



Protecting GUIs and icons:

*What is more promising? Trade marks or designs?*

The practitioner's perspective

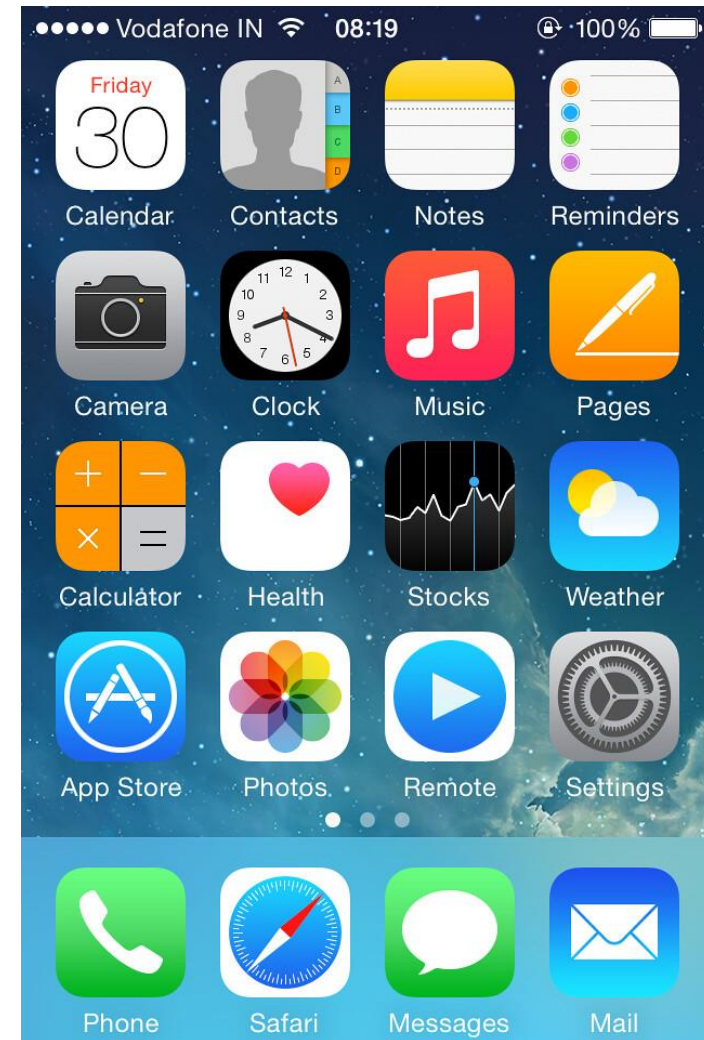
Alicante, 13/02/2020

Sergio Rizzo – ABOGADOS DAUDEN, S.L.P.

# *What is a Graphical User Interface (GUI)?*

The interface between an apparatus with any form of display and its user, which enables interaction with devices through graphical elements.

**GUIs** are often composed of one or more **icons** as well as text



# *GUIs and Internet of Things*



# *Why GUIs are more important than ever*

- GUIs greatly **enhance the user experience**
- **Companies devote significant resources** to the development of the appearance and functionality GUIs.
- Smartphones, tablets and most of the products with displays **heavily use GUIs.**
- **Connection** with source/branding

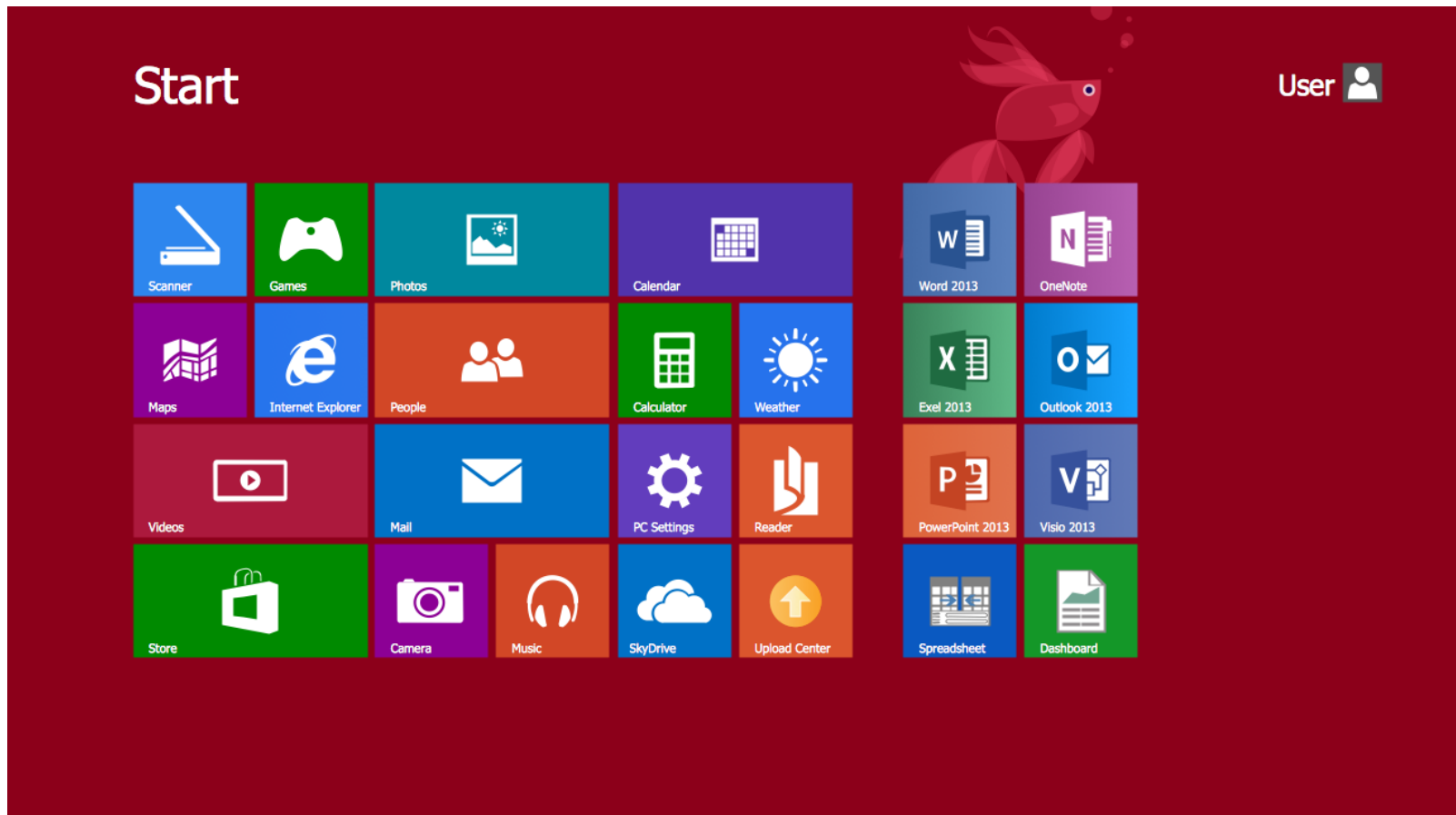
*If there is value in interacting with GUIs and icons, there*

- **Design rights** (registered or unregistered)
- **Trademarks**
- Copyright
- Unfair competition

*Design rights*

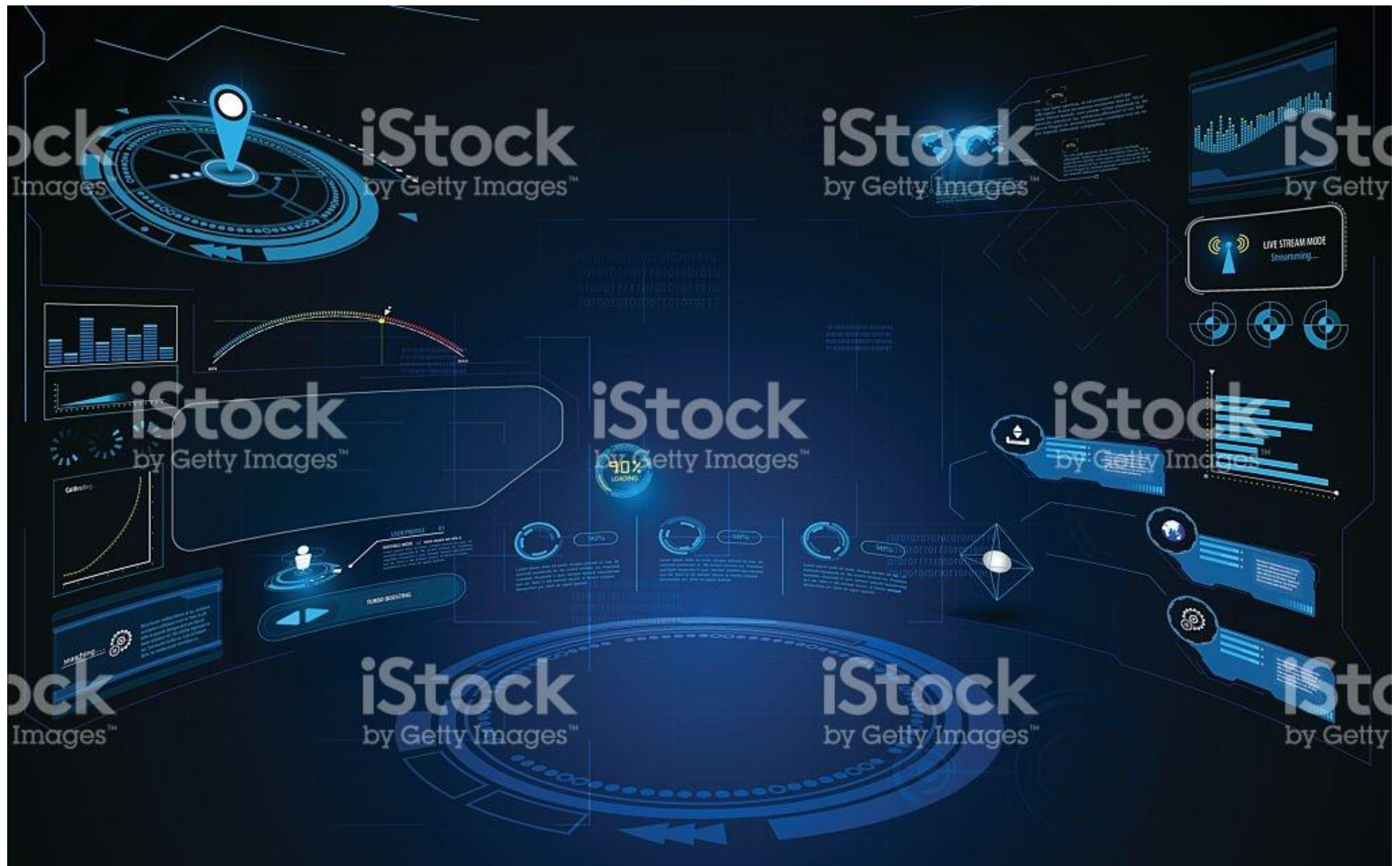
# *Graphical User Interfaces (GUIs)*

- **Static GUIs**



# *Graphical User Interfaces (GUIs)*

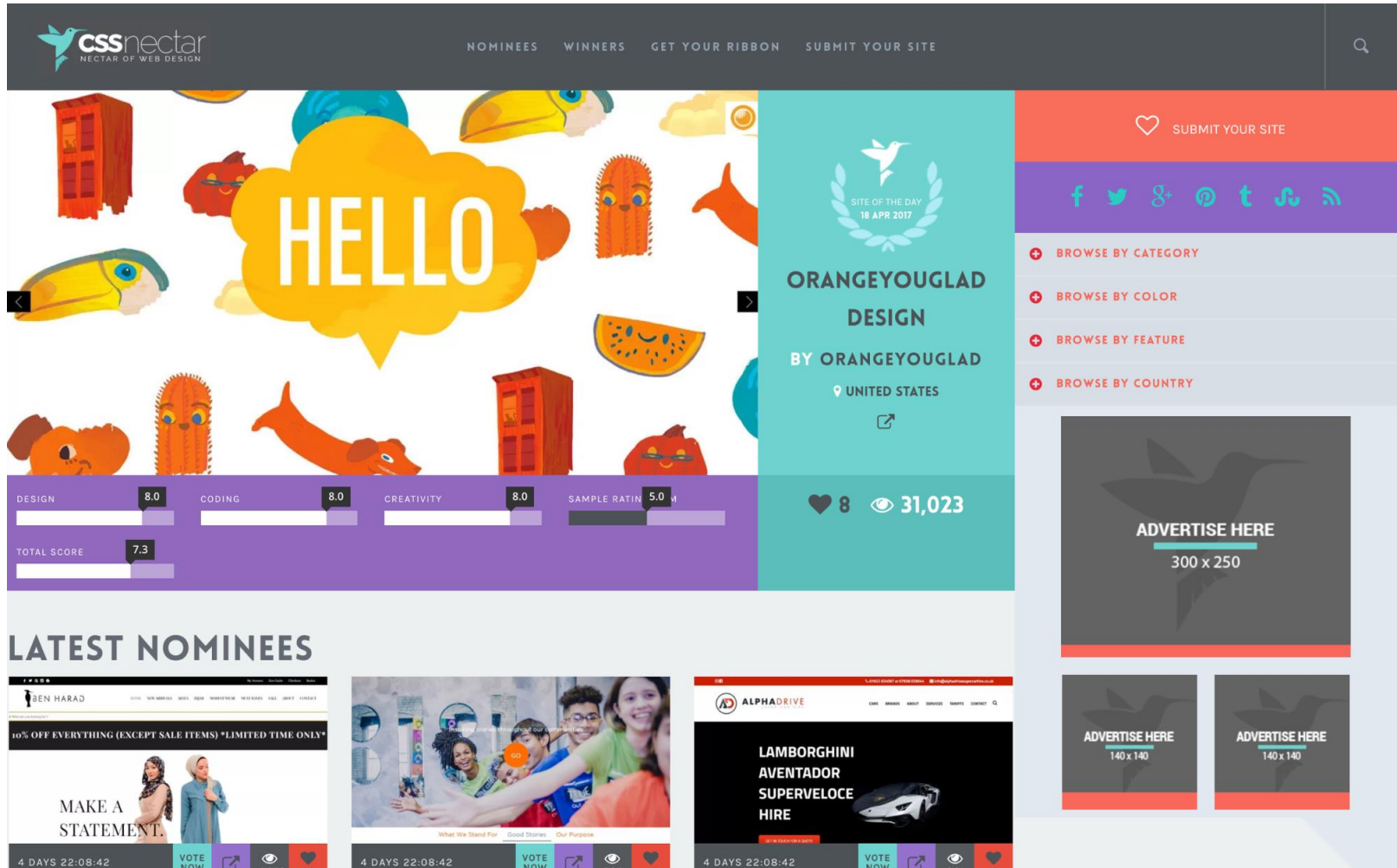
- **Dinamic GUIs and Screensavers**





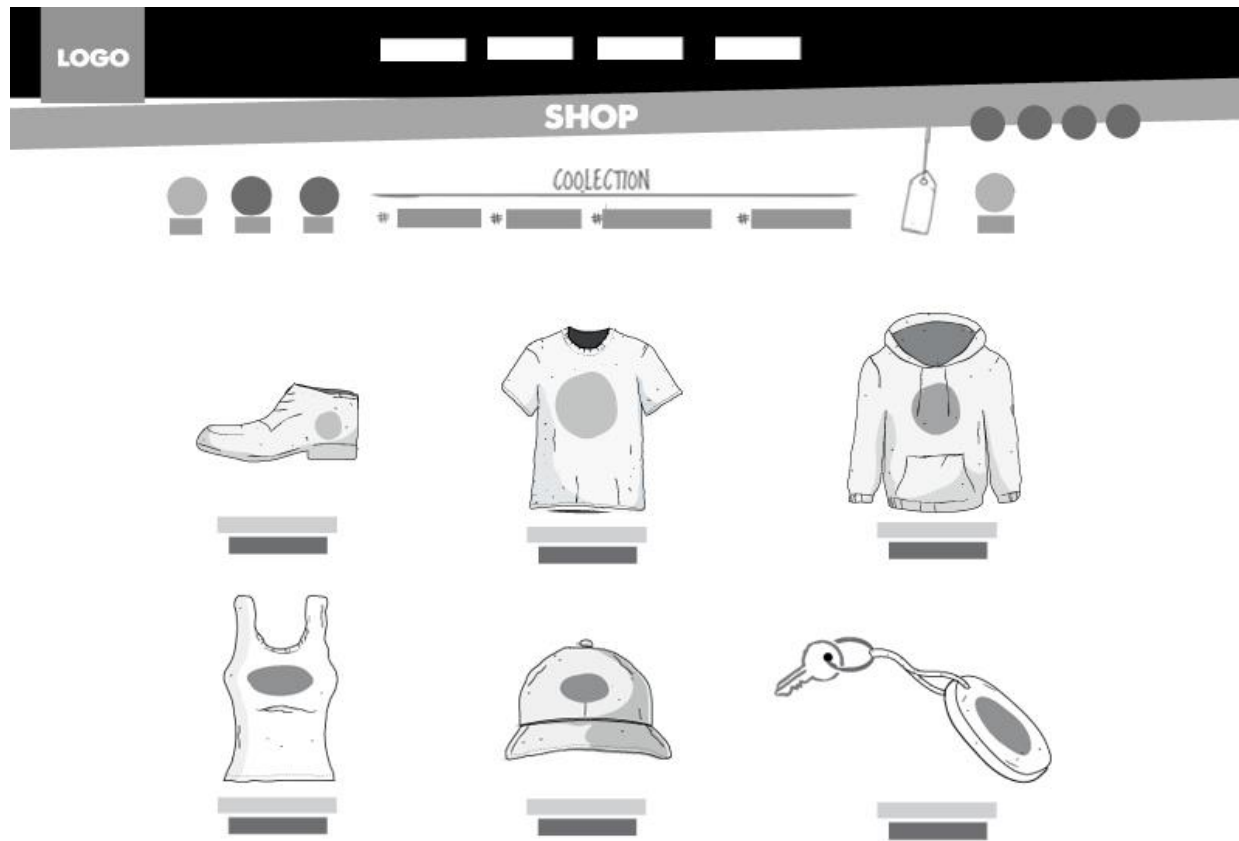
# Graphical User Interfaces (GUIs)

- Web pages



# *Graphical User Interfaces (GUIs)*

- **E-commerce platforms**



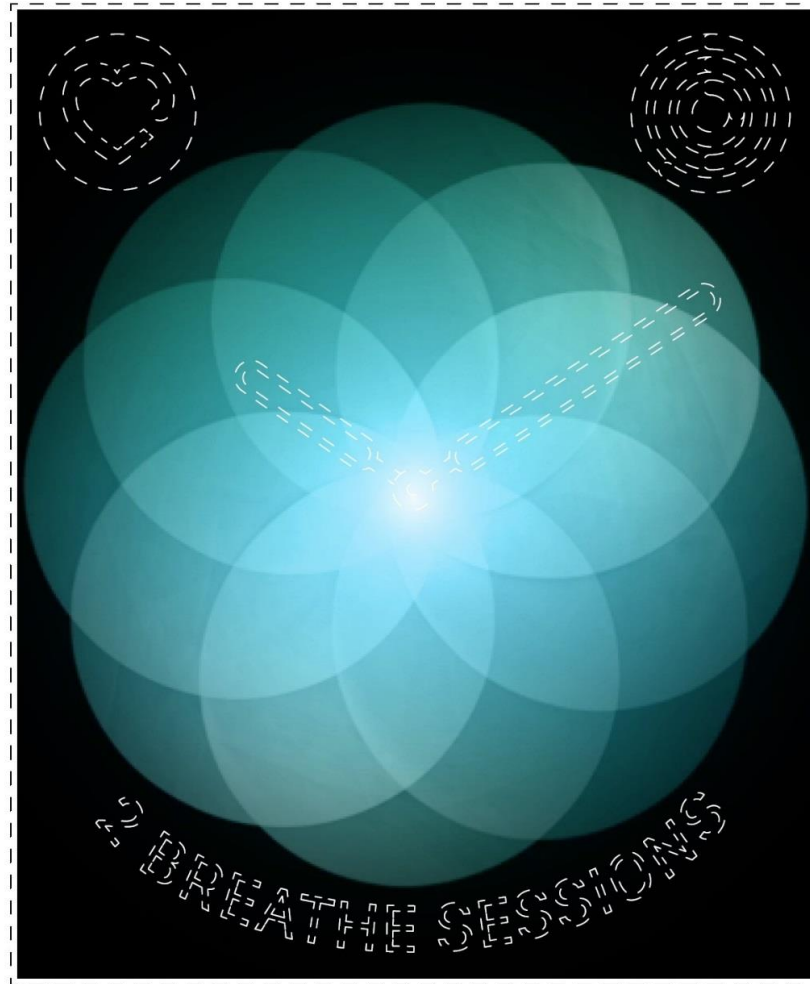
# *Graphical User Interfaces (GUIs)*

- **Banners**



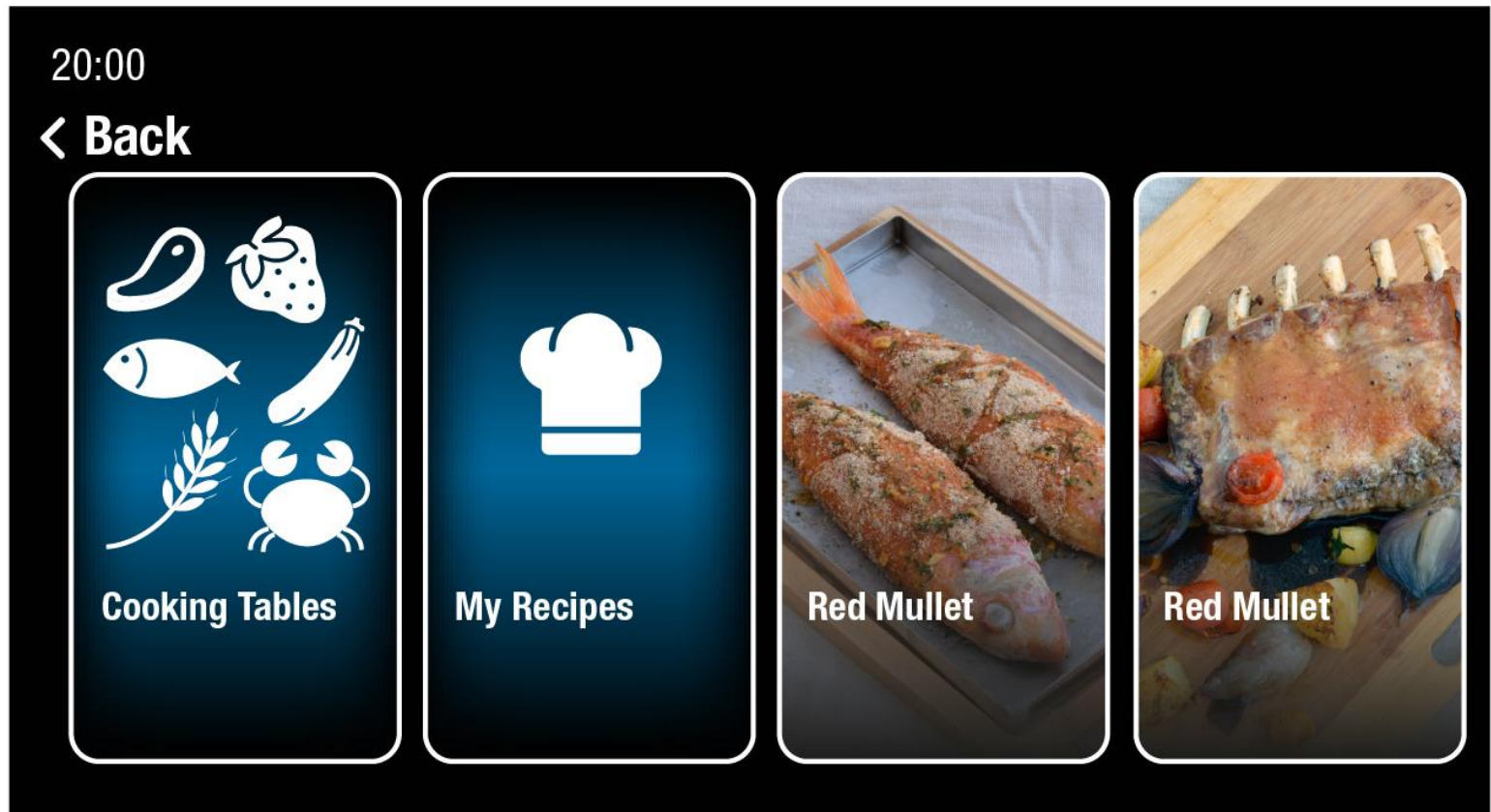
# *Graphical User Interfaces (GUIs)*

- Apps



# *Graphical User Interfaces (GUIs)*

- Internet of things – interactive screens





# *Graphical User Interfaces (GUIs)*

- **In-vehicle interactive displays**



# *Future (?) GUIs*



# Icons

- Static icons





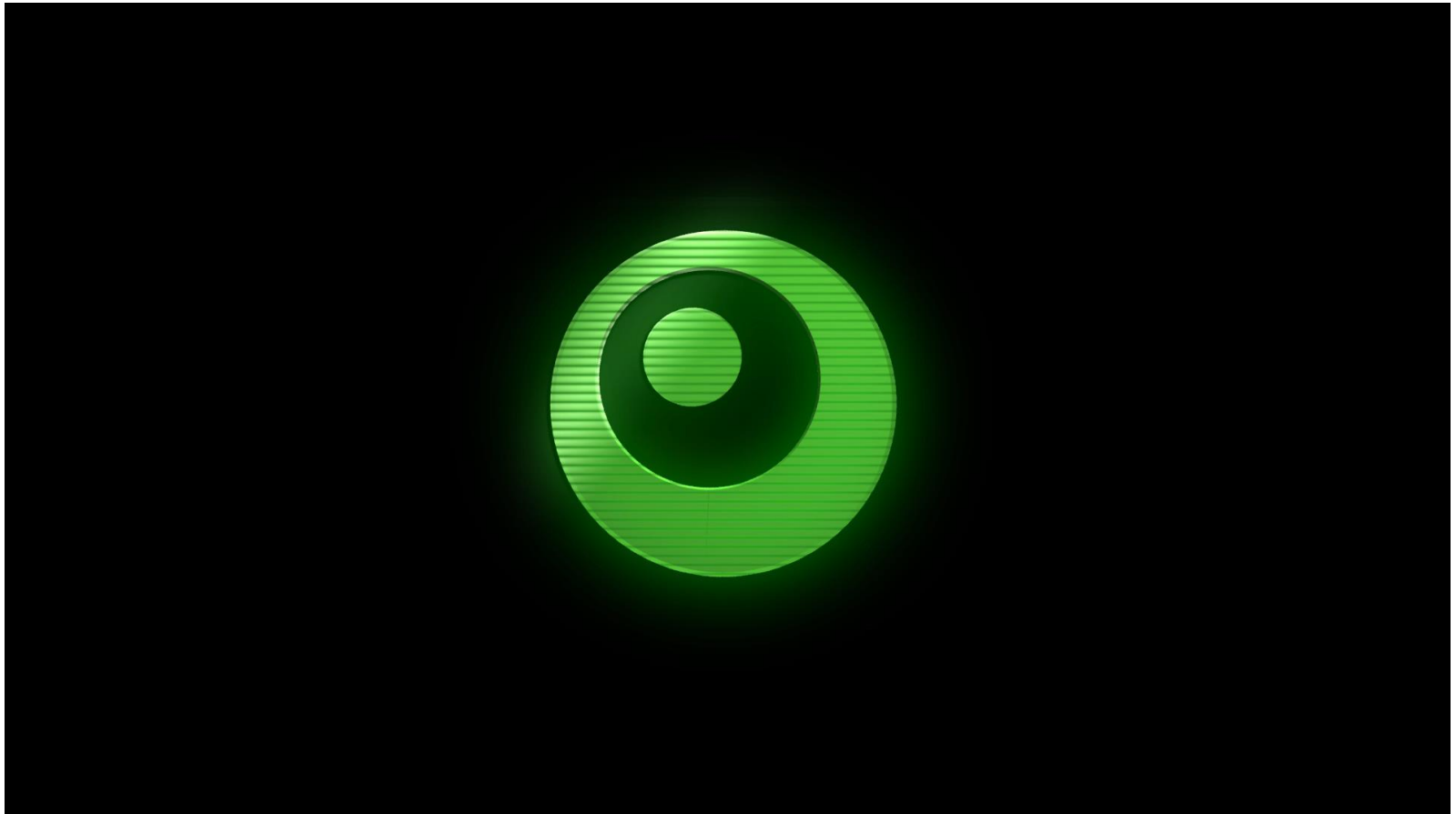
# *Icons*

- **Emoji**



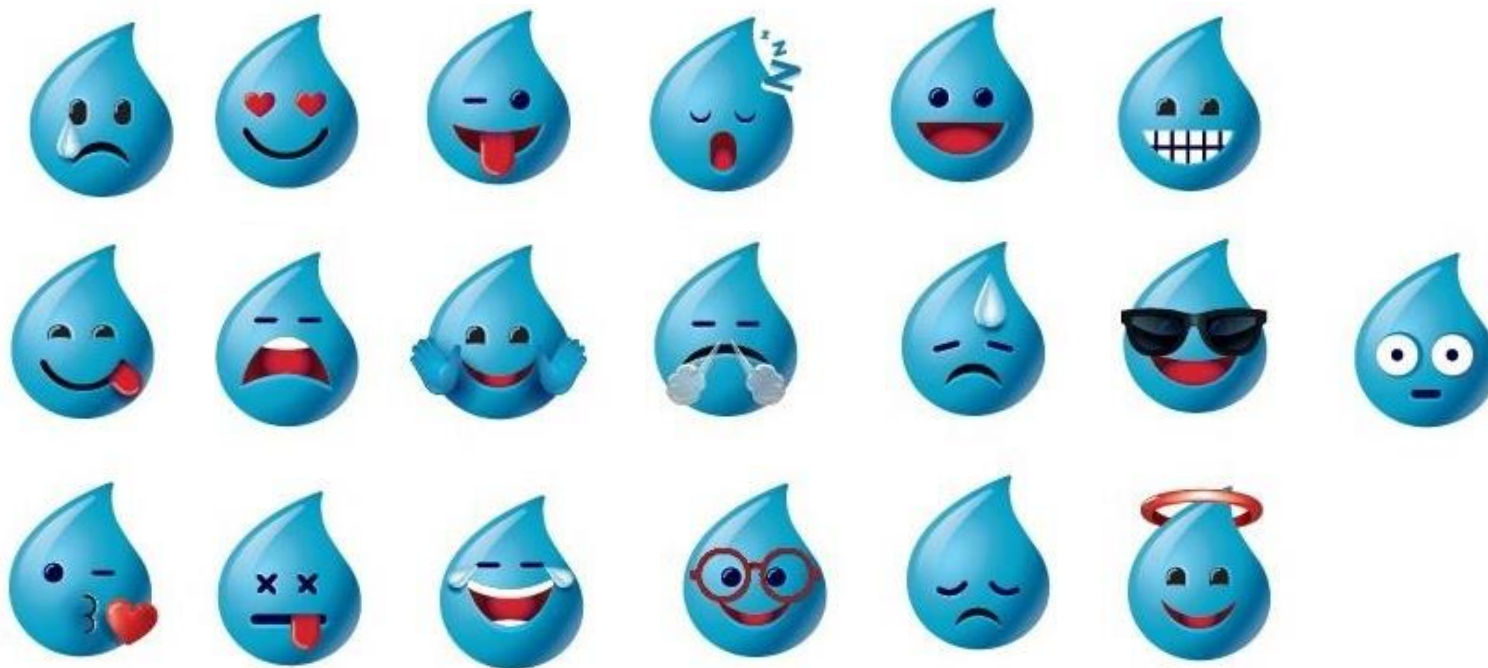
# *Icons*

- **Dinamic icons**



# *Icons/characters*

- **CRD no.:** 004495406-0001 to 004495406-0020
- **Product:** “Animated characters, Animated logos, Video images, Graphic symbols and logos, surface patterns, ornamentation, Animated displays”.



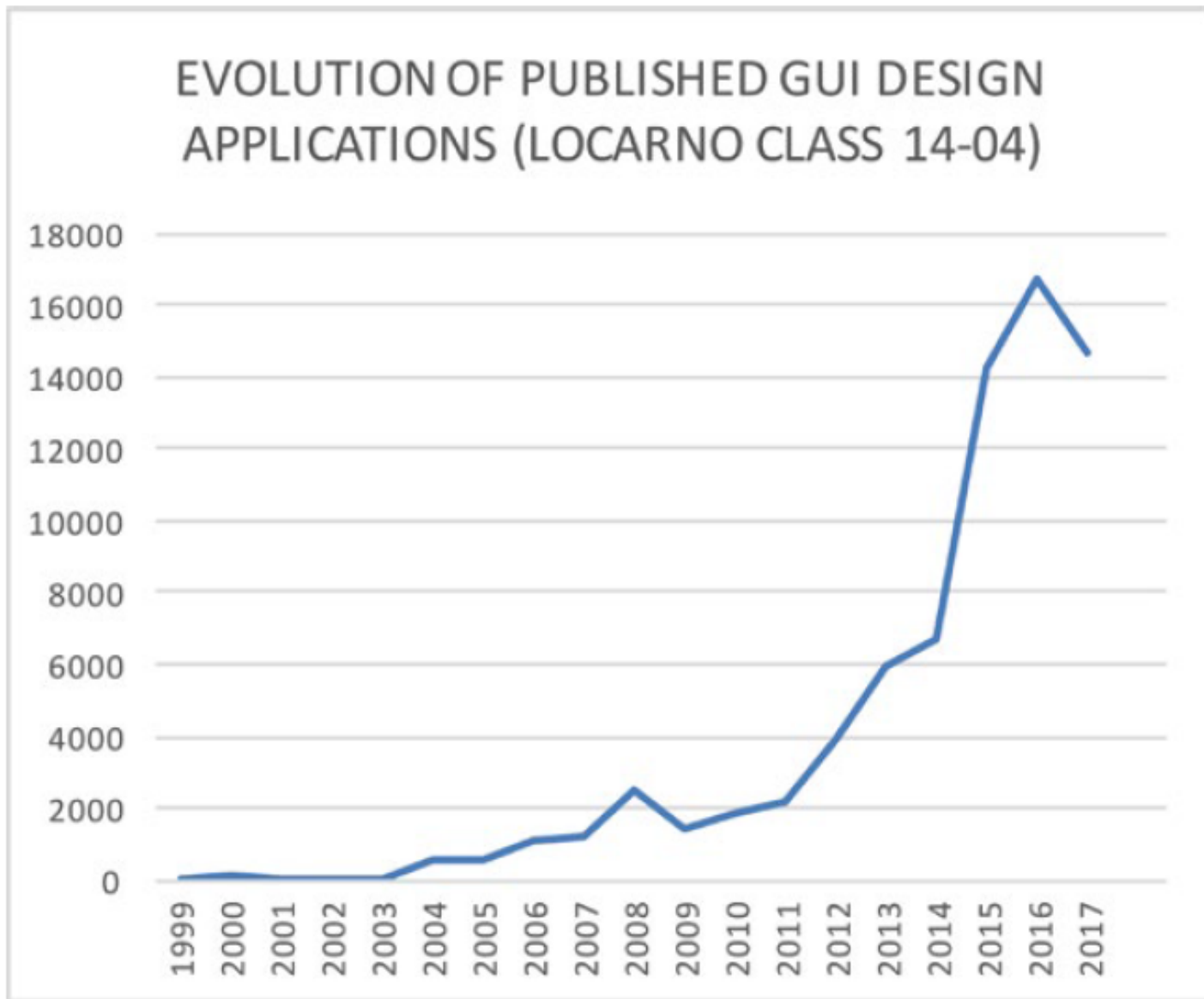


Fig. 1, Evolution of published GUI design applications (Locarno Classification class 14-04) in China, EU, France, Germany, Hague System/WIPO, Hong Kong, Korea, Russia, UK, US, Taiwan.

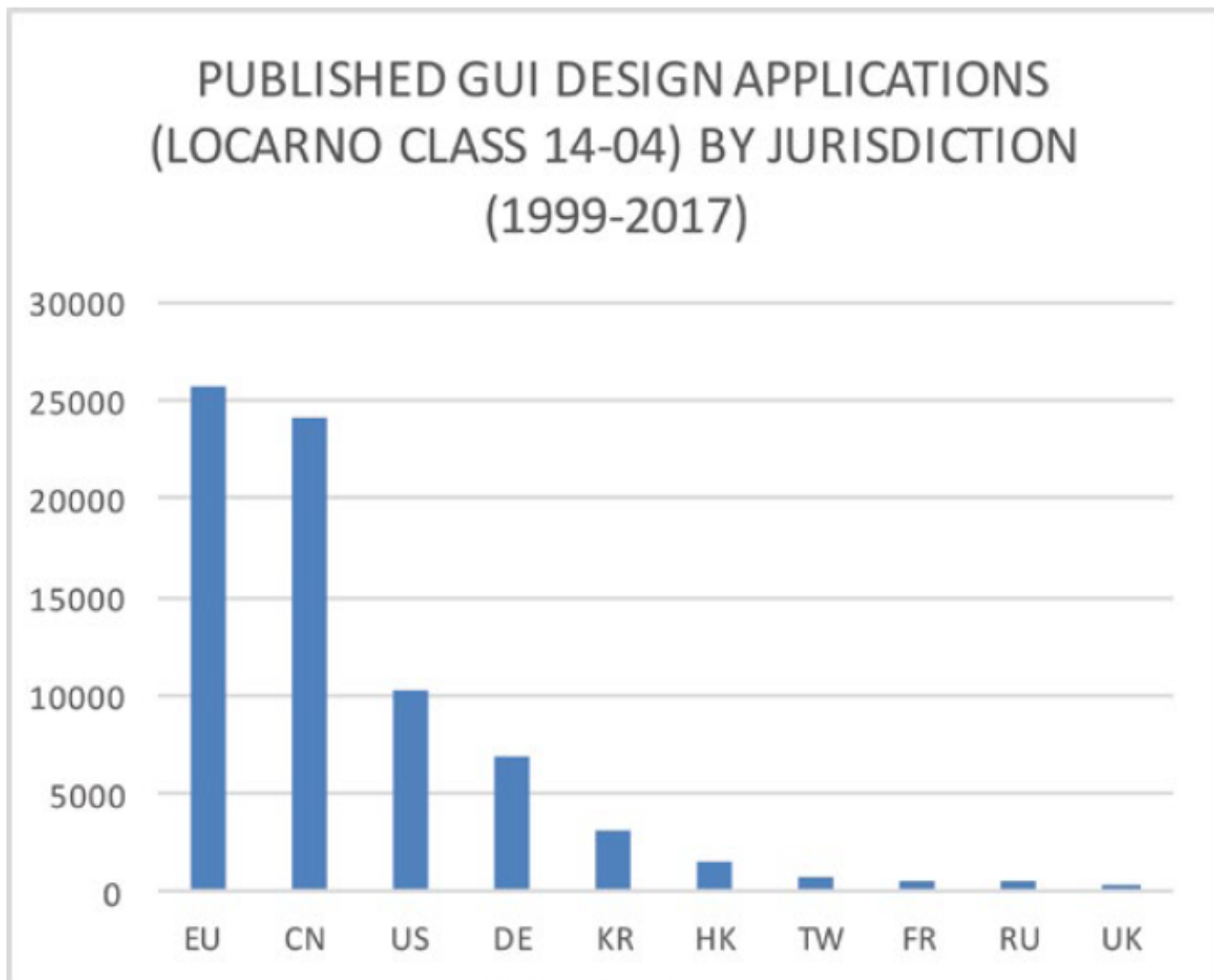


Fig. 2, Published GUI design applications (Locarno Classification class 14-04) by jurisdiction (1999-2017).

Source: ICC

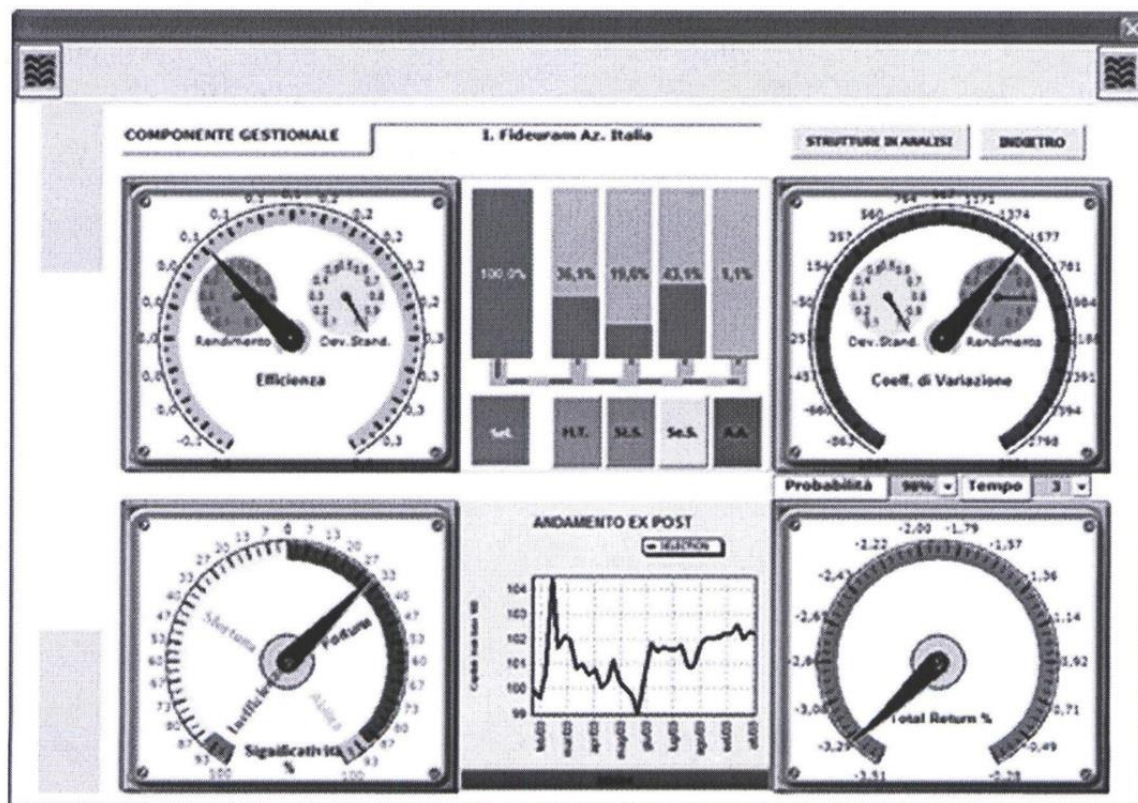
# *New designs*

- **Graphical user interfaces (GUIs)**
- **Icons**
- Transitional images
- Animated characters
- Virtual reality environments
- Videogames (parts of)



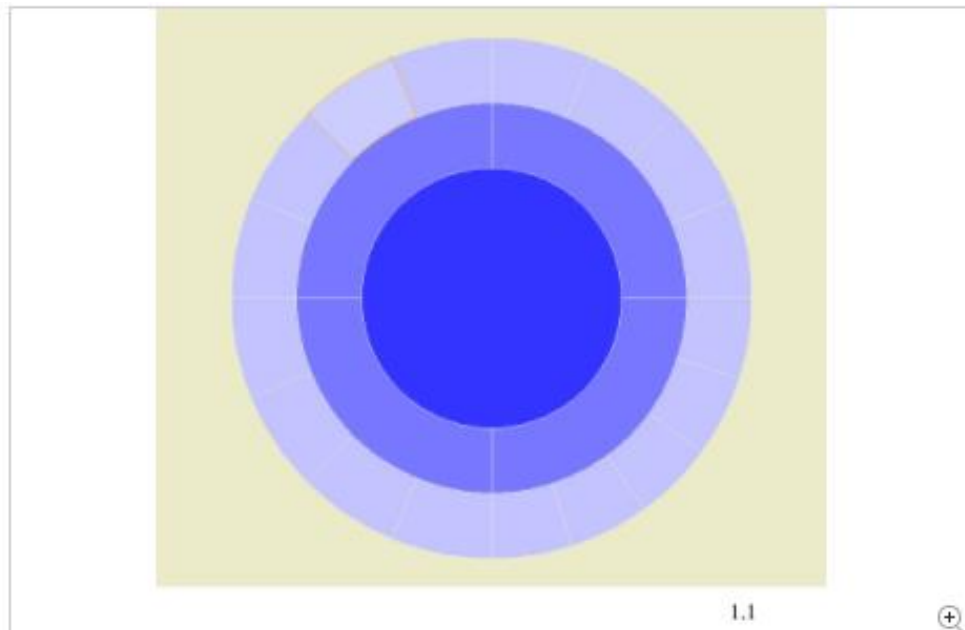
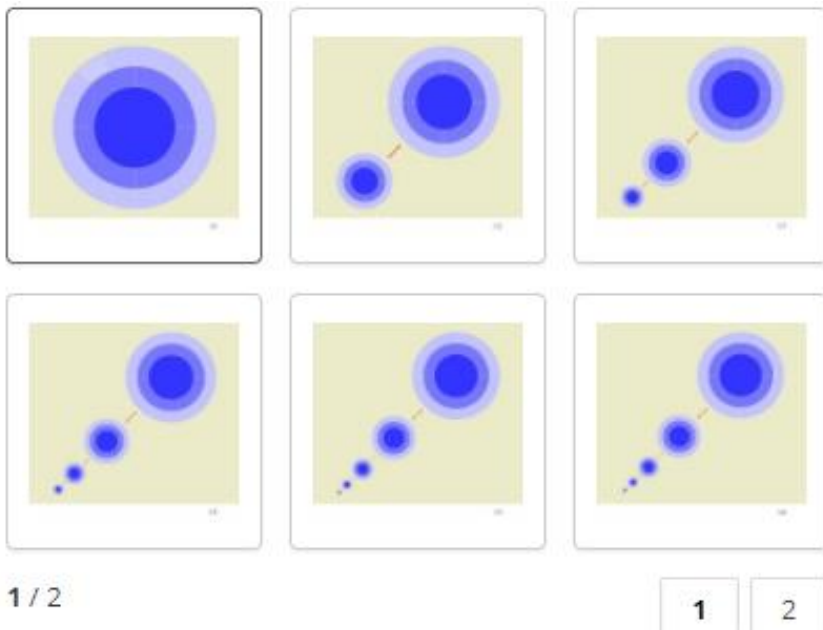
# *New designs?*

- **CRD no.:** 000141262-0001
- **Filing date:** 11/02/2004
- **Product:** “interface screens” (14.04)



# *New designs?*

- **CRD no.:** 000125992-0001
- **Filing date:** 28/01/2004
- **Product:** “*icons for computers*” (14.04)





# *New designs?*

- **US patent design no.:** D621,849
- **Filing date:** 30/07/2007
- **Product:** “*Animated graphical user interfaces for a display screen or portion thereof*” (14.04)

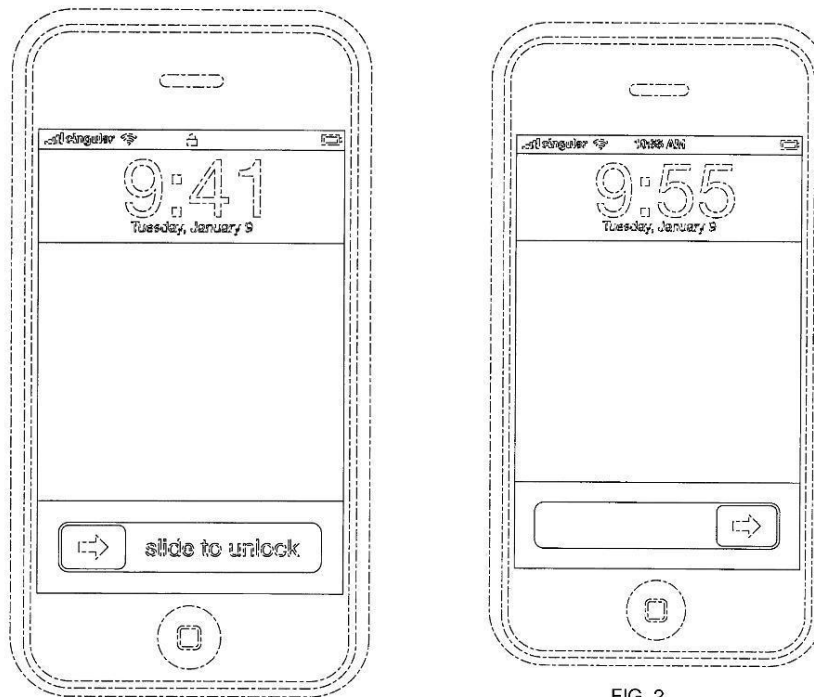
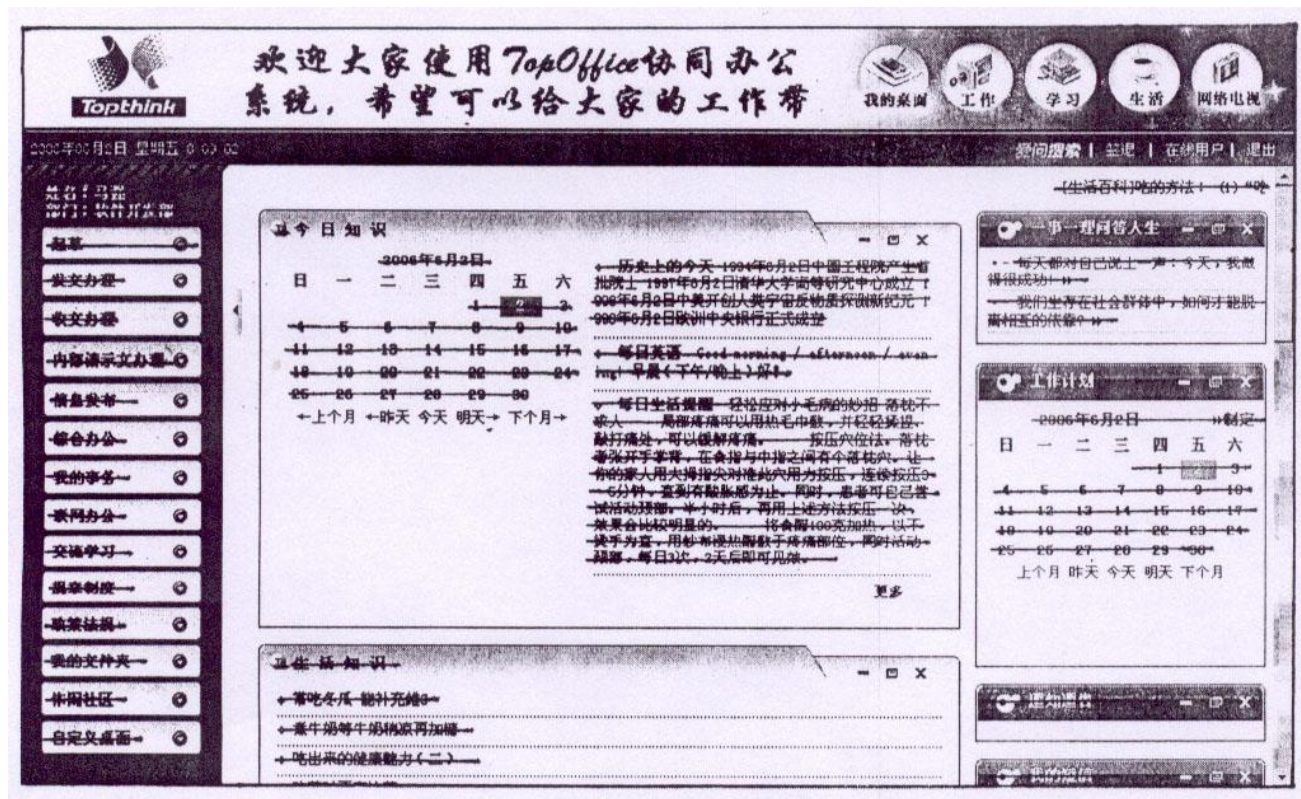


FIG. 2

# New designs?

- Chinese patent design no.: 200630020595.3
- Filing date: 15/06/2006
- Product: “Interface” (14.04)



# *Graphical representation requirements*

Static GUIs/Icons are not problematic, but **animated GUIs/Icons bring several challenges**

- In certain jurisdictions (eg, Russia) → GUIs protected only in a static form (as a single figure)
- In the EU → moving images or 3D computer-animated designs are **additional** technical means of representing the design and do not replace the conventional static views
- Animated GUIs and icons are normally represented through **snapshots**

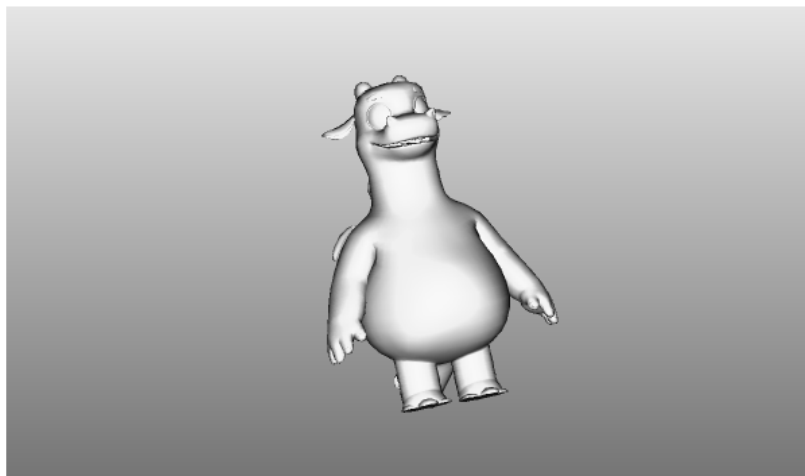
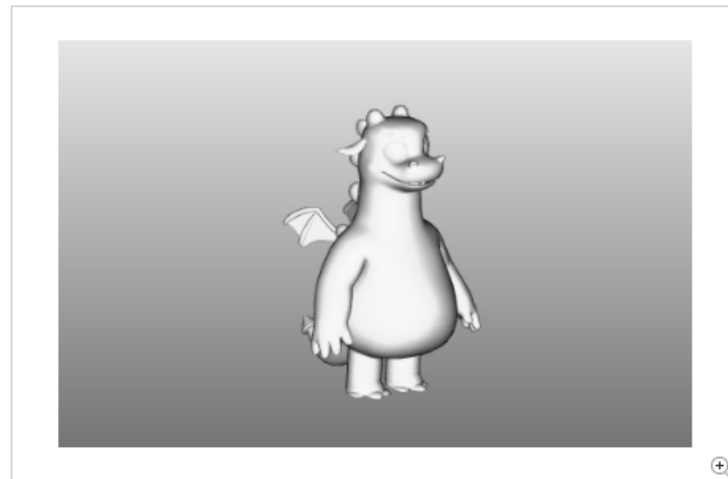
# Static views + 3D animated design




1 / 2

1

2



 Mueva la vista dinámica en 3D con el ratón o el teclado para cambiar la perspectiva de la cámara o utilice los siguientes controles.



Mover cámara



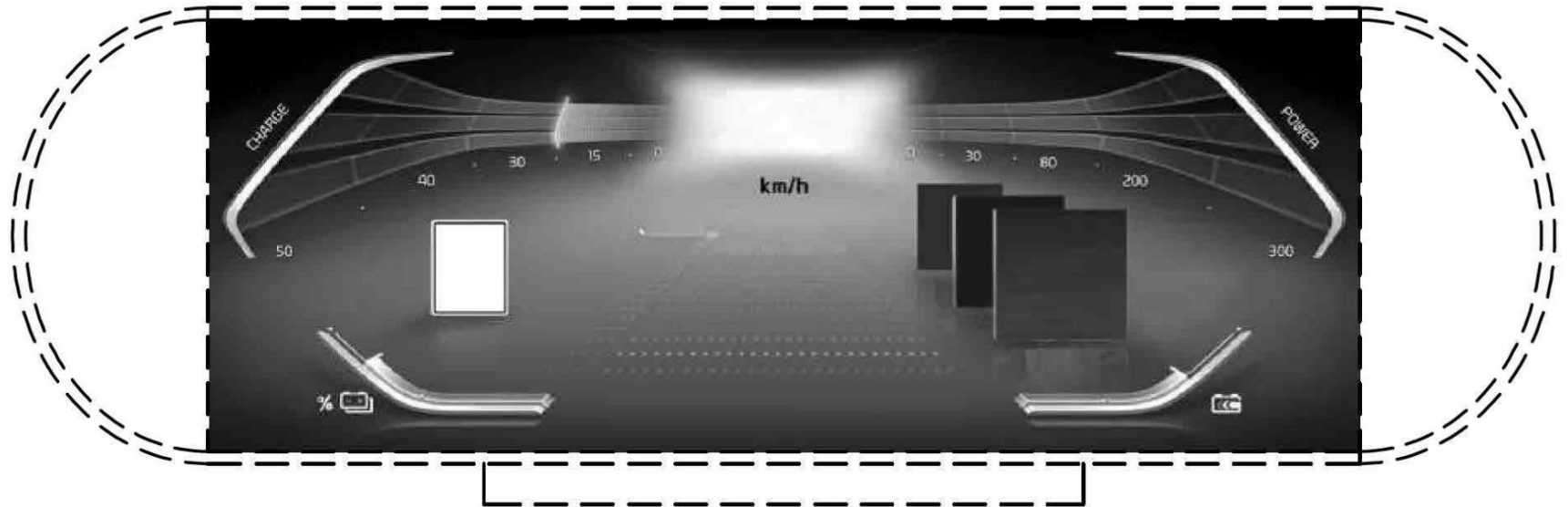
Zoom

Controles de teclado básicos:

- ☒ Vista en perspectiva
- ☐ Perspectiva frontal
- ☐ Perspectiva trasera
- ☐ Perspectiva izquierda
- ☐ Perspectiva derecha
- ☐ Perspectiva superior
- ☐ Perspectiva inferior

# *Visual disclaimers*

**CRD no. 007439211-0001**



# *Connection with physical products*

- **In the EU**, GUIs and icons belong to a specific class — 14-04 — and do not need to be related to a specific product.
- **In other jurisdictions** (eg, China and Japan), there is a requirement to show a **connection** between the GUI and the physical product in which it is integrated, through graphical representation and/or a description.

## *Colour versus black and white*

**CRD no. 004411379-0001/0002**





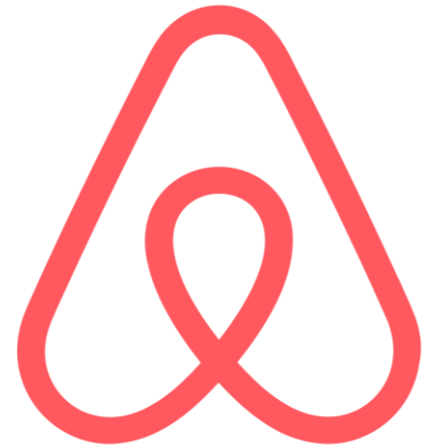
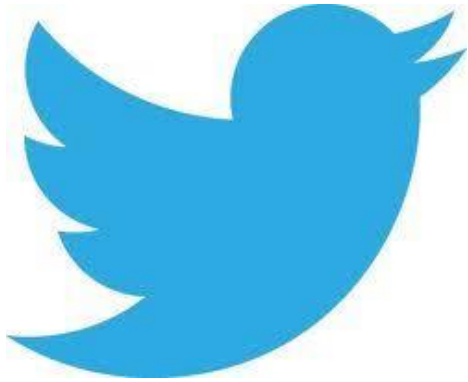
## *Other critical points*

- ❖ GUIs including various smaller elements, such as icons and slide buttons
- ❖ Written description/disclaimers
- ❖ Priority claim



# *Trademark rights*





# *Designs vs. Trademarks*

# *Design vs. TM protection for GUIs*

## **Potential advantages of design protection**

- 1. Trademark protection is possible only when GUI has a distinctive character**
  - Most GUIs may be either too simple or too complex, with a very low distinctive character, if any
- 2. Design protection can be used to protect a GUI *per se*, without reference to the device on which the GUI is provided.**
  - Broader scope of protection
- 3. Relatively quick and easy registration process**
  - Well suited for the fast-paced product life cycles associated with digital products
- 4. Design protection is relatively inexpensive**
  - A CD application is allowed to include several versions or elements of the GUI
- 5. There is no use-requirement for designs**
  - Registration of “defensive designs”?

# *Design vs. TM protection for GUIs*

## **Potential advantages of trademark protection**

- 1) To be eligible for design protection, GUIs must have both novelty and individual character.**
  - Many GUIs are based on already “familiar interfaces”.
- 2) Trademark protection can be renewed indefinitely, whereas design protection is limited in time.**
  - However, a GUI would hardly need more than 25 years of protection
  - Trademark registrations are probably the best way to protect certain easily identifiable elements that are not likely to change
- 3) The scope of trademark protection covers verbal elements included in a GUI.**
- 4) More certainty regarding value: examination + opposition period**

# *Design vs. TM protection for GUIs*

## *Conclusions*



*Thank you!*

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