case-by-case analysis will be necessary.

Without prejudice to the foregoing, it may be considered that if the graphical or audiovisual representation is original, it might be objective or active and eligible for copyright protection; an application may therefore be filed for its registration under the appropriate category of works.