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**IPC REVISION WORKING GROUP**

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**COMMENTS ON THE STANDARDIZED NOTES FOR  
CLASSIFYING MIXTURES OR COMPOSITIONS**

*Document prepared by the Secretariat*

1. The Annex to this document contains comments submitted by the United States of America on the standardized notes for classifying mixtures or compositions, adopted by the IPC Committee of Experts at its thirty-fourth session, in the framework of the treatment of hybrid systems in the IPC.

2. *The Working Group is invited to consider the comments contained in the Annex to this document.*

[Annex follows]

## ANNEX

<b>United States Patent and Trademark Office</b>	
<b>Topic:</b> General Classification Notes	<b>Date:</b> October 18, 2004

### Inconsistent Notes for Priority Rules

One of the most important achievements of IPC reform is the creation or adaptation of the three general classification rules to increase search consistency. These rules, and their proper application, were thoroughly discussed and adopted by the Committee, and are stated in detail within the Guide and the “Where to Classify Guidelines”. These documents also contain the specific language to be used in notes that inform the user which rules are used within schemes.

The final wording of each general rule and its note resulted from extensive discussions during the approval of the Guide. There is no ambiguity as to ‘how’ invention information and additional information is properly classified when using these rules. Both rules follow exactly the same steps for selecting the appropriate classification places (see Guide paragraphs 149, 150, 153, and 154). There is also no ambiguity as to ‘what’ invention information is classified when using these rules. The various types of inventive things to be classified, and their relative importance, are fully specified within the Guide and the “What to Classify Guidelines”.

The three general classification rules set forth the proper classification practice for invention information. They clearly require that each combination/mixture claimed must first be classified as a whole, each inventive thing claimed per se must be classified, and finally all novel and non-obvious subcombinations/ingredients of either must be classified separately.

We have discovered that some schemes that have been subsequently adopted by the Committee have incorporated a set of notes (these notes were introduced in Revision Working Group Report IPC/WG/9/8, paragraphs 32 – 34) which differs significantly from the notes that have been established in the Guide and Guidelines. We believe that the notes currently incorporated in these schemes misguide the user as to how the ‘first place priority rule’ and the ‘last place priority rule’ are properly applied. Therefore, the notes appearing in these schemes should be replaced with the equivalent notes for priority rules that have been established in the Guide.

This “problem” set of notes was created to designate the priority rule used in former double-purpose hybrid schemes. The IPC/WG/9/8 report stated that the use of either a set of “Standardized notes for the classification of chemical mixtures or compositions” or a set of “Standardized notes for the classification of combinations or subcombinations” is required when one of the priority rules is used in former hybrid schemes. Moreover, the usage of these sets of notes is expanding to other parts of the IPC that were not previously double-purpose type hybrid schemes.

As stated above, US believes these ‘standardized’ sets of notes are not needed and should be replaced with the approved priority notes of the Guide. Not only do these sets of notes differ from the language adopted in the Guide and Guidelines, when taken as a whole they minimize the importance of classifying combinations/mixtures by referring to them in the 2<sup>nd</sup> note. For example, paragraph 33 states in the 1<sup>st</sup> note of the set how a “subcombination”, claimed or not claimed, is classified and not how a combination is classified. A combination’s placement is covered in the 2<sup>nd</sup> note of the set.

The change in importance of combinations, based on the sequence of priority stated in the set of notes, clearly changes the 1<sup>st</sup> or primary classification assigned to patent documents based on Guide paragraph 156, bullet 1, which specifies:

“Classification symbols representing invention information, of which that symbol which most adequately represents the invention should be listed first.”

Additionally, the same subcombination subject matter of the 1<sup>st</sup> note is then covered again for some unknown reason in the 3<sup>rd</sup> note when it is a ‘novel and non-obvious part’ of a combination or a subcombination.

In order for the general classification rules to function properly and provide consistent classifications among all users, the sequence of steps, i.e., classifying the novel combinations first, must be kept the same in all situations where priority rules are used. This is particularly important when one office classifies another office’s documents, as will often be the case in the advanced level since the ALS will reclassify only one patent document from a simple family and its classifications will be automatically assigned to its other family members.

### **Correcting notes in former hybrid schemes**

The requirements for multiple-type classification for **all** general classification rules are clearly stated in the Guide (see paragraphs 140, 147, 150, 151, and 154). Currently, only the following subclasses, or portions of subclasses, include notes that differ from the standard notes established in the guide: C03C 25/24, C03C 25/48, C04B, C08F, C08L, C09D, C09J, C10M, D21H, and F16H. From our review of these areas, there is no overriding exigency justifying creation of the different notes designating the use of their last place priority rule. Therefore, these notes are not needed.

We propose that these notes be replaced with the standard last place priority rule note set forth in the Guide.

[End of Annex and of document]