Graphical User Interface (GUI) Designs in Malaysia

By Yan Pei Chun

With the evolution and advancement of computer technologies, particularly the rise of smart device applications, graphical user interfaces (GUIs) have become increasingly essential. This growing importance has sparked a demand for increased protection of GUI designs.

GUI design refers to the visual and ornamental components that are displayed in the digital interfaces to allow a user to navigate and interact with the GUI, such as icons and layout of the screen. With GUIs being at the forefront of user interactions with digital systems, ensuring their protection has become imperative in the rapidly changing technological landscape.

An industrial design, is defined in Section 3 of the Malaysian Industrial Designs Act 1996, last amended in 2013, as the features of shape, configuration, pattern or ornament applied to an article by any industrial process or means. In the definition, article means any article of manufacture or handicraft, and includes any part of such article or handicraft if that part is made and sold separately. This definition may not provide support for design protection of a GUI, because it is questionable what actually constitutes the article with the industrial design is applied to, and the industrial process used.

While Malaysian industrial design law has not provided a definition for a GUI or explicitly outlined the legal protection criteria that apply to GUIs, in practice, the Malaysian IP Office has taken the view that designs for GUIs are registrable, by allowing applications for such designs to be registered.

An application for the design of a GUI is presently treated similar to an application for the design of a device. Although many GUI designs have been successfully registered by the Malaysian IP Office (MyIPO), there could be uncertainties regarding the validity of these registrations when it comes to enforcement.

Currently, in an application for a GUI design, the GUI may be shown by itself or in combination with a physical product. There is precedent for the Malaysian IP Office accepting applications which identify the device solely as the GUI, and also applications that identify the article as the device.

Although the application for industrial design for GUI designs typically involves a formality check to ensure compliance with legal requirements, the following guidelines may assist in navigating the intricacies of the application process more effectively.

1. Article Name

The name of the article for a GUI design may include the term 'Graphical User Interface' or 'Graphic Images' along with the usage and the product incorporating the GUI. For example, 'Graphical User Interface for a Display Screen or Portion Thereof', 'Display Screen with a Graphical User Interface', 'Graphic Images for a Display Screen', or 'Display Screen or Portion Thereof with Graphical User Interface'.

2. Drawings

Depending on whether the application is for the GUI itself or combined with a physical product such as a computer screen, monitor, display screen, display panel or a portion thereof, the drawings should appropriately reflect the scope of protection sought. Line drawings are commonly used for GUI design applications.

For GUI cases where the physical product is included in the representations, the GUI itself would be shown in solid lines, while the display area or the physical product outline might be depicted with broken lines or dashed lines. However, it is important to note that the protection registered is for the whole article and not merely what is shown in solid lines.

It is possible to file representations in color although this is generally not advisable due to lack of clarity. There is no scope of protection for color in Malaysian design law and color will be interpreted by MyIPO as merely for illustration purposes only.

If priority is claimed, the representations of the application should be consistent with those of the priority application.

3. Statement of Novelty

The Statement of Novelty that accompanies an application for registration of a GUI design or icon should be directed at the features of pattern and ornamentation of the design. For the representations of the GUI applications with broken lines, the representations will be accompanied by a Statement of Novelty of the design which specifies that the novelty of the design resides in the portions illustrated in solid lines.

4. International Classification

At present, Malaysia is not a signatory to the Locarno Agreement. However, the Locarno Classification is recognized and adopted locally for the registration of industrial designs in Malaysia. The Locarno Classification provided Class 14-04, which specified articles belonging to 'Screen Displays and Icons' for registration of design of GUI and further provided Class 32-01 for 'Graphic Symbols and Logos, Surface Patterns, Ornamentation'. The Malaysian IP Office has allowed most registrations to icons and GUI designs under Class 14-04.

There are currently no provisions for protection of animated designs or sequence of images in Malaysian industrial design law.