

## 商标注册用商品和服务国际分类特别联盟（尼斯联盟）

### 专家委员会

#### 第三十三届会议

2023年5月1日至5日，日内瓦

### 报 告

经专家委员会通过

### 导 言

1. 尼斯联盟专家委员会（下称委员会）于2023年5月1日至5日在日内瓦以混合形式举行了第三十三届会议。委员会下列成员派代表出席了会议：阿尔及利亚、埃及、爱尔兰、爱沙尼亚、奥地利、澳大利亚、白俄罗斯、秘鲁、波兰、大韩民国、丹麦、德国、俄罗斯联邦、法国、芬兰、格鲁吉亚、哈萨克斯坦、荷兰、吉尔吉斯斯坦、加拿大、捷克共和国、克罗地亚、拉脱维亚、立陶宛、联合王国、罗马尼亚、美利坚合众国、摩尔多瓦共和国、摩洛哥、墨西哥、挪威、葡萄牙、日本、瑞典、瑞士、沙特阿拉伯、斯洛伐克、特立尼达和多巴哥、土耳其、乌克兰、乌拉圭、西班牙、希腊、新加坡、新西兰、匈牙利、以色列、意大利、印度和中国（50个）。下列国家派观察员出席了会议：安哥拉、巴西、菲律宾、哥伦比亚、科特迪瓦、马达加斯加、泰国和伊拉克（8个）。下列国际政府间组织的代表以观察员身份参加了会议：比荷卢知识产权局（BOIP）、非洲地区知识产权组织（ARIPO）、非洲知识产权组织（OAPI）和欧洲联盟（欧盟）。下列非政府组织的代表以观察员身份参加了会议：国际保护知识产权协会（AIPPI）、国际商标协会（INTA）、加拿大知识产权协会（IPIC）、欧洲法律学生协会（ELSA 国际）和日本专利代理人协会（JPAA）。与会者名单见本报告附件一。

2. 会议由产权组织基础设施和平台部门助理总干事夏目健一郎先生宣布开幕，他对与会者表示欢迎。

### 主席团成员

3. 委员会一致选举塞巴斯蒂安·坦格利先生（瑞士）担任主席，选举莫妮克·科尼尔女士（美利坚合众国）和鲁拉·科海女士担任副主席。

4. 艾莉森·齐格女士（产权组织）担任会议秘书。

### 通过议程

5. 委员会一致通过了议程，见本报告附件二。

### 讨论、结论和决定

6. 依照 1979 年 9 月 24 日至 10 月 2 日举行的产权组织领导机构第十届系列会议的决定（见文件 AB/X/32 第 51 段和第 52 段），本届会议的报告仅反映委员会的各项结论（决定、建议、意见等），尤其不反映任何与会者的发言，除非是在委员会任何具体结论作出后对结论表示或者再次表示的保留意见。委员会同意收入本届会议上关于“非同质化代币和元宇宙”议题的一般性讨论简短摘要。

### 委员会的决定

7. 依照《尼斯协定》第三条第七款第（一）和第（二）项的规定，委员会通过尼斯分类（下称分类）修正<sup>1</sup>的决定，应由出席会议并参加表决的尼斯联盟各国以五分之四多数作出。通过分类其他修改的决定，应由出席会议并参加表决的尼斯联盟各国以简单多数作出。

### 委员会决定的生效

8. 依照《议事规则》第 7 条，委员会同意对分类的修改（不构成《尼斯协定》第三条第七款第（二）项意义上的修正）将于 2024 年 1 月 1 日生效，并将被纳入新一版分类。修正将于稍后生效，生效日期由委员会决定。

9. 委员会注意到，国际局将于 2023 年年底以前以英文和法文编制新一版分类（NCL（12-2024））并在线公布。英文和法文版 Excel 格式的商品和服务表将于 2023 年 6 月底之前在[电子论坛](#)上公布。

10. 委员会请国际局借此机会更正在尼斯分类案文中发现的所有明显打字或语法错误，并尽可能统一标点符号的使用。

### 企业部分

#### 用户协会介绍其尼斯分类相关问题

11. 为处理第 9 类规模不断扩大的问题，INTA 在发言中概述了一些可能的解决方案。委员会回顾了过去的一些相关建议和前几届会议的讨论情况。国际局宣布，它将考虑就这一问题开展一个新项目。

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<sup>1</sup> 《尼斯协定》第三条第七款第（二）项规定：“……修正是指将商品或服务从一个类移到另一个类，或建立新类。”

### 审议 NCLRMS 表决 1 后的第一组提案（五分之四多数批准）

12. 讨论依据 [NCLRMS](#) 中的第一组进行，其中载有在表决 1 中获得五分之四多数支持的 2023 版分类修正和其他修改提案。

13. 应要求，一项提案被移至第二组。委员会一致同意通过第一组的其余提案。委员会的决定可见 [NCLRMS/Sessions/CE33/Group 1](#)（以及[电子论坛](#)，项目 [CE330](#)）。

### 审议 NCLRMS 表决 1 后的第二组提案

14. 讨论依据 [NCLRMS](#) 中的第二组进行（下文第 16-19 段概述的“非同质化代币和元宇宙”议题中的建议除外），其中载有在表决 1 中未获五分之四多数支持的分门修正和其他修改提案。

15. 委员会通过了对分类的大量修正和其他修改。委员会的决定可见 [NCLRMS/Sessions/CE33/Group 2](#)（以及[电子论坛](#)，项目 [CE330](#)）。

### 审议与“非同质化代币和元宇宙”议题有关的提案

16. 讨论依据各局提交的关于将这一新兴领域的商品和服务列入字母顺序表的建议。

17. 为就这一主题进行一般性对话，作为对已提交的个别建议进行前后一致讨论的基础，并为简化这些讨论，国际局发起了一项非正式在线调查，涉及七个问题，有 35 个尼斯成员国提供了反馈。

18. 尽管一半以上的受访者愿意接受商标申请中的“元宇宙”一词，但仍有人对将该词加入字母顺序表表示关切。然而，“虚拟环境”一词得到了压倒性支持。同样，虽然半数以上的主管局不愿要求在商标申请中详细说明经非同质化代币认证的数字文件类型，但委员会倾向于字母顺序表中的词语要具体。会议还注意到，多数代表团不愿接受仅非同质化代币这一个词，但多数会接受在其适当类别中的由非同质化代币认证的实物商品，因此委员会批准了一个名称（第 25 类“由非同质化代币[NFT]认证的服装”），以在这一问题上提供指导。委员会进一步批准了第 9 类涉及“可下载的虚拟服装”和“由非同质化代币[NFT]认证的可下载数字图像文件”的名称。但是，尽管一些代表团倾向于将虚拟服务与现实世界中的同类服务进行一样的分类，但多数不会系统地这样做，因为担心一些虚拟服务实际上不提供与现实世界中相同类型的服务或结果。因此委员会认为，要正确分类，应该考虑虚拟服务的影响，以及该服务在现实世界中是否有相同的结果。由此，委员会批准了一些涉及虚拟环境服务的名称，以便为用户提供指导。最后，关于由 NFT 认证的虚拟商品的“交易”或“交换”是否应视为第 36 类的金融服务，各代表团存在分歧。

19. 委员会通过了对分类的大量修改，以及与服务分类原则(d)段有关的修改。委员会的决定可见 [NCLRMS/Sessions/CE33/Group 2/NFTs 和 metaverse](#)（以及[电子论坛](#)，项目 [CE330](#)）。

### 评估尼斯分类修订过程

20. 讨论依据项目 [CE332](#) 附件 2 和 3 进行，涉及尼斯分类的修订过程，由国际局提交。

21. 委员会重申支持目前的尼斯分类修订周期和时间框架。关于国际局的快速表决建议，委员会同意了一些修正。经更新的文件可见[电子论坛](#)，项目 [SP003](#)，附件 4。国际局同意将该项目保持开放，以收集更多关于修订程序的反馈。

### 专家委员会下届会议

22. 委员会注意到，下届（第三十四届）会议将于 2024 年 4 月底或 5 月初在日内瓦举行，具体取决于产权组织会议，包括各主要委员会的时间表。

### 会议闭幕

23. 主席宣布会议闭幕。

24. 专家委员会于 2023 年 5 月 26 日以电子方式一致通过了本报告。

[后接附件]

## ANNEXE I/ANNEX I

## LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS

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[技术附件和文件完]