



Animated GUI Designs – Who’s Registering in Canada?

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On January 16, 2017, the Canadian Intellectual Property Office (CIPO) announced a change to its examination practice for computer-generated animated designs. Under the new guidelines, CIPO considers computer-generated animated designs having a sequence of frames as a single design. The previous practice was to view each image in isolation, either as “variants” or distinct designs. Pending applications filed prior to January 16, 2017 were able to benefit from the change as long as the applicant petitioned for re-examination within a certain timeframe.

The change added a dose of modernity to the Canadian regime by recognizing that a sequence of graphics can cooperate to create a unique and dynamic visual effect, and that this is subject matter appropriately protectable by design rights. It aligns practice with other jurisdictions, particularly the United States, and makes Canada more favorable than some others.

The question is – just how many applicants are taking advantage of the new practice?

The answer is – not many. A search of CIPO’s Canadian Industrial Designs Database (having “sequence” or “animated” in the description and classed within Canadian Classification 023-05-04-Ornamented Display Screens) reveals only 20 animated GUI registrations.

What appears to have been the [first](#) animated GUI registered in May 2017 for Microsoft Corporation’s rotating logo for the Internet Explorer™ web browser. Microsoft has since obtained three registrations for a dynamic user interface (see [here](#), [here](#) and [here](#)). Aside from Microsoft, other large technology players have obtained registrations for animated GUIs, including Facebook, Inc., Mitsubishi Electric Corporation, Honeywell International Inc. and Uber Technologies, Inc., among others.

Apple Inc. is notably absent from the search results. In the United States, Apple has pursued animated GUI design patents (see, e.g., United States Design Patent No. [D796,546](#) for transitioning numbers on the Apple Watch™ clock face). While Apple owns many Canadian industrial design registrations for GUIs, none so far is animated with a sequence of views.

The low number suggests that Canadian design protection for animated GUIs is underappreciated. A partial explanation for this is that there may be a lack of awareness of the potential for this manner of protection, among both applicants and design professionals. It may simply take more time for it to become more widely adopted into IP strategies.

Another possible reason is that Canada is overlooked as a filing jurisdiction for designs. The number of design filings is not in proportion to the rest of the Canadian economy; for 2016, Canada’s GDP ranked [10th](#) in the world, and yet Canada ranked [21st](#) for total design filings. This is true despite a number of competitive advantages of the Canadian system, including the (relative) low cost and speed with which registrations are granted.

Software designers should consider taking advantage of the new practice for animated GUIs, either in parallel or as an alternative to utility patent protection. As the protection of computer-implemented inventions via utility patents continues to face challenges in Canada and abroad, design rights can be a valuable alternative option for IP protection.

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