

Special Union for the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Union)

Committee of Experts

**Twenty-First Session
Geneva, November 22 to 26, 2010**

REPORT

adopted by the Committee of Experts

INTRODUCTION

1. The Committee of Experts of the Nice Union (hereinafter referred to as “the Committee”) held its twenty-first session in Geneva from November 22 to 26, 2010. The following members of the Committee were represented at the session: Australia, Austria, China, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Lithuania, Luxembourg, Mexico, Netherlands, Norway, Portugal, Republic of Korea, Romania, Russian Federation, Serbia, Singapore, Spain, Sweden, Switzerland, Syrian Arab Republic, Turkey, Ukraine, United Kingdom and United States of America (32). The following States were represented by observers: Brazil, Chile, Ethiopia and Iraq (4). Representatives of the following international intergovernmental organizations took part in the session in an observer capacity: Benelux Organisation for Intellectual Property (BOIP) and the Commission of the European Communities (CEC). Representatives of the following international non-governmental organizations (NGO) attended the session in an observer capacity: European Communities Trade Mark Association (ECTA) and International Trademark Association (INTA). The list of participants appears as Annex I to this report.
2. The session was opened by Mr. Yo Takagi, Assistant Director General, who welcomed the participants on behalf of the Director General.

OFFICERS

3. The Committee unanimously elected Mr. Mike Foley (United Kingdom) as Chair, and Mrs. Jessie Roberts (United States of America) and Mrs. Hiroko Hirayama (Japan) as Vice-Chairs.
4. Mr. Antonios Farassopoulos (WIPO) acted as Secretary of the session.

ADOPTION OF THE AGENDA

5. The Committee unanimously adopted the agenda, which appears as Annex II to this report.

DISCUSSIONS, CONCLUSIONS AND DECISIONS

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

DRAFT REVISED RULES OF PROCEDURE OF THE COMMITTEE OF EXPERTS OF THE NICE UNION

7. Discussions were based on document [CLIM/CE/21/2](#).
8. The Committee adopted the revised Rules of Procedure of the Committee of Experts of the Nice Union as they appear in Annex III to this document.

ADOPTION OF AMENDMENTS AND OTHER CHANGES TO THE NINTH EDITION OF THE NICE CLASSIFICATION

9. Discussions were based on paragraphs 1 to 9, Annex 1 to project [CE213](#).
10. The Committee agreed with the proposed procedure for adoption of amendments and other changes to the ninth edition of the Nice Classification in relation with the seven countries of the Nice Union (Algeria, Israel, Lebanon, Morocco, Serbia, Montenegro and Tunisia) which are not yet bound by the Geneva Act (1977) of the Agreement.

LENGTH OF THE NEXT REVISION PERIOD

11. Discussions were based on paragraphs 10 and 11, Annex 1 to project [CE213](#).
12. In accordance with Rule 7 of the Revised Rules of Procedure, the Committee agreed that the next revision period for amendments to the Classification, i.e. for any transfer of goods or services from one class to another or for the creation of any new class, should be of five years.

ENTRY INTO FORCE OF THE DECISIONS OF THE COMMITTEE OF EXPERTS

13. Discussions were based on paragraphs 12 and 13, Annex 1 to project [CE213](#).

14. The Committee agreed that amendments and other changes to the ninth edition of the Nice Classification should enter into force on January 1, 2012, which meant that, in accordance with Article 4(1) of the Nice Agreement, the notification of the decisions of the Committee should be sent by the International Bureau (IB) on July 1, 2011, at the latest.
15. The Committee noted that the IB would prepare and publish the new (tenth) edition of the Nice Classification, in English and French, on paper and on the Internet, in autumn 2011.
16. The Committee invited the IB to take the opportunity of correcting any obvious typing or grammatical errors which it found in the text of the Classification.

CONSIDERATION OF PROPOSALS FOR CHANGES TO THE NINTH EDITION OF THE NICE CLASSIFICATION EXAMINED BY THE PREPARATORY WORKING GROUP DURING THE CURRENT REVISION PERIOD

17. Discussions were based on Annexes 1, 2 and 3 to project [CE214](#).
18. The Committee adopted a certain number of amendments and other changes, as contained in Annexes IV, V and VI to this report.
19. When examining certain proposals in this project, the Committee realized that it was necessary to further study the classification of certain goods such as chains, collars and leads for dogs. The delegation of the United Kingdom offered to submit a complete proposal relating to accessories for domestic animals to the Committee for examination at its next session.

FUTURE DEVELOPMENTS IN THE NICE CLASSIFICATION

20. Discussions were based on project [CE215](#).
21. According to Rule 7 of the adopted revised Rules of Procedure of the Committee in relation with the adoption of changes to the Classification (see paragraph 8 above), the Committee decided that, for the purposes of the publication of such changes, the edition of the publication would be indicated with an Arabic number between round brackets next to the abbreviation NCL, followed by a hyphen and the year of entry into force of the new version, as follows: NCL(10-2012), which means "Nice Classification, 10th edition, version in force since January 1, 2012". Each new version would include all "changes" adopted by the Committee since the adoption of the last version, while each new edition would contain all "changes" and "amendments" adopted by the CE during the whole five-year revision period. Lists of changes between versions would be made available to the offices for updating of national publications.
22. The Committee further decided that new versions of the Classification would be published only online (i.e. the alphabetical list would be updated online every year in respect of additions, deletions and changes in the wording of indications). New editions would be published online as well, the 10th edition being the last one to be issued on paper. The paper and the CD-ROM publications would be discontinued. A downloadable Nice Classification and PDF files would be published instead. Master files would be made available free of charge to those offices that wish to incorporate the publication into their web sites (internet or intranet).
23. The Committee noted that the IB is studying the possibility of enhancing the contents of the Classification by supplementing the alphabetical list with additional information on specific items, e.g., with class-related definitions of terms, synonyms and illustrations if

necessary, with links to similar terms across Classes, and with notes on the criteria applied for the classification of certain goods or services. Moreover, links between the alphabetical list and other databases of goods and services could be created. The search function would be enhanced.

24. The Committee further noted that the IB is collaborating with OHIM in view of the introduction in the Classification of a hierarchical taxonomy. Establishing such a hierarchical order would be helpful in presenting and exploring the Nice List of Goods and Services in a more organized manner. It would also allow the systematic integration of goods and services from other databases (e.g. the Trilateral List) which are covered by items in the Nice List. The hierarchical ordering of goods and services would not change the classification practice, the total number of classes or their contents. The grouping of products introduced in the hierarchy would have no impact on the legal protection of a trademark. These groupings and any link between “similar” products across classes would be used exclusively for assisting in the classification of a product or a service.
25. The IB was invited to submit a more detailed proposal on the new publication platform, including examples and mock-ups, by end of March 2011, to be further discussed on the e-forum.
26. The delegation from Spain made a statement concerning WIPO’s policy on languages, which is reproduced hereafter upon request by the said delegation:

“... this delegation would like to express its pleasure in relation to the last WIPO General Assembly decision concerning the establishment of a policy on languages at WIPO. This decision foresees that the Secretariat will be able to extend language coverage to all six official languages of the United Nations (Arabic, Chinese, English, French, Russian and Spanish) to all WIPO Committees and Working Groups as from January 2012.

The Spanish delegation hopes that, during 2011, the WIPO Program and Budget Committee of WIPO follows with its works in order to provide the necessary financial resources to implement that decision.

In this sense my delegation would like to express its sincere wish that in a very near future we could have the documents and participate in the debates of this Committee in Spanish.”

CONSIDERATION OF A PROPOSAL CONCERNING THE CLASSIFICATION OF DIETARY SUPPLEMENTS

27. Discussions were based on Annexes 5 and 6 to project [CE216](#). The IB prepared this project on the basis of the general indications given by the Preparatory Working Group of the Committee at its twenty-eighth session held in 2009 (see the report of the session, document [CLIM/GTP/28/12](#), paragraphs 26 to 28).
28. The Committee adopted a certain number of amendments and other changes, as contained in Annex VII to this report.

CONSIDERATION OF A PROPOSAL CONCERNING THE RESTRUCTURING OF CLASS 9

29. Discussions were based on Annexes 1, 2, 3, 4, 5, 6, 7 and 8 to project [CE217](#), which contained two proposals submitted by the United States of America. Both proposals intended to find a solution to the problem of Class 9 growing to an unwieldy size and including products of very disparate natures. The first proposal (Annexes 1, 3, 4 and 5)

consisted of transferring products from Class 9 to other existing classes while the second one (Annexes 2, 6, 7 and 8) proposed the creation of new classes and the transfer of goods from Class 9 to those new classes.

30. In general, the delegations were in favor of examining the first proposal as they considered that it was not possible, for the moment, to really measure the impact of the second proposal on existing IT systems and the resulting benefits for the users. The Chair of the Committee invited the delegations to post any further comments concerning the second proposal to the Electronic Forum.
31. The Committee examined the first proposal and adopted certain amendments and other changes, as contained in Annex VIII to this report.
32. As no agreement was reached in relation to moving certain goods out of Class 9, the following delegations offered to prepare a study on their classification to be submitted to the Committee at its next session: the United States of America on optical goods, and the CEC on hair curling apparatus.

NEXT SESSION OF THE COMMITTEE OF EXPERTS

33. The Committee noted that its twenty-second session would be held in Geneva in spring 2012.

CLOSING OF THE SESSION

34. The Chair closed the session.

35. *The Committee of Experts
unanimously adopted this report by electronic
means on January 7, 2011.*

[Annexes follow]