

Bodman PLC

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New Patent Office Guidance Clarifies Application Requirements for Design Patent Protection of Computer-Generated Images, Icons and Graphical User Interfaces

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The U.S. Patent and Trademark Office published new guidance in the Federal Register on November 17, 2023, that clarifies the requirements for design patents of computer-generated images, icons, and graphical user interfaces. The new guidance is of particular importance to companies that rely on computer websites and applications to interface with their clients and customers. The visual appearance and ornamental design appearing on screen can be an important market differentiator. Securing design patent protection of these visual elements can protect against competitive encroachment of this important element of customer engagement.

United States Patent Law has long protected design inventions as new, original and ornamental designs for an article of manufacture. The long-standing limitation is that this design patent protection is afforded for a design embodied as an article of manufacture, and not for the design *per se*. Protection for a design standing alone may be secured through copyright as a creative work, or through trademark if the design is used as a source identifier.

The new guidance provides additional clarity on the standards applied by USPTO examiners to ensure that design patent applicants do not cross the line in patenting a design standing alone. The new guidance clarifies the specific requirements in the title, the claim, and the drawings to place the design invention properly embodied in an article of manufacture, typically a computer screen or display.

Bodman attorneys have assisted many clients in securing patent protection for their new and original ornamental designs embodied in computer generated icons and graphical user interfaces. Our team of experienced patent attorneys is available to discuss opportunities for securing design patent protection and developing strategies for those important visual features of customer engagement. Please contact the author or any member

of **Bodman's [Patent Practice Group](#)**. Bodman cannot respond to your questions or receive information from you without first clearing potential conflicts with other clients. Thank you for your patience and understanding.

[Click here to review the USPTO's new guidance in detail.](#)

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