IP protection for apps through GUI design registration

The demand for software applications, particularly mobile apps has grown at a phenomenal rate in recent years, fuelled in part by the ever-growing use of smartphones globally. In 2018, it is estimated that 66% of individuals in 52 key countries will own a smartphone, up from 63% in 2017 (Zenith Mobile Advertising Forecasts).

Meanwhile, 7 of the 10 fastest growing internet populations in the world are in Africa (according to Adams & Adams' research partner, In on Africa), positioning the continent's economies to benefit from rapidly accelerating technological changes.

This will unlock growth and leapfrog the limitations and costs experienced elsewhere. Renewable energy and mobile technology are two notable examples of this leapfrogging process occurring in Africa.

And in the wake of the success of consumer mobile apps, many companies are also developing mobile business apps to expand their existing business applications, improve their customer services and increase their efficiency. The most common issues related to app development are the high cost of development, a shortage of development skills, time constraints and technical challenges. And adding fuel to the fire, there are intellectual property rights protection constraints. In most cases, apps that are created are not eligible for patent protection.

There's hope

It will come as good news for businesses and entrepreneurs that patents are no longer the last form of IP protection used for protecting apps. Many app developers have most likely not considered obtaining protection for the look and feel of their Graphical User Interfaces (GUIs). The graphical user interface is a form of user interface that allows users to interact with electronic devices through graphical icons and visual indicators.

Registered Designs for GUIs can now afford some degree of narrow protection for the unique, eye-catching features of the GUIs used in apps. And so a new trend has emerged in IP communities with respect to the filing of Design Applications or Design Patent Applications for GUIs.

Businesses have, naturally, identified new avenues of income generation in the software and IT fields, and designs for GUIs have gained immense popularity amongst leading players in these fields. Samsung, Facebook, and Microsoft have filed various Design Applications in recent times, directed to various features of their GUIs.

These GUIs have specific features that have been granted design protection in most IP jurisdictions such as the US and Europe. Applications for Registered Designs focus on specific features, be it the text, an icon, or even the combination of colours, shapes and texts used in the GUIs, such as those shown below.

Fig 1. GUI on a display screen of a computing device, with various application program icons provided therein in colour (USD604305 S1 by Apple Inc)

Fig 2. Portable electronic device with a GUI, particularly showing specific symbols indicating Volume, Brightness, and Rotation (USD739413 S1 by Samsung Electronics Co Ltd)

Fig 3. Television monitor with a GUI that includes transition images on the monitor at various intervals (USD695754 S1 by Samsung Electronics Co Ltd)

Fig 4. Display screen of a mobile device with a graphical user interface (USD755814 S1 – by Tinder Inc)

Fig 5. Representation of GUI on a casino slot machine (EU 004695260-0072 by Euro Games Technology Ltd.)

Fig 6. Graphical representation of a GUI on a tablet display (US D808,989 S by Abbott Laboratories)

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It is important to recognise that different jurisdictions have different rules regarding the types of GUIs that can be filed, so thorough research and legal consultation is recommended. However, design protection for GUIs is possible in most IP jurisdictions including South Africa, and most businesses can leverage their GUIs to prevent competitors from implementing similar features in their graphic interfaces.

Before making any public disclosures of an App's GUI, software developers, tech-entrepreneurs, and tech-companies should seek legal advice in obtaining design protection. Luckily, if a GUI has already been disclosed to the market, the design application for the disclosed graphical user interface can still be filed in South Africa within six months from the release date of the app and/or images incorporating the design of that GUI.

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