

in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6204, U.S. Department of Commerce, 202-482-4115.

DATES: March 28, 1996.

TIME: 9:00 A.M.–1:00 P.M.

ADDRESSES: The Indian Treaty Room, Old Executive Office Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Sylvia Lino Prosak, President's Export Council, Room 2015B, Washington, D.C. 20230.

Dated: March 13, 1996.

Sylvia Lino Prosak,

*Staff Director and Executive Secretary,
President's Export Council.*

[FR Doc. 96-6651 Filed 3-19-96; 8:45 am]

BILLING CODE 3510-DR-P

National Oceanic and Atmospheric Administration

[I.D. 031296G]

Mid-Atlantic Fishery Management Council; Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Surfclam and Ocean Quahog Committee (with Industry Advisors) and Demersal Species Committee (with the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder Board) will hold public meetings.

DATES: The meetings will be held on April 2-4, 1996. On April 2, the Surfclam and Ocean Quahog Committee (with Industry Advisors) will meet from 1:00 p.m. until 4:00 p.m. On April 3, the Council will meet from 8:00 a.m. until noon, with the Demersal Species Committee (with ASMFC Summer Flounder Board) from 1:00 p.m. until 5:00 p.m. On April 4, the Council will meet from 8:00 a.m. until approximately 1:00 p.m.

ADDRESSES: The meetings will be held at the Doubletree Inn (at airport), 4101 Island Avenue, Philadelphia, PA; telephone 1-800-222-TREE.

Council Address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director; telephone: 302-674-2331.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to discuss alternatives, and possible adoption of, Amendment 10 to the Surfclam and Ocean Quahog Plan, discuss alternatives for Amendment 9 to the Summer Flounder Plan, possible Council action on the resubmitted portion of Amendment 5 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan, and recommendations to NMFS on tunafish, swordfish, and sharks.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at 302-674-2331 at least 5 days prior to the meeting dates.

Dated: March 13, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96-6654 Filed 3-19-96; 8:45 am]

BILLING CODE 3510-22-F

[I.D. 031296F]

North Pacific Fishery Management Council; Committee Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meetings.

SUMMARY: The North Pacific Fishery Management Council's Bering Sea/Aleutian Islands (BSAI) Crab Plan Team and its Crab Rebuilding Committee will hold meetings.

DATES: The Crab Plan Team will meet on April 3, 1996, beginning at 8:00 a.m. and concluding by 5:00 p.m. The Crab Rebuilding Committee will meet April 4-5, beginning at 8:00 a.m. on April 4, and concluding by 5:00 p.m. on April 5.

ADDRESSES: The meetings will be held at the Anchorage Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK 99501.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: David Witherell; telephone: 907-271-2809.

SUPPLEMENTARY INFORMATION: The Plan Team and Rebuilding Committee will review analyses being prepared for a suite of management measures to facilitate rebuilding of the BSAI king crab stocks.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907-271-2809, at least 5 working days prior to the meeting date.

Dated: March 13, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96-6653 Filed 3-19-96; 8:45 am]

BILLING CODE 3510-22-F

Patent and Trademark Office

[Docket No. 950921236-6049-03]

RIN 0651-XX04

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

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The Patent and Trademark Office (PTO) is publishing the final version of guidelines to be used by Office 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).

EFFECTIVE DATE: April 19, 1996.

FOR FURTHER INFORMATION CONTACT: John Kittle by telephone at (703) 308-1495, by telefax at (703) 305-3600, by electronic mail through the INTERNET to "iconpat@uspto.gov," or by mail addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, Attn: John Kittle, Director, Group 1100/2900, Crystal Plaza 3, 8D19.

SUPPLEMENTARY INFORMATION:

I. Discussion of Public Comments

Comments were received by the PTO from eleven different individuals in response to the request for comments on the interim guidelines for examination of design patent applications for computer-generated icons published October 5, 1995 (60 FR 52170). All comments have been carefully considered.

Two comments suggested the adoption of the interim guidelines as proposed. However, a number of changes have been made to the interim guidelines in response to the other comments.

One comment suggested that computer-generated icons are not "ornamental" designs within the meaning of 35 U.S.C. 171 because they are dictated by purely functional considerations. These guidelines do not address the procedures to be used by PTO personnel in assessing design ornamentality. Compliance with the ornamentality requirement of 35 U.S.C. 171 will be addressed on a case-by-case basis pursuant to prevailing laws, rules, and regulations. In this regard, prevailing case law, such as *Avia Group Int'l, Inc. v. L.A. Gear California, Inc.*, 853 F.2d 1557, 1563 (Fed. Cir. 1988), indicates that a distinction exists between the functionality of an article and the functionality of the design of the article that performs the function. Based on this distinction, the design of a computer-generated icon may not be dictated by the function associated with the computer-generated icon.

Many of the comments suggested that the PTO delete the requirement for a solid line depiction of the article of manufacture on the ground that it is not legally required. The PTO has adopted this suggestion. The final guidelines simply require a depiction of an article of manufacture in either solid or broken lines.

Two comments suggested that the PTO delete any requirement to depict an article of manufacture on the ground that indication of an article of manufacture in the title should be sufficient. This suggestion was not adopted. The depiction of an article of manufacture is necessary to ensure that any design patent covers more than mere abstract, two-dimensional, surface ornamentation.

One comment suggested that the language in the guidelines be amended to clarify that the guidelines satisfy the "design for an article of manufacture" requirement of 35 U.S.C. 171. This suggestion has not been followed. Computer-generated icons are designs within the meaning of 35 U.S.C. 171, but must be embodied in an article of manufacture to satisfy the statute. These guidelines are directed to determining whether the icon is embodied in an article of manufacture, not whether it is a design.

One comment suggested that the guidelines be amended to clarify that the drawing must contain a sufficient number of views to constitute a complete disclosure of the appearance of the article as required by 37 CFR 1.152. This suggestion was based on the language in the interim guidelines that a computer-generated icon may be embodied in a portion of computer screen, monitor, or other display panel.

This suggestion has been adopted. See footnote 6.

One comment suggested that the interim guidelines be modified to require the depiction of a central processing unit (CPU). This suggestion has not been adopted. The dependence of a computer-generated icon on a CPU for its existence is not a reason for requiring depiction of a CPU.

One comment suggested deleting the rejection under 35 U.S.C. 112, second paragraph for failure to depict the article of manufacture in solid lines. This suggestion has been adopted. Compliance with 35 U.S.C. 112, second paragraph, will be addressed on a case-by-case basis under the usual laws, rules, and regulations applied to such questions.

One comment suggested that the guidelines include a statement that a portion of a computer screen can be represented by a breakout of a screen portion without screen borders, and some shade lines adjacent to the icon in the breakout portion to indicate a glass surface. The suggestion for a statement regarding a breakout portion was not specifically adopted. However, a statement was added to footnote 6 indicating that the design drawing must meet the requirements of 37 CFR 1.84 which provides for exploded, partial, and sectional views.

One comment suggested that the guidelines include a statement that the characteristic feature statement can be an appropriate invention title and that the title could be repeated as the characteristic feature statement. This suggestion has not been adopted. The characteristic feature statement should describe a particular feature of the design that is considered a feature of novelty or non-obviousness over the prior art. The guidelines already suggest appropriate titles.

One comment suggested that some other form of intellectual property protection would be a more appropriate method of protecting rights in computer-generated icons. The availability of other forms of protection is not grounds for denying design patent protection to computer-generated icons which meet the requirements of section 171.

One comment suggested that the interim guidelines may be construed as substantive rulemaking. The final guidelines have been amended to indicate that they govern the internal operations of the PTO. The guidelines have been developed to assist PTO personnel in their review of design patent applications covering computer-generated icons for compliance with the

"article of manufacture" requirement of 35 U.S.C. 171.

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

The following guidelines have been 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

The PTO considers designs for computer-generated icons² embodied in articles of manufacture to be statutory subject matter eligible for design patent protection under section 171. Thus, if an application claims a computer-generated icon shown on a computer screen, monitor, other display panel, or a portion thereof,³ the claim complies with the "article of manufacture" requirement of section 171.⁴

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 design⁵ 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 shown. 37 CFR 1.152.⁶

b. Review the title to determine whether it clearly describes the claimed subject matter.⁷ 37 CFR 1.153.

c. Review the specification to determine whether a characteristic feature statement is present. 37 CFR 1.71. If a characteristic 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.⁸

2. If the drawing does not depict a computer-generated icon embodied in a computer screen, monitor, other display panel, or a portion thereof, in either solid or broken lines, reject the claimed design under section 171 for failing to

comply with the article of manufacture requirement.

a. If the disclosure as a whole does not suggest or describe 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 fatally defective under section 171; and (ii) amendments to the written description, drawings and/or claim attempting to overcome the rejection will not be entered because they would lack a written descriptive basis under 35 U.S.C. 112, first paragraph, and would constitute new matter under 35 U.S.C. 132.

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 rejection under section 171. Suggest amendments which would bring the claim into compliance with section 171.

3. Indicate all objections to the disclosure for failure to comply with the formal requirements of the Rules of Practice in Patent Cases. 37 CFR 1.71, 1.81-85, 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. Approve entry of any amendments which have support in the original disclosure; and

b. Review all arguments and the entire record, including any amendments, 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, by a preponderance of the evidence,⁹ the applicant has established that the computer-generated icon is embodied in a computer screen, monitor, other display panel, or portion thereof, withdraw the rejection under section 171.

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

PTO personnel shall follow the procedures set forth in this Notice when examining design patent applications for computer-generated icons pending in the PTO as of the effective date of these Guidelines.

IV. Treatment of Type Fonts

Traditionally, type fonts have been 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.

V. 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; 1504.01.A.

4. "We do not see that the dependence of the existence of a design on something outside itself is a reason for holding it is not a design 'for an article of manufacture.'" *In re Hruby*, 153 USPQ 61, 66 (CCPA 1967) (design of water fountain patentable design for an article of manufacture). The dependence of a computer-generated icon on a central processing unit and computer program for its existence itself is not a reason for holding that the design is not for an article of manufacture.

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 1.153.

6. Although a computer-generated icon may be embodied in only a portion of a computer screen, monitor, or other display panel, the drawing "must contain a sufficient number of views to constitute a complete disclosure of the appearance of the article." 37 CFR 1.152. In addition, the drawing must comply with 37 CFR 1.84.

7. 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;" or "portion of a monitor displayed with a computer icon image."

8. 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).

9. 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.").

Dated: March 14, 1996.

Bruce A. Lehman,

Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks.
[FR Doc. 96-6655 Filed 3-19-96; 8:45 am]

BILLING CODE 3510-16-P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 96-C00014]

SKR Resources, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of a Settlement Agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 CFR 1118.20(e)-(h). Published below is a provisionally-accepted Settlement Agreement with SKR Resources, Inc., a corporation. **DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by April 4, 1996.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 96-C0004, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0626.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: March 15, 1996.

Sadye E. Dunn,

Secretary.

Settlement Agreement and Order

1. SKR Resources, Inc. (hereinafter, "SKR"), a corporation, enters into this Settlement Agreement (hereinafter, "Agreement") with the staff of the Consumer Product Safety Commission,