

Updated USPTO Guidance for GUI Design Patent Applications: Expanded Flexibility, More Strategic Considerations



Our Speakers



Alisa Abbott
Shareholder
Banner Witcoff



Rebekah Holtz
Associate
Sterne, Kessler, Goldstein & Fox

Past Procedures vs. New Guidance: *Drawings*

Past Procedures	New Guidance
Figures must depict a physical article of manufacture in either solid lines or broken lines	Physical article of manufacture can be omitted from the figures provided it is in the title and claim



Past Procedures vs. New Guidance: *Title*

Past Procedures	New Guidance
Title/claim must be in the form of “[article] with graphical user interface”	Title/claim must include the article of manufacture, but using “graphical user interface for an [article] ” is acceptable



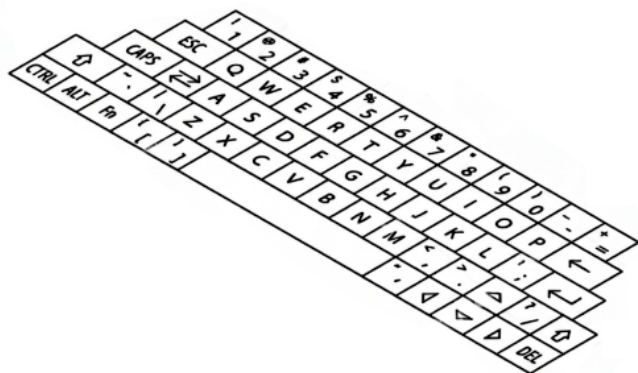
Display screen or portion thereof with icon



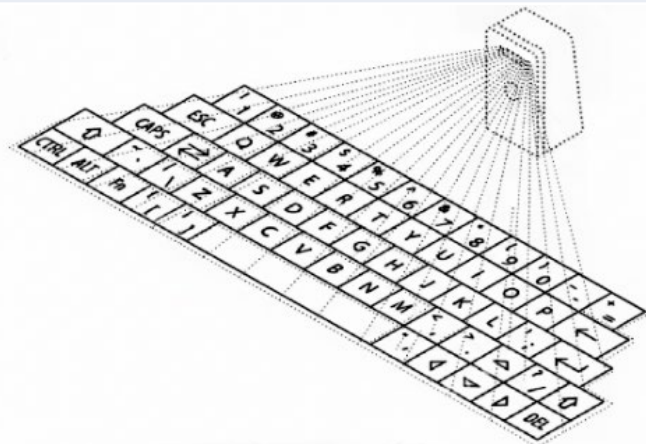
Icon for computer

Past Procedures vs. New Guidance: Article of Manufacture

Past Procedures	New Guidance
Protection limited to designs shown on a conventional display screen	Protection expanded to projected interfaces, holographic interfaces, virtual and augmented reality (VR/AR) interfaces that do not have a conventional display screen



Display screen or portion thereof with graphical user interface



Projected interface for a computer

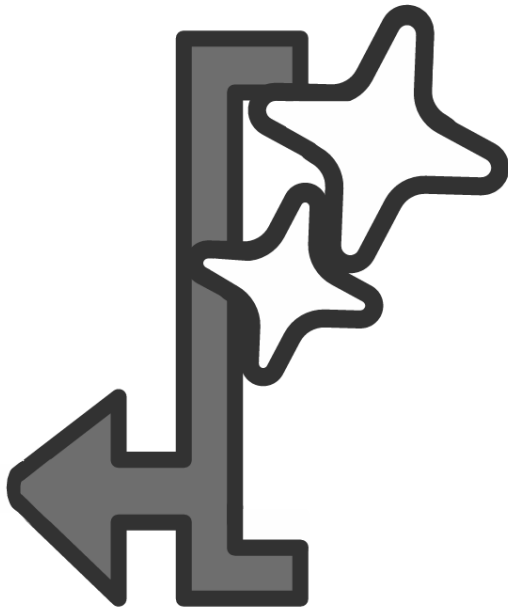


The new guidance gives applicants more flexibility.

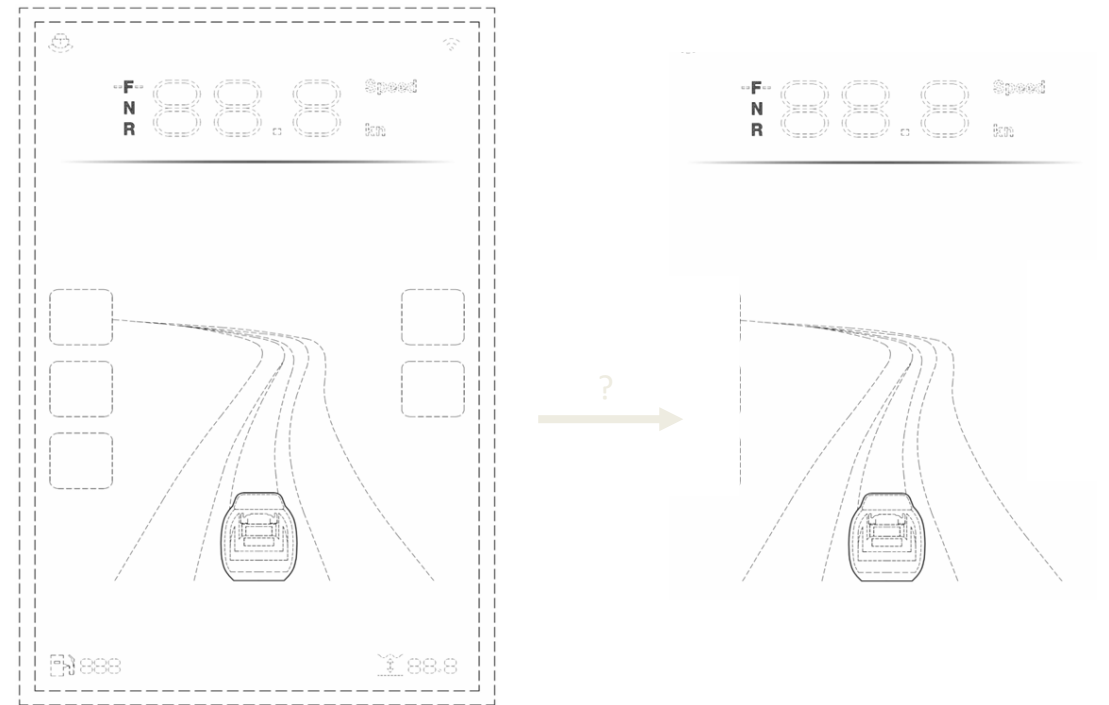
Are there clear best practices now or more strategic choices for applicants to make?

Drawings

Does the freedom to omit the display screen from the drawings simplify GUI practice or create new strategic decisions?



D1,140,959



D1,153,237

Drawings

Does the freedom to omit the display screen from the drawings simplify GUI practice or create new strategic decisions?

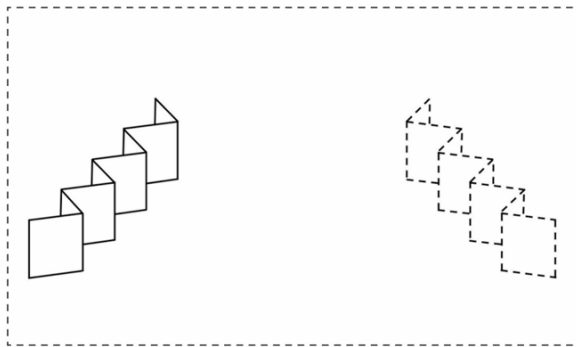


FIG. 1

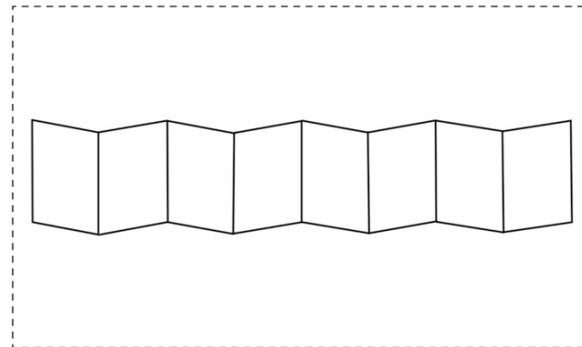


FIG. 4

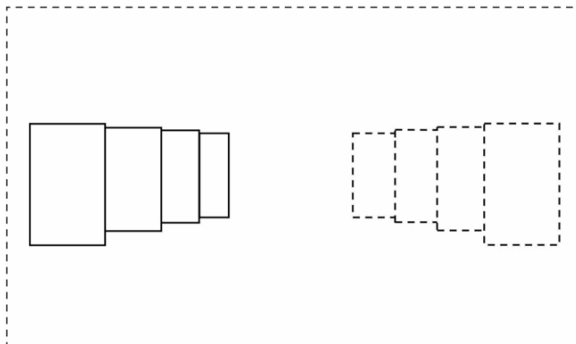


FIG. 2

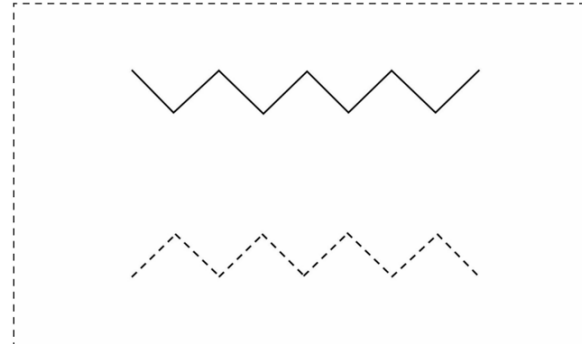


FIG. 5

FIG. 1 - Front view of a display screen or portion thereof with a virtual three-dimensional graphical user interface in which the graphical user interface is shown in a perspective view orientation

FIG. 2 - another front view, showing a front view orientation

FIG. 3 - another front view, showing a back view orientation

FIG. 4 - another front view, showing a right view orientation

FIG. 5 - another front view, showing a top view orientation

The graphical user interface in FIGS. 1-5 is shown in various orientations to provide an understanding of the three-dimensional appearance of the design.

(D1,139,342)

Title

Does the USPTO's new approach to GUI titles simply give applicants more flexibility in satisfying § 171 or does it also expand protection?

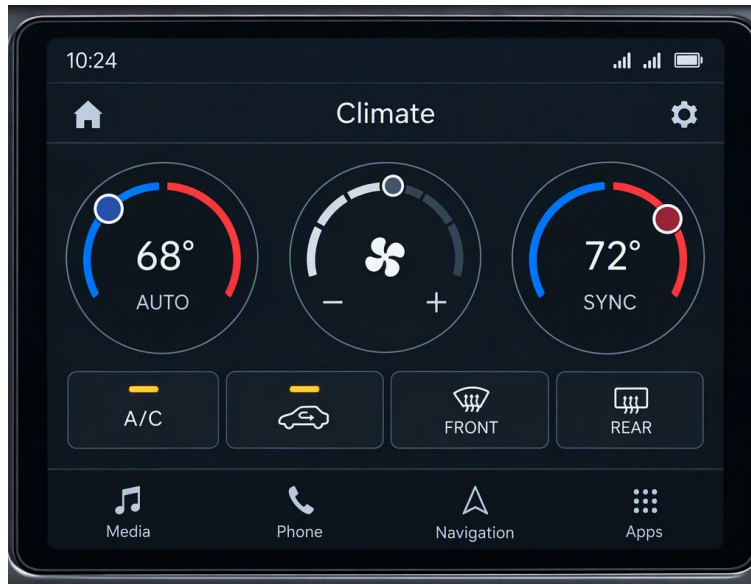
Prior approach: Display Screen or Portion Thereof for Graphical User Interface

vs.

New approach: Graphical User Interface for Computer

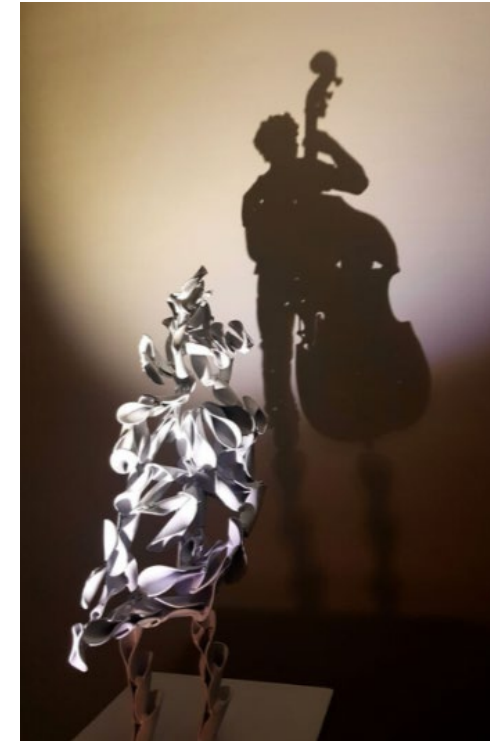
Prior Art

Do the updated guidelines change how we should think about relevant prior art?



Projections + Holograms

What strategic considerations should applicants be thinking of?



Thank you.

