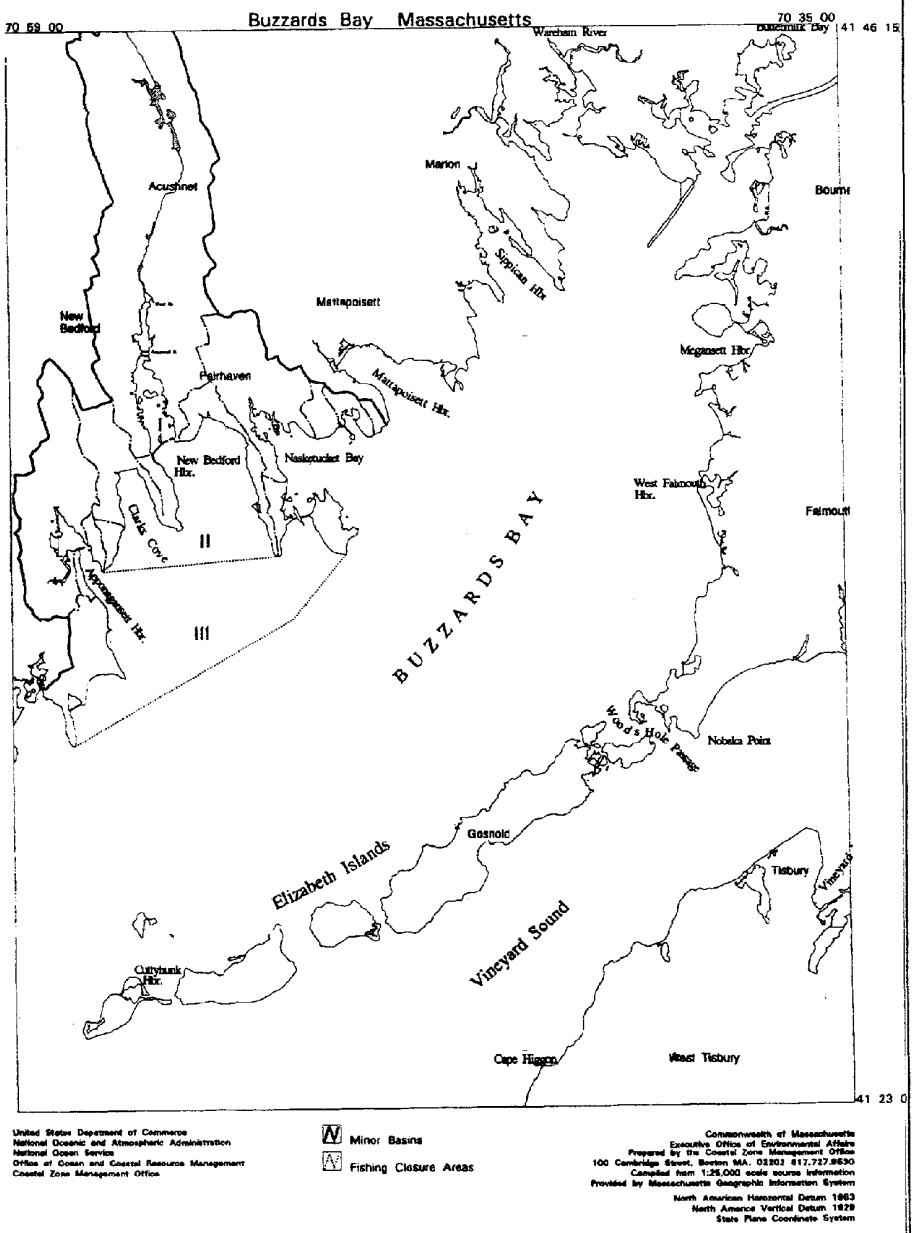
Figure 1. New Bedford Harbor Environment

Primary area of concern is that described by the dark lines out to, and including Area III.



BILLING CODE 3510–22–C

Dated: September 29, 1995.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 95–24786 Filed 10–4–95; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

RIN 0651–XX04

[Docket No. 950921236–5236–01]

Interim Guidelines for Examination of Design Patent Applications for Computer-Generated Icons

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice and request for public comments.

SUMMARY: The Patent and Trademark Office (PTO) requests comments from any interested member of the public on interim guidelines that will be used by PTO personnel in their review of design patent applications for computer-generated icons. Because these guidelines govern internal practices, they are exempt from notice and comment rulemaking under 5 U.S.C. 553(b)(A).

DATES: October 5, 1995.

Written comments on the interim guidelines will be accepted by the PTO until November 6, 1995.

Written comments will be available for public inspection on November 20, 1995, in Room 8D19 of Crystal Plaza 3, 2021 Jefferson Davis Highway, Arlington, Virginia. In addition, comments provided in machine-readable format will be available through anonymous file transfer protocol (ftp) via the Internet (address: comments.uspto.gov) and through the World Wide Web (address: www.uspto.gov).

ADDRESSES: Written comments should be addressed to the Assistant Commissioner for Patents, Washington, DC 20231, marked to the attention of John Kittle, Director, Group 1100/2900, Crystal Plaza 3, 8D19. Comments may also be submitted by telefax at (703) 305–3600 or by electronic mail through the INTERNET to ''icon-pat@uspto.gov.''

FOR FURTHER INFORMATION CONTACT: John Kittle by telephone at (703) 308–1495 or by mail to his attention addressed to the Assistant Commissioner for Patents, Group 1100/2900, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Written comments should include the following information:

—Names and affiliation of the individual responding;
—An indication of whether the comments offered represent views of the respondent's organization or are the respondent's personal views; and
—If applicable, information on the respondent's organization, including the type of organization and general areas of interest.

Parties presenting written comments are requested, where possible, to provide their comments in machine-readable format. Such submissions may be provided by electronic mail messages sent over the Internet, or on a 3.5″ floppy disk formatted for use in either a Macintosh or MS–DOS based computer. Machine-readable submissions should be provided as unformatted text (e.g., ASCII or plain text).

Dated: September 29, 1995.

Lawrence J. Goffney, Jr.,

Acting Assistant Secretary of Commerce and Acting Commissioner of Patents and Trademarks.

I. Interim Guidelines for Examination of Design Patent Applications for Computer-Generated Icons

The following guidelines have been primarily developed to assist PTO personnel in determining whether design patent applications for computer-generated icons comply with the ''article of manufacture'' requirement of 35 U.S.C. 171.[1]

A. General Principle Governing Compliance with the ''Article of Manufacture'' Requirement

A design for a computer-generated icon[2] which is embodied in an article of manufacture is statutory subject matter for a design patent under Section 171. Thus, if an application claims a computer-generated icon embodied in a computer screen, monitor, other display panel, or a portion thereof,[3] that is drawn in solid lines,[4] the claim complies with the ''article of manufacture'' requirement of Section 171.

B. Procedures for Evaluating Whether Design Patent Applications Drawn to Computer-Generated Icons Comply With the ''Article of Manufacture'' Requirement

PTO personnel shall adhere to the following procedures when reviewing design patent applications drawn to computer-generated icons for compliance with the ''article of manufacture'' requirement of Section 171.

1. Read the entire disclosure to determine what the applicant claims as the design,[5] and to determine whether the design is embodied in an article of manufacture. 37 CFR 1.71 and 1.152–54.

a. Review the drawing to determine whether a computer screen, monitor, other display panel, or portion thereof, is depicted in solid lines. 37 CFR 1.152.

b. Review the title to determine whether it clearly describes the claimed subject matter.[6] 37 CFR 1.153.

c. Review the specification to determine whether a characteristic feature statement is present. 37 CFR 1.71. If a characteristics feature statement is present, determine whether it describes the claimed subject matter as a computer-generated icon embodied in a computer screen, monitor, other display panel, or portion thereof.[7]

2. If the drawing does not depict a computer-generated icon embodied in a computer screen, monitor, or a portion thereof, in solid lines, reject the claimed design under Section 171 and 35 U.S.C. 112, second paragraph, for failing to: (i) comply with the article of manufacture requirement; and (ii) particularly point out and distinctly claim the subject matter which the applicant regards as the invention.[8]

a. If the disclosure as a whole does *not* suggest or describe[9] the claimed subject matter as a computer-generated icon embodied in a computer screen, monitor, other display panel, or portion thereof, indicate that: (i) the claim is defective under Sections 171 and 112, second paragraph; and (ii) amendments to the written description, drawings and/or claim attempting to overcome the rejections will be rejected under 35 U.S.C. 112, first paragraph, for lack of written description and changes to the written description and drawings will be disapproved under 35 U.S.C. 132 as constituting new matter.

b. if the disclosure as a whole suggests or describes the claimed subject matter as a computer-generated icon embodied in a computer screen, monitor, other display panel, or portion thereof, indicate that the drawing may be amended to overcome the rejections under Section 171 and 112, second paragraph. Suggest amendments which would bring the claim into compliance with Section 171 and 112, second paragraph.

3. Indicate all objections to the disclosure for failure to comply with the formal requirements of the Rules of Practice in Patent Case. 37 CFR 1.71, 1.181–85, and 1.152–154. Suggest amendments which would bring the disclosure into compliance with the formal requirements of the Rules of Practice in Patent Cases.

4. Upon response by applicant:

a. Review applicant's arguments and any amendments;

b. Approve entry of any amendments which have support in the original disclosure;

c. Review all arguments and evidence of record to determine whether the drawing, title, and specification clearly disclose a computer-generated icon embodied in a computer screen,

monitor, other display panel, or portion thereof.

5. If a preponderance of the evidence [10] establishes that the computer-generated icon is embodied in a computer screen, monitor, other display panel, or portion thereof, withdraw the rejection under Sections 171 and 112, second paragraph.

II. Effect of the Interim Guidelines on Pending Design Applications Drawn to Computer-Generated Icons

PTO personnel shall follow the procedures set forth in Section I of these Interim Guidelines when examining design patent applications drawn to computer-generated icons which are pending in the PTO as of the date of publication of these Interim Guidelines in the Federal Register.

III. Treatment of Type Fonts

Traditionally, type fonts were generated by solid blocks from which each letter or symbol was produced. Consequently, the PTO has historically granted design patents drawn to type fonts. PTO personnel should not reject claims for type fonts under Section 171 for failure to comply with the ''article of manufacture'' requirement on the basis that more modern methods of typesetting, including computer-generation, do not require solid printing blocks. However, PTO personnel should treat applications specifically drawn to computer-generated type fonts in accordance with the procedures set forth in Section I of these Interim Guidelines.

IV. Notes

1. Further procedures for search and examination of design patent applications to ensure compliance with all other conditions of patentability are found in the Manual of Patent Examining Procedure, Chapter 1500.

2. Computer-generated icons, such as full screen displays and individual icons, are two-dimensional images which alone are surface ornamentation. See, *e.g.*, *Ex parte Strijland*, 26 USPQ2d 1259, 1262 (Bd. Pat App. & Int. 1992) (computer-generated icon alone is merely surface ornamentation).

3. Since a patentable ''design is inseparable from the object to which it is applied and cannot exist alone merely as a scheme of surface ornamentation,'' a computer generated icon must be embodied in a computer screen, monitor, other display panel, or portion thereof, to satisfy Section 171. MPEP 1502.

4. *Strijland* indicated that a computer-generated icon might be statutory subject matter if the solid-line icon is displayed on a computer screen which is shown as a broken-line drawing. 26 USPQ2d at 1263, 1266. However, since broken lines may be used to show visible environmental structure and not claim subject matter, representation of a computer screen, monitor, other display panel, or portion thereof, in broken lines does not satisfy Section 171. See, *e.g.*, *In re Zahn*, 617 F.2d 261, 268, 204 USPQ 988, 995 (CCPA 1980) (broken lines in design drawing show environmental structure, not claim). Broken lines may, however, be used to show other environmental structure, such as a central processing unit which contains equipment to operate the computer screen, monitor, or other display panel.

5. Since the claim must be in formal terms to the design ''as shown, or as shown and described,'' the drawing provides the best description of the claim. 37 CFR 1.53.

6. The following titles do not adequately describe a design for an article of manufacture under Section 171: ''computer icon;'' or ''icon.'' On the other hand, the following titles do adequately describe a design for an article of manufacture under Section 171: ''computer screen with an icon;'' ''display panel with a computer icon;'' ''portion of a computer screen with an icon image;'' ''portion of a display panel with a computer icon image;'' ''portion of a display panel with a computer icon image;'' or ''portion of a monitor displayed with a computer icon image.''

7. See *McGrady* v. *Aspenglas Corp.*, 487 F. Supp. 859, 861, 208 USPQ 242, 244 (S.D.N.Y. 1980) (descriptive statement in design patent application narrows claim scope).

8. A computer screen, monitor, or other display panel is clearly described by showing a larger surface area than that immediately behind the icon image.

9. A broken line drawing of a computer screen shown in the original disclosure suggests that the applicant originally had possession of the invention as embodied in an article of manufacture. Accordingly, the broken line drawing may be converted to a solid line drawing without violating the prohibition against new matter. See *In re Rasmussen*, 650 F.2d 1212, 1214, 211 USPQ 323, 326 (CCPA 1981) (An applicant is entitled to claims as broad as the original disclosure will allow). However, a solid line drawing of a computer screen in the original disclosure may not be amended to a solid line drawing of *only a portion* of the computer screen without support in the original disclosure for such an amendment. See, *e.g.*, *Ballew* v. *Watson*, 290 F.2d 353, 355, 129 USPQ 48, 50 (Comm'r Pat. the original disclosure and would ''create newness by the difference achieved'' is new matter).

10. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992) (''After evidence or argument is submitted by the applicant in response, patentability is determined on the totality of the record, by a preponderance of evidence with due consideration to persuasiveness of argument.'').

[FR Doc. 95–24777 Filed 10–4–95; 8:45 am]

BILLING CODE 3510–16–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1955.

DATES: Interested persons are invited to submit comments on or before December 4, 1995.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Department of Education (ED) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment