Locarno Pilot Working Group

I would like to express my gratitude to the members of the Locarno Pilot Working Group for their efforts in achieving the common goal of improving the current International Classification system and creating a feature base design search tool. In response to the Chair's January 7, 2009 e-mail below are the general comments on the role of the Locarno Pilot Working Group, comments on the Common Categories, the Position paper of Charles University, and a proposal for a modified structure for Class 6 of Locarno Classification.

General comments

Although the Chair has indicated that comments to the USPTO response to the Benelux proposal were not requested, it is worthwhile to point out the significant importance of their comment. CIPO is in agreement with such a comment and does not believe that the comment is premature nor is it perceived as being negative but rather reflects the reality. It is also of the view that the "Task Force must broaden the investigation into best practices for achieving this goal."

If the objective is to develop an indexing system to enhance the existing classification to facilitate searching and to produce more effective searching of design registers then we believe it would be beneficial for the working group to explore various options other than the ones brought forward. Further analysis of available options should not be dismissed so quickly.

The primary focus of the working group should be improving the current International Classification rather than developing a supplementary search system based on visual features. Developing such a system would appear to be premature. The efforts of the Pilot Group should perhaps be redirected to focus on the already identified shortcomings of the present Locarno classification system. As previously suggested by the USPTO, there definitely should be an evaluation of existing systems for the classification of designs. Therefore, maybe the mandate of the Pilot Group should be amended to expand it to include the exploration of other options rather simply proceeding with the current chosen avenue. There is some added value in investigating further other possibilities.

Comments on the common categories

After review of the Common Categories, it is difficult to determine what the advantages would be for most countries. The common categories, in our view will not improve the search but rather complicate the search by rendering it more cumbersome and cause the search results to be questionable and even inaccurate. This type of system seems too restrictive, might not be applicable to all countries and will not assist the group in achieving the desired results of a simplified search tool.

The categories of shape and/or ornamentation do not apply to all the Locarno classes. Alternatively, it would appear that these categories could possibly be applied to further subdivide existing Locarno subclasses. For example, using certain suggested common categories, Subclass **21-01 Games and Toys**, of Locarno **Class 21** - **Games, toys, tents and sports goods** could be further subdivided as follows:
21-01-01 Toys – Plant and plant like forms
21-01-02 Toys – Animals and animal like forms
21-01-03 Toys – Humans and human like forms

The categories of surface, in our view, would allow the unwanted opportunity for interpretation amongst the classifiers and users conducting searches since it is unclear when an article would be in the XA-Smooth vis-à-vis XC-Nets/Holes/Grille/Perforation/Windowed if the article were smooth with holes. This comment is based on the example of the chair that has been assigned XA-Smooth rather than XC-Nets/Holes/Grille/Perforation/Windowed.

Further, there are too many categories in the Category of colour. For instance, the YB-1colour, YC-2 colours and YD-More than 2 colours categories should be combined. Even if the applied for article had only one colour, a search would need to be done in all of the categories to determine if that design was previously registered. Furthermore, the note indicates "Where, however, black and white photographs or drawings show clearly that a design comprises two or more colours (though not specified), it should be classified both in YA and in the relevant category YC or YD." This could possibly cause confusion amongst the various countries and the search would need to be performed in both the YC-2 colours and YD-More than 2 colours to ensure a valid search was conducted. For those same reasons, the YE-Transparent category appears pointless.

Comments on the Position paper of the Information Studies and Librarianship of Charles University in Prague on the studied proposal of improvement of Locarno Classification

The Pilot Working Group should yield careful consideration to the recommendations from the Institute of Information Studies & Librarianship. We are in agreement with recommendation 1 that the indexing rule should be carefully considered to avoid frequent amendments or changes but at the same time it needs to be versatile to allow for updates to meet future needs. Two definite musts are recommendations 2 and 3. It is crucial to obtain the viewpoints of expert indexers from various offices as this will become a tool to assist their work. It is just as important to ensure the development of a user friendly interface which meets the needs of all the various users (legal representatives, enterprises, classifiers, examiners…). Furthermore, the study should also involve the users of such a system to participate in a trial. Notwithstanding that there are shortcomings to the present Locarno classification which classifies according to the use, but without a test period, it is difficult and even premature to agree with recommendation 4 that suggests establishing searching categories will produce more effective searches and render more accurate results. We are indifferent to recommendation 5. Recommendation 6 would be an asset for any system that is implemented to ensure all users are applying it use in a consistent manner and will eliminate interpretations. Recommendation 7 is a discussion that needs to occur to determine the feasibility of such an initiative related to both the cost and time constraints related to reindexing of existing records. There will be no added value to industrial design users without reindexing of existing designs. Recommendation 8 should be explored further to determine if the image recognition produces acceptable results. Such a supporting tool would be welcomed providing that the search results are considered to be accurate.

Ideas on a structure for classification of design for Class 6 of the Locarno classification

In Canada, we register design features but it must be applied to a finished article. The design is classified using the Canadian Classification Standard and is classed according to the type of article. For example, if we receive an application for a bottle shown in stippled lines, where the design relates only to the ornamentation on the bottle, the application will be classified in the appropriate containers class even if the bottle is considered to be non design portion. The applicant must clearly disclose the design features applied to a finished article.

We have applied the principles of the Canadian Classification Standard to our suggestion for a modified Locarno structure. The subclasses to class 6 are enumerated below. It seems that one possible solution would be to break these subclasses down even further.

For example, currently the Locarno **Class 6 – Furnishing is as follows:**

06-01   SEATS

Notes:

       a.   Including all seats even if they are suitable for laying, such as benches, couches, divans [sofas], ottomans, benches for saunas and sofas.
       b.   Including vehicle seats.

06-02   BEDS

06-03   TABLES AND SIMILAR FURNITURE

06-04   STORAGE FURNITURE

06-05   COMPOSITE FURNITURE

06-06   OTHER FURNITURE AND FURNITURE PARTS

06-07   MIRRORS AND FRAMES

06-08   CLOTHES HANGERS

06-09   MATTRESSES AND CUSHIONS

06-10   CURTAINS AND INDOOR BLINDS

06-11   CARPETS, MATS AND RUGS

06-12   TAPESTRIES

06-13   BLANKETS AND OTHER COVERING MATERIALS, HOUSEHOLD LINEN AND NAPERY

06-99   MISCELLANEOUS

Using the principles of the Canadian Classification Standard, Locarno subclasses **06-01** and **06-03** could be broken down as follows:

06-01   SEATS

06-01-01 Kitchen, Dining Room, Patio and Office Chairs- With or Without Arms

06-01-02 Sofas and Living Room Chairs - With or Without Arms

06-01-03 Loungers - With or Without Arms

06-01-04 Benches - With or Without Arms

06-01-05 Stools & Footrests - With or Without Arms

06-01-06 Rocking Chairs

06-01-07 Theatre or Arena Seats

06-01-08 Profession Seats

06-01-09 Vehicle Seats

06-01-10 Chairs - Simulated Shapes

06-01-11 Moulded Chairs

06-01-12 Steel Frame Chairs

06-03   TABLES AND SIMILAR FURNITURE

06-03-01 Rectangular tables

06-03-02 Round, oval and semicircular tables

06-03-03 Tables with miscellaneous shapes

Similarly, this concept of further subdivision could be applied to all Locarno classes. Caution should be exercised when the sub subclasses are broken-down further as this too will cause the classification system to become more difficult to manage and render the search more complex. Both the UK IPO and IP Australia have applied a closely resembling concept to further subdivide the current Locarno Classification. It is important to express once more that the Locarno Pilot Group should evaluate the merits of existing systems for the classification of designs. It might be relatively useful to have a discussion amongst the countries, like the USPTO, CIPO, JPO, UK IPO and IP Australia, to name a few which use different systems, about the advantages and the difficulties the different countries have encountered using their current system.

In conclusion, we must reiterate that the implementation of the proposed universal categories will not improve the existing classification system. Such a complex system would result in a more cumbersome search with the results being questionable. We firmly believe the efforts of the Pilot Group should be focused on considering all possible options for improvements before being narrowed down to a single option. The decision should not be a hasty one but rather one that has explored all options. Simplicity should be the way forward.