

World Trademark Review Daily

National Office of Intellectual Property adopts 10th edition of Nice Classification
Vietnam - IPMAX Law Firm

Registration

April 11 2012

Although Vietnam is not a member of the [Nice Agreement](#), it has long used the [International Classification of goods and services](#) as specified in the Nice Agreement for the purposes of trademark registration. It is a requirement that the goods and services designated in applications for registration must be set forth in specific and precise terms, so that they can be properly classified in accordance with the Nice Classification.

On March 9 2012 the [National Office of Intellectual Property](#) (NOIP) issued a notification announcing that it would apply the 10th edition of the Nice Classification, instead of the 9th edition, to all trademark applications filed on or after January 1 2012.

A Vietnamese translation of the 10th edition is being prepared by the NOIP and will be published in the next few months. Until then, the applicants may choose one of the two following options:

- Applicants may classify the goods and services in accordance with the English version of the 10th edition. If they choose this option, applicants may have to make further amendments to the specification of their goods/services after the NOIP releases the official Vietnamese translation of the 10th edition.
- Applicants may classify the goods and services in accordance with the Vietnamese version of the 9th edition already published by the NOIP. When examining an application, the NOIP will re-classify the goods and services, if necessary, in accordance with the 10th edition. The applicants will not have to pay any additional fee to amend the specification, except when:
 - the original classification was not in accordance with the 9th edition; or
 - the re-classification increases the number of items of goods and services (under the current regulations on fees applicable to trademark registrations in Vietnam, there is an extra fee for additional items after the sixth additional item).

This applies to all applications filed before the date of the NOIP's notification, but on or after January 1 2012.

Changes in the 10th edition include:

- reclassification;
- the addition or deletion of a number of goods and services in various classes;
- amendments to the description of a number of goods and services; and
- amendments to a number of class headings, the explanatory notes and general remarks.

The most significant changes are highlighted below:

- "Dietary supplements" are now classified in Class 5, regardless of their intended purpose (ie, whether they are used for human or for animals, or whether they are intended to supplement a normal diet or to achieve a health benefit). Further, there are new descriptions and additions with respect to "dietary supplements", "food additives" and "foodstuffs" in Classes 1, 5, 29 and 30.
- "Babies' napkins, babies' diaper-pants and babies' napkin-pants", whether made of paper (previously classified in Class 16) or textiles (previously classified in Class 25), are now all classified in Class 5.
- It is no longer a requirement to specify the intended purpose of "deodorants" (ie, for personal use or not). "Deodorants" are now classified in Class 3, whether they are "for human beings or for animals", or in Class 5 if their purpose is "other than for humans or for animals".
- Various "electric apparatus and instruments" previously classified in Class 9, such as "welding and soldering apparatus", "vending machines" and "electrical packaging apparatus" have been transferred to Class 7 as machines and parts of machine.
- "Amusement and game apparatus", whether adapted for use with an external display screen or monitor (previously classified in Class 9) or without such a device (previously classified in Class 28) are now all classified in Class 28.
- New items such as "video game machines", "portable games with liquid crystal displays" and "arcade video game machines" are now in Class 28.
- A number of new digital goods have been added to Class 9 (eg, "downloadable ring tones and music files", "GPS apparatus", "portable media players" and "USB flash drives").

World Trademark Review *Daily*

The adoption of the 10th edition will certainly lead to delays in the examination process of applications in which the designated goods and services are affected by the changes. However, in the long run, the changes will benefit both trademark owners and the Trademark Office, in that the 10th edition provides clarity to ambiguous descriptions of goods and services.

Trademark owners should monitor the revisions of the Nice Classification on a regular basis, as amendments to the description of goods or services, as well as additions or deletions, may now be made annually. More significant changes, such as the reclassification of specific goods or services or the deletion/addition of classes, can be made only in new editions, which will still follow the 'five-year cycle'.

Son Doan, IPMAX Law Firm, Hanoi

World Trademark Review (www.worldtrademarkreview.com) is a subscription-based, practitioner-led, bi-monthly publication and daily email service which focuses on the issues that matter to trademark professionals the world over. Each issue of the magazine provides in-depth coverage of emerging national and regional trends, analysis of important markets and interviews with high-profile trademark personalities, as well as columns on trademark management, online issues and counterfeiting.