



American Intellectual Property Law Association

May 12, 2026

The Honorable John A. Squires
Under Secretary of Commerce for Intellectual Property and
Director of U.S. Patent and Trademark Office
U.S. Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

Attn: Erin Harriman, Senior Legal Advisor, Office of Patent Legal Administration or Parikha Solanki, Senior Legal Advisor, Office of Patent Legal Administration

Re: AIPLA Comments on Supplemental Guidance for Examination of Design Patent Applications Related to Computer-Generated Interfaces and Icons [Docket No.: PTO-P-2026-0133]

Dear Under Secretary Squires,

The American Intellectual Property Law Association (AIPLA) is pleased to offer comments in response to the above-referenced 2026 Supplemental Guidance issued by the United States Patent and Trademark Office (USPTO) regarding the examination of design patent applications related to computer-generated interfaces and icons.

Founded in 1897, AIPLA is a national bar association of approximately 6,500 members who are engaged in private or corporate practice, in government service, and in the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent (utility and design), trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property. Our mission includes helping to establish and maintain fair and effective laws and policies that stimulate and reward invention while also balancing the public's interest in healthy competition, reasonable costs, and basic fairness.

I. Overview and General Support for the 2026 Supplemental Guidance

AIPLA applauds the USPTO for issuing the 2026 Supplemental Guidance, which represents a significant and long-awaited advancement in the examination of design patent applications for computer-generated interfaces and icons, including design patent applications for graphical user interfaces (GUI) and projections, holograms, and virtual and augmented reality (PHVAR). AIPLA members have invested considerable time and effort in ongoing dialogue with the USPTO over

many years to encourage greater flexibility with respect to these designs.¹ AIPLA is pleased that the USPTO has been responsive to stakeholder feedback on this important topic.

AIPLA also recognizes and appreciates the significant efforts of the USPTO policy and legal teams whose thoughtful consideration of evolving technologies helped shape this important Guidance.

AIPLA also commends the USPTO for withdrawing the previously issued 2023 guidance. As the 2026 Supplemental Guidance acknowledges, the “previously-issued [2023] guidance may unnecessarily limit flexibility for design applicants in the field of computer-generated interfaces and icons.” AIPLA agrees with this assessment and supports the USPTO’s decision to update its guidance to provide applicants with “more flexibility in choosing how to present a new, original, and ornamental design for a computer-generated interface or icon when filing a design patent application with the USPTO.”

In the AIPLA Comments on the 2023 Supplemental Guidance (“AIPLA 2024 Comments”), AIPLA urged the USPTO to make various changes to its then-existing examination guidance. In particular, AIPLA recommended, *inter alia*, (1) removing the requirement that design patent application figures for computer-generated interfaces and icons depict a display panel in solid or broken lines, thereby underscoring that design patent eligibility extends to designs visualized through emerging technologies beyond traditional display panels, and (2) providing additional guidance for designs involving PHVAR.² AIPLA is gratified that the 2026 Supplemental Guidance substantially addresses each of these recommendations.

II. Support for Removal of the Display Panel Depiction Requirement

AIPLA supports the 2026 Supplemental Guidance’s removal of the requirement in MPEP 1504.01(a) that the drawing depict a display panel, or a portion thereof, in either solid or broken lines for design patent applications directed to computer-generated interfaces or icons where the title and claim properly identify an article of manufacture. This change directly responds to AIPLA’s 2024 comments in which we urged that “the USPTO should not require illustration of a physical display panel (even if only in broken lines) in order to disclose a computer-generated image as design patent eligible.”³

As stated in AIPLA’s 2024 comments, this requirement was “an antiquated practice which has outlived its initial purpose and should be updated to meet the technological advancements and

¹ See AIPLA Comments on the Article of Manufacture Requirement in 2021, [https://www.aipla.org/docs/default-source/news/aipla-comments-on-request-re-article-of-manufacture-020421-final-\(002\).pdf?sfvrsn=59330737_2](https://www.aipla.org/docs/default-source/news/aipla-comments-on-request-re-article-of-manufacture-020421-final-(002).pdf?sfvrsn=59330737_2); see also AIPLA Comments on the 2023 Supplemental Guidance in 2024, https://www.aipla.org/docs/default-source/advocacy/aipla-comments-in-guidance-for-gui-examination.pdf?sfvrsn=7c45f4d8_1.

² See https://www.aipla.org/docs/default-source/advocacy/aipla-comments-in-guidance-for-gui-examination.pdf?sfvrsn=7c45f4d8_1.

³ AIPLA 2024 Comments, p. 4, https://www.aipla.org/docs/default-source/advocacy/aipla-comments-in-guidance-for-gui-examination.pdf?sfvrsn=7c45f4d8_1.

realities of the day.” *Id.* at 3. In most design patents issued for a display screen or portion thereof with a graphical user interface or icon, the display panel is illustrated in the figures as a single peripheral broken line described in the specification as forming no part of the claimed design. Moreover, the Federal Circuit held in *Curver Luxembourg* that “claim language can limit the scope of a design patent where the claim language supplies the only instance of an article of manufacture that appears nowhere in the figures.” *Curver Luxembourg v. Home Expressions*, 938 F.3d 1334, 1340 (Fed. Cir. 2019). The 2026 Supplemental Guidance’s recognition that the article of manufacture may be properly identified through the title and claim language alone, without requiring depiction in the figures, is a sound and well-reasoned approach that accords with existing precedent.

AIPLA also appreciates that the 2026 Supplemental Guidance preserves the option for applicants to continue to depict the display panel or portions thereof in the figures, such as with a broken line display region surrounding a computer-generated icon or interface, if they choose to do so. This approach appropriately gives applicants new flexibility while simultaneously maintaining prior filing practices.

III. Support for Expanded Claim and Title Language Flexibility

AIPLA commends the 2026 Supplemental Guidance’s clarification that claim and title language indicating that an icon or interface is “for” a computer, computer system, or computer display panel adequately describes a design for an article of manufacture under 35 U.S.C. § 171, and that examiners will no longer be instructed to object to such claims and titles under 37 CFR 1.153 or 37 CFR 1.1067. This is a welcome and practical change.

The 2026 Supplemental Guidance’s recognition that the term “for” sufficiently indicates that the claim is not for an interface or icon *per se* but rather a design for an article of manufacture is well-grounded in the Supreme Court’s broad interpretation of “article of manufacture” in *Samsung Electronics Co. v. Apple Inc.*, 580 U.S. 53, 60 (2016). AIPLA agrees that claim language such as “icon for display panel,” “projected interface for computer,” and “interface for computer system” all meet the requirements of 35 U.S.C. § 171.

The expanded, non-exhaustive list of compliant claim and title examples, including “projected interface for a computer,” “virtual reality interface for a computer,” “augmented reality interface for a computer,” and “computer icon,” provides helpful and practical guidance for applicants and practitioners. Providing applicants with this additional flexibility in choosing claim and title language is, as the 2026 Supplemental Guidance states, “in accord with the USPTO’s expanded understanding of design patent protection that accounts for advances in technology.”

IV. Support for PHVAR-Related Guidance

AIPLA is especially pleased that the 2026 Supplemental Guidance addresses PHVAR-related designs, an area in which the 2023 Supplemental Guidance was notably silent. AIPLA has long advocated for patent eligibility for PHVAR-related designs and is gratified that the Office has now taken this important step.

The Guidance’s recognition that “analogous digital designs – *e.g.*, projections, holograms or other virtual and augmented reality designs of interfaces or icons for computer systems that are not necessarily displayed on a conventional display screen – are also protectable” is a significant development. This conclusion is well-supported by the analogy to *In re Hruby*, 373 F.2d 997 (CCPA 1967), in which a design for a water fountain was held to be patent eligible under 35 U.S.C. § 171 as a design for an article of manufacture, notwithstanding the dependence of the design on external forces for its existence.

As the AIPLA 2024 Comments observed, technology and consumer experience with computer-generated image designs have progressed substantially since the original guidelines were issued in 1996. The development of display technologies has untethered computer-generated images from discrete, tangible display panels, and new technologies are emerging in which icons and other graphical user interfaces are being developed that do not include tangible displays, such as PHVAR-related designs. The 2026 Supplemental Guidance appropriately addresses these technological realities.

AIPLA further notes that this development aligns the United States more closely with international trends. In Europe, for example, computer-generated image designs are protected *per se* in Locarno Class 32 without reference to a specific article of manufacture. Other IP offices, such as those in Singapore, Japan, Korea, and China, are also moving away from requiring an article of manufacture to be specifically associated with a graphical user interface or icon. Globally, most prominent design jurisdictions, including the European Union, China, Japan, and South Korea, currently provide design protection for GUIs and are advancing their frameworks to accommodate emerging technologies. The 2026 Supplemental Guidance represents an important step in ensuring that the United States remains at the forefront of design patent protection in this evolving landscape, and more closely harmonizes U.S. practices with global norms.

V. Comments on Specific Provisions and Suggestions for Clarification

AIPLA is highly supportive of the 2026 Supplemental Guidance overall, and we respectfully offer the following suggestions for the Office’s consideration as the 2026 Supplemental Guidance is incorporated into the MPEP and applied in practice.

A. Clarification Regarding the Scope of the “Transient or Disembodied” Standard

The 2026 Supplemental Guidance introduces the concept that a design of a computer-generated interface or icon “is more than a mere transient or disembodied picture or three-dimensional image” when it is “for a computer, computer display, or computer system.” The 2026 Supplemental Guidance defines “transient” to mean “that the design is not a visual characteristic of the article of manufacture.” While AIPLA appreciates the USPTO’s effort to provide a clear framework, we encourage the USPTO to provide additional clarification regarding the contours of the “transient or disembodied” standard so that applicants and examiners have clear guidance on the boundaries between protectable designs and mere pictures or images.

Relatedly, we encourage the USPTO to revisit the “Definition of a design” section of the USPTO’s Design Patent Application Guide, and consider whether further clarification is required—in view of the 2026 Supplemental Guidance—regarding the statement that “[w]hen the article’s design is only surface ornamentation...[t]he surface ornamentation must be shown applied to an article of manufacture.”

B. Sufficiency of Disclosure for Three-Dimensional Virtual Designs

AIPLA appreciates the 2026 Supplemental Guidance’s instruction that applicants must remain mindful of all patentability requirements, including the sufficiency of disclosure requirements of 35 U.S.C. § 112 and the requirement under 37 CFR 1.152 to provide a sufficient number of views to constitute a complete disclosure of the appearance of the design. With respect to three-dimensional virtual designs such as projected or holographic interfaces, additional practical guidance regarding the number and types of views that would be considered sufficient for complete disclosure would be beneficial to applicants and examiners. For example, the virtual reality motorcycle interface of Example 10 in the Guidance assumes that the three provided views of the interface and the accompanying descriptions of the views shown (top-down, front, and perspective) provide a sufficient disclosure of the complete three-dimensional virtual appearance. Additional guidance regarding best practices for visually and/or verbally disclosing three-dimensional computer-generated designs that satisfy 35 U.S.C § 112 would assist practitioners in preparing applications and would promote consistency in examination.

C. Applicability to Pending Applications and Proceedings

AIPLA appreciates that the 2026 Supplemental Guidance applies to “all design patent applications or proceedings under Chapter 30, 31 or 32 filed before, on or after March 13, 2026.” This retroactive applicability is important and appropriate, as it will allow applicants who may have previously faced rejections under the narrower interpretation to benefit from the new guidance. AIPLA encourages the USPTO to take affirmative steps to ensure that examiners apply this guidance uniformly and promptly to pending applications.

D. Additional Examples

In the AIPLA 2024 Comments, AIPLA requested that the Office include additional examples that would not meet the requirements of 37 CFR 1.153(a). AIPLA appreciates the expanded set of examples in the 2026 Supplemental Guidance, which now include twelve examples addressing a range of scenarios, including both compliant and non-compliant examples for projected, virtual reality, and holographic designs. The examples are instructive and provide valuable guidance to both applicants and examiners. AIPLA notes that examples 1 through 4, and 6 through 10, comply with 35 U.S.C. § 171, while examples 5, 11, and 12 do not. This provides a helpful illustration of the boundaries of the updated guidance and of the need for care in creating the associated written description. As practitioners gain experience with the updated guidance, AIPLA encourages the Office to consider issuing additional examples or supplemental materials that address new scenarios as they arise in practice.

E. Consistency with International Developments

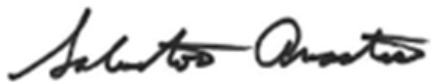
AIPLA encourages the USPTO to continue aligning its guidance on design patent eligibility for computer-generated designs with international developments, including the Riyadh Design Law Treaty (RDLT) adopted by WIPO Member States on November 22, 2024. The RDLT pertains to streamlining the global system for protecting designs and helping designers more easily obtain protection for their designs. AIPLA has long supported harmonization efforts for design rights protection globally, and we support efficient and balanced means for obtaining design rights protection around the world. The 2026 Supplemental Guidance represents a meaningful step toward harmonization, and AIPLA encourages the USPTO to continue these efforts as technology evolves.

VI. Conclusion

AIPLA supports the 2026 Supplemental Guidance and commends the USPTO for its responsiveness to stakeholder input and its commitment to ensuring that the design patent system keeps pace with technological innovation. The removal of the display panel depiction requirement, the expanded claim and title language flexibility, and the inclusion of PHVAR guidance are all significant and welcome developments that will benefit design patent applicants and promote innovation.

AIPLA and its members look forward to continuing our productive dialogue with the USPTO on these and other important issues affecting the design patent system. We appreciate the USPTO's consideration of these views and stand ready to provide any additional information or perspective that may be helpful.

Very truly yours,

A handwritten signature in black ink, appearing to read "Salvatore Anastasi". The signature is fluid and cursive, written in a professional style.

Salvatore Anastasi
President
American Intellectual Property Law Association