USPTO identification and classification practice updates: 2024

Nice Classification, 12th edition, version 2024 (Nice 12-2024)

What is the Nice Classification?

- Nice Classification is a guide to classification only.

- Members to the Nice Agreement must apply the Nice Classification.

- Nice Classification guidance is incorporated into the USPTO's Acceptable Identification of Goods and Services Manual (ID Manual)

Virtual services

How is "virtual" defined?

- Virtual is defined as "being on or simulated on a computer or computer network." https://www.merriam-webster.com/dictionary/virtual (accessed February 13, 2024)

What are virtual services?

- Real service activities that are delivered in virtual environments by means of a computer or via the internet, for example,

  - "Online banking services rendered in virtual environments" in Class 36

  - "Virtual restaurant services in the nature of ghost kitchen services" in Class 43

- Simulations of real activities that take place in virtual worlds or virtual environments, for example,

  - "Simulated banking services for in-game currencies provided in virtual environments for entertainment purposes" in Class 41

- "Virtual restaurant services in the nature of simulated restaurant services provided in virtual environments for entertainment purposes" in Class 41

Practice tips

- When evaluating virtual services, you should consider the nature of the service activity that is being rendered in the virtual environment and the purpose or result of the services. What is the impact of the virtual services on the real world?

- For more information, please see Virtual Services, TMEP §1401.15(c).

Non-fungible tokens (NFTs)

What is an NFT?

- A piece of data locked to one specific digital or physical item

- Exists on, and is tracked on, a blockchain

- Similar to a certificate of authenticity or ownership

- Not a good or service

Examples of acceptable identifications involving NFTs

- "Downloadable image files of paintings authenticated by non-fungible tokens (NFTs)" in Class 9

- "Downloadable video recordings featuring memes authenticated by non-fungible tokens (NFTs)" in Class 9

- "Handbags authenticated by non-fungible tokens (NFTs)" in Class 18

- "Licensing of intellectual property related to goods authenticated by non-fungible tokens (NFTs)" in Class 45

Practice tips

- An identification must specify the nature of the goods being authenticated by the NFTs, or the services involving NFTs, using wording that is definite and limited to a single class.

- For more information, please see Non-fungible tokens (NFTs), TMEP §1401.15(b).