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Companies Performing Financial Transactions Stuck in GUI Design Patent Infringement Cases

*By Michael T. Piery and Michael W. Carwin**

The breadth of the asserted design patents in recent claims potentially raise issues of first impression related to claim construction, infringement, and functionality. The authors of this article discuss the claims and the implications.

Ten of the world's largest companies have been accused of infringing design patents claiming animated graphical user interfaces ("GUIs"). These assertions were made in addition to at least 10 other lawsuits filed since September 2021 asserting animated GUI design patents. Given the breadth of the asserted design patents, these cases potentially raise issues of first impression related to claim construction, infringement, and functionality.

BACKGROUND

Two plaintiffs¹ asserted the animated GUI design patents referenced above. On March 8, 2022, Fintech Innovations Associates LLC filed five lawsuits in the Northern District of Illinois alleging infringement of U.S. Patent No. D945,453, entitled "DISPLAY SCREEN PORTION WITH ANIMATED GRAPHICAL USER INTERFACE." Between September 23, 2021, and March 2, 2022, Wepay Global Payments LLC filed four lawsuits in the Western District of Texas and six lawsuits in the Northern District of Illinois alleging infringement of U.S. Patent No. D930,702, also entitled "DISPLAY SCREEN PORTION WITH ANIMATED GRAPHICAL USER INTERFACE."

The plaintiffs accused the defendants of infringing the design patents through use of their various mobile devices, operating systems, and mobile payment apps. Examples of accused products include Apple's iOS 15 and Samsung's Galaxy.

Both patents claim display screen portions with animated GUIs. GUI design patents can capture static, unmoving icons or display screens (i.e., those that

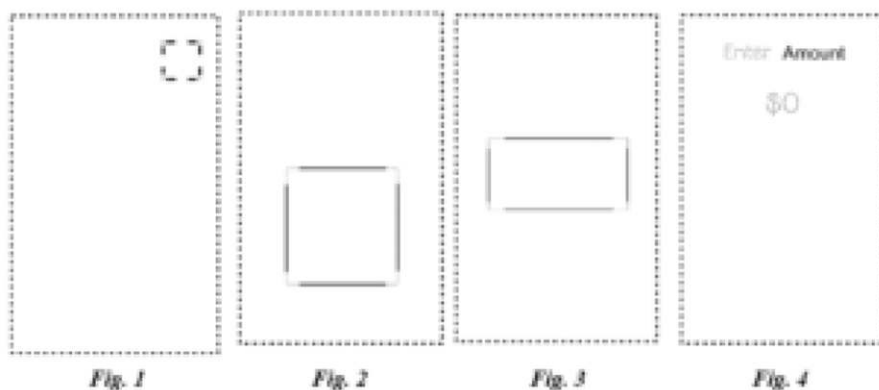
* Michael T. Piery (michael.piery@quarles.com) is a partner at Quarles & Brady LLP with a focus on patent litigation providing clients with a full range of services, from pre-filing investigations through appeal. Michael W. Carwin (michael.carwin@quarles.com) is an associate at the firm handling patent, trademark, copyright, and trade secret disputes.

¹ Although the two plaintiffs appear to be different entities, William Grecia is the named inventor of both patents. Mr. Grecia has been involved in scores of intellectual property infringement actions.

can be shown with a single figure), or animated icons or displays (i.e., those that are shown moving or changing via some sequence of figures). As explained in the Manual of Patent Examining Procedure (“MPEP”),² the images in animated GUI claims are understood as viewed sequentially, and no ornamental aspects are attributed to the process or period in which one image changes into another. Both asserted design patents describe the sequential transitions and state that the process or period in which one image transitions to another image forms no part of the claimed design.

THE CLAIMS

The D’453 Patent includes one embodiment, which recites the sequence of images in Figures 1-4.

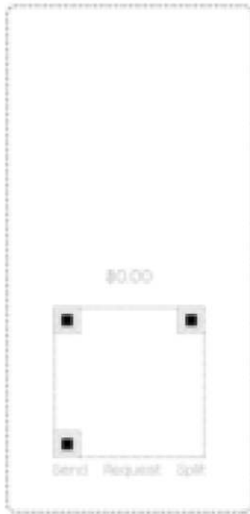
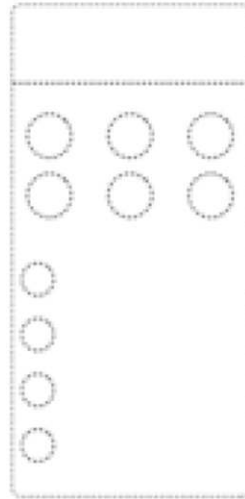
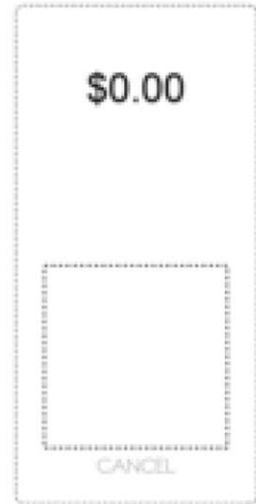


Figures 1-4

As shown in the figures, the claims use broken lines for the disclaimed portion of the display screen and have few solid lines other than four-sided objects in Figs. 1-3 and the word “Amount” in Fig. 4.

The D’702 Patent includes two sequence embodiments that are also directed to display screen portions. (See the Second Embodiment.)

² <https://www.uspto.gov/web/offices/pac/mpep/s1504.html>.

*Fig. 3**Fig. 4**Fig. 5*

Second Embodiment

Like the D'453 Patent, the D'702 Patent uses substantial broken lines to broaden the claimed design. The only aspects shown in solid lines—and therefore forming part of the claim—are square objects in Fig. 3, which appear to be positioning detection markers for a QR code, and “\$0.00” in Fig. 5. The Fig. 4 image is shown entirely with broken lines.

The plaintiff’s infringement allegations demonstrate the potential breadth of these claims. For example, Fintech’s assertion of the D’453 Patent against one defendant include infringement allegations based on 55 different sequences. Fintech appears to interpret the four-sided objects to read on nearly any four-sided element included in the app, including images, text boxes, and drop-down menus. Fintech also appears to interpret Fig. 4 to read on any use of the word “amount” in any font or capitalization.

As another example, Wepay’s allegations against one defendant appear to be based on use of a QR code in an app. (See the Example Allegation.)



Accused Design re Fig. 3



Accused Design re Fig. 4



Accused Design re Fig. 5

Example Allegation

ISSUES OF FIRST IMPRESSION

These allegations raise interesting issues of first impression for the federal courts. When construing the claims, courts will need to determine how to define the scope of the sequence, including the scope of the statements that the “process or period in which one image transitions to another image forms no part of the claimed design.” Courts will also need to consider the relevance of the spatial relationships of the objects in the claimed design and whether similar objects in different positions on the display are within the scope of the claims given that the displays are claimed entirely in broken lines. Courts will also need to consider potential functionality of four-side shapes in GUIs, including those used for QR codes.

The defendants have already raised some of these issues in motions to dismiss. For example, one defendant moved to dismiss the D’702 Patent allegations based on lack of ornamentality. That defendant argued that the QR code positioning detection markers and monetary amount are purely functional. Another defendant moved to dismiss infringement claims, arguing that it does not infringe the claims because its app has a different spatial relationship than the claimed designs.

CONCLUSION

While it will be interesting to watch how these issues are resolved, these allegations demonstrate the potential value of protecting animated GUI designs. Companies that invest resources in developing software products can

and should consider the use of design patents to protect novel interface designs and display sequences. Not only can these design patents be asserted offensively, but they can also establish prior art that can be used defensively to invalidate broad animated GUI design patents should a company be accused of infringing such a patent.