



18 September 2018

Design Registration System Planning Office
Design Division, Patent and Design Examination Department
Japan Patent Office
3-4-3 Kasumigaseki, Chiyoda-ku
Tokyo, Japan 100-8915

VIA EMAIL (PAID40@jpo.go.jp)

Re: Invitation to Contribute on Issues in Reviewing the Design Registration System

Dear Sir or Madam:

Intellectual Property Owners Association (IPO) appreciates the opportunity to respond to the “Invitation to Contribute on Issues in Reviewing the Design Registration System” that has been issued by the Japan Patent Office (JPO).

IPO is an international trade association representing companies and individuals in all industries and fields of technology who own, or are interested in, intellectual property rights. IPO’s membership includes about 200 companies and close to 12,000 individuals who are involved in the association either through their companies or as inventor, author, law firm, or attorney members. IPO membership spans over 30 countries.

IPO advocates for effective and affordable IP ownership rights and offers a wide array of services, including supporting member interests relating to legislative and international issues; analyzing current IP issues; providing information and educational services; and disseminating information to the public on the importance of IP rights.

IPO’s remarks in response to the Invitation to Contribute are limited to addressing JPO’s questions relating to: (1) Protection of GUI Design and (2) Protection of Spatial Design.

Relating to the Protection of GUI Design, JPO asks:

1. What are your views on including the following GUI designs as the subjects of protection under the Design Act?
 - GUIs not recorded on articles (GUIs on cloud platforms, GUIs provided by networks, etc.)

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Executive Director
Mark W. Lauroesch

- GUIs displayed on things other than articles (GUIs projected on walls or the human body, GUIs displayed using augmented reality (AR) or virtual reality (VR), etc.)
- GUIs irrelevant to the article's function (wall papers, content, etc.)

IPO believes that there should be no requirement for a link between a GUI design and an associated article or product. The reality of a graphical user interface design is that the device—and even the type of device—is often incidental to the design. The same GUI design can be applicable to a smartphone, a smartwatch, a computer, a smart appliance, or even to an interface that is not displayed on any physical article (e.g., a virtual reality, augmented reality, or holographic use of a GUI design). The effort of creating a GUI design often takes place independently of the ultimate hardware product—if any—on which it is to be used. Protection of such a design should likewise be available independent of a link with a hardware product.

For example, under current practice, if a GUI designer creates a GUI design that can be used on a smartphone, a computer, a watch, and as a holographic interface, that designer would need to file three design applications in Japan and still would have inadequate coverage. This applicant would have to show their design on a broken-line smartphone in the first application, on a broken-line computer in the second application, and on a broken-line watch in the third application. And each application would have to have a specific title reciting the associated device. The fourth use—as a hologram—might not even be protectable in Japan under the current practice. Therefore, even after going through the time and expense of filing three design applications to cover the same single design, the applicant might be left with no recourse against those who copy their design on a tablet or as a holographic interface. IPO believes that this designer should be able to cover all uses of their design with a single design application.

To better align its design system with the needs and realities of today's GUI designers, and to help further international harmonization of design registration systems, IPO encourages JPO to remove the requirement that applicants relate their design to an article. To help implement this change, IPO suggests that JPO, at a minimum, (1) remove the requirement that applicants show an associated display device in broken lines for GUI applications, and (2) stop requiring specific titles that tie a GUI design to a particular device.

Relating to the Protection of Spatial Design, JPO asks:

1. What are your views on including building (real estate) exteriors as the subject of protection under the Design Act?
2. What are your views on including the interior design of stores, offices, etc. as the subject of protection under the Design Act?

18 September 2018

Page | 3

IPO is in favor of including building (real estate) exteriors and the interior design of stores, offices, etc. as the subject of protection under the Design Act.

We again thank the JPO for permitting IPO to provide comments and would welcome any further dialogue or opportunity to provide additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Lauroesch". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Lauroesch
Executive Director