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PATENT AND TRADEMARK OFFICE



# USPTO identification and classification practice updates: 2024

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# Discussion topics

- What is the Nice Classification?
- What are the key changes under the Nice Classification, 12th edition, version 2024 (Nice 12-2024)?
- How will it impact my practice?

# Nice Classification takeaways

- Guide for classification only
- Mandatory for U.S. trademark registration
- Guidance incorporated into the USPTO's Acceptable Identification of Goods and Services Manual (ID Manual)

# Knowledge check

- How would you describe your knowledge of the Nice Classification?
  - a. Beginner
  - b. Intermediate
  - c. Advanced

# What is the Nice Classification?

- Created a uniform classification system for goods and services
- Established by the Nice Agreement (1957)
- Administered by the World Intellectual Property Organization (WIPO)



# Nice Classification: format

- General remarks
- Class headings and explanatory notes
  - 45 in total (34 for goods, 11 for services)
- Alphabetical list

# Nice Classification: impact

- Foundation of U.S. identification policy
- Identifications must be:
  - Limited to one class under the Nice Classification
  - Specific enough to enable examination



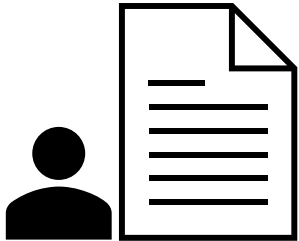
# Nice Classification: demonstration

The screenshot displays the WIPO Nice Classification web application. The browser address bar shows the URL: [https://nclpub.wipo.int/en/fr/?basic\\_numbers=show&explanatory\\_notes=show&gors=&lang=en&menulang=en&mode=flat&notion=search&version=20240101](https://nclpub.wipo.int/en/fr/?basic_numbers=show&explanatory_notes=show&gors=&lang=en&menulang=en&mode=flat&notion=search&version=20240101). The page features a navigation menu with 'Home > Nice Classification > NCLPUB' and a search bar. The main content area is titled 'Classes' and includes a search form with a 'Basic No. or search terms:' input field and an 'Include information files' checkbox. Below the search form, there are options for 'Operator' (radio buttons for OR and AND) and 'Exact search:' (checkbox). A 'Select Classes:' section offers links for 'GOODS', 'SERVICES', 'All', and 'None'. The central part of the page contains a grid of class numbers from 1 to 45, each with a checked checkbox. A 'Search' button is located at the bottom of the grid. On the left side, there is a sidebar with various filters: 'NICE HOME PAGE', 'DOWNLOAD', 'EDITION-VERSION' (set to 12-2024), 'OTHERS', 'LANGUAGE' (radio buttons for English, French, English/French, French/English, and a dropdown for Other), 'LINKS TO TM OFFICES', 'VIEW MODE' (radio button for Fiat), and 'SHOW' (checkboxes for Explanatory Notes and Basic No.). At the bottom of the sidebar, it indicates 'NCLPUB v3.2.64' and 'Last modified: 2024.06.05'.

# Nice Committee of Experts: proposals

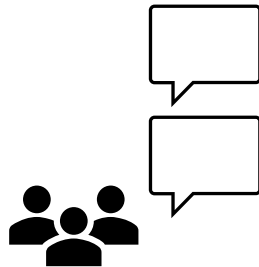
## October

Member countries post proposals to the Nice Classification.



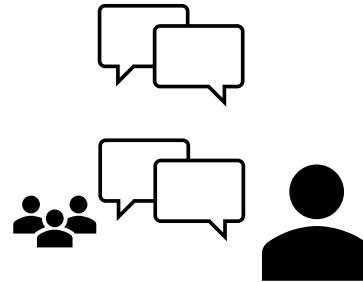
## December

Member countries post comments on other countries' proposals.



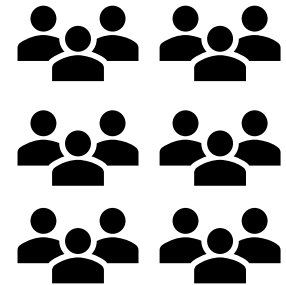
## January

Proposing member countries respond to comments.



## April/May

The Nice Committee of Experts meeting is held in Geneva.



# Nice Committee of Experts: post meeting

- Nice Committee of Experts meeting, WIPO, Geneva, Switzerland
  - 10 days post meeting: WIPO circulates a draft report of the meeting.
  - 7-10 days post draft report: WIPO issues the final report of the meeting.

# Nice Committee of Experts: implementation

- USPTO reviews committee decisions.
- USPTO prepares to incorporate decisions into systems and databases.
- New edition becomes effective in January.
  - Example, Nice 12-2024

# Knowledge check

- Nice Classification is:
  - a. Guide for classification only
  - b. Mandatory for U.S. trademark registration
  - c. Generally incorporated into the U.S. ID Manual
  - d. All of the above

# Key changes under Nice 12-2024

- **General topics**
  - Virtual services
  - Non-fungible tokens (NFTs)
  - Green tech goods and services
- **Particular goods and services**
  - Changes in classification
  - Specificity requirements

# Virtual services: background


- No guidance under the Nice Classification before Nice 12-2024
- Classification considered on a case-by-case basis

# Virtual services: general remarks


"The means by which a service is rendered...does not have any impact on the classification...However, this remark does not apply if the **purpose or result** of a service changes due to its means or place of delivery. This is the case, for example, when certain services are rendered in a virtual environment."



# Virtual services: same result

Class	Nice 12-2024	Basic No.
36	Banking	360013
36	Online banking	360072
36 	Online banking services rendered in virtual environments	360139

# Virtual services: different result

Class	Nice 12-2024	Basic No.
39	Passenger transport	390051
39	Transport of travellers	390063
41 	Simulated travel services provided in virtual environments for entertainment purposes	410255

# Virtual services: practice tip (1)

- What is the **nature of the service activity** being rendered in virtual environments?
- What is the **purpose or result** of the service?

# ID manual: same results

Class	ID Manual
35	Online <b>retail clothing store services</b> rendered in virtual environments
44	Online <b>medical consultations</b> rendered in virtual environments

# ID manual: different results

Class	ID Manual
41	Simulated <b>hair cutting services for avatars</b> provided in virtual environments for entertainment purposes
41	Simulated <b>restaurant services</b> provided in virtual environments for entertainment purposes

# Virtual services: practice tip (2)

- Generally “simulations” must indicate:
  - The nature of the activity.
  - The activity is a simulation.
  - The services are rendered in a virtual world or virtual environment for entertainment purposes, if accurate.

# Knowledge check

- Virtual services are classified according to what criteria?
  - a. The nature of the service activity
  - b. The purpose or result of the service
  - c. Both

# Non-fungible tokens: Nice 12-2023

Class	Nice 12-2023	Basic No.
9	Downloadable digital files authenticated by non-fungible tokens [NFTs]	090918



# Non-fungible tokens: Nice 12-2024 (a)

Class	Nice 12-2024	Basic No.
9	Downloadable digital image files authenticated by non-fungible tokens [NFTs]	090918
9	Downloadable digital music files authenticated by non-fungible tokens [NFTs]	090933

# Non-fungible tokens: Nice 12-2024 (b)

Class	Nice 12-2024	Basic No.
25	Clothing authenticated by non-fungible tokens [NFTs]	250200

# Non-fungible tokens: Nice 12-2024 (c)

Class	Nice 12-2024	Basic No.
9	Downloadable computer software applications for minting non-fungible tokens [NFTs]	090933
42	Providing online non-downloadable computer software for minting non-fungible tokens [NFTs]	420301

# Non-fungible tokens: Nice 12-2024 (d)

Class	Nice 12-2024	Basic No.
35	Retail services relating to downloadable digital image files authenticated by non-fungible tokens [NFTs]	350185
35	Provision of an online marketplace for buyers and sellers of downloadable digital image files authenticated by non-fungible tokens [NFTs]	350188

# Knowledge check

- Are NFTs considered goods in trade?
  - a. Yes
  - b. No

# Practice tip: NFTs

- Identifications must:
  - Specify nature of the goods being authenticated, or the services involved.
  - Use definite wording limited to a single class.

# Practice tip with examples: NFTs

Class	ID Manual
9	Downloadable video recordings featuring avatars authenticated by non-fungible tokens (NFTs)
45	Trademark licensing for goods authenticated by non-fungible tokens (NFTs)

# Green technology (tech): Nice 12-2024 (a)

Class	Nice 12-2024	Basic No.
4	Hydrogen fuel	040123
6	Mounting frames of metal for solar panels	060504
19	Mounting frames, not of metal, for solar panels	190275



# Green tech: Nice 12-2024 (b)

Class	Nice 12-2024	Basic No.
40	Production of renewable green energy	400143
40	Carbon capture	400142

# Green tech: Nice 12-2024 (c)

Class	Nice 12-2024	Basic No.
11	Light-emitting diode (LED) light bulbs	110414
29	Plant-based imitation meat	290268

# Changes in classification (a)

- Eyelash separators in Class 21
  - Added to Nice Alphabetical List in Class 21.
  - Changed U.S. practice of classifying these goods in Class 8.



# Changes in classification (b)

- Bra extenders in Class 26

- Added to the Nice Alphabetical List in Class 26.

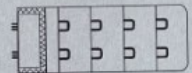
- Changed U.S. practice of classifying these goods in Class 25.



• Soft back provides comfort and eliminates irritation  
• Insert extender between bra hook and eye to add 1" to 3" to bra back

• Fermeture douce pour un meilleur confort sans irritation  
• Insérer l'extension entre l'agrafe et l'oeillet afin d'agrandir l'arrière du soutien-gorge de 25 à 76 mm

• Parte trasera suave para mayor comodidad sin irritación  
• Inserte la extensión entre el broche y el corchete para alargar la parte trasera del sostén de 25 a 76 mm



# Changes in classification (c)

- Restoration of printed photographs in Class 37
  - Added to the Nice Alphabetical List in Class 37.
  - Changed U.S. practice of classifying these services in Class 40.

# Changes in identification practice (a)

- Nails in Class 6 (Nice 12-2023)
  - Metal nails
    - Class 6 (Nice 12-2024)
  - Non-metal nails
    - Class 20 (Nice 12-2024)



# Changes in identification practice (b)

- Elastic bandages in Class 10 (Nice 12-2023)
  - Elastic bandages for dressing
    - Class 5 (Nice 12-2024)
  - Elastic bandages, not for dressings
    - Class 10 (Nice 12-2024)



# Changes in identification practice (c)

- Frying pans in Class 21 (Nice 12-2023)
  - Electric frying pans in Class 11 (Nice 12-2024)
  - Non-electric frying pans in Class 21 (Nice 12-2024)





# Rental services

Class	Nice 12-2024	Basic No.
36	Rental of pastures	360143
42	Rental of scientific microscopes	420297
44	Rental of surgical microscopes	440269
44	Rental of eyeglasses	440272

# Rental services: practice tip

- Rental services are classified in the same class as the services provided **by means of the rented objects**.

Class	ID Manual
38	Rental of telephones
39	Rental of cars

# U.S. ID Manual: demonstration

The screenshot displays the USPTO Trademark ID Manual website. At the top, the USPTO logo and "UNITED STATES PATENT AND TRADEMARK OFFICE" are visible. Below the header is a search bar with a "Download" button. The main content area is titled "Trademark ID Manual" and features a large blue "CELEBRATE NEXT GEN" logo above the "ID Master List" heading. A search input field with a magnifying glass icon and an information icon is present. Below the search field, there are three numbered "Quick Tips - Getting Started with ID Manual":

- 1 Search**  
Enter your search terms in the search box, and press the "Search" icon.  
Need more search options? Use the Advanced Search feature to see all the filters you can apply.
- 2 View Results**  
The results of your search will be displayed in a table of Trademark ID Manual information.
- 3 Sort on Columns**  
Click on the table column headers to sort your results.  
Want to Show or Hide columns? Use the "..." button in the upper-right side of the results table.

On the right side, there are two "Resources" sections:

- Searching the ID Manual**  
Helpful tips and information about searching through the ID Manual system.
- Guidance for Users**  
Information regarding ID Manual features, classification and identification practice, and tips relating to specific goods and services.
- Watch Our Filing Basis Video**  
Need more information on how to use in commerce and intent to use are different? This informative video explains it all.
- See the Goods & Services Video**  
Need more information on how to identify your goods or services? This informative video provides answers.

# Final comments

- Virtual services
- Non-fungible tokens
- Green tech
- Changes in classifications and clarifications

# Nice Classification takeaways (2)

- Nice Classification is a guide for classification only.
- Mandatory for U.S. trademark registration.
- Guidance is incorporated into the U.S. ID Manual.

# Poll question

- Would you attend annual USPTO webinars on changes under the Nice Classification?
  - a. Yes
  - b. No

**Questions?**



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