

NEW NICE CLASSIFICATION

The World Intellectual Property Organization adopted changes in the International Classification of Goods and Services for the Purposes of the Registration of Marks established under the Nice Agreement concluded back in 1957 (the "Nice Classification").

The Nice Classification

The Nice Classification (NCL) is the primary system used to classify goods and services for the purposes of registering marks. The Nice Classification consists of a list of 45 classes – 34 for goods and 11 for services, and an alphabetical list of goods and services included in each class. The alphabetical list contains around 11,000 items. Each class refers to (i) a class heading, which gives a general information about the type of goods and services covered by the class, and (ii) respective explanatory notes, which provide clarification as to the exact goods and services included and/or not included in each class.

The Nice Classification is used by more than 140 countries around the world, as well as by the International Bureau of the World Intellectual Property Organization (which administers the international trademarks registration), the Office for Harmonization in the Internal Market (which administers the Community trademarks registration), the Benelux Organization for Intellectual Property, the African Intellectual Property Organization and the African Regional Intellectual Property Organization.

Each application for registration should include a list of goods and/or services covered by the mark. In general, the protection given by a trademark registration is defined to a great extent by the goods and/or the services applied for. Pursuant to the Nice Classification system, a trademark protection can be sought only for goods and/or services included in the Nice Classification. It should be noted that an improper or an incorrect designation of even one good and/or service in the application could result, at the very least, in delay of the registration process.

Grounds for the Changes

The changes concern the headings and/or the explanatory notes of 15 classes for goods (namely: classes 2, 5, 6, 10, 14, 16, 17, 18, 20, 21, 22, 24, 28, 30 and 31) and 1 class for services (namely: class 40). The most significant changes are introduced in the following 11 classes for goods:

- 6 (new class heading: "*Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; ores*");

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- 14 (new class heading: *"Precious metals and their alloys; jewellery, precious stones; horological and chronometric instruments"*);
- 16 (new class heading: *"Paper and cardboard; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paintbrushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging; printers' type; printing blocks"*);
- 17 (new class heading: *"Unprocessed and semi-processed rubber, gutta-percha, gum, asbestos, mica and substitutes for all these materials; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal"*);
- 18 (new class heading: *"Leather and imitations of leather; animal skins, hides; trunks and travelling bags; umbrellas and parasols; walking sticks; whips, harness and saddlery"*);
- 20 (new class heading: *"Furniture, mirrors, picture frames; unworked or semi-worked bone, horn, ivory, whalebone or mother-of-pearl; shells; meerschaum; yellow amber"*);
- 21 (new class heading: *"Household or kitchen utensils and containers; combs and sponges; brushes (except paintbrushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware"*);
- 22 (new class heading: *"Ropes and string; nets; tents, awnings and tarpaulins; sails; sacks; padding and stuffing materials (except of paper, cardboard, rubber or plastics); raw fibrous textile materials"*);
- 24 (new class heading: *"Textiles and substitutes for textiles; bed covers; table covers"*);
- 28 (new class heading: *"Games and playthings; gymnastic and sporting articles; decorations for Christmas trees"*); and
- 31 (new class heading: *"Agricultural, horticultural and forestry products; raw and unprocessed grains and seeds; fresh fruits and vegetables; natural plants and flowers; live animals; foodstuffs for animals; malt"*).

The reason for modifying these particular classes is that at the present their headings contain expressions such as *"...and goods made from these materials, not included in other classes"*, which might impede or even mislead the applicant(s). Therefore, in the new version of the Nice Classification such wording is removed from those class headings. Furthermore, as a result of the adopted changes, the explanatory notes of

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those classes will provide more examples of the goods included and the ones not included in each of those classes.

Impact on the Trademark Registration Process

By virtue of these changes, it is expected the class headings and explanatory notes of the classes mentioned above to become clearer and more precise. It is believed that these modifications will make the classification system more user-friendly.

The abovementioned changes to the Nice Classification will enter into force on 1 January 2016.

About Wolf Theiss

Wolf Theiss is one of the leading law firms in Central, Eastern and South-Eastern Europe. We have established our reputation of unsurpassed local knowledge and strong international capabilities. We opened the first Wolf Theiss office in Vienna over 50 years ago, and today our team is comprised of over 300 associates with different practice areas, working in offices spread in 13 countries in Central and Eastern Europe.

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