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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

**SPECIAL UNION FOR THE INTERNATIONAL CLASSIFICATION OF GOODS AND
SERVICES FOR THE PURPOSES OF THE REGISTRATION OF MARKS
(NICE UNION)**

PREPARATORY WORKING GROUP

**Twenty-Sixth Session
Geneva, November 26 to 30, 2007**

REPORT

adopted by the Preparatory Working Group

INTRODUCTION

1. The Preparatory Working Group of the Committee of Experts of the Nice Union (hereinafter referred to as “the Working Group”) held its twenty-sixth session in Geneva from November 26 to 30, 2007.
2. The following current members of the Working Group were represented at the session: Australia, Austria, China, Croatia, Denmark, Finland, France, Germany, Hungary, Japan, Latvia, Luxembourg, Mexico, Netherlands, Norway, Portugal, Republic of Korea, Romania, Russian Federation, Singapore, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, United Kingdom and United States of America (27). Bahrain, Bosnia and Herzegovina, Brazil, Ecuador, Estonia, Greece, Lithuania, Malaysia, Poland, Serbia, Slovakia, Turkey, the Benelux Organisation for Intellectual Property (BOIP), the Commission of the European Communities (CEC) and the International Trademark Association (INTA) were represented by observers.
3. The Working Group noted that, since its last session held from January 31 to February 4, 2005, in accordance with the Rules of Procedure of the Committee of Experts of the Nice Union, three countries members of the Nice Union, namely, Australia, Singapore and The former Yugoslav Republic of Macedonia had become new members of the Working Group.

4. The list of participants appears in Annex I to this report.
5. The session was opened by Mr. Ernesto Rubio, Assistant Director General, WIPO, who welcomed the participants on behalf of the Director General.

ELECTION OF OFFICERS

6. The Working Group unanimously elected Mr. Mike Foley (United Kingdom) as Chair and Mr. Chan Louis (Singapore) as Vice-Chair.
7. Mr. Marcus Höpferger (WIPO) acted as Secretary of the session.

ADOPTION OF THE AGENDA

8. The Working Group unanimously adopted the agenda, which is reproduced in Annex II to this report.

CONCLUSIONS, DISCUSSIONS AND DECISIONS

9. As decided by the Governing Bodies of WIPO at their tenth series of meetings, held from September 24 to October 2, 1979 (see paragraphs 51 and 52 of document AB/X/32), the report on this session reflects only the conclusions of the Working Group (decisions, recommendations, opinions, etc.) and does not, in particular, reproduce the statements made by any participant, except where a reservation in relation to any specific conclusion of the Working Group was expressed or repeated after the conclusion was reached.

CONSIDERATION OF PROPOSALS FOR CHANGES TO THE NINTH EDITION OF THE NICE CLASSIFICATION

10. Discussions were based on documents CLIM/GTP/26/2 and CLIM/GTP/26/3, containing proposals for changes to be made to the Nice Classification submitted by China, Finland, Germany, Japan, Latvia, Mexico, Russian Federation, Switzerland, The former Yugoslav Republic of Macedonia, United Kingdom, United States of America and the Benelux Organisation for Intellectual Property (BOIP), and on document CLIM/GTP/26/4 containing summary tables of those proposals.

11. The Working Group approved a number of changes, which are shown in Annex III to this report. As no agreement was reached on Japan's proposals concerning the transfer of amusement apparatus or apparatus for games adapted for use with an external display screen or monitor from Class 9 to Class 28, Japan agreed to withdraw such proposals and to prepare, for the next session of the Working Group, a more detailed study in this respect. The study would also include certain apparatus in Class 9 of the alphabetical list that could be in conflict with the proposed transfers as well as the proposals for addition to the alphabetical list of certain video game machines and machines for gambling, made and then withdrawn by Japan and the United States.

CONSIDERATION OF PROPOSALS FOR AMENDMENTS TO CLASSES 5, 29, 30, 32 AND 33

12. Discussions were based on documents CLIM/GTP/26/5 and CLIM/GTP/26/6.
13. Norway presented proposals to the Working Group with a view to simplifying the classification of foodstuffs and of beverages. To that end, Norway proposed merging Classes 29 and 30 (relating to foodstuffs), merging Classes 32 and 33 (relating to beverages) and transferring all prophylactic products from Class 5 to one or the other of the classes resulting from the merging.
14. A considerable number of delegations and the representative of one observer organization, which took the floor on that item, indicated support, in principle, for the proposal of the Delegation of Norway. Some delegations indicated that further reflection and consultations would be needed, but that the proposal was a first step in the right direction. In particular, it was pointed out that the proposal, if accepted, would result in a much needed simplification and clarification of the Nice Classification. A distinction was made by several delegations between the proposal for merging Classes 29 and 30, and the proposal for merging Classes 32 and 33, with the former proposal appearing to be favored by some over the latter.
15. Delegations which expressed reservations as to the proposal said that it needed to be studied carefully, and asked whether this could be seen as a trend towards future proposals for the merging of more classes. It was also said that, while the creation of larger classes would simplify classification, this was not necessarily the case for searching.
16. Having put the proposals of the Delegation of Norway to a vote before the Preparatory Working Group, the Chair concluded that, although there was substantial support for the proposals, none of the three proposals could obtain a four-fifths majority of the Working Group.

OTHER BUSINESS

17. The Delegation of Singapore said that it wished to make some comments of a more general nature as to the manner in which the revision process was conducted. The Delegation thus suggested that all proposals for consideration by the Working Group should include an explanation of the item with dictionary references, pictures, drawings and actual product samples where logistically possible. In that regard, reproductions of any novel or unusual product which was unfamiliar to the Working Group could be visualized by using standard computer technology. For services, reference to relevant websites, if available, might be useful. Furthermore, proposals should also identify existing analogous terms in the Nice Classification and a justification as to why the proposed item should nonetheless be included. Adequate information from the proposing delegation would assist the Working Group in its deliberations. Ideally, the delegation making the proposal would provide other delegations and the Secretariat with all relevant information and references, at the time the proposal is submitted. In order to achieve that goal, a standard form with columns, like the item to be included, existing analogous entries, if any, and justification for the inclusion, could be devised and used. Moreover, the Delegation suggested the setting up of an Internet forum for Contracting Parties, where queries could be posted and other Contracting Parties as well as

the Secretariat could respond with their comments. This would promote more interaction and debate on the Nice Classification and, hopefully, prove to be conducive to a more uniform interpretation of the Nice Classification. The Delegation also suggested that the Secretariat consider publishing a guide on the Nice Classification, which would meet the needs of users and offices who want more guidance on how to apply the Nice Classification. Finally, the Delegation asked whether the Nice Classification meant to be an all encompassing listing of all conceivable good and service. According to its view, the Nice Classification was meant to be representative of the main categories of goods and services, so that users of the Classification were able to have sufficient guidance on how to classify an item.

18. A number of delegations expressed support for the statement by the Delegation of Singapore, in particular as certain features of the revision process were concerned, such as the five-year periodicity of revisions, the format of proposals and the setting up of an interactive Internet forum.

19. The representative of the International Trademark Association (INTA) encouraged the Preparatory Working Group to explore new ways of using modern information technology for rendering the revision process more responsive to the needs of offices and users of the trademark system alike. In particular, he suggested that the five-year revision period be reviewed and a more modern vision of the Nice Classification be developed and implemented.

20. The Chair concluded that the Preparatory Working Group requested the Secretariat to convene a session of an *ad hoc* Working Group to consider the introduction of amendments to the current revision process of the Nice Classification. The *ad hoc* Working Group would tentatively meet on July 3 and 4, 2008. All members of the Nice Union as well as certain interested observer organizations should be invited. The Secretariat was requested to prepare a working document for deliberation by the *ad hoc* Working Group, which would reflect the proposals for an amended revision procedure that were made during the present session of the Preparatory Working Group.

NEXT SESSION OF THE PREPARATORY WORKING GROUP

21. The Working Group noted that its next (twenty-seventh) session would be held in Geneva from October 6 to 10, 2008 and invited member States of the Nice Union and intergovernmental organizations concerned to submit to the International Bureau any new proposals for changes to the Classification, which would then be considered by the Working Group.

22. *The Working Group unanimously adopted this report at its twenty-seventh session on October 6, 2008.*

[Annexes follow]