

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

Committee of Experts

**Twenty-Fourth Session
Geneva, April 28 to May 2, 2014**

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-fourth session in Geneva from April 28 to May 2, 2014. The following members of the Committee were represented at the session: Austria, China, Denmark, Estonia, France, Germany, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Mexico, Netherlands, Norway, Republic of Korea, Romania, Russian Federation, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States of America (25). The following States were represented by observers: Canada, Namibia and Qatar (3). Representatives of the following international intergovernmental organizations took part in the session in an observer capacity: African Intellectual Property Organization (OAPI), African Regional Intellectual Property Organization (ARIPO), Benelux Office for Intellectual Property (BOIP) and European Union (EU). A representative of the following international non-governmental organization (NGO) attended the session in an observer capacity: International Trademark Association (INTA). The list of participants appears as Annex I to this report.

2. The session was opened by Mr. Antonios Farassopoulos, Director, International Classifications and Standards Division, WIPO, who welcomed the participants on behalf of the Director General.

OFFICERS

3. The Committee unanimously elected Mr. Thom Clark (OHIM) as Chair, and Mrs. Anat Levy (Israel) and Mrs. Iliana Mier (Mexico) 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.

ENTRY INTO FORCE OF THE DECISIONS OF THE COMMITTEE OF EXPERTS

7. In accordance with Rule 7 of the Revised Rules of Procedure, the Committee agreed that changes to the 2014 version of the tenth edition of the Nice Classification that do not entail an amendment in the sense of Article 3(7)(b) of the Nice Agreement¹, would enter into force on January 1, 2015, and be published online in a new version of the tenth edition (NCL (10-2015)) by the end of 2014.
8. The Committee invited the International Bureau to take the opportunity of correcting any obvious typing or grammatical errors which it found in the text of the Classification and harmonizing, as far as possible, the use of punctuation.

CONSIDERATION OF PROPOSALS FOR MODIFICATIONS TO NCL (10-2014)

9. Discussions were based on project [CE242](#), [Annex 1](#), which contained a summary table of proposals for modifications to NCL (10-2014).
10. The Committee adopted a certain number of amendments and other changes, as contained in Annex III to this report.

¹ Article 3(7)(b) of the Nice Agreement: "Decisions concerning the adoption of amendments to the Classification shall require a majority of four-fifths of the countries of the Special Union represented and voting. "Amendment" shall mean any transfer of goods or services from one class to another or the creation of any new class."

CONSIDERATION OF MATTERS RELATING TO THE ELECTRONIC PUBLICATION OF THE NICE CLASSIFICATION (NICEPUB)

11. Discussions were based on project [CE243](#), which contained a questionnaire submitted by the International Bureau, and in particular on [Annex 21](#) which contained a compilation of the replies submitted to said questionnaire.

12. It was noted that NicePub was unanimously considered to be an improvement in respect of the previous Nivilo publication. The Secretariat informed the Committee that the average number of visits to NicePub was multiplied by 15 compared to Nivilo.

13. The Committee expressed in particular its satisfaction on the presentation of synonymous, the presentation of the bilingual version, the extended possibilities of the search functions, the possibility to display the modifications between subsequent versions of the Classification and the introduction of the information files. In particular, many offices volunteered to submit info files, in order to improve clarity of new accepted proposals, where needed.

14. The Committee noted, in particular, that the presentation, on request, of the NCL goods and services according to the Taxonomy, was a positive contribution to the official publication of Nice.

15. However, some reservations were expressed, since the publication of the Taxonomy had been interpreted by some users as being officially part of the Classification. In that respect, it was agreed to increase the visibility of the relevant disclaimer and to modify the appearance of the titles of the Taxonomy groups in order to further distinguish them from the official Nice indications. Furthermore, the members of the Committee were invited to submit proposals for the improvement of the Taxonomy to the International Bureau.

16. The following improvements to NicePub were agreed on; the Secretariat indicated that they would be implemented, when feasible with reduced cost, by the second half of 2014:

- (a) change of the displayed class with one click;
- (b) improvement of the display of the correspondence between English and French terms in bilingual display;
- (c) addition of a new tab displaying the complete List of Class Headings, including, on request, the Explanatory Notes;
- (d) the following files will be made available for downloading:
 - (i) list of Class Headings and Explanatory Notes in searchable PDF format;
 - (ii) lists of Goods and Services per class (PDF);
 - (iii) lists of Goods and Services per class including the Taxonomy (PDF);
 - (iv) complete list of Goods and Services in Excel.

17. Finally, it was decided to include editions 1 to 10 into NicePub. It was noted that editions 1 to 6 would inevitably contain some errors due to imperfect Optical Character Recognition of the scanned paper copies. The effort to produce these versions should be minimized.

CONSIDERATION OF A PROPOSAL CONCERNING THE ADDITION OF THE TERM “SERVICES” TO CERTAIN INDICATIONS OF SERVICES IN THE ALPHABETICAL LIST, SUBMITTED BY SWITZERLAND

18. Discussions were based on project [CE242, Annex 2](#), which contained a proposal concerning the addition of the term “services” to certain indications of services in the alphabetical list, submitted by Switzerland. While the addition of the term “services” was considered necessary for the indications in French, this was not the case for the corresponding indications in English.

19. The Committee adopted a certain number of changes, as contained in Annex IV to this report.

CONSIDERATION OF A SURVEY CONCERNING THE CLASSIFICATION OF CUTLERY, SERVING UTENSILS AND KITCHEN UTENSILS, SUBMITTED BY THE UNITED STATES OF AMERICA

20. Discussions were based on project [CE242, Annex 3](#), which contained a survey concerning the classification of cutlery, serving utensils and kitchen utensils, submitted by the United States of America. The survey was intended to find out whether the Nice Union members would eventually support a proposal aiming at transferring table knives, forks and spoons, certain serving utensils, and household kitchen knives, blades and cutters from Class 8 to Class 21.

21. Out of the 25 member countries present at the session, 14 indicated they would be in principle in favor of the transfer while three would be against it. Two member countries, one intergovernmental organization and the International Bureau expressed their concern that the classification of knives in Class 8 when used as “hand tools in the respective professions” and in Class 21 when used as kitchen utensils, could be problematic as it would be difficult to make the difference between, for example, a butcher’s knife and a kitchen knife. The delegation of the United States was of the opinion that even if the goods were identical, the purpose indicated by the applicant would determine the class. This would be in accordance with General Remark (a) for Goods, which sets forth the first and main criterion that should be applied for classifying finished goods, namely, function or purpose. Two delegations stated that it was not clear what “function” or “purpose” is meant to be.

NEXT SESSION OF THE COMMITTEE OF EXPERTS

22. The Committee noted that its twenty-fifth session would be held in Geneva at the end of April or beginning of May 2015.

CLOSING OF THE SESSION

23. The Chair closed the session.

24. The Committee of Experts unanimously adopted this report by electronic means on June 3, 2014.

[Annexes follow]