

# Chapter 1400 Classification and Identification of Goods and Services

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<b>1401</b>	<b>Classification</b>
<b>1401.01</b>	Statutory Authority
<b>1401.02</b>	International Trademark Classification Adopted
<b>1401.02(a)</b>	Headings of International Trademark Classes
<b>1401.02(b)</b>	Short Titles for International Trademark Classes
<b>1401.02(c)</b>	International Alphabetical List
<b>1401.03</b>	Designation of Class
<b>1401.03(a)</b>	Designation of Class by Applicant Normally Initially Accepted in Applications Under §§1 and 44
<b>1401.03(b)</b>	Designation of Class by USPTO When Class Number Is Not Designated or Is Inaccurate in Application Under §1 or §44
<b>1401.03(c)</b>	Failure to Classify May Delay Action in Applications Under §§1 and 44
<b>1401.03(d)</b>	Classification Determined by World Intellectual Property Organization in §66(a) Applications
<b>1401.04</b>	Classification Determines Number of Fees
<b>1401.04(a)</b>	Prior United States Classification System
<b>1401.04(b)</b>	Limiting Goods and Services to the Number of Classes for Which Filing Fees Are Paid
<b>1401.05</b>	Criteria on Which International Classification Is Based
<b>1401.05(a)</b>	Identification and Classification of Kits, Gift Baskets, and Items Sold as a Unit
<b>1401.05(b)</b>	Medical vs. Non-Medical Goods
<b>1401.05(c)</b>	Classification and Plurality of Uses
<b>1401.05(d)</b>	Identification and Classification of "Systems"
<b>1401.05(e)</b>	Identification and Classification of "Food Additives"
<b>1401.06</b>	Specimen(s) as Related to Classification
<b>1401.07</b>	Specimen Discloses Special Characteristics
<b>1401.08</b>	Classification and the Identification of Goods and Services
<b>1401.09</b>	Implementation of Changes to the Nice Agreement
<b>1401.10</b>	Effective Date of Changes to USPTO ID Manual
<b>1401.10(a)</b>	Effective Date of USPTO ID Manual Entries for Applications Filed Under §66(a)
<b>1401.11</b>	Changes in Practice Based on the Restructuring of International Class 42 in the 8th Edition of the Nice Agreement
<b>1401.11(a)</b>	Elimination of "Miscellaneous Class Designation"
<b>1401.12</b>	General Summary of Major Changes in Practice Based on the 9th Edition of the Nice Agreement
<b>1401.12(a)</b>	Legal Services Transferred to International Class 45
<b>1401.12(b)</b>	Goods Made of Precious Metal are Classified According to Their Function
<b>1401.12(c)</b>	Transfer of Aquaria and Related Items
<b>1401.13</b>	General Summary of Major Changes in Practice Based on the 10th Edition of the Nice Agreement
<b>1401.13(a)</b>	Electric/Electrothermic Goods
<b>1401.13(b)</b>	Amusement and Game-Playing Apparatus
<b>1401.13(c)</b>	Food Additives
<b>1401.13(d)</b>	Dietetic Substances and Meal Replacements
<b>1401.13(e)</b>	Marketing Services
<b>1401.14</b>	General Summary of Major Changes in Practice Based on the 11th Edition of the Nice Agreement
<b>1401.14(a)</b>	Cosmetic and Toiletry Preparations and Soaps

- 1401.14(b) Household or Kitchen Serving Utensils and Small Hand-operated Kitchen Apparatus for Mincing, Grinding, Pressing, or Crushing
- 1401.14(c) Dietetic Food and Beverages Adapted for Medical or Veterinary Use
- 1401.14(d) Nut and Plant Milks; Milk Substitutes
- 1401.14(e) Security Services in Class 42 and Class 45
- 1401.14(f) Ivory, Bone, Whalebone, Horn, Tusks, or Other Items Prohibited under Federal Law

**1402****Identification of Goods and Services**

- 1402.01 Specifying the Goods and/or Services - in General
  - 1402.01(a) General Guidelines for Acceptable Identifications of Goods or Services
  - 1402.01(b) Identification of Goods and Services in a §44 Application
  - 1402.01(c) Identification and Classification of Goods and Services in a §66(a) Application
  - 1402.01(d) Location of "Identification of Goods and Services"
  - 1402.01(e) Responsibilities of Examining Attorney as to Identification
- 1402.02 Entitlement to Filing Date With Respect to Identification of Goods and Services
- 1402.03 Specificity of Terms Used in Identifying Goods and Services
  - 1402.03(a) Inclusive Terminology
  - 1402.03(b) House Marks
  - 1402.03(c) Marks for a "Full Line of ..."
  - 1402.03(d) Identifying Recorded or Downloadable Computer Programs and Software
  - 1402.03(e) Identifying Printed, Downloadable, or Recorded Publications with Specificity
  - 1402.03(f) Recognition of Industry Terms
  - 1402.03(g) Name and/or Acronym of Trademark Protection System or Scheme for Geographical Indication Appearing in Identification
- 1402.04 Acceptable Identification of Goods and Services Manual
- 1402.05 Accuracy of Identification
  - 1402.05(a) Goods That Are Components or Ingredients
  - 1402.05(b) Material Composition
- 1402.06 Amendments Permitted to Clarify or Limit Identification
  - 1402.06(a) Limiting the Identification of Goods and Services
  - 1402.06(b) Clarifying the Identification of Goods and Services
- 1402.07 Scope of Identification of Goods and Services for Purposes of Amendment
  - 1402.07(a) The Ordinary-Meaning Test
  - 1402.07(b) Ambiguous Identifications
  - 1402.07(c) Unambiguous Identifications
  - 1402.07(d) Permissible Scope of Identification Not Affected by Proposed Amendment That Is Unacceptable
  - 1402.07(e) Permissible Scope of Identification Affected by Proposed Amendment That Is Acceptable
- 1402.08 Moving Goods and Services Between Companion Applications
- 1402.09 Use of Marks or Terms "Applicant" and "Registrant" Inappropriate in Identifications
- 1402.10 Identification of Goods and Services in Documents Filed in Connection with §1(b) Applications
- 1402.11 Identification of Services
  - 1402.11(a) Computer Services
    - 1402.11(a)(i) Services Classified in Classes 35, 36, 37, 39, 40, 41, 43, 44, and 45
    - 1402.11(a)(ii) Content Providers
    - 1402.11(a)(iii) Provision of Telecommunications Connections to the Internet
    - 1402.11(a)(iv) Office-Function-Type and Computerized Web Traffic Services
    - 1402.11(a)(v) Computer Installation and Repair Services
    - 1402.11(a)(vi) Computer Retail Services

1402.11(a)(vii)	Computer Entertainment Services
1402.11(a)(viii)	Computer Design and Development Services
1402.11(a)(ix)	Database Services
1402.11(a)(x)	Online Publications
1402.11(a)(xi)	Electronic Storage, Hosting of Data, and Cloud Computing
1402.11(a)(xii)	Non-Downloadable Computer Software
1402.11(b)	Information Services
1402.11(c)	Association Services
1402.11(d)	Charitable Services, Other than Monetary
1402.11(e)	Consulting Services
1402.11(f)	Distribution of Videotapes, Audiotapes, Videodiscs, and Similar Goods
1402.11(g)	Recorded Entertainment Services
1402.11(h)	Identification of "Bonus Programs"
1402.11(i)	Marketing Services and Advertising Services
1402.11(j)	Issuing Awards
1402.11(k)	Accreditation- and Certification-Related Services vs. Certification Marks
1402.12	Parentheses and Brackets Should Not be Used in Identifications of Goods and Services
1402.13	Requirement for Amendment of Portion of Identification of Goods/Services
1402.14	Identification of Goods/Services Must Conform to Rules and Policies in Effect at the Time Registration is Sought
1402.15	Procedures for Processing Unacceptable Amendments to Identifications
1403	<b>Combined or Multiple-Class Applications</b>
1403.01	Requirements for Combined or Multiple-Class Applications
1403.02	Amendment of Combined or Multiple-Class Application
1403.02(a)	Deletion of Classes
1403.02(b)	Correction of Classification
1403.02(c)	Addition of Classes
1403.03	Dividing of Combined or Multiple-Class Application
1403.04	Refusals and Oppositions as to Less Than All the Classes in a Multiple-Class Application
1403.05	Fees for Action After Filing, Multiple Classes
1403.06	Surrender or Amendment in Multiple-Class Registrations

## 1401 Classification

### 1401.01 Statutory Authority

Section 30 of the Trademark Act, [15 U.S.C. §1112](#), provides authority for establishing a classification system. That section states, in part, as follows:

The Director may establish a classification of goods and services, for convenience of Patent and Trademark Office administration, but not to limit or extend the applicant's or registrant's rights.

### 1401.02 International Trademark Classification Adopted

As of September 1, 1973, the international classification of goods and services is the controlling classification used by the United States, and it applies to all applications filed on or after September 1, 1973, and their

resulting registrations, for all statutory purposes. See [37 C.F.R. §2.85\(a\)](#). Unless otherwise indicated, references in this manual to class refer to the international class.

Prior to September 1, 1973, the United States used its own classification of goods and services, which is different from the international classification. The prior United States classification continues to govern for all statutory purposes for trademark applications filed on or before August 31, 1973, and all registrations issued on the basis of an application filed on or before August 31, 1973, unless the owner of the registration amends the registration to adopt international classification. [37 C.F.R. §2.85\(b\)](#).

If a registration issued under the United States classification system, the owner of the registration may voluntarily amend to reclassify under the international classification system, pursuant to §7(e) of the Trademark Act, [15 U.S.C. §1057\(e\)](#), if the owner pays the required fee. [37 C.F.R. §§2.6](#) and [2.85\(e\)\(3\)](#). See [TMEP §1609.04](#).

Classification schedules are set forth in Part 6 of the Trademark Rules of Practice. See [37 C.F.R. §6.1](#) for the international classification schedule for goods and services, [37 C.F.R. §6.2](#) for the prior United States classification schedule for goods and services, [37 C.F.R. §6.3](#) for certification marks, and [37 C.F.R. §6.4](#) for collective membership marks.

### **1401.02(a) Headings of International Trademark Classes**

International trademark classification, and the headings of the international trademark classes, are established by the Committee of Experts of the Nice Union and set forth in the *International Classification of Goods and Services for the Purposes of the Registration of Marks* (Nice Classification) published annually by the World Intellectual Property Organization (WIPO) on its website. See [TMEP §1401.02\(c\)](#) for further information.

In 2013, the Committee of Experts began annual revisions to the Nice Classification. The annual revisions, which are published electronically and enter into force on January 1 each year, are referred to as versions and identified by edition number and year of the effective date (e.g., "Nice Classification, 10th edition, version 2013," "Nice 10-2013," or "NCL 10-2013"). Each annual version includes all changes adopted by the Committee of Experts since the adoption of the previous version. The changes consist of the addition of new goods and services to and deletion of goods and services from the Alphabetical List, and any modifications to the wording in the Alphabetical List, the class headings, and the explanatory notes that do not involve the transfer of goods or services from one class to another. New *editions* include all changes adopted annually since the previous edition and version, as well as all amendments since the previous edition. Amendments consist of goods or services transferred from one class to another or new classes that are created. The 5th through the 10th Editions of the Nice Agreement entered into force every five years. The 11th Edition of the Nice Agreement will remain in effect for six years. Beginning in 2023, new editions of the Nice Agreement will be issued every three years.

The [Nice Agreement Current Edition/Version](#) page sets forth the general remarks, class numbers, class headings and explanatory notes for the current edition and version of the Nice Agreement. The USPTO's [Nice Agreement Archives](#) page includes links to class headings and explanatory notes under previous editions and versions of the 10th Edition and previous versions of the 11th Edition of the Nice Agreement. Current and prior editions and versions of the Nice Agreement are also accessible via WIPO's website at <http://www.wipo.int/classifications/nice/en>. See also [TMEP §1401.02\(c\)](#).

Nice Classification, 11th edition, version 2022 ("NCL 11-2022" or "Nice 11-2022") became effective January 1, 2022. The general remarks, class numbers, class headings, and explanatory notes for each international class under NCL 11-2022 are set forth below. The word or words in parentheses following the class numbers are short titles for the classes that are used exclusively in the United States Patent and Trademark Office (USPTO) and are not part of the official text of the Nice Classification. See [TMEP §1401.02\(b\)](#).

NCL 11-2022 is available on [USPTO's Nice Agreement Current Edition/Version page](#) and on WIPO's website, <http://www.wipo.int/classifications/nice/en>, beginning on January 1, 2022.

## GENERAL REMARKS

The indications of goods or services appearing in the class headings are general indications relating to the fields to which, in principle, the goods or services belong. The Alphabetical List should therefore be consulted in order to ascertain the exact classification of each individual product or service.

### *Goods*

If a product cannot be classified with the aid of the List of Classes, the Explanatory Notes and the Alphabetical List, the following remarks set forth the criteria to be applied:

- (a) A finished product is in principle classified according to its function or purpose. If the function or purpose of a finished product is not mentioned in any class heading, the finished product is classified by analogy with other comparable finished products, indicated in the Alphabetical List. If none is found, other subsidiary criteria, such as that of the material of which the product is made or its mode of operation, are applied.
- (b) A finished product which is a multipurpose composite object (e.g., clocks incorporating radios) may be classified in all classes that correspond to any of its functions or intended purposes. However, if a good has a primary purpose it should be classified in this class. If those functions or purposes are not mentioned in any class heading, other criteria, indicated under (a), above, are to be applied.
- (c) Raw materials, unworked or semi-worked, are in principle classified according to the material of which they consist.
- (d) Goods intended to form part of another product are in principle classified in the same class as that product only in cases where the same type of goods cannot normally be used for another purpose. In all other cases, the criterion indicated under (a), above, applies.
- (e) When a product, whether finished or not, is classified according to the material of which it is made, and it is made of different materials, the product is in principle classified according to the material which predominates.
- (f) Cases adapted to the product they are intended to contain are in principle classified in the same class as the product.

### *Services*

If a service cannot be classified with the aid of the List of Classes, the Explanatory Notes and the Alphabetical List, the following remarks set forth the criteria to be applied:

- (a) Services are in principle classified according to the branches of activities specified in the headings of the service classes and in their Explanatory Notes or, if not specified, by analogy with other comparable services indicated in the Alphabetical List.
- (b) Rental services are in principle classified in the same classes as the services provided by means of the rented objects (e.g., Rental of telephones, covered by Cl. 38). Leasing services are analogous to rental services and therefore should be classified in the same way. However, hire- or lease-purchase financing is classified in Class 36 as a financial service.
- (c) Services that provide advice, information or consultation are in principle classified in the same classes as the services that correspond to the subject matter of the advice, information or consultation, e.g., transportation consultancy (Cl. 39), business management consultancy (Cl. 35), financial consultancy (Cl. 36), beauty consultancy (Cl. 44). The rendering of the advice, information or consultancy by electronic means (e.g., telephone, computer) does not affect the classification of these services.
- (d) Services rendered in the framework of franchising are in principle classified in the same class as the particular services provided by the franchisor (e.g., business advice relating to franchising (Cl. 35), financing services relating to franchising (Cl. 36), legal services relating to franchising (Cl. 45)).

## GOODS

### CLASS 1

#### (Chemicals)

Chemicals for use in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; fire extinguishing and fire prevention compositions; tempering and soldering preparations; substances for tanning animal skins and hides; adhesives for use in industry; putties and other paste fillers; compost, manures, fertilizers; biological preparations for use in industry and science.

#### *Explanatory Note*

Class 1 includes mainly chemical products for use in industry, science and agriculture, including those which go to the making of products belonging to other classes.

#### *This Class includes, in particular:*

- sensitized paper;
- tyre repairing compositions;
- salt for preserving, other than for foodstuffs;
- certain additives for use in the food industry, for example, pectin, lecithin, enzymes and chemical preservatives;
- certain ingredients for use in the manufacture of cosmetics and pharmaceuticals, for example, vitamins, preservatives and antioxidants;
- certain filtering materials, for example, mineral substances, vegetable substances and ceramic materials in particulate form.

#### *This Class does not include, in particular:*

- raw natural resins (Cl. 2), semi-processed resins (Cl. 17);
- chemical preparations for medical or veterinary purposes (Cl. 5);
- fungicides, herbicides and preparations for destroying vermin (Cl. 5);
- adhesives for stationery or household purposes (Cl. 16);
- salt for preserving foodstuffs (Cl. 30);
- straw mulch (Cl. 31).

## CLASS 2

### (Paints)

Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants, dyes; inks for printing, marking and engraving; raw natural resins; metals in foil and powder form for use in painting, decorating, printing and art.

#### *Explanatory Note*

Class 2 includes mainly paints, colorants and preparations used for protection against corrosion.

#### *This Class includes, in particular:*

- paints, varnishes and lacquers for industry, handicrafts and arts;
- thinners, thickeners, fixatives and siccatives for paints, varnishes and lacquers;
- mordants for wood and leather;
- anti-rust oils and oils for the preservation of wood;
- dyestuffs for clothing;
- colorants for foodstuffs and beverages.

#### *This Class does not include, in particular:*

- unprocessed artificial resins (Cl. 1), semi-processed resins (Cl. 17);
- mordants for metals (Cl. 1) ;
- laundry blueing (Cl. 3);
- cosmetic dyes (Cl. 3);
- paint boxes (articles for use in school) (Cl. 16);
- inks for stationery purposes (Cl. 16);
- insulating paints and varnishes (Cl. 17).

## CLASS 3

### (Cosmetics and cleaning preparations)

Non-medicated cosmetics and toiletry preparations; non-medicated dentifrices; perfumery, essential oils; bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations.

#### *Explanatory Note*

Class 3 includes mainly non-medicated toiletry preparations, as well as cleaning preparations for use in the home and other environments.

*This Class includes, in particular:*

- sanitary preparations being toiletries;
- tissues impregnated with cosmetic lotions;
- deodorants for human beings or for animals;
- room fragrancing preparations;
- nail art stickers;
- polishing wax;
- sandpaper.

*This Class does not include, in particular:*

- ingredients for use in the manufacture of cosmetics, for example, vitamins, preservatives and antioxidants (Cl. 1);
- degreasing preparations for use in manufacturing processes (Cl. 1);
- chemical chimney cleaners (Cl. 1);
- deodorants, other than for human beings or for animals (Cl. 5);
- medicated shampoos, soaps, lotions and dentifrices (Cl. 5);
- emery boards, emery files, sharpening stones and grindstones (hand tools) (Cl. 8);
- cosmetic and cleaning instruments, for example, make-up brushes (Cl. 21), cloths, pads and rags for cleaning (Cl. 21).

## **CLASS 4**

### **(Lubricants and fuels)**

Industrial oils and greases, wax; lubricants; dust absorbing, wetting and binding compositions; fuels and illuminants; candles and wicks for lighting.

*Explanatory Note*

Class 4 includes mainly industrial oils and greases, fuels and illuminants.

*This Class includes, in particular:*

oils for the preservation of masonry or of leather;  
raw wax, industrial wax;  
electrical energy;  
motor fuels, biofuels;  
non-chemical additives for fuels;  
wood for use as fuel.

*This Class does not include, in particular:*

- certain special industrial oils and greases, for example, oils for tanning leather (Cl. 1), oils for the preservation of wood, anti-rust oils and greases (Cl. 2), essential oils (Cl. 3);
- massage candles for cosmetic purposes (Cl. 3) and medicated massage candles (Cl. 5);
- certain special waxes, for example, grafting wax for trees (Cl. 1), tailors' wax, polishing wax, depilatory wax (Cl. 3), dental wax (Cl. 5), sealing wax (Cl. 16);
- wicks adapted for oil stoves (Cl. 11) and for cigarette lighters (Cl. 34).

## CLASS 5

### (Pharmaceuticals)

Pharmaceuticals, medical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for human beings and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

#### *Explanatory Note*

Class 5 includes mainly pharmaceuticals and other preparations for medical or veterinary purposes.

#### *This Class includes, in particular:*

- sanitary preparations for personal hygiene, other than toiletries;
- diapers for babies and for incontinence;
- deodorants, other than for human beings or for animals;
- medicated shampoos, soaps, lotions and dentifrices;
- dietary supplements intended to supplement a normal diet or to have health benefits;
- meal replacements and dietetic food and beverages adapted for medical or veterinary use.

#### *This Class does not include, in particular:*

- ingredients for use in the manufacture of pharmaceuticals, for example, vitamins, preservatives and antioxidants (Cl. 1);
- sanitary preparations being non-medicated toiletries (Cl. 3);
- deodorants for human beings or for animals (Cl. 3);
- support bandages, orthopaedic bandages (Cl. 10);
- meal replacements and dietetic food and beverages not specified as being for medical or veterinary use, which should be classified in the appropriate food or beverage classes, for example, low-fat potato crisps (Cl. 29), high-protein cereal bars (Cl. 30), isotonic beverages (Cl. 32).

## CLASS 6

### (Metal goods)

Common metals and their alloys, ores; metal materials for building and construction; transportable buildings of metal; non-electric cables and wires of common metal; small items of metal hardware; metal containers for storage or transport; safes.

*Explanatory Note*

Class 6 includes mainly unwrought and partly wrought common metals, including ores, as well as certain goods made of common metals.

*This Class includes, in particular:*

metals in foil or powder form for further processing, for example, for 3D printers;  
metal building materials, for example, materials of metal for railway tracks, pipes and tubes of metal;  
small items of metal hardware, for example, bolts, screws, nails, furniture casters, window fasteners;  
transportable buildings or structures of metal, for example, prefabricated houses, swimming pools, cages for wild animals, skating rinks;  
certain goods made of common metals not otherwise classified by function or purpose, for example, all-purpose boxes of common metal, statues, busts and works of art of common metal.

*This Class does not include, in particular:*

- metals and ores used as chemicals in industry or scientific research for their chemical properties, for example, bauxite, mercury, antimony, alkaline and alkaline-earth metals (Cl. 1);
- metals in foil and powder form for use in painting, decorating, printing and art (Cl. 2); electric cables (Cl. 9) and non-electric cables and ropes, not of metal (Cl. 22);
- pipes being parts of sanitary installations (Cl. 11), flexible pipes, tubes and hoses, not of metal (Cl. 17) and rigid pipes, not of metal (Cl. 19);
- cages for household pets (Cl. 21);
- certain goods made of common metals that are classified according to their function or purpose, for example, hand tools, hand-operated (Cl. 8), paper clips (Cl. 16), furniture (Cl. 20), kitchen utensils (Cl. 21), household containers (Cl. 21).

**CLASS 7****(Machinery)**

Machines, machine tools, power-operated tools; motors and engines, except for land vehicles; machine coupling and transmission components, except for land vehicles; agricultural implements, other than hand-operated hand tools; incubators for eggs; automatic vending machines.

*Explanatory Note*

Class 7 includes mainly machines and machine tools, motors and engines.

*This Class includes, in particular:*

- parts of motors and engines of all kinds, for example, starters, mufflers and cylinders for motors and engines of any type;
- electric cleaning and polishing apparatus, for example, electric shoe polishers, electric machines and apparatus for carpet shampooing and vacuum cleaners;
- 3D printers;
- industrial robots;

- certain special vehicles not for transportation purposes, for example, road sweeping machines, road making machines, bulldozers, snow ploughs, as well as rubber tracks as parts of those vehicles' crawlers.

*This Class does not include, in particular:*

- hand tools and implements, hand-operated (Cl. 8);
- humanoid robots with artificial intelligence, laboratory robots, teaching robots, security surveillance robots (Cl. 9), surgical robots (Cl. 10), robotic cars (Cl. 12), robotic drums (Cl. 15), toy robots (Cl. 28);
- motors and engines for land vehicles (Cl. 12);
- treads for vehicles, as well as tyres for all kinds of vehicle wheels (Cl. 12);
- certain special machines, for example, automated teller machines (Cl. 9), respirators for artificial respiration (Cl. 10), refrigerating apparatus and machines (Cl. 11).

## CLASS 8

### (Hand tools)

Hand tools and implements, hand-operated; cutlery; side arms, except firearms; razors.

#### *Explanatory Note*

Class 8 includes mainly hand-operated tools and implements for performing tasks, such as drilling, shaping, cutting and piercing.

*This Class includes, in particular:*

- hand-operated agricultural, gardening and landscaping tools;
- hand-operated tools for carpenters, artists and other craftspersons, for example, hammers, chisels and gravers;
- handles for hand-operated hand tools, such as knives and scythes;
- electric and non-electric hand implements for personal grooming and body art, for example, razors, implements for hair curling, tattooing, and for manicure and pedicure;
- hand-operated pumps;
- table cutlery, such as knives, forks and spoons, including those made of precious metals.

*This Class does not include, in particular:*

- machine tools and implements driven by a motor (Cl. 7);
- surgical cutlery (Cl. 10);
- pumps for bicycle tyres (Cl. 12), pumps specially adapted for use with balls for games (Cl. 28);
- side arms being firearms (Cl. 13);
- paper knives and paper shredders for office use (Cl. 16);
- handles for objects that are classified in various classes according to their function or purpose, for example, walking stick handles, umbrella handles (Cl. 18), broom handles (Cl. 21);
- serving utensils, for example, sugar tongs, ice tongs, pie servers and serving ladles, and kitchen utensils, for example, mixing spoons, pestles and mortars, nutcrackers and spatulas (Cl. 21);

- fencing weapons (Cl. 28).

## CLASS 9

### (Electrical and scientific apparatus)

Scientific, research, navigation, surveying, photographic, cinematographic, audiovisual, optical, weighing, measuring, signalling, detecting, testing, inspecting, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling the distribution or use of electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media, computer software, blank digital or analogue recording and storage media; mechanisms for coin-operated apparatus; cash registers, calculating devices; computers and computer peripheral devices; diving suits, divers' masks, ear plugs for divers, nose clips for divers and swimmers, gloves for divers, breathing apparatus for underwater swimming; fire-extinguishing apparatus.

#### *Explanatory Note*

Class 9 includes mainly apparatus and instruments for scientific or research purposes, audiovisual and information technology equipment, as well as safety and life-saving equipment.

#### *This Class includes, in particular:*

apparatus and instruments for scientific research in laboratories;

training apparatus and simulators, for example, resuscitation mannequins, simulators for the steering and control of vehicles;

apparatus and instruments for controlling and monitoring aircraft, watercraft and unmanned vehicles, for example, navigational instruments, transmitters, compasses for measuring, GPS apparatus, automatic steering apparatus for vehicles;

safety and security apparatus and instruments, for example, safety nets, signalling lights, traffic-light apparatus, fire engines, sound alarms, security tokens being encryption devices;

clothing that protects against serious or life-threatening injuries, for example, clothing for protection against accidents, irradiation and fire, bullet-proof clothing, protective helmets, head guards for sports, mouth guards for sports, protective suits for aviators, knee-pads for workers;

optical apparatus and instruments, for example, eyeglasses, contact lenses, magnifying glasses, mirrors for inspecting work, peepholes;

magnets;

smartwatches, wearable activity trackers;

joysticks for use with computers, other than for video games, virtual reality headsets, smartglasses;

eyeglass cases, cases for smartphones, cases especially made for photographic apparatus and instruments;

automated teller machines, invoicing machines, material testing instruments and machines;

batteries and chargers for electronic cigarettes;

electric and electronic effects units for musical instruments;

laboratory robots, teaching robots, security surveillance robots, humanoid robots with artificial intelligence for use in scientific research.

*This Class does not include, in particular:*

joysticks being parts of machines, other than for game machines (Cl. 7), vehicle joysticks (Cl. 12), joysticks for video games, controllers for toys and game consoles (Cl. 28);

coin-operated apparatus that are classified in various classes according to their function or purpose, for example, coin-operated washing machines (Cl. 7), coin-operated billiard tables (Cl. 28);

industrial robots (Cl. 7), surgical robots (Cl. 10), toy robots (Cl. 28);

pulse meters, heart rate monitoring apparatus, body composition monitors (Cl. 10);

laboratory lamps, laboratory burners (Cl. 11);

diving lights (Cl. 11);

explosive fog signals, signal rocket flares (Cl. 13);

histological sections for teaching purposes, biological samples for use in microscopy as teaching materials (Cl. 16);

clothing and equipment worn for the practice of certain sports, for example, protective paddings being parts of sports suits, fencing masks, boxing gloves (Cl. 28).

## **CLASS 10**

### **(Medical apparatus)**

Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; orthopaedic articles; suture materials; therapeutic and assistive devices adapted for persons with disabilities; massage apparatus; apparatus, devices and articles for nursing infants; sexual activity apparatus, devices and articles.

#### *Explanatory Note*

Class 10 includes mainly surgical, medical, dental and veterinary apparatus, instruments and articles generally used for the diagnosis, treatment or improvement of function or condition of persons and animals.

*This Class includes, in particular:*

- support bandages, orthopaedic bandages;
- special clothing for medical purposes, for example, compression garments, stockings for varices, strait jackets, orthopaedic footwear;
- articles, instruments and devices for menstruation, contraception and childbirth, for example, menstrual cups, pessaries, condoms, childbirth mattresses, forceps;
- therapeutic and prosthetic articles and devices for implantation made of artificial or synthetic materials, for example, surgical implants comprised of artificial materials, artificial breasts, brain pacemakers, biodegradable bone fixation implants;
- furniture especially made for medical purposes, for example, armchairs for medical or dental purposes, air mattresses for medical purposes, operating tables.

*This Class does not include, in particular:*

medical dressings and absorbent sanitary articles, for example, plasters, bandages and gauze for dressings, breast-nursing pads, diapers for babies and for incontinence, tampons (Cl. 5);

surgical implants comprised of living tissue (Cl. 5);  
tobacco-free cigarettes for medical purposes (Cl. 5) and electronic cigarettes (Cl. 34);  
wheelchairs and mobility scooters (Cl. 12);  
massage tables and hospital beds (Cl. 20).

## CLASS 11

### (Environmental control apparatus)

Apparatus and installations for lighting, heating, cooling, steam generating, cooking, drying, ventilating, water supply and sanitary purposes.

#### *Explanatory Note*

Class 11 includes mainly environmental control apparatus and installations, in particular, for the purposes of lighting, cooking, cooling and sanitizing.

#### *This Class includes, in particular:*

- air-conditioning apparatus and installations;
- ovens, other than for laboratory use, for example, dental ovens, microwave ovens, bakers' ovens;
- stoves being heating apparatus;
- solar thermal collectors;
- chimney flues, chimney blowers, hearths, domestic fireplaces;
- sterilizers, incinerators;
- lighting apparatus and installations, for example, luminous tubes for lighting, searchlights, luminous house numbers, vehicle reflectors, lights for vehicles;
- lamps, for example, electric lamps, gas lamps, laboratory lamps, oil lamps, street lamps, safety lamps;
- tanning beds;
- bath installations, bath fittings, bath plumbing fixtures; toilets, urinals;
- fountains, chocolate fountains;
- electrically heated pads, cushions and blankets, not for medical purposes;
- hot water bottles;
- electrically heated clothing;
- electric appliances for making yogurt, bread-making machines, coffee machines, ice-cream making machines;
- ice machines and apparatus.

#### *This Class does not include, in particular:*

- steam producing apparatus being parts of machines (Cl. 7);
- air condensers (Cl. 7);
- current generators, generators of electricity (Cl. 7);
- soldering lamps (Cl. 7), optical lamps, darkroom lamps (Cl. 9), lamps for medical purposes (Cl. 10);
- ovens for laboratory use (Cl. 9);
- photovoltaic cells (Cl. 9);
- signalling lights (Cl. 9);

- electrically heated pads, cushions and blankets, for medical purposes (Cl. 10);
- portable baby baths (Cl. 21);
- non-electric portable coolers (Cl. 21);
- cooking utensils that do not have an integrated heat source, for example, non-electric griddles and grills, non-electric waffle irons, non-electric pressure cookers (Cl. 21);
- footmuffs, not electrically heated (Cl. 25).

## CLASS 12

### (Vehicles)

Vehicles; apparatus for locomotion by land, air or water.

#### *Explanatory Note*

Class 12 includes mainly vehicles and apparatus for the transport of people or goods by land, air or water.

#### *This Class includes, in particular:*

- motors and engines for land vehicles;
- couplings and transmission components for land vehicles;
- air cushion vehicles;
- remote control vehicles, other than toys;
- parts of vehicles, for example, bumpers, windcreens, steering wheels;
- treads for vehicles, as well as tyres for all kinds of vehicle wheels.

#### *This Class does not include, in particular:*

- railway material of metal (Cl. 6);
- motors, engines, couplings and transmission components, other than for land vehicles (Cl. 7);
- parts of all kinds of motors and engines, for example, starters, mufflers and cylinders for motors and engines (Cl. 7);
- rubber tracks being parts of crawlers on construction, mining, agricultural and other heavy-duty machines (Cl. 7);
- tricycles for infants and scooters, being toys (Cl. 28);
- certain special vehicles or wheeled apparatus not for transportation purposes, for example, self-propelled road sweeping machines (Cl. 7), fire engines (Cl. 9), tea carts (Cl. 20);
- certain parts of vehicles, for example, electric batteries, mileage recorders and radios for vehicles (Cl. 9), lights for automobiles and bicycles (Cl. 11), automobile carpets (Cl. 27).

## CLASS 13

### (Firearms)

Firearms; ammunition and projectiles; explosives; fireworks.

#### *Explanatory Note*

Class 13 includes mainly firearms and pyrotechnic products.

*This Class includes, in particular:*

rescue flares, explosive or pyrotechnic;  
flare pistols;  
sprays for personal defence purposes;  
explosive fog signals, signal rocket flares;  
air pistols being weapons;  
bandoliers for weapons;  
sporting firearms, hunting firearms.

*This Class does not include, in particular:*

- grease for weapons (Cl. 4);
- blades being weapons (Cl. 8);
- side arms, other than firearms (Cl. 8);
- non-explosive fog signals, rescue laser signalling flares (Cl. 9);
- telescopic sights for firearms (Cl. 9);
- flaming torches (Cl. 11);
- Christmas crackers (Cl. 28);
- percussion caps being toys (Cl. 28);
- toy air pistols (Cl. 28);
- matches (Cl. 34).

## CLASS 14

### (Jewelry)

Precious metals and their alloys; jewellery, precious and semi-precious stones; horological and chronometric instruments.

#### *Explanatory Note*

Class 14 includes mainly precious metals and certain goods made of precious metals or coated therewith, as well as jewellery, clocks and watches, and component parts therefor.

*This Class includes, in particular:*

- jewellery, including imitation jewellery, for example, paste jewellery;
- cuff links, tie pins, tie clips;
- key rings, key chains and charms therefor;
- jewellery charms;
- jewellery boxes;
- component parts for jewellery, clocks and watches, for example, clasps and beads for jewellery, movements for clocks and watches, clock hands, watch springs, watch crystals.

*This Class does not include, in particular:*

- smartwatches (Cl. 9);
- charms, other than for jewellery, key rings or key chains (Cl. 26);
- objects of art not made of precious metals or coated therewith that are classified according to the material of which they are made, for example, works of art of metal (Cl. 6), of stone, concrete or marble (Cl. 19), of wood, wax, plaster or plastic (Cl. 20), of porcelain, ceramic, earthenware, terra-cotta or glass (Cl. 21);
- certain goods made of precious metals or coated therewith that are classified according to their function or purpose, for example, metals in foil and powder form for use in painting, decorating, printing and art (Cl. 2), dental amalgams of gold (Cl. 5), cutlery (Cl. 8), electric contacts (Cl. 9), pen nibs of gold (Cl. 16), teapots (Cl. 21), gold and silver embroidery (Cl. 26), cigar boxes (Cl. 34).

## **CLASS 15**

### **(Musical instruments)**

Musical instruments; music stands and stands for musical instruments; conductors' batons.

#### *Explanatory Note*

Class 15 includes mainly musical instruments, their parts and their accessories.

*This Class includes, in particular:*

- mechanical musical instruments and their accessories, for example, barrel organs, mechanical pianos, intensity regulators for mechanical pianos, robotic drums;
- musical boxes;
- electrical and electronic musical instruments;
- strings, reeds, pegs and pedals for musical instruments;
- tuning forks, tuning hammers;
- colophony (rosin) for stringed musical instruments.

*This Class does not include, in particular:*

- apparatus for the recording, transmission, amplification and reproduction of sound, for example, electric and electronic effects units for musical instruments, wah-wah pedals, audio interfaces, audio mixers, equalisers being audio apparatus, subwoofers (Cl. 9);
- downloadable music files (Cl. 9);
- downloadable electronic sheet music (Cl. 9), printed sheet music (Cl. 16);
- juke boxes, musical (Cl. 9);
- metronomes (Cl. 9);
- musical greeting cards (Cl. 16).

## **CLASS 16**

### **(Paper goods and printed matter)**

Paper and cardboard; printed matter; bookbinding material; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; drawing materials and materials for artists; paintbrushes; instructional and teaching materials; plastic sheets, films and bags for wrapping and packaging; printers' type, printing blocks.

*Explanatory Note*

Class 16 includes mainly paper, cardboard and certain goods made of those materials, as well as office requisites.

*This Class includes, in particular:*

- paper knives and paper cutters;
- cases, covers and devices for holding or securing paper, for example, document files, money clips, holders for cheque books, paper-clips, passport holders, scrapbooks;
- certain office machines, for example, typewriters, duplicators, franking machines for office use, pencil sharpeners;
- painting articles for use by artists and interior and exterior painters, for example, artists' watercolour saucers, painters' easels and palettes, paint rollers and trays;
- certain disposable paper products, for example, bibs, handkerchiefs and table linen of paper;
- certain goods made of paper or cardboard not otherwise classified by function or purpose, for example, paper bags, envelopes and containers for packaging, statues, figurines and works of art of paper or cardboard, such as figurines of papier mâché, framed or unframed lithographs, paintings and watercolours.

*This Class does not include, in particular:*

- paints (Cl. 2);
- hand tools for artists, for example, spatulas, sculptors' chisels (Cl. 8);
- teaching apparatus, for example, audiovisual teaching apparatus, resuscitation mannequins (Cl. 9), and toy models (Cl. 28);
- certain goods made of paper or cardboard that are classified according to their function or purpose, for example, photographic paper (Cl. 1), abrasive paper (Cl. 3), paper blinds (Cl. 20), table cups and plates of paper (Cl. 21), bed linen of paper (Cl. 24), paper clothing (Cl. 25), cigarette paper (Cl. 34).

## **CLASS 17**

### **(Rubber goods)**

Unprocessed and semi-processed rubber, gutta-percha, gum, asbestos, mica and substitutes for all these materials; plastics and resins in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, tubes and hoses, not of metal.

*Explanatory Note*

Class 17 includes mainly electrical, thermal and acoustic insulating materials and plastics for use in manufacture in the form of sheets, blocks and rods, as well as certain goods made of rubber, gutta-percha, gum, asbestos, mica or substitutes therefor.

*This Class includes, in particular:*

- rubber material for recapping tyres;
- floating anti-pollution barriers;
- adhesive tapes, other than stationery and not for medical or household purposes;
- plastic films, other than for wrapping and packaging, for example, anti-dazzle films for windows;
- elastic threads and threads of rubber or plastic, not for textile use;
- certain goods made of the materials in this class not otherwise classified by function or purpose, for example, foam supports for flower arrangements, padding and stuffing materials of rubber or plastics, rubber stoppers, shock-absorbing buffers of rubber, rubber bags or envelopes for packaging.

*This Class does not include, in particular:*

fire hose (Cl. 9);  
pipes being parts of sanitary installations (Cl. 11) and rigid pipes of metal (Cl. 6) and not of metal (Cl. 19);  
insulating glass for building (Cl. 19);  
certain goods made of the materials in this class that are classified according to their function or purpose, for example, gum resins (Cl. 2), rubber for dental purposes (Cl. 5), asbestos screens for firemen (Cl. 9), adhesive rubber patches for repairing inner tubes (Cl. 12), rubber erasers (Cl. 16).

## **CLASS 18**

### **(Leather goods)**

Leather and imitations of leather; animal skins and hides; luggage and carrying bags; umbrellas and parasols; walking sticks; whips, harness and saddlery; collars, leashes and clothing for animals.

#### *Explanatory Note*

Class 18 includes mainly leather, imitations of leather and certain goods made of those materials.

*This Class includes, in particular:*

luggage and carrying bags, for example, suitcases, trunks, travelling bags, sling bags for carrying infants, school bags;  
luggage or baggage tags;  
business card cases and pocket wallets;  
boxes and cases of leather or leatherboard.

*This Class does not include, in particular:*

- walking sticks or canes for medical purposes (Cl. 10);
- clothing, footwear and headwear of leather for human beings (Cl. 25);
- bags and cases adapted to the product they are intended to contain, for example, bags adapted for laptops (Cl. 9), bags and cases for cameras and photographic equipment (Cl. 9), cases for musical

instruments (Cl. 15), golf bags with or without wheels, bags especially designed for skis and surfboards (Cl. 28);

- certain goods made of leather, imitations of leather, animal skins and hides that are classified according to their function or purpose, for example, leather strops (Cl. 8), polishing leather (Cl. 21), chamois leather for cleaning (Cl. 21), leather belts for clothing (Cl. 25).

## CLASS 19

### (Non-metallic building materials)

Materials, not of metal, for building and construction; rigid pipes, not of metal, for building; asphalt, pitch, tar and bitumen; transportable buildings, not of metal; monuments, not of metal.

#### *Explanatory Note*

Class 19 includes mainly materials, not of metal, for building and construction.

#### *This Class includes, in particular:*

- semi-worked woods for use in building, for example, beams, planks, panels;
- wood veneers;
- building glass, for example, glass tiles, insulating glass for building, safety glass;
- glass granules for marking out roads;
- granite, marble, gravel;
- terra-cotta for use as a building material;
- roofing, not of metal, incorporating photovoltaic cells;
- gravestones and tombs, not of metal;
- statues, busts and works of art of stone, concrete or marble;
- letter boxes of masonry;
- geotextiles;
- coatings being building materials;
- scaffolding, not of metal;
- transportable buildings or structures, not of metal, for example, aquaria, aviaries, flagpoles, porches, swimming pools .

#### *This Class does not include, in particular:*

- cement preservatives, cement-waterproofing preparations (Cl. 1);
- fireproofing preparations (Cl. 1);
- wood preservatives (Cl. 2);
- oils for releasing form work for building (Cl. 4);
- letter boxes of metal (Cl. 6) and not of metal or masonry (Cl. 20);
- statues, busts and works of art of common metal (Cl. 6), of precious metal (Cl. 14), of wood, wax, plaster or plastic (Cl. 20), of porcelain, ceramic, earthenware, terra-cotta or glass (Cl. 21);
- certain pipes, not of metal, not for building, for example, pipes being parts of sanitary installations (Cl. 11), flexible pipes, tubes and hoses, not of metal (Cl. 17);
- substances for insulating buildings against moisture (Cl. 17);
- glass for vehicle windows (semi-finished product) (Cl. 21);

- birdcages (Cl. 21);
- mats and matting, linoleum and other materials for covering existing floors (Cl. 27);
- unsawn or undressed timber (Cl. 31).

## CLASS 20

### (Furniture and articles not otherwise classified)

Furniture, mirrors, picture frames; containers, not of metal, for storage or transport; unworked or semi-worked bone, horn, whalebone or mother-of-pearl; shells; meerschaum; yellow amber.

#### *Explanatory Note*

Class 20 includes mainly furniture and parts therefor, as well as certain goods made of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastic.

#### *This Class includes, in particular:*

- metal furniture, furniture for camping, gun racks, newspaper display stands;
- indoor window blinds and shades;
- bedding, for example, mattresses, bed bases, pillows;
- looking glasses, furniture and toilet mirrors;
- registration plates, not of metal;
- small items of hardware, not of metal, for example, bolts, screws, dowels, furniture casters, collars for fastening pipes;
- letter boxes, not of metal or masonry.

#### *This Class does not include, in particular:*

- special furniture for laboratories (Cl. 9) or for medical use (Cl. 10);
- outdoor blinds of metal (Cl. 6), not of metal and not of textile (Cl. 19), of textile (Cl. 22);
- bed linen, eiderdowns and sleeping bags (Cl. 24);
- certain mirrors for specific uses, for example, mirrors used in optical goods (Cl. 9), mirrors used in surgery or dentistry (Cl. 10), rearview mirrors (Cl. 12), sighting mirrors for guns (Cl. 13);
- certain goods made of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastic, that are classified according to their function or purpose, for example, beads for making jewellery (Cl. 14), wooden floor boards (Cl. 19), baskets for domestic use (Cl. 21), plastic cups (Cl. 21), reed mats (Cl. 27).

## CLASS 21

### (Housewares and glass)

Household or kitchen utensils and containers; cookware and tableware, except forks, knives and spoons; combs and sponges; brushes, except paintbrushes; brush-making materials; articles for cleaning purposes; unworked or semi-worked glass, except building glass; glassware, porcelain and earthenware.

*Explanatory Note*

Class 21 includes mainly small, hand-operated utensils and apparatus for household and kitchen use, as well as cosmetic and toilet utensils, glassware and certain goods made of porcelain, ceramic, earthenware, terra-cotta or glass.

*This Class includes, in particular:*

- household and kitchen utensils, for example, fly swatters, clothes-pegs, mixing spoons, basting spoons and corkscrews, as well as serving utensils, for example, sugar tongs, ice tongs, pie servers and serving ladles;
- household, kitchen and cooking containers, for example, vases, bottles, piggy banks, pails, cocktail shakers, cooking pots and pans, and non-electric kettles and pressure cookers;
- small hand-operated kitchen apparatus for mincing, grinding, pressing or crushing, for example, garlic presses, nutcrackers, pestles and mortars;
- dish stands and decanter stands;
- cosmetic utensils, for example, electric and non-electric combs and toothbrushes, dental floss, foam toe separators for use in pedicures, powder puffs, fitted vanity cases;
- gardening articles, for example, gardening gloves, window-boxes, watering cans and nozzles for watering hose;
- indoor aquaria, terrariums and vivariums.

*This Class does not include, in particular:*

- cleaning preparations (Cl. 3);
- containers for storage and transport of goods, of metal (Cl. 6), not of metal (Cl. 20);
- small apparatus for mincing, grinding, pressing or crushing, which are driven by electricity (Cl. 7);
- razors and shaving apparatus, hair and nail clippers, electric and non-electric implements for manicure and pedicure, for example, manicure sets, emery boards, cuticle nippers (Cl. 8);
- table cutlery (Cl. 8) and hand-operated cutting tools for kitchen use, for example, vegetable shredders, pizza cutters, cheese slicers (Cl. 8);
- lice combs, tongue scrapers (Cl. 10);
- cooking utensils, electric (Cl. 11);
- toilet mirrors (Cl. 20);
- certain goods made of glass, porcelain and earthenware that are classified according to their function or purpose, for example, porcelain for dental prostheses (Cl. 5), spectacle lenses (Cl. 9), glass wool for insulation, acrylic or organic glass, semi-processed (Cl. 17), earthenware tiles (Cl. 19), building glass (Cl. 19), glass fibres for textile use (Cl. 22).

**CLASS 22****(Cordage and fibers)**

Ropes and string; nets; tents and tarpaulins; awnings of textile or synthetic materials; sails; sacks for the transport and storage of materials in bulk; padding, cushioning and stuffing materials, except of paper, cardboard, rubber or plastics; raw fibrous textile materials and substitutes therefor.

*Explanatory Note*

Class 22 includes mainly canvas and other materials for making sails, rope, padding, cushioning and stuffing materials and raw fibrous textile materials.

*This Class includes, in particular:*

- cords and twines made of natural or artificial textile fibres, paper or plastics;
- fishing nets, hammocks, rope ladders;
- vehicle covers, not fitted;
- certain sacks and bags not otherwise classified by function or purpose, for example, mesh bags for washing laundry, body bags, mail bags;
- packaging bags of textile;
- animal fibres and raw textile fibres, for example, animal hair, cocoons, jute, raw or treated wool, raw silk.

*This Class does not include, in particular:*

- metal ropes (Cl. 6);
- strings for musical instruments (Cl. 15) and for sports rackets (Cl. 28);
- padding and stuffing materials of paper or cardboard (Cl. 16), rubber or plastics (Cl. 17);
- certain nets and bags that are classified according to their function or purpose, for example, safety nets (Cl. 9), luggage nets for vehicles (Cl. 12), garment bags for travel (Cl. 18), hair nets (Cl. 26), golf bags (Cl. 28), nets for sports (Cl. 28);
- packaging bags, not of textile, which are classified according to the material of which they are made, for example, packaging bags of paper or plastics (Cl. 16), of rubber (Cl. 17), of leather (Cl. 18).

## **CLASS 23**

### **(Yarns and threads)**

Yarns and threads for textile use.

#### *Explanatory Note*

Class 23 includes mainly natural or synthetic yarns and threads for textile use.

*This Class includes, in particular:*

fibreglass, elastic, rubber and plastic threads for textile use;  
threads for embroidery, darning and sewing, including those of metal;  
spun silk, spun cotton, spun wool.

*This Class does not include, in particular:*

certain threads for specific uses, for example, identification threads for electric wires (Cl. 9), surgical thread (Cl. 10), threads of precious metal being jewellery (Cl. 14);

threads, other than for textile use, that are classified according to the material of which they are made, for example, threads for binding of metal (Cl. 6) and not of metal (Cl. 22), elastic threads, threads of rubber or plastic (Cl. 17), fibreglass threads (Cl. 21).

## **CLASS 24**

### **(Fabrics)**

Textiles and substitutes for textiles; household linen; curtains of textile or plastic.

#### *Explanatory Note*

Class 24 includes mainly fabrics and fabric covers for household use.

#### *This Class includes, in particular:*

- household linen, for example, bedspreads, pillow shams, towels of textile;
- bed linen of paper;
- sleeping bags, sleeping bag liners;
- mosquito nets.

#### *This Class does not include, in particular:*

- electrically heated blankets, for medical purposes (Cl. 10) and not for medical purposes (Cl. 11);
- table linen of paper (Cl. 16);
- asbestos safety curtains (Cl. 17), bamboo curtains and bead curtains for decoration (Cl. 20);
- horse blankets (Cl. 18);
- certain textiles and fabrics for specific uses, for example, fabrics for bookbinding (Cl. 16), insulating fabrics (Cl. 17), geotextiles (Cl. 19).

## **CLASS 25**

### **(Clothing)**

Clothing, footwear, headwear.

#### *Explanatory Note*

Class 25 includes mainly clothing, footwear and headwear for human beings.

#### *This Class includes, in particular:*

parts of clothing, footwear and headwear, for example, cuffs, pockets, ready-made linings, heels and heelpieces, cap peaks, hat frames (skeletons);  
clothing and footwear for sports, for example, ski gloves, sports singlets, cyclists' clothing, judo and karate uniforms, football shoes, gymnastic shoes, ski boots;  
masquerade costumes;

paper clothing, paper hats for use as clothing;  
 bibs, not of paper;  
 pocket squares;  
 footmuffs, not electrically heated.

*This Class does not include, in particular:*

- small items of hardware used in shoemaking, for example, shoe pegs and shoe dowels of metal (Cl. 6) and not of metal (Cl. 20), as well as haberdashery accessories and fastenings for clothing, footwear and headwear, for example, clasps, buckles, zippers, ribbons, hatbands, hat and shoe trimmings (Cl. 26);
- certain clothing, footwear and headwear for special use, for example, protective helmets, including for sports (Cl. 9), clothing for protection against fire (Cl. 9), clothing especially for operating rooms (Cl. 10), orthopaedic footwear (Cl. 10), as well as clothing and footwear that are essential for the practice of certain sports, for example, baseball gloves, boxing gloves, ice skates (Cl. 28);
- electrically heated clothing (Cl. 11);
- electrically heated footmuffs (Cl. 11), fitted footmuffs for pushchairs and prams (Cl. 12);
- bibs of paper (Cl. 16);
- handkerchiefs of paper (Cl. 16) and of textile (Cl. 24);
- clothing for animals (Cl. 18);
- carnival masks (Cl. 28);
- dolls' clothes (Cl. 28);
- paper party hats (Cl. 28).

## **CLASS 26**

### **(Fancy goods)**

Lace, braid and embroidery, and haberdashery ribbons and bows; buttons, hooks and eyes, pins and needles; artificial flowers; hair decorations; false hair.

#### *Explanatory Note*

Class 26 includes mainly dressmakers' articles, natural or synthetic hair for wear, and hair adornments, as well as small decorative items intended to adorn a variety of objects, not included in other classes.

*This Class includes, in particular:*

- wigs, toupees, false beards;
- barrettes, hair bands;
- ribbons and bows being haberdashery or used as hair decorations, made of any material;
- ribbons and bows for gift wrapping, not of paper;
- hair nets;
- buckles, zippers;
- charms, other than for jewellery, key rings or key chains;
- artificial Christmas garlands and wreaths, including those incorporating lights;
- certain articles for curling hair, for example, electric and non-electric hair curlers, other than hand implements, hair curling pins, hair curling paper.

*This Class does not include, in particular:*

- false eyelashes (Cl. 3);
- hooks being small items of metal hardware (Cl. 6) or hardware, not of metal (Cl. 20), curtain hooks (Cl. 20);
- certain special types of needles, for example, tattoo needles (Cl. 8), needles for surveying compasses (Cl. 9), needles for medical purposes (Cl. 10), needles for pumps for inflating balls for games (Cl. 28);
- hand implements for curling hair, for example, curling tongs, eyelash curlers (Cl. 8);
- hair prostheses (Cl. 10);
- jewellery charms, charms for key rings or key chains (Cl. 14);
- certain ribbons and bows, for example, paper ribbons and bows, other than haberdashery or hair decorations (Cl. 16), rhythmic gymnastics ribbons (Cl. 28);
- yarns and threads for textile use (Cl. 23);
- Christmas trees of synthetic material (Cl. 28).

## **CLASS 27**

### **(Floor coverings)**

Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings, not of textile.

#### *Explanatory Note*

Class 27 includes mainly products intended to be added as coverings to previously constructed floors and walls.

*This Class includes, in particular:*

automobile carpets;  
mats being floor coverings, for example, bath mats, door mats, gymnastic mats, yoga mats;  
artificial turf;  
wallpaper, including textile wallpaper.

*This Class does not include, in particular:*

- floors, floorings and floor tiles of metal (Cl. 6) and not of metal (Cl. 19), wooden floor boards (Cl. 19);
- electrically heated carpets (Cl. 11);
- geotextiles (Cl. 19);
- mats for infant playpens (Cl. 20);
- wall hangings of textile (Cl. 24).

## **CLASS 28**

### **(Toys and sporting goods)**

Games, toys and playthings; video game apparatus; gymnastic and sporting articles; decorations for Christmas trees.

*Explanatory Note*

Class 28 includes mainly toys, apparatus for playing games, sports equipment, amusement and novelty items, as well as certain articles for Christmas trees.

*This Class includes, in particular:*

- amusement and game apparatus, including controllers therefor;
- novelty toys for playing jokes and for parties, for example, carnival masks, paper party hats, confetti, party poppers and Christmas crackers;
- hunting and fishing tackle, for example, fishing rods, landing nets for anglers, decoys, hunting game calls;
- equipment for various sports and games.

*This Class does not include, in particular:*

- Christmas tree candles (Cl. 4), electric lights for Christmas trees (Cl. 11), confectionery and chocolate decorations for Christmas trees (Cl. 30);
- diving equipment (Cl. 9);
- sex toys and love dolls (Cl. 10);
- clothing for gymnastics and sports (Cl. 25);
- certain gymnastic and sporting articles, for example, protective helmets, goggles and mouthguards for sports (Cl. 9), sporting firearms (Cl. 13), gymnasium mats (Cl. 27), as well as certain fishing and hunting equipment, for example, hunting knives, harpoons (Cl. 8), hunting firearms (Cl. 13), fishing nets (Cl. 22), that are classified according to other functions or purposes.

## **CLASS 29**

### **(Meats and processed foods)**

Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs; milk, cheese, butter, yogurt and other milk products; oils and fats for food.

*Explanatory Note*

Class 29 includes mainly foodstuffs of animal origin, as well as vegetables and other horticultural comestible products which are prepared or preserved for consumption.

*This Class includes, in particular:*

- meat-, fish-, fruit- or vegetable-based food;
- edible insects;
- milk beverages with milk predominating;
- milk substitutes, for example, almond milk, coconut milk, peanut milk, rice milk, soya milk;
- preserved mushrooms;

- pulses and nuts prepared for human consumption;
- seeds prepared for human consumption, not being seasonings or flavourings.

*This Class does not include, in particular:*

- oils and fats, other than for food, for example, essential oils (Cl. 3), industrial oil (Cl. 4), castor oil for medical purposes (Cl. 5);
- baby food (Cl. 5);
- dietetic food and substances adapted for medical use (Cl. 5);
- dietary supplements (Cl. 5);
- salad dressings (Cl. 30);
- processed seeds for use as a seasoning (Cl. 30);
- chocolate-coated nuts (Cl. 30);
- fresh and unprocessed fruits, vegetables, nuts and seeds (Cl. 31);
- foodstuffs for animals (Cl. 31);
- live animals (Cl. 31);
- seeds for planting (Cl. 31).

## **CLASS 30**

### **(Staple foods)**

Coffee, tea, cocoa and substitutes therefor; rice, pasta and noodles; tapioca and sago; flour and preparations made from cereals; bread, pastries and confectionery; chocolate; ice cream, sorbets and other edible ices; sugar, honey, treacle; yeast, baking-powder; salt, seasonings, spices, preserved herbs; vinegar, sauces and other condiments; ice (frozen water).

#### *Explanatory Note*

Class 30 includes mainly foodstuffs of plant origin, except fruits and vegetables, prepared or preserved for consumption, as well as auxiliaries intended for the improvement of the flavour of food.

*This Class includes, in particular:*

- beverages with coffee, cocoa, chocolate or tea base;
- cereals prepared for human consumption, for example, oat flakes, corn chips, husked barley, bulgur, muesli;
- pizza, pies, sandwiches;
- chocolate-coated nuts;
- flavourings, other than essential oils, for food or beverages.

*This Class does not include, in particular:*

- salt for industrial purposes (Cl. 1);
- food or beverage flavourings being essential oils (Cl. 3);
- medicinal teas and dietetic food and substances adapted for medical use (Cl. 5);
- baby food (Cl. 5);
- dietary supplements (Cl. 5);

- yeast for pharmaceutical purposes (Cl. 5), yeast for animal consumption (Cl. 31);
- milk beverages flavoured with coffee, cocoa, chocolate or tea (Cl. 29);
- soups, bouillon (Cl. 29);
- raw cereals (Cl. 31);
- fresh herbs (Cl. 31);
- foodstuffs for animals (Cl. 31).

## CLASS 31

### (Natural agricultural products)

Raw and unprocessed agricultural, aquacultural, horticultural and forestry products; raw and unprocessed grains and seeds; fresh fruits and vegetables, fresh herbs; natural plants and flowers; bulbs, seedlings and seeds for planting; live animals; foodstuffs and beverages for animals; malt.

#### *Explanatory Note*

Class 31 includes mainly land and sea products not having been subjected to any form of preparation for consumption, live animals and plants, as well as foodstuffs for animals.

#### *This Class includes, in particular:*

- unprocessed cereals;
- fresh fruits and vegetables, even after washing or waxing;
- plant residue;
- unprocessed algae;
- unsawn timber;
- fertilised eggs for hatching;
- fresh mushrooms and truffles;
- litter for animals, for example, aromatic sand, sanded paper for pets.

#### *This Class does not include, in particular:*

- cultures of micro-organisms and leeches for medical purposes (Cl. 5);
- dietary supplements for animals and medicated animal feed (Cl. 5);
- semi-worked woods (Cl. 19);
- artificial fishing bait (Cl. 28);
- rice (Cl. 30);
- tobacco (Cl. 34).

## CLASS 32

### (Light beverages)

Beers; non-alcoholic beverages; mineral and aerated waters; fruit beverages and fruit juices; syrups and other preparations for making non-alcoholic beverages.

#### *Explanatory Note*

Class 32 includes mainly non-alcoholic beverages, as well as beer.

*This Class includes, in particular:*

- de-alcoholised beverages;
- soft drinks;
- rice-based and soya-based beverages, other than milk substitutes;
- energy drinks, isotonic beverages, protein-enriched sports beverages;
- non-alcoholic essences and fruit extracts for making beverages.

*This Class does not include, in particular:*

- flavourings for beverages being essential oils (Cl. 3) or other than essential oils (Cl. 30);
- dietetic beverages adapted for medical purposes (Cl. 5);
- milk beverages with milk predominating, milk shakes (Cl. 29);
- milk substitutes, for example, almond milk, coconut milk, peanut milk, rice milk, soya milk (Cl. 29);
- lemon juice for culinary purposes, tomato juice for cooking (Cl. 29);
- beverages with coffee, cocoa, chocolate or tea base (Cl. 30);
- beverages for pets (Cl. 31);
- alcoholic beverages, except beer (Cl. 33).

## **CLASS 33**

### **(Wines and spirits)**

Alcoholic beverages, except beers; alcoholic preparations for making beverages.

*Explanatory Note*

Class 33 includes mainly alcoholic beverages, essences and extracts.

*This Class includes, in particular:*

wines, fortified wines;  
alcoholic cider, perry;  
spirits, liqueurs;  
alcoholic essences, alcoholic fruit extracts, bitters.

*This Class does not include, in particular:*

- medicinal beverages (Cl. 5);
- de-alcoholised beverages (Cl. 32);
- beers (Cl. 32);
- non-alcoholic mixers used to make alcoholic beverages, for example, soft drinks, soda water (Cl. 32).

**CLASS 34****(Smokers' articles)**

Tobacco and tobacco substitutes; cigarettes and cigars; electronic cigarettes and oral vaporizers for smokers; smokers' articles; matches.

*Explanatory Note*

Class 34 includes mainly tobacco and articles used for smoking, as well as certain accessories and containers related to their use.

*This Class includes, in particular:*

- tobacco substitutes, not for medical purposes;
- flavourings, other than essential oils, for use in electronic cigarettes, oral vaporizers for smokers;
- herbs for smoking;
- snuff;
- certain accessories and containers related to the use of tobacco and articles for smoking, for example, lighters for smokers, ashtrays for smokers, tobacco jars, snuff boxes, cigar humidors.

*This Class does not include, in particular:*

- tobacco-free cigarettes for medical purposes (Cl. 5);
- batteries and chargers for electronic cigarettes (Cl. 9);
- ashtrays for automobiles (Cl. 12).

**SERVICES****CLASS 35****(Advertising and business)**

Advertising; business management, organization and administration; office functions.

*Explanatory Note*

Class 35 includes mainly services involving business management, operation, organization and administration of a commercial or industrial enterprise, as well as advertising, marketing and promotional services. For the purposes of classification, the sale of goods is not considered to be a service.

*This Class includes, in particular:*

- the bringing together, for the benefit of others, of a variety of goods, excluding the transport thereof, enabling customers to conveniently view and purchase those goods; such services may be provided by retail stores, wholesale outlets, through vending machines, mail order catalogues or by means of electronic media, for example, through web sites or television shopping programmes;

- advertising, marketing and promotional services, for example, distribution of samples, development of advertising concepts, writing and publication of publicity texts;
- shop window dressing;
- public relations services;
- production of teleshopping programmes;
- organization of trade fairs and exhibitions for commercial or advertising purposes;
- search engine optimization for sales promotion;
- commercial assistance services, for example, personnel recruitment, negotiation of business contracts for others, cost price analysis, import-export agency services;
- administration services relating to business transactions and financial records, for example, book-keeping, drawing up of statements of accounts, business and financial auditing, business appraisals, tax preparation and filing services;
- commercial administration of the licensing of the goods and services of others;
- services consisting of the registration, transcription, composition, compilation or systematization of written communications and registrations, and also the compilation of mathematical or statistical data;
- office functions, for example, appointment scheduling and reminder services, data search in computer files for others, computerized file management, telephone switchboard services.

*This Class does not include, in particular:*

- financial services, for example, financial analysis, financial management, financial sponsorship (Cl. 36);
- real estate management (Cl. 36);
- stock brokerage services (Cl. 36);
- transportation logistics (Cl. 39);
- energy auditing (Cl. 42);
- graphic design of promotional materials (Cl. 42);
- legal services in relation to the negotiation of contracts for others (Cl. 45);
- licensing of intellectual property, legal administration of licences, copyright management (Cl. 45);
- registration of domain names (Cl. 45).

## **CLASS 36**

### **(Insurance and financial)**

Financial, monetary and banking services; insurance services; real estate affairs.

#### *Explanatory Note*

Class 36 includes mainly services relating to banking and other financial transactions, financial valuation services, as well as insurance and real estate activities.

*This Class includes, in particular:*

financial transaction and payment services, for example, exchanging money, electronic funds transfer, processing of credit card and debit card payments, issuance of travellers' cheques;

financial management and research;

financial appraisals, for example, jewellery, art and real estate appraisal, repair costs evaluation;

cheque verification;

financing and credit services, for example, loans, issuance of credit cards, hire- or lease-purchase financing;

crowdfunding;

safe deposit services;

financial sponsorship;

real estate agency services, real estate management, rental of apartments, rent collection;

insurance underwriting, actuarial services;

brokerage services, for example, securities, insurance and real estate brokerage, brokerage of carbon credits, pawnbrokerage.

*This Class does not include, in particular:*

administration services relating to business transactions and financial records, for example, book-keeping, drawing up of statements of accounts, business and financial auditing, business appraisals, tax preparation and filing services (Cl. 35);

sponsorship search, promotion of goods and services through sponsorship of sports events (Cl. 35);

cash replenishment of automated teller machines (Cl. 39);

freight brokerage, transport brokerage (Cl. 39);

quality evaluation of wool and standing timber (Cl. 42).

## **CLASS 37**

### **(Building construction and repair)**

Construction services; installation and repair services; mining extraction, oil and gas drilling.

#### *Explanatory Note*

Class 37 includes mainly services in the field of construction, as well as services involving the restoration of objects to their original condition or their preservation without altering their physical or chemical properties.

*This Class includes, in particular:*

- construction and demolition of buildings, roads, bridges, dams or transmission lines, as well as services in the field of construction, for example, interior and exterior painting, plastering, plumbing, heating equipment installation, and roofing;
- shipbuilding;
- rental of construction tools, machines and equipment, for example, rental of bulldozers, rental of cranes;
- various repair services, for example, those in the fields of electricity, computer hardware, furniture, instruments, tools;
- various restoration services, for example, building restoration, furniture restoration and restoration of works of art;

- maintenance services for preserving an object in its original condition without changing any of its properties, for example, furniture maintenance, vehicle maintenance, swimming-pool maintenance and maintenance of computer hardware;
- cleaning of different objects, for example, windows, vehicles, clothing, as well as the laundering and pressing of clothing.

*This Class does not include, in particular:*

- physical storage of goods (Cl. 39);
- transformation of an object or substance that involves a process of change in its essential properties, for example, the cutting, dyeing, fireproofing of cloth (Cl. 40), the casting, plating, treating of metal (Cl. 40), custom tailoring, dressmaking, embroidering (Cl. 40), food and drink preservation (Cl. 40);
- installation, maintenance and updating of computer software (Cl. 42), creation and hosting of web sites (Cl. 42);
- construction drafting and architectural services (Cl. 42).

## **CLASS 38**

### **(Telecommunications)**

Telecommunications services.

#### *Explanatory Note*

Class 38 includes mainly services that allow at least one party to communicate with another, as well as services for the broadcasting and transmission of data.

*This Class includes, in particular:*

- transmission of digital files and electronic mail;
- providing user access to global computer networks;
- radio and television broadcasting;
- video-on-demand transmission;
- providing internet chatrooms and online forums;
- telephone and voice mail services;
- teleconferencing and videoconferencing services.

*This Class does not include, in particular:*

- radio advertising (Cl. 35);
- telemarketing services (Cl. 35);
- content or subject matter that may be contained in the communication activity, for example, downloadable image files (Cl. 9), providing business information via a web site (Cl. 35), providing films and television programmes, not downloadable, via video-on-demand services (Cl. 41);
- services conducted using telecommunication connections, for example, online retail services for downloadable digital music (Cl. 35), online banking (Cl. 36);
- production of radio and television programmes (Cl. 41);
- telecommunications technology consultancy (Cl. 42);

- online social networking services (Cl. 45).

## **CLASS 39**

### **(Transportation and storage)**

Transport; packaging and storage of goods; travel arrangement.

#### *Explanatory Note*

Class 39 includes mainly services for the transport of people, animals or goods from one place to another by rail, road, water, air or pipeline and services necessarily connected with such transport, as well as the storing of goods in any kind of storage facility, warehouses or other types of building for their preservation or guarding.

#### *This Class includes, in particular:*

- operation of stations, bridges, railways, ferries and other transport facilities;
- rental of vehicles for transportation, as well as chauffeuring and piloting services;
- rental services related to transport, storage and travel, for example, parking place rental, garage rental, rental of storage containers;
- operation of maritime tugs, unloading, operation of ports and docks, and salvaging of wrecked ships and their cargoes;
- packaging, bottling, wrapping and delivering of goods;
- replenishing vending machines and automated teller machines;
- services for providing information about journeys or the transport of goods by brokers and tourist agencies, as well as for providing information relating to tariffs, timetables and methods of transport;
- inspection of vehicles or goods for the purpose of transport;
- distribution of energy and electricity, as well as distribution and supply of water.

#### *This Class does not include, in particular:*

- advertising travel or transport (Cl. 35);
- insurance services during the transport of people or goods (Cl. 36);
- maintenance and repair of vehicles or other items connected with the transport of people or goods (Cl. 37);
- conducting guided tours (Cl. 41);
- electronic data storage (Cl. 42);
- reservation of hotel rooms or other temporary accommodation by travel agents or brokers (Cl. 43).

## **CLASS 40**

### **(Treatment of materials)**

Treatment of materials; recycling of waste and trash; air purification and treatment of water; printing services; food and drink preservation.

#### *Explanatory Note*

Class 40 includes mainly services rendered by the mechanical or chemical processing, transformation or production of objects or inorganic or organic substances, including custom manufacturing services. For the purposes of classification, the production or manufacturing of goods is considered a service only in cases where it is effected for the account of another person to their order and specification. If the production or manufacturing is not being performed to fulfil an order for goods which meet the customer's particular needs, requirements, or specifications, then it is generally ancillary to the maker's primary commercial activity or goods in trade. If the substance or object is marketed to third parties by the person who processed, transformed or produced it, then this would generally not be considered a service.

*This Class includes, in particular:*

- transformation of an object or substance and any process involving a change in its essential properties, for example, dyeing a garment; such transformation services are also classified in Class 40 if they are provided in the framework of repair or maintenance work, for example, chromium plating of motor vehicle bumpers;
- services of material treatment which may be present during the production of any substance or object other than a building, for example, services which involve cutting, shaping, polishing by abrasion or metal coating;
- joining of materials, for example, soldering or welding;
- processing and treatment of foodstuffs, for example, fruit crushing, flour milling, food and drink preservation, food smoking, freezing of foods;
- custom manufacturing of goods to the order and specification of others (bearing in mind that certain offices require that the goods produced be indicated), for example, custom manufacturing of automobiles;
- services of a dental technician;
- quilting, embroidering, custom tailoring, textile dyeing, applying finishes to textiles.

*This Class does not include, in particular:*

- services that do not entail a change in the essential properties of the object or substance, for example, furniture maintenance or repair (Cl. 37);
- services in the field of construction, for example, painting and plastering (Cl. 37);
- cleaning services, for example, laundering, window cleaning, cleaning of interior and exterior surfaces of buildings (Cl. 37);
- rustproofing, for example, anti-rust treatment for vehicles (Cl. 37);
- certain customization services, for example, the custom painting of automobiles (Cl. 37);
- decorating of food, food sculpting (Cl. 43).

## **CLASS 41**

### **(Education and entertainment)**

Education; providing of training; entertainment; sporting and cultural activities.

#### *Explanatory Note*

Class 41 includes mainly services consisting of all forms of education or training, services having the basic aim of the entertainment, amusement or recreation of people, as well as the presentation of works of visual art or literature to the public for cultural or educational purposes.

*This Class includes, in particular:*

- organization of exhibitions for cultural or educational purposes, arranging and conducting of conferences, congresses and symposiums;
- translation and language interpretation services;
- publication of books and texts, other than publicity texts;
- news reporters services, photographic reporting;
- photography;
- film direction and production services, other than for advertising films;
- cultural, educational or entertainment services provided by amusement parks, circuses, zoos, art galleries and museums;
- sports and fitness training services;
- training of animals;
- online gaming services;
- gambling services, organization of lotteries;
- ticket reservation and booking services for entertainment, educational and sporting events;
- certain writing services, for example, screenplay writing, songwriting.

*This Class does not include, in particular:*

organization of exhibitions for commercial or advertising purposes (Cl. 35);  
 writing and publication of publicity texts (Cl. 35);  
 news agency services (Cl. 38);  
 radio and television broadcasting (Cl. 38);  
 videoconferencing services (Cl. 38);  
 technical writing (Cl. 42);  
 day nursery and crèche services (Cl. 43);  
 health spa services (Cl. 44);  
 planning and arranging wedding ceremonies (Cl. 45).

## **CLASS 42**

### **(Computer and scientific)**

Scientific and technological services and research and design relating thereto; industrial analysis, industrial research and industrial design services; quality control and authentication services; design and development of computer hardware and software.

#### *Explanatory Note*

Class 42 includes mainly services provided by persons in relation to the theoretical and practical aspects of complex fields of activities, for example, scientific laboratory services, engineering, computer programming, architectural services or interior design.

*This Class includes, in particular:*

- services of engineers and scientists who undertake evaluations, estimates, research and reports in the scientific and technological fields, including technological consultancy;
- computer and technology services for securing computer data and personal and financial information and for the detection of unauthorized access to data and information, for example, computer virus protection services, data encryption services, electronic monitoring of personally identifying information to detect identity theft via the internet;
- software as a service (SaaS), platform as a service (PaaS);
- scientific research services for medical purposes;
- architectural and urban planning services;
- certain design services, for example, industrial design, design of computer software and systems, interior design, packaging design, graphic arts design, dress designing;
- surveying;
- oil, gas and mining exploration services.

*This Class does not include, in particular:*

- certain research services, for example, business research (Cl. 35), marketing research (Cl. 35), financial research (Cl. 36), genealogical research (Cl. 45), legal research (Cl. 45);
- business auditing (Cl. 35);
- computer file management services (Cl. 35);
- financial evaluation services (Cl. 36);
- mining extraction, oil and gas drilling (Cl. 37);
- installation, maintenance and repair of computer hardware (Cl. 37);
- sound engineering services (Cl. 41);
- certain design services, for example, landscape design (Cl. 44);
- medical and veterinary services (Cl. 44);
- legal services (Cl. 45).

## **CLASS 43**

### **(Hotels and restaurants)**

Services for providing food and drink; temporary accommodation.

#### *Explanatory Note*

Class 43 includes mainly services provided in relation to the preparation of food and drink for consumption, as well as services for providing temporary accommodation.

*This Class includes, in particular:*

- temporary accommodation reservations, for example, hotel reservations;
- boarding for animals;
- rental of meeting rooms, tents and transportable buildings;
- retirement home services;
- day-nursery and crèche services;
- decorating of food, food sculpting;
- rental of cooking apparatus;

- rental of chairs, tables, table linen, glassware;
- hookah lounge services;
- personal chef services.

*This Class does not include, in particular:*

- business management of hotels (Cl. 35);
- rental services for real estate, such as houses or flats, for residential use (Cl. 36);
- housekeeping (cleaning) services (Cl. 37);
- travel and transport reservation services (Cl. 39);
- beer brewing and wine making for others, custom manufacturing of bread (Cl. 40);
- food smoking, food and drink preservation (Cl. 40);
- educational, instruction and entertainment services, including those that might involve ancillary lodging or food and drink, provided by, for example, boarding schools, nursery schools, sport camps, discotheques and nightclubs (Cl. 41);
- providing museum facilities (Cl. 41);
- convalescent home and rest home services (Cl. 44);
- babysitting, pet sitting (Cl. 45).

## **CLASS 44**

### **(Medical, beauty and agricultural)**

Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, aquaculture, horticulture and forestry services.

#### *Explanatory Note*

Class 44 includes mainly medical care, including alternative medicine, hygienic and beauty care given by persons or establishments to human beings and animals, as well as services relating to the fields of agriculture, aquaculture, horticulture and forestry.

*This Class includes, in particular:*

- hospital services;
- telemedicine services;
- dentistry, optometry and mental health services;
- medical clinic services and medical analysis services for diagnostic and treatment purposes provided by medical laboratories, such as x-ray examinations and taking of blood samples;
- therapy services, for example, physiotherapy and speech therapy;
- pharmacy advice and preparation of prescriptions by pharmacists;
- blood bank and human tissue bank services;
- convalescent home and rest home services;
- dietary and nutritional advice;
- health spa services;
- artificial insemination and in vitro fertilization services;
- animal breeding;
- animal grooming;

- body piercing and tattooing;
- services relating to gardening, for example, plant nursery services, landscape design, landscape gardening, lawn care;
- services relating to floral art, for example, flower arranging, wreath making;
- weed killing, vermin and pest control for agriculture, aquaculture, horticulture and forestry.

*This Class does not include, in particular:*

- vermin and pest control, other than for agriculture, aquaculture, horticulture and forestry (Cl. 37);
- installation and repair services for irrigation devices (Cl. 37);
- ambulance transport (Cl. 39);
- slaughtering of animals and taxidermy (Cl. 40);
- timber felling and processing (Cl. 40);
- animal training services (Cl. 41);
- health clubs for physical exercise (Cl. 41);
- scientific research services for medical purposes (Cl. 42);
- boarding for animals (Cl. 43);
- retirement homes (Cl. 43);
- funerary undertaking (Cl. 45).

## **CLASS 45**

### **(Personal and legal)**

Legal services; security services for the physical protection of tangible property and individuals; personal and social services rendered by others to meet the needs of individuals.

#### *Explanatory Note*

*This Class includes, in particular:*

- services rendered by lawyers, legal assistants, and personal advocates, to individuals, groups of individuals, organizations and enterprises;
- investigation and surveillance services relating to the physical safety of persons and security of tangible property;
- services provided to individuals in relation with social events, such as social escort services, matrimonial agencies, funeral services.

*This Class does not include, in particular:*

- professional services giving direct aid in the operations or functions of a commercial undertaking (Cl. 35);
- services relating to financial or monetary affairs and services dealing with insurance (Cl. 36);
- escorting of travellers (Cl. 39);
- security transport (Cl. 39);
- services consisting of all forms of education of persons (Cl. 41);
- performances of singers or dancers (Cl. 41);
- computer programming services for the protection of software (Cl. 42);

- computer and internet security consultancy and data encryption services (Cl. 42);
- services provided by others to give medical, hygienic or beauty care for human beings or animals (Cl. 44);
- certain rental services (consult the Alphabetical List of Services and General Remark (b) relating to the classification of services).

### **1401.02(b) Short Titles for International Trademark Classes**

The USPTO associates the following word titles with the respective international trademark class numbers:

#### **GOODS**

1. Chemicals
2. Paints
3. Cosmetics and cleaning preparations
4. Lubricants and fuels
5. Pharmaceuticals
6. Metal goods
7. Machinery
8. Hand tools
9. Electrical and scientific apparatus
10. Medical apparatus
11. Environmental control apparatus
12. Vehicles
13. Firearms
14. Jewelry
15. Musical instruments
16. Paper goods and printed matter
17. Rubber goods
18. Leather goods

19. Non-metallic building materials
20. Furniture and articles not otherwise classified
21. Housewares and glass
22. Cordage and fibers
23. Yarns and threads
24. Fabrics
25. Clothing
26. Fancy goods
27. Floor coverings
28. Toys and sporting goods
29. Meats and processed foods
30. Staple foods
31. Natural agricultural products
32. Light beverages
33. Wines and spirits
34. Smokers' articles

#### SERVICES

35. Advertising and business
36. Insurance and financial
37. Building construction and repair
38. Telecommunications
39. Transportation and storage
40. Treatment of materials
41. Education and entertainment

42. Computer and scientific
43. Hotels and restaurants
44. Medical, beauty and agricultural
45. Personal and legal

These short titles are not an official part of the international classification. Their purpose is to provide a means to quickly identify the general content of numbered international classes. By their nature, these titles will not necessarily disclose the classification of specific items. The titles are not designed to be used for classification, but only as information to assist in the identification of numbered classes. To determine the classification of particular goods and services, it is necessary to refer to the Alphabetical List, the class headings of the international classes, and explanatory notes in the *International Classification of Goods and Services for the Purposes of the Registration of Marks* (Nice Classification), published annually by WIPO on its website. The full names of international classes are set forth in [37 C.F.R. §6.1](#). See [TMEP §1401.02\(a\)](#).

The international trademark classification was adopted by the United States as its system of classification as of September 1, 1973. See 911 TMOG 210 (June 26, 1973). The use of short titles was announced in a notice at 924 TMOG 155 (July 16, 1974).

### **1401.02(c) International Alphabetical List**

In addition to the General Remarks, list of international classes, and explanatory notes (see [TMEP §1401.02\(a\)](#)), the Nice Classification includes the Alphabetical List of goods and services. The Alphabetical List provides guidance concerning classification of particular goods and services. The Alphabetical List is published by the World Intellectual Property Organization and is available online at <http://www.wipo.int/classifications/nice/en/>. French and Spanish versions of the Alphabetical List are also available online. Note: The paper publication of the Nice Classification was discontinued in 2011 with the publication of the 10th edition.

As the Alphabetical List was developed to *classify* goods and services and not to identify specific goods and services, most entries in the Alphabetical List will not be sufficiently definite to use in an *identification* of goods and/or services. If such entries are provided as identifications, the USPTO exercises its discretion to require greater particularity. See *In re Omega SA*, 494 F.3d 1362, 83 USPQ2d 1541 (Fed. Cir. 2007).

The USPTO's [Acceptable Identification of Goods and Services Manual](#) (ID Manual) provides general guidance on whether an identification is sufficiently definite. See [TMEP §1402.04](#).

### **1401.03 Designation of Class**

In an application for registration of a mark, the applicant should designate the international class number(s) that are appropriate for the identified goods and/or services whenever the information is known. [37 C.F.R. §2.32\(a\)\(7\)](#). See [TMEP §1401.02\(a\)](#) for the international classification schedule with explanatory notes and [§1401.03\(b\)](#) regarding inaccurately classified goods or services in applications filed under §1 or §44.

Applications filed using the TEAS Plus application must include correctly classified goods/services with an identification of goods/services taken directly from the USPTO's *Acceptable Identification of Goods and Services Manual* (USPTO ID Manual), available through the TEAS Plus form. See [TMEP §819.01](#).

### **1401.03(a) Designation of Class by Applicant Normally Initially Accepted in Applications Under §§1 and 44**

Generally, in applications under §1 or §44 of the Trademark Act, prior to their assignment to an examining attorney, the USPTO retains the class number designated by the applicant, in the absence of any information clearly contradicting that classification. If the examining attorney determines that the class designated by the applicant is incorrect, the examining attorney will require reclassification. See [TMEP §1401.02\(a\)](#) regarding classification of goods and services. If an identification is broad enough to encompass more than one class, the examining attorney will also require that the identification be amended to limit the goods or services to a single class. See *In re Omega SA*, 494 F.3d 1362, 83 USPQ2d 1541 (Fed. Cir. 2007) (affirming decision that the examining attorney properly required amendment of the term "chronographs" in the identification of goods so that proper classification could be determined); see also [TMEP §1402.01\(a\)](#).

### **1401.03(b) Designation of Class by USPTO When Class Number Is Not Designated or Is Inaccurate in Application Under §1 or §44**

In an application under §1 or §44 of the Trademark Act, if the applicant does not designate a class number(s), the USPTO will do so. If the class number(s) indicated by the applicant is clearly wrong (e.g., goods are classified in a service class), the USPTO will change the classification, either prior to or during examination.

Upon examination, the classification must be amended if the class numbers are incorrect. When the examining attorney requires or recommends an amendment of the identification of goods and/or services that would necessitate an amendment of the classification, the examining attorney should also require the applicant to amend the classification.

If an incorrect class number was designated by the Pre-Examination Section, and the examining attorney must issue an Office action, he or she must also inform the applicant of the correct class number for the identified goods and/or services and require amendment of the classification. If it is unnecessary to issue an Office action, the examining attorney must ensure that the correct classification is entered into the electronic records of the USPTO.

The examining attorney may amend or correct classification through an examiner's amendment, without prior authorization by the applicant. See *Groening v. Missouri Botanical Garden*, 59 USPQ2d 1601 (Comm'r Pats. 1999). See [TMEP §707.02](#).

Before approving an application for publication, the examining attorney must check to make sure that the properly assigned class is reflected in the electronic records of the USPTO.

### **1401.03(c) Failure to Classify May Delay Action in Applications Under §§1 and 44**

The applicant should make an initial effort at classification, using the Alphabetical List of goods and services and/or the USPTO's *Acceptable Identification of Goods and Services Manual* (USPTO ID Manual). In an application under §1 or §44 of the Trademark Act, when an application and fee is filed for a single class, but the identification lists a large number of items that obviously involve many classes, the examining

attorney will require the applicant to properly classify the items. Class designations must be determined and fees for multiple classes must be paid before an examining attorney does an extensive search for conflicting marks in a large number of classes. See [TMEP §810.01](#).

Applications filed using the TEAS Plus application must include correctly classified goods and/or services with an identification of goods/services taken directly from the USPTO ID Manual, available through the TEAS Plus form. See [TMEP §819.01](#).

### **1401.03(d) Classification Determined by World Intellectual Property Organization in §66(a) Applications**

#### ***37 CFR §2.85(d). Section 66(a) applications and registered extensions of protection.***

In an application under section 66(a) of the Act or registered extension of protection, the classification cannot be changed from the classification assigned by the International Bureau of the World Intellectual Property Organization, unless the International Bureau corrects the classification. Classes cannot be added, and goods or services cannot be transferred from one class to another in a multiple-class application.

In an application under §66(a) of the Trademark Act, [15 U.S.C. §1141f\(a\)](#), i.e., a request for protection of an international registration to the United States pursuant to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol), the International Bureau of the World Intellectual Property Organization (IB) controls classification. Madrid Protocol Article 3(2). The IB classifies the goods and services in the appropriate classes of the *International Classification of Goods and Services for the Purposes of the Registration of Marks* in effect at the time international registration is filed at the IB. Subject to the conformity of the international application with other applicable requirements, the international registration will be issued in accordance with the classification and grouping that the IB considers to be correct. *Regulations Under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks*, Rule 12(9). The USPTO will be notified of the edition of the Nice Agreement used and it will be listed in the request for extension of protection. See [TMEP §§1401.10\(a\), 1402.01\(c\)](#).

The §66(a) application (and any resulting registration) remains part of the international registration, and a change of classification in the United States would have no effect on the international registration. Therefore, the international classification of goods and/or services in a §66(a) application **cannot be changed** from the classification given to the goods or services by the IB, even if the IB's classification of goods or services in the §66(a) application is different from the classification set forth in the ID Manual. Classes may not be added, and goods or services may not be transferred from one class to another in a multiple-class application. [37 C.F.R. §2.85\(d\)](#).

Accordingly, if the mark in a §66(a) application appears to be a certification or collective membership mark, the USPTO **will not** reclassify it into United States Class A, B, or 200. However, the applicant must comply with all other United States requirements for certification and collective membership marks, regardless of the classification chosen by the IB. See [TMEP §§1304 et seq.](#), regarding collective membership marks, [§§1306 et seq.](#) regarding certification marks, and [§1904.02\(d\)](#) regarding §66(a) applications for these types of marks. See [TMEP §1904.02\(c\)\(v\)](#) regarding the effect of indicated classes in registered extensions of protection and published applications under §66(a).

For purposes of *identification* of goods or services, the examining attorney will examine a §66(a) application according to the same standards of specificity used in examining applications under §1 and §44 of the Trademark Act. That is, the examining attorney must follow the procedures set forth in the TMEP and identify the goods or services in accordance with the ID Manual guidance in effect on the filing date of the

request for extension of protection. See [TMEP §1904.01\(b\)](#) concerning the filing date of a request for extension of protection of an international registration to the United States. See also [TMEP §§1401.10\(a\), 1904.02\(c\)](#).

With respect to certification marks, the identification of goods or services in a certification mark application under §66(a) must describe the goods and/or services of the party who will receive the certification, not the activities of the certifier/owner of the certification mark. In such an application, the goods or services that are certified may be identified less specifically than in an application for registration of a trademark or service mark. Sufficient information must be provided to enable a comparison of goods or services and analysis of trade channels in regard to possible likelihood-of-confusion scenarios. If the certification program is limited to specific items of goods or services, for example, wine, wooden doors, or forensic accounting services, then the identification in the application must also reflect this level of specificity. See [TMEP §1306.02\(c\)](#) regarding identification of goods and services of authorized users in certification mark applications.

See [TMEP §1402.01\(c\)](#) regarding the identification and classification of goods and services in a §66(a) application and [§1904.02\(b\)](#) regarding the examination of classification of goods and services in a §66(a) application.

## **1401.04 Classification Determines Number of Fees**

### **15 U.S.C. §1112. (Extract)**

\*\*\* The applicant may apply to register a mark for any or all of the goods or services on or in connection with which he or she is using or has a bona fide intention to use the mark in commerce: Provided, That if the Director by regulation permits the filing of an application for the registration of a mark for goods or services which fall within a plurality of classes, a fee equaling the sum of the fees for filing an application in each class shall be paid, and the Director may issue a single certificate of registration for such mark.

Classification is the basis for determining the number of fees that must be paid. In an application under §1 or §44 of the Trademark Act, a fee is required for each class. [37 C.F.R. §2.32\(d\)-\(e\)](#).

In an application under §1 or §44, if the application sets forth goods or services in more than one class and pays insufficient fees to cover all the classes, the applicant must either amend the application to restrict the goods or services to the number of classes for which the fee has been paid or submit additional fees to cover all the goods or services set forth in the identification. The fees for multiple classes must be paid before an examining attorney does an extensive search in a large number of classes. See [TMEP §810.01](#).

If, with the original application, the applicant submits fees for more classes than are validly represented in the application, the fees that have been overpaid in error will be refunded. See [TMEP §405.04](#) regarding refunds.

In a §66(a) application, the amount of the filing fee will be determined by the IB, who will collect the fee and send it to the USPTO pursuant to the provisions of the Madrid Protocol and the *Regulations Under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks*. The examining attorney will not question the sufficiency of the filing fee in a §66(a) application. The classification in a §66(a) application cannot be changed, and classes cannot be added. See [TMEP §1401.03\(d\)](#) for further information.

#### **1401.04(a) Prior United States Classification System**

Prior to the adoption of the International Classification in 1973, the United States Classification was the controlling classification used in the USPTO. After adoption of the International Classification, the United States Classification became a secondary classification system. United States classes are still assigned to all applications by a computerized system. Each international class is coordinated with the United States classes that are most frequently associated with it. Neither examining attorneys nor any other USPTO personnel have the authority or capability of altering these automatically assigned secondary United States Classification designations.

#### **1401.04(b) Limiting Goods and Services to the Number of Classes for Which Filing Fees Are Paid**

An application may list, in connection with each class designated, only goods or services that fall within that class. An applicant may apply to register a mark for the goods and/or services on or in connection with which the applicant is using or has a bona fide intent to use the mark in commerce, if the applicant submits a filing fee for each class. *See* [15 U.S.C. §1112](#); [37 C.F.R. §2.86\(a\)](#). An application that includes more than one class is called a combined or multiple-class application. *See* [TMEP §§1403–1403.05](#).

The applicant should designate only the number of classes for which a filing fee is submitted and should limit the specified goods and services to those within the particular class(es) designated. Thus, if a single filing fee is submitted, the applicant should designate only one class and should limit the goods or services specified in the identification to items in that class.

The examining attorney must require any necessary amendments to ensure that the classification is correct for the specified goods or services. In an application under §1 or §44 of the Trademark Act, if the applicant identifies goods or services that are classified in a greater number of classes than the classes for which filing fees have been paid, the examining attorney must require that the applicant either: (1) pay the additional fees; or (2) amend the identification to restrict the application to the number of classes for which fees have already been paid. *See* [TMEP §§810.01, 1403.02\(c\)](#).

In a §66(a) application, the amount of the filing fee will be determined by the IB, who will collect the fee and send it to the USPTO, pursuant to the provisions of the Madrid Protocol and the Common Regs. The examining attorney will not question the sufficiency of the filing fee in a §66(a) application. The classification in a §66(a) application may not be changed, and classes may not be added. *See* [TMEP §1401.03\(d\)](#).

#### **1401.05 Criteria on Which International Classification Is Based**

The General Remarks of the Nice Classification set forth general criteria for placing goods or services in the international classes. *See* [TMEP §1401.02\(a\)](#).

The Class Headings of the Nice Classification indicate the type of goods or services appropriate to each class. *Id.* The Explanatory Notes at the end of the class headings of goods or services explain the principles and differentiating lines on which the international classes are based.

The Alphabetical List of the Nice Classification contains information about the appropriate class for particular products and services. *See* [TMEP §1401.02\(c\)](#).

## 1401.05(a) Identification and Classification of Kits, Gift Baskets, and Items Sold as a Unit

The USPTO permits registration in a single international class of a kit or gift basket comprised of goods, even if the identification includes components that are goods classified in other classes. This practice is not recognized by the Nice Classification and is not followed by the International Bureau of WIPO nor by most other national trademark offices. See [TMEP §1902.02\(g\)\(iii\)](#) regarding identification of kits and gift baskets in applications for international registration.

Although certain types of kits are deemed acceptable for identification and classification purposes without listing the individual components (e.g., face painting kits and teeth whitening kits in Class 3, and first aid kits and ovulation test kits in Class 5), in general, the identification must indicate the type of kit and its principal components. The list of kit components must only include goods and must not include services. An identification for kits that lists both goods and services as kit components is unacceptable because it improperly combines goods and services classified in multiple classes in a single identification. See [TMEP §1402.01\(a\)](#) regarding general guidelines for acceptable identifications and [TMEP §1403](#) *et seq.* for information regarding combined or multiple-class applications. An identification for a kit that includes “computer software” as a component of the kit would be indefinite, because it is unclear if “computer software” refers to goods or services. For example, recorded or downloadable computer software and programs are classified in Class 9 as goods, while providing on-line non-downloadable computer software is classified in Class 42. See [TMEP §§1402.03\(d\)](#) and [1402.11\(a\)\(xii\)](#). If computer software or computer programs are listed as components of a kit, the identification must indicate that the computer software or computer programs are recorded or downloadable to preclude inclusion of services in an identification of goods. The identification must also specify the function and any field of use of the computer software or programs.

Kits that are deemed acceptable for identification and classification purposes without listing the individual components are included in the ID Manual and are generally classified according to purpose; other kits are classified on a case-by-case basis using the classification principles set forth below.

Generally, kits are identified and classified in two ways:

- (1) If the kit is for the purpose of making a single object, it is classified by the item it is intended to make. For example, kits for making wine consisting of fresh grapes and chemicals for fermenting wine would be classified in Class 33, the class for wine, even though the individual components would be classified in other classes (e.g., fresh grapes in Class 31 and chemicals for fermenting wine in Class 1).
- (2) If the kit is a combination of a number of components around a theme (e.g., nail care kits), the class that includes the majority of individual components in the kit generally controls the classification for the entire kit. Thus, a nail care kit comprised of nail polish (Class 3), nail files (Class 8), nail polish remover (Class 3), a printed instruction manual (Class 16), and false nails (Class 3) is classified in Class 3, which is the class of the majority of individual components in the kit; however, the identification must be modified to list all of the components in Class 3 at the beginning of the list of components. In such cases, the identification must indicate the type of kit and list the components, with all of the items in the predominant class listed first. Components that are secondary should be set forth after the primary components.

*Example* – “Nail care kits comprised primarily of nail polish, nail polish remover, and false nails and also including nail files and printed instructions” is acceptable in Class 3, the class of the primary components which are listed first in the list of kit components.

*Example* – "Nail care kits comprised of nail polish, nail polish remover, false nails, nail files, and printed instructions" is acceptable in Class 3, the class of the primary components which are listed first in the list of kit components.

*Example* – "Nail care kits comprised of nail polish, nail files, nail polish remover, a printed instruction manual, and false nails" is properly classified in Class 3, but is not acceptably worded because the predominant components in Class 3 (i.e., nail polish, nail polish remover, and false nails) are not all listed first in the list of kit components.

If the goods are kits around a particular theme, but the majority of components are secondary components, the identification should indicate that the kits are comprised "primarily" of specific components in a particular class and subsequently indicate that the kits are "also consisting of" the secondary items. The secondary components may be in a different class or classes from the primary component(s). In that case, the kits are classified in the class of the primary components, even if the primary components are not the majority of components in the kits.

*Example* – "Nail care kits comprised primarily of nail polish and also including nail files and printed instructions" is acceptable in Class 3, because nail polish is clearly indicated as the primary component and appears first in the list of kit components.

If the individual components of the kit do not appear to have a predominant class (e.g., the kit contains two or three components, each in a different class), the applicant may elect which class(es) the kit should be in, but the identification must still list all of the goods in the elected class first in the list of kit components.

*Example* – "Tool kits comprising hand saws and power-driven saws" is acceptable in Class 8 because there is no predominant class for the components in the kit and "hand saws," which are listed first in the list of components, are classified in Class 8.

*Example* – "Tool kits comprising power-driven saws and hand saws" is acceptable in Class 7 because there is no predominant class for the components in the kit and "power-driven saws," which are listed first in the list of components, are classified in Class 7.

*Example* – "Tool kits comprising carpenter's levels, hand saws, power-driven saws, and carpenters' rules" is not acceptable in Class 9 because the components in Class 9 are not all listed first in the list of components. The components appropriate to Class 9, carpenter's levels and carpenters' rules, must all be listed first in the list of components for an acceptable identification in Class 9.

Classification of multi-component kits that have no predominant components is determined by the first listed component. Rearranging the order of the components listed for kits which have no predominant components will impact the classification, with the class of the first-listed component dictating the appropriate class for the kits.

*Example* – "Tool kits comprising carpenter's levels, hand saws, and power-driven saws" is acceptable in Class 9 because there is no predominant class for the kit components and "carpenter's levels," which are listed first in the list of components, are classified in Class 9.

*Example* – "Tool kits comprising hand saws, power-driven saws, and carpenter's levels" is acceptable in Class 8 because there is no predominant class for the kit components and "hand saws," which are listed first in the list of components, are classified in Class 8.

*Example* – "Tool kits comprising power-driven saws, carpenter's levels, and hand saws" is acceptable in Class 7 because there is no predominant class for the kit components and "power-driven saws," which are listed first in the list of components, are classified in Class 7.

The same criteria are applied to the classification of hobby craft kits. For example, if the hobby craft kit is for the purpose of making a single object, it would be classified by the item it is intended to make.

*Example* – "Hobby craft kits for making toy model houses comprising wooden craft sticks and craft glue for stationery or household purposes" would be classified in Class 28, the class for toy models, even though the individual components would be classified in other classes (e.g., wooden craft sticks in Class 20 and craft glue for stationery or household purposes in Class 16).

If the hobby craft kit is a combination of a number of components around a theme (e.g., Halloween hobby craft kits), the class that includes the majority of individual components in the hobby craft kit generally controls the classification for the entire kit. In such cases, the identification must indicate the type of kit and list the components, with all of the items in the predominant class listed first. Components that are secondary should be set forth after the primary components.

*Example* – "Halloween hobby craft kits comprised primarily of permanent markers, printed sewing patterns, stencils, fabric glue for household use and also including felt cloth and thread" is acceptable in Class 16, the class of the primary components which are listed first in the list of kit components.

*Example* – "Halloween hobby craft kits comprised of permanent markers, printed sewing patterns, stencils, fabric glue for household use and felt cloth" is acceptable in Class 16, the class of the primary components which are listed first in the list of kit components.

*Example* – "Halloween hobby craft kits comprised of permanent markers, printed sewing patterns, stencils, felt cloth, and fabric glue for household use" is properly classified in Class 16, but is not acceptably worded because the predominant components in Class 16 (i.e., permanent markers, printed sewing patterns, stencils, and fabric glue for household use) are not all listed first in the list of kit components.

The same criteria are applied to the classification of gift baskets.

Similarly, a product may comprise goods that are sold together as a unit. The identification in such cases must include wording to indicate that the goods are "sold as a unit" and must specify the items that comprise the unit, such as "Demitasse sets comprised of cups, saucers and stirring spoons sold as a unit" in Class 21. Goods sold as a unit are classified in a single class even if they are comprised of items that, if sold separately, would be classified in different classes. All of the predominant elements should be listed first in the identification and the collection of items sold as a unit will be classified accordingly.

*Example* – Printed children's books are classified in Class 16. Dolls are classified in Class 28. "Printed children's books and dolls sold as a unit" would be classified in Class 16. "Dolls and printed children's books sold as a unit" would be classified in Class 28.

Identifications for items "sold as a unit" must be limited to *goods* sold as a unit. As indicated above, recorded or downloadable computer programs and computer software are classified in Class 9 as goods, while providing on-line non-downloadable computer software is classified in Class 42 as a technological service. See [TMEP §§1402.03\(d\)](#) and [1402.11\(a\)\(xii\)](#). Thus, if computer software or computer programs are sold as a unit with other products, the identification must indicate that the computer software or computer programs are goods (e.g., recorded or downloadable) to preclude inclusion of services in an identification of goods. The identification must also specify the function and any field of use of the computer software or programs. For example, "medical apparatus and instruments for monitoring blood oxygen saturation, blood gas concentrations, vital signs and respiratory events, and downloadable software for recording, processing, and transmitting medical data, for use therewith, sold as a unit" is an acceptable identification in Class 10.

Identifications must set forth the particular goods or services to enable proper classification and to facilitate determination of likelihood of confusion under [15 U.S.C. §1052\(d\)](#). See [TMEP §1402.01](#). Thus, identifications for kits, gift baskets, and items sold as a unit must indicate the particular components of the kits and gift baskets and the particular items sold as a unit using definite terms that are clear, specific, and accurate to identify the primary components of the kit. See *id.* For example, an identification for "kits comprised of one or more of the following school supplies – pencils, graduated rulers, and scissors" is unacceptable because the wording "one or more of the following" creates ambiguity as to the nature of the goods. The components of the aforesaid kits are also classified in Classes 16, 9, and 8 respectively. Without a clear indication of the kit components, the goods cannot be appropriately classified, and likelihood of confusion under [15 U.S.C. §1052\(d\)](#) cannot be determined.

### 1401.05(b) Medical vs. Non-Medical Goods

It is sometimes difficult to determine whether certain apparatus and instruments are classified in Class 9 or Class 10. While photographic, optical, measuring, testing, and scientific apparatus and instruments are generally classified in Class 9, surgical, medical, dental, or veterinary apparatus and instruments used for the diagnosis, treatment, or improvement of function or condition of persons or animals are generally classified in Class 10. Certain goods could be classified in both classes, with appropriate wording, depending upon their use. For example, thermometers are commonly used for both medical and non-medical purposes. Thermometers for medical use are in Class 10 because they function as medical instruments, while thermometers other than for medical use, such as meat thermometers, are in Class 9 because they function as measuring apparatus. While both items measure temperature, they are usually very different in nature and classified in different classes based on their specific uses.

Goods should be specified as being for surgical, medical, dental, or veterinary use only when the items could be in a class other than Class 10 when not for surgical, medical, dental, or veterinary use. When goods, like thermometers, are commonly used for both surgical, medical, dental, or veterinary use and non-surgical, medical, dental or veterinary use, it is sufficient to indicate that the goods are "for medical use" or "not for medical use," as appropriate, to justify the classification. The mere addition of "for medical use" to an identification is not sufficient to justify classification of items in Class 10 if the goods are not directly used for the diagnosis, treatment, or improvement of function or condition of persons or animals.

If an item is normally not classified in Class 10, it is not necessary to specify that it is not for surgical, medical, dental, or veterinary use when it is classified in its normal class. For example, "thread" (without any further specification) is an acceptable identification in Class 23, while "surgical thread" is classified in Class 10 based on its surgical use. To justify classification of goods not commonly used for surgical, medical, dental, or veterinary use in Class 10, the identification must indicate the particular surgical, medical, dental, or veterinary use of the goods in diagnosing, treating, or improving the function or condition of persons or animals.

In addition, the Nice Class Heading for Class 10 includes the wording "therapeutic and assistive devices adapted for persons with disabilities." See [TMEP §1401.02\(a\)](#). For example, while "toilets" are classified in Class 11, "toilets adapted for medical patients or for use by disabled persons" are in Class 10; while "spoons being tableware" are classified in Class 8, "spoons for patients with tremor" are in Class 10.

### 1401.05(c) Classification and Plurality of Uses

A product that has a plurality of uses or aspects is ordinarily classified in a single class. *Ex parte Schatz*, 87 USPQ 374 (Comm'r Pats. 1950). However, if it can be shown that a product has a plurality of uses or aspects so that two or more classes apply, multiple classification may be permissible. If a product is normally classified in a particular class, an applicant cannot obtain registration in another class merely by identifying an ultimate use of the product in goods that fall in the other class.

*Example* - Essential oils are classified in Class 3. This item cannot be classified in Class 1 with an indication that it is used in the manufacture of other finished products. Raw or unfinished materials that are used in the manufacture of other finished products may be classified in Class 1. However, an item like essential oils, which is always classified in Class 3 regardless of its ultimate use, cannot be transferred to Class 1 by adding Class 1 qualifying language.

When classification in multiple classes is appropriate, the identification must clearly indicate the basis for multiple classifications with language that is appropriate for the respective classes. Identical language cannot be used in multiple classes. For example, the USPTO will not accept the identification "clock radios," because

it is unclear what the goods are and in which class the goods fall - Class 9 for radios or Class 14 for clocks. However, the applicant may adopt either or both of the following identifications - "radios incorporating clocks" in Class 9 or "clocks incorporating radios" in Class 14.

Certain services may also be classified in multiple classes on the basis of the purpose for which the service activity is rendered. While services are in principle classified according to the branches of activities specified in the headings of the service classes and in their Explanatory Notes, if an activity is not specified by any class heading, the purpose may determine classification.

*Example* – Layout services are classified in Class 35 when specified to be "for advertising purposes" and are classified in Class 41 when specified to be "other than for advertising purposes."

In an application under §1 of the Trademark Act, the specimen(s) should reflect acceptable use of the mark for each of the specified classes and the record must not indicate that the product has only one use or aspect.

*See The Procter & Gamble Co. v. Economics Laboratory, Inc.*, 175 USPQ 505 (TTAB 1972), *modified without opinion*, 495 F.2d 1360, 181 USPQ 722 (C.C.P.A. 1974); *In re International Salt Co.*, 166 USPQ 215 (TTAB 1970) ; *Mead Johnson Co. v. Watson*, 112 USPQ 284 (D.D.C. 1957) , *aff'd* 253 F.2d 862, 117 USPQ 13 (D.C. Cir. 1958).

Where a single specimen supports multiple classes, the examining attorney need not require multiple copies of the specimen. *See* [TMEP §904.01](#).

Where a single product or service is classified in more than one class, the applicant must also comply with all other requirements for multiple-class applications. *See* [TMEP §1403.01](#).

### **1401.05(d) Identification and Classification of "Systems"**

In general, the USPTO will not accept identifications of goods described as "systems." This terminology fails to satisfy the requirement that the application specify the particular goods on or in connection with which the applicant uses, or has a bona fide intention to use, the mark in commerce and is thus indefinite because it may encompass goods in more than one class. *See* [TMEP §§1402.01](#), [1402.01\(a\)](#). For example, if the applicant submits an indefinite identification of goods described as "systems" (e.g., lawn-care systems), the examining attorney must require an amendment to the identification. The amended identification must specify the nature, purpose, or use of the system and its primary parts or components. The primary parts or components should be specified first in the list of the system's parts or components. The system is classified in the same class as the primary parts or components. For example, lawn-care systems comprised of lawn mowers and herbicides are in Class 7, which is the same class as the lawn mowers; lawn-care systems comprised of herbicides, pesticides, and lawn sprinklers are in Class 5, which is the same class as the herbicides and pesticides.

The list of primary parts or components of the system must include only goods and must not include services. For example, "recorded" or "downloadable" computer programs and computer software are classified in Class 9 as goods, while providing on-line non-downloadable computer software is classified in Class 42 as a technological service. *See* [TMEP §§1402.03\(d\)](#) and [1402.11\(a\)\(xii\)](#). Thus, if computer software or computer programs are components of a system, the identification must clearly indicate that the computer software or computer programs are goods (e.g., "recorded" or "downloadable" computer software) to preclude inclusion of services in an identification of goods. The identification must also specify the function and any field of use of the computer software or programs. For example, "home automation systems comprised of computer hardware, wireless and wired controllers, and downloadable software for automating kitchen appliances, lighting, electrical power and security alarms" is an acceptable identification in Class 9.

Although USPTO policy generally requires further specificity of "systems," the USPTO may accept this wording when the identification is a generic term for a particular category of goods classified in a single international class. For example, "brake systems for vehicles" is an acceptable identification in Class 12 because it is a generic term for a combination of goods functioning as a unit to brake the vehicle. The ID Manual lists additional acceptable wording for specific types of systems.

### **1401.05(e) Identification and Classification of "Food Additives"**

Under the 10th and 11th editions of the Nice Agreement, identifications of goods in the nature of food additives must indicate the generic name of the product (e.g., lecithin, glucose, or pectin) as well as the purpose of the food additive. See [TMEP §1401.13\(c\)](#) for further explanation.

Proper classification may be based on purpose (e.g., industrial purpose as a raw ingredient for manufacturing food, medical purpose as a dietary supplement, or culinary purpose). In the case of food additives for culinary purposes, the particular characteristics of the substance(s) may affect classification. For example, "lecithin for culinary purposes" is classified in Class 29 because lecithin is a fat-like substance found in the cell membranes of plants and animals, and "oils and fats for food" are in the Class 29 class heading. "Glucose for culinary purposes," however, is classified in Class 30 because glucose is a sugar-like substance, and "sugar" is in the Class 30 class heading.

### **1401.06 Specimen(s) as Related to Classification**

As a general rule, the specimen(s) in an application under §1 of the Trademark Act helps to determine the correct classification. The examining attorney should carefully review the specimen to ensure that the identification and classification of the goods and/or services is accurate. If the information on the specimen and the wording of the identification differ, or if some significant characteristic shown in the specimen is omitted from the identification, the assigned class number may be incorrect. See [TMEP §1402.05](#). However, the examining attorney must remember that, generally, a specimen need only support use of the mark on one item in each class of goods or services set forth in an application. See [TMEP §904.01\(a\)](#).

### **1401.07 Specimen Discloses Special Characteristics**

The classification of goods could be affected if the specimen shows that the mark identifies a composition, an ingredient, or a part that exists in the market only as a component of another product, but the identification does not reveal that the item exists only as a component of a specified product. See [TMEP §1402.05\(a\)](#).

Finished products are in principle classified according to their function or purpose. See [TMEP §1401.02\(a\)](#). When a specimen discloses that use of the identified goods is limited to a particular function or purpose, classification may be impacted. For example, orthopedic shoes are classified in Class 10 as medical apparatus, and ordinary shoes are classified in Class 25. If the specimen in an application for "shoes" in Class 25 shows that the goods are orthopedic shoes, the identification and classification must be amended to "orthopedic shoes" in Class 10. If the specimen indicates that the goods are promoted for a particular use only, such as "for industrial use," this should be reflected in the identification when it affects the designation of the correct class. For example, adhesives are classified in different classes depending upon their use, such as "adhesives for industrial use" in Class 1, "adhesives for cosmetic use" in Class 3, and "adhesives for stationery and household use" in Class 16.

If the specimen shows that the mark identifies a structural part of a machine, this should be reflected in the identification, because parts for machines are generally classified with the machine if the part has no applicability elsewhere.

If the mark is used or intended to be used on raw or semi-worked materials, such as plastics or resins which may be marketed in a variety of forms (such as sheets, powders, or solutions, or as materials that may be either natural or synthetic), these facts should be indicated in the identification of the goods. This is important because some raw or semi-worked materials are classified in several international classes. For example, "semi-processed plastic in sheet form" is classified in Class 17, and "unprocessed plastic in powder form" is classified in Class 1. Certain synthetic materials are in a different class from those that are natural. For example, "unprocessed synthetic resins" are classified in Class 1 and "raw natural resins" are classified in Class 2. Usually, a specimen will disclose these characteristics of raw or semi-worked materials.

If the specimen indicates that a product is made of a particular material, the identification must specify the material composition of the goods when the goods are classified according to material composition. See [TMEP §1402.05\(b\)](#) for further explanation. Generally, if a classification is dedicated to a particular type of goods, the material composition for those goods does not have to be indicated in the identification. For example, Class 20 is the proper class for furniture. This is true even when the furniture is made of metal.

Metal furniture is not classified in Class 6 with other metal products because there is an acceptable class (Class 20) for all furniture regardless of material composition. On the other hand, ladders do not have a specifically designated class, and therefore they are classified by material composition, which must be set forth in the identification: metal ladders are in Class 6; ladders of wood or plastics are in Class 20; and rope ladders are in Class 22.

## **1401.08 Classification and the Identification of Goods and Services**

The items listed in the identification of goods and services must be limited to those on or in connection with which the applicant uses or has a bona fide intention to use the mark in commerce. The short title of the class and the Class Headings under the Nice Classification should not be used to indicate that an application includes all goods or services in a particular class. The Class Headings and the short titles indicate the general scope of the classes and include wording that is indefinite and/or too broad and inclusive to be used to identify particular goods or services. See also [TMEP §§1402.01\(b\)](#), [1402.02](#).

## **1401.09 Implementation of Changes to the Nice Agreement**

When a new edition/version of the Nice Agreement is issued, any changes apply only to applications filed on or after the effective date of the change. [37 C.F.R. §2.85\(e\)\(1\)](#). In a §1 or §44 application filed before the effective date of the change, the examining attorney may offer the applicant the option of remaining in compliance with the edition/version of the Nice Agreement that was in effect on the application filing date or amending the application to comply with the requirements of the current edition. The applicant may, of its own accord, submit an amendment to its application that brings it into compliance with the current edition/version of the Nice Agreement. However, if an applicant chooses to comply with the current edition/version, the applicant must comply with the current edition/version for all the goods and/or services in the application, and the applicant must pay the fees for any added class(es) resulting from changes in the current edition/version. [37 C.F.R. §2.85\(e\)\(2\)](#). An applicant cannot choose to have some goods or services comply with the current edition/version and other goods or services comply with the requirements of a previous edition/version.

In an application filed under §66(a), the IB controls the classification of the goods/services and the edition/version of the Nice Agreement utilized to classify the international registration on which the §66(a) application is based is never changed. Modifications of the classification of goods/services in the international registration will only be issued in the form of a correction by the IB and only in instances of objective error. See [TMEP §§1904.02\(b\)](#) and [1904.02\(e\)\(i\)](#).

## **1401.10 Effective Date of Changes to USPTO ID Manual**

In the ID Manual, the "Effective Date" indicates the date on which the status (i.e., Added, Modified, Example, or Deleted) of a particular entry went into effect. When the "Effective Date" changes, the new requirements established by that particular entry apply only to applications filed on or after the date of the change.

Users of the ID Manual may view the "Version History" of particular entries by clicking on the "Term ID" value for an entry. The "Version History" tab will list the Start and End Effective Dates of any previous descriptions and/or classifications of the good or service. The "Notes" for a particular entry will also describe modifications and reclassifications of particular goods/services along with short explanations for such actions.

In a §1 or §44 application filed before the effective date of the entry, the examining attorney may give the applicant the choice to either keep the existing identification and/or class or amend to the new identification, modified description, and/or class. However, if an applicant chooses to comply with the new identification, modified description, and/or class, the applicant must pay the fees for any added class(es) resulting from the change. [37 C.F.R. §2.6\(a\)\(1\)](#).

*Example:* In a §1 application filed on December 1, 2016, the applicant identifies goods in the nature of "metal key rings" in International Class 6. Effective January 1, 2017, "metal key rings" are reclassified to International Class 14. When examining the application in March 2017, the examining attorney may offer the applicant the option of keeping "metal key rings" in International Class 6 or reclassifying them in International Class 14, so long as sufficient fees are paid for any class(es) added to the application.

In a §1 or §44 application filed before the effective date of the entry in which an Office action was issued before the effective date, and the requirement relating to the identification and/or class made in that Office action is inconsistent with the new or modified entry, the applicant may elect to comply with the previously issued requirement or amend to the new identification, modified description, and/or class. The applicant must pay the fees for any added class(es) resulting from the change. [37 C.F.R. §2.61\(a\)\(1\)](#).

*Example:* In a §44 application filed on September 1, 2016, the applicant identifies goods in the nature of "broom handles" in International Class 6. In an Office action dated December 1, 2016, the examining attorney requires the applicant to specify the goods are "broom handles of metal" in International Class 6 or "non-metal broom handles" in International Class 20. Effective January 1, 2017, the entry "broom handles" was added to the ID Manual in International Class 21 as the NCL 11-2017 classifies all "broom handles" in International Class 21. The applicant may elect either to comply with the original requirement to clarify the material composition of the goods and classify accordingly, or to reclassify "broom handles" to International Class 21. In either case, the applicant must pay the fees for any added class(es).

However, an applicant cannot choose to have some goods or services in its application comply with one edition/version of the Nice Agreement and other goods or services comply with the requirements of a different edition/version.

*Example:* An application filed on December 1, 2016 under §1 and §44 includes "nutcrackers" and "ice tongs" in Class 8, the appropriate classification under NCL 10-2016. Under NCL 11-2017 (in effect January 1, 2017), "nutcrackers" and "ice tongs" are classified in Class 21. On or after January 1, 2017, applicant may choose to comply with the new edition/version. However, applicant may not elect to move "nutcrackers" to Class 21 (pursuant to the NCL 11-2017 classification) and retain "ice tongs" in Class 8 (pursuant to the NCL 10-2016 classification).

For information on the implementation of changes to the Nice Agreement, see [TMEP §1401.09](#).

The identification of goods and services in an application based on §44 of the Trademark Act, [15 U.S.C. §1126](#), must comply with the same standards that govern other applications. [TMEP §1402.01\(b\)](#). Applications filed with a priority claim under §44(d) must comply with the guidance set forth in the ID Manual in effect on the *filing date* of the application, rather than the priority date.

*Example:* An application filed on January 1, 2020 under §44(d), with a priority date of December 1, 2019, includes “dried flowers” in Class 31. “Dried flowers” appeared as an acceptable entry in the ID Manual from April 2, 1991 through December 31, 2019, but was deleted from the ID Manual, effective January 1, 2020, because it is indefinite under NCL 11-2020. Although “dried flowers” was acceptable in Class 31 on the *priority date*, the identification must be amended because it is unacceptable under the USPTO identification policy in effect on applicant’s *filing date* and may encompass, for example, “edible dried flowers” in Class 29 and “dried flowers for decoration” in Class 31.

Applications filed under §44(e) also must comply with the guidance set forth in the ID Manual in effect on the *filing date* of the application, rather than the date of the foreign registration. *Id.*

Once an applicant amends the identification of goods and/or services in a manner that is acceptable to the examining attorney, the amendment replaces all previous identifications and restricts the scope of the goods and/or services to that of the amended language. Further amendments that would add to or expand the scope of the recited goods or services, as amended, will not be permitted. [37 C.F.R. §2.71\(a\)](#); [TMEP §1402.07\(e\)](#).

See [TMEP §1401.10\(a\)](#) regarding the effective date of changes to the ID Manual in connection with §66(a) applications.

#### **1401.10(a) Effective Date of USPTO ID Manual Entries for Applications Filed Under §66(a)**

In a §66(a) application, the IB controls the classification of goods and services. See [TMEP §1904.02\(b\)](#). The IB uses the edition of the Nice Agreement in effect at the time international registration is sought to classify the goods and services. See [TMEP §1904.02\(c\)\(v\)](#). The only instance in which classification in a §66(a) application may be modified is upon the receipt of a correction from the IB. See [TMEP §§1904.02\(b\)](#) and [1904.02\(e\)\(i\)](#).

Although the IB determines the classification of the goods/services, the USPTO has discretion to require the degree of particularity deemed necessary to clearly identify the goods or services covered by the mark. *In re Omega SA*, 494 F.3d 1363, 1365, 83 USPQ2d 1541, 1543 (Fed. Cir.2007) (noting that the USPTO has discretion to require greater particularity than an entry in WIPO’s Alphabetical List of Goods and Services). A request for extension of protection of a registration to the United States under §66(a) must comply with USPTO identification policies and practices in effect on the “filing date” of the extension request. See [TMEP §1904.01\(b\)](#) for the distinction between the filing date for a request for extension of protection made in an international registration and the filing date for a request for extension of protection made in a subsequent designation.

Although the IB uses the edition of the Nice Agreement in effect at the time international registration is sought to *classify* the goods and services, the USPTO determines the degree of particularity or specificity needed to clearly *identify* the goods or services based on policies in effect on the filing date of the extension request. The identification policies in effect on the filing date of the extension request may be based on a different edition/version of the Nice Agreement than used by the IB for classification purposes. Nevertheless, the identification must be reviewed for compliance with identification policies in effect on the filing date of the extension request.

*Example:* "Bath salts [non-medicated]" appeared as an acceptable entry in the ID Manual in Class 3 from April 2, 1991 through December 31, 2016. On January 1, 2017, "Bath salts [non-medicated]" was deleted from the ID Manual because it is broad enough to encompass "bath salts for medical purposes" in Class 5 and "bath salts, not for medical purposes" in Class 3. If the USPTO receives a §66(a) application for "bath salts" in Class 3 with a filing date that is on or after January 1, 2017, the examining attorney must require the applicant to amend the wording "bath salts" to specify a purpose appropriate to Class 3 (e.g., "bath salts, not for medical purposes"), per the ID Manual guidance in effect on the filing date of the request for extension of protection to the United States. The identification must be amended even if it was acceptable under the edition/version used by the IB for *classification* purposes, because it is unacceptable under USPTO identification policy at the time of filing.

Identifications filed under §66(a) that include a priority date should also be reviewed for compliance with USPTO identification specificity requirements in effect on the filing date, rather than the priority date.

*Example:* A §66(a) application with a filing date of February 12, 2019 and a priority date of December 31, 2018 includes the identification "computer game software" in Class 9. The IB used NCL 11-2018 to classify the goods in Class 9. Effective January 1, 2019, USPTO policy requires that identifications for software must indicate that the goods are recorded or downloadable for classification in Class 9. "Computer game software" was an acceptable identification on the priority date; however, it is not acceptable on applicant's filing date of February 12, 2019. The identification must be amended to indicate that the goods are recorded or downloadable to comply with USPTO identification policy in effect on applicant's filing date.

Any proposed amendment to the identification must be within the scope of the goods/services in the class assigned by the IB. See [TMEP §1904.02\(c\)\(ii\)](#).

## **1401.11 Changes in Practice Based on the Restructuring of International Class 42 in the 8th Edition of the Nice Agreement**

Effective January 1, 2002, the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks ("Nice Agreement") was amended to add three new service classes (Classes 43 through 45). These new classes arose from the extensive restructuring of Class 42. In the course of that restructuring, many activities were removed from Class 42 and placed in one of the three new classes.

The purpose of the Nice Classification is to group, as much as possible, like goods or services in a single class. Generally, the system is successful in achieving that purpose. However, over the years, it became apparent that Class 42 included many disparate services. This was due in large part to the inclusion of the language "services that cannot be classified in other classes" in the class heading for Class 42. This language allowed services as different as "chemical research" and "horoscope casting" to be included in the class.

Therefore, after much study and discussion, the Committee of Experts for the Nice Agreement approved the restructuring of Class 42. The restructuring amended Class 42 by limiting the scope of the services included in this class to computer, scientific, and legal services, and created three additional classes that grouped services previously classified in Class 42 into new classes that kept like services grouped together.

See [TMEP §1401.02\(a\)](#); see also [TMEP §1401.12\(a\)](#) regarding the subsequent reclassification of legal services to Class 45 under the 9th Edition of the Nice Agreement.

Effective January 1, 2002, the language "services that cannot be classified in other classes," which previously appeared in the class heading of Class 42, was eliminated. See [TMEP §1401.11\(a\)](#).

### **1401.11(a) Elimination of "Miscellaneous Class Designation"**

Prior to January 1, 2002, the language "services that cannot be classified in other classes" appeared in the class heading of Class 42. Effective January 1, 2002, this language no longer appears in any of the class headings or explanatory notes of the Nice Agreement. The Committee of Experts found that the revision of the Nice Agreement created an adequate number of well-defined classes so that this language was no

longer necessary. Services must now be identified with sufficient clarity and precision to allow for appropriate classification in one of the eleven service classes.

See [TMEP §§1402.11](#) *et seq.* for further information about the changes in identification and classification of services.

## **1401.12 General Summary of Major Changes in Practice Based on the 9th Edition of the Nice Agreement**

The requirements of the 9th edition of the Nice Agreement apply to applications filed on or after January 1, 2007. For applications filed on or after the effective date of the 10th edition (i.e., January 1, 2012) and prior to the effective date of the 11th edition (i.e., January 1, 2017), any changes in practice brought about by the 10th edition supersede the 9th edition to the extent any inconsistency exists. See [TMEP §§1401.13-1401.13\(e\)](#) for the general summary of changes in practice based on the 10th edition of the Nice Agreement. For applications filed on or after the effective date of the 11th edition, any changes in practice brought about by the 11th edition supersede prior editions and versions of the Nice Agreement to the extent any inconsistency exists.

The most notable changes under the 9th edition are: the transfer of all legal services from Class 42 to Class 45; the determination that items made of precious metals should be classified according to their function rather than in Class 14 merely because they are made of precious metal; and the transfer of indoor aquaria and certain related items from Class 16 to Class 21. These changes are discussed below.

### **1401.12(a) Legal Services Transferred to International Class 45**

Effective January 1, 2007, legal services were transferred from Class 42 to Class 45. Class 42 is now generally limited to computer, scientific, technological, engineering, and design services.

In 2002, when the Nice Agreement was amended to add three new service classes, Class 42 was restructured, but legal services remained in Class 42. However, over the five-year revision period that led to the 9th edition, it became apparent that Class 42 was not the most appropriate class for these services. The ultimate decision to include these services in Class 45 was based on an item in the class heading for Class 45 - "security services for the protection of property and individuals." The Committee of Experts reasoned that legal services are an extension of the security services already in Class 45. Security services provide for the protection of property and individuals, and the enforcement of that security is in the hands of the legal profession. For changes under NCL 11-2017 regarding security services, see [TMEP §1401.14\(e\)](#).

### **1401.12(b) Goods Made of Precious Metal are Classified According to Their Function**

Class 14 went through the most extensive revision of all of the classes in the 9th edition of the Nice Agreement. The Committee of Experts decided that items made of precious metal that were classified in other classes based on their function when not made of precious metal, should also be classified in those classes. Goods made of precious metal that are not classified by function, but rather by material composition, e.g., statues, figurines, and boxes, are still classified in Class 14. This decision eliminated much of the confusion in this class caused by some goods being listed in Class 14 when made of precious metal and in other classes when not made of precious metal, while other goods were classified according to function without reference to any particular material composition. For example, ashtrays for smokers were classified in Class 14 when made of precious metal and in Class 34 when not made of precious metal. However, cutlery, namely forks, knives, and spoons were classified only in Class 8, even if made of precious metal,

even though it is not uncommon for cutlery to be made of precious metal. The changes in the 9th edition were intended to eliminate this inconsistency.

### **1401.12(c) Transfer of Aquaria and Related Items**

Indoor aquaria, its related accessory aquarium hoods, and indoor terrariums and vivariums were previously classified in Class 16 because they were considered instructional or teaching materials for educational purposes. This may have been true when they were first introduced into the Nice Agreement list, but that is a minimal or secondary use today. Most often, these goods are found in homes or offices as hobby or decorative items. They are traditionally made of glass so that the contents are visible. In addition, indoor aquaria, terrariums and vivariums are household containers. Therefore, they were transferred to Class 21. Other aquarium items with specific uses or functions remain in their 8th edition classes. These items include aerating pumps for aquaria in Class 7, aquarium gravel and sand in Class 19, and aquarium lights, heaters, and filtration apparatus in Class 11. However, large public aquaria that are structures are classified in Class 19, since they are made primarily from nonmetallic materials. The aquaria transferred from Class 16 to Class 21 are those that may be found in homes or offices and would not be considered structures in the nature of a building.

### **1401.13 General Summary of Major Changes in Practice Based on the 10th Edition of the Nice Agreement**

A number of changes in the international classification of goods and services occurred in connection with the 10th edition of the Nice Classification, which went into effect January 1, 2012. The requirements of the 10th edition apply only to applications filed on or after January 1, 2012. Any changes under subsequent versions or editions of the Nice Classification supersede the 10th edition to the extent any inconsistency exists. Several notable changes under the 10th edition are discussed below. A comprehensive view of the changes and their impact on USPTO identification and classification policy can be found in the *International Classification of Goods and Services for the Purposes of the Registration of Marks* (10th ed. 2011), published by the World Intellectual Property Organization and available online at <http://www.wipo.int>, and in the [ID Manual](#).

#### **1401.13(a) Electric/Electrothermic Goods**

Under the 10th edition, a number of electric/electrothermic goods that were previously in Class 9 are now classified in the same class as their non-electric or non-electrothermic counterparts. Electric/electrothermic goods transferred from Class 9 to Class 7 include vending machines, electric door openers, and electrodes for welding machines. Cigar lighters for automobiles were transferred from Class 9 to Class 12 (as a land vehicle part). Automatic turnstiles were deleted from Class 9 because they are considered building materials and thus are classified according to material composition, with turnstiles of metal classified in Class 6 and turnstiles not of metal classified in Class 19. The ID Manual should be consulted for the identification and classification of other electric/electrothermic goods.

#### **1401.13(b) Amusement and Game-Playing Apparatus**

Under the 9th edition, "hand-held units for playing electronic games for use with external display screens or monitors" were classified in Class 9, and "hand-held units for playing electronic games other than those for use with external display screens or monitors" were classified in Class 28. Under the 10th edition, all amusement and game-playing apparatus, whether for use with an external monitor or display screen or

having a built-in monitor or display screen, are classified in Class 28. However, “headsets for playing video games” was added to the Nice Alphabetical List in Class 9 under Nice 11-2022, effective January 1, 2022.

### **1401.13(c) Food Additives**

Under the 10th edition Nice Alphabetical List, food additives are classified in Classes 1, 5, and 29-33 according to their particular purposes. Previously, the Nice Alphabetical List recognized only two types of food additives - those for medical purposes in Class 5 and those in the nature of raw materials in Class 1. The 9th edition was silent on the classification of food additives used as ingredients in cooking and/or baking for domestic purposes. Under the 10th edition, food additives for industrial purposes, including those for use in manufacturing food, are classified in Class 1. Additionally, food additives for medical purposes and for use as dietary supplements are classified in Class 5, and food additives for culinary purposes are classified in Classes 29-33, according to the particular nature of the food additive. The 10th edition also requires that the food additive be specifically named (e.g., “lecithin for culinary purposes” in Class 29). This requirement is especially important when the food additives are for culinary purposes because classification of such goods is determined by their nature.

### **1401.13(d) Dietetic Substances and Meal Replacements**

The 10th edition amended the Class 5 Explanatory Note to include “meal replacements, dietetic food and beverages, adapted for medical or veterinary use.” For classification in Class 5, these three items must be identified as being “adapted for medical use” or “adapted for veterinary use” (or include other language indicating that these items are adapted for a particular medical or veterinary use) to make clear that their purpose and use are not as part of a regular diet for human beings or animals. Under the 10th edition (effective January 1, 2012), the specific meal replacement, dietetic food, or dietetic beverage item must also be indicated. Under the 11th edition of the Nice Agreement (effective January 1, 2017), changes were made to the requirements for the identification of dietetic foods and beverages in Class 5; for more information, see [TMEP §1401.14\(c\)](#).

The Class 5 Explanatory Note was also amended under the 10th edition to exclude “meal replacements, dietetic food and beverages not for medical or veterinary consumption (Cl. 29, 30, 31, 32 or 33).” This specific exclusion is a corollary to the inclusion discussed above. Previously, all meal replacements were classified in Class 5, and the Nice Agreement was silent regarding how to classify dietetic food and beverages that were not for medical or veterinary purposes. Meal replacements and dietetic food and beverages that are not for medical or veterinary use must be identified with adequate specificity to determine the particular food or beverages classes in which they should be classified. For example, “fruit-based meal replacement bars” is acceptable in Class 29 based on the wording “preserved, frozen, dried and cooked fruits and vegetables” in the Class 29 class heading, and “chocolate-based meal replacement bars” is acceptable in Class 30 based on the wording “cocoa,” “confectionery,” and “sugar” in the Class 30 heading.

The identification “dietetic substances adapted for medical or veterinary use” is indefinite because it does not indicate the particular goods on or in connection with which the applicant uses, or has a bona fide intention to use, the mark in commerce. See [TMEP §1402.01](#). Identifications for dietetic substances for medical or veterinary use should set forth the common name of the specific “substances,” such as “ground flaxseed fiber for use as a dietary supplement,” in Class 5.

### **1401.13(e) Marketing Services**

"Marketing" was added to the Nice Alphabetical List, in Class 35, under the 10th edition. The Nice Agreement was previously silent regarding marketing services. The addition of "marketing" reflects the recognition by the Committee of Experts that the most common use of the term "marketing" refers to promoting the goods and services of others.

### **1401.14 General Summary of Major Changes in Practice Based on the 11th Edition of the Nice Agreement**

The 11th edition of the Nice Classification went into effect January 1, 2017. The requirements of the 11th edition apply only to applications filed on or after January 1, 2017. Any changes under subsequent versions or editions of the Nice Classification supersede the 11th edition to the extent any inconsistency exists. Several changes to identification and/or classification policy in compliance with the 11th edition are discussed below. A comprehensive view of the changes and their impact on USPTO identification and classification policy can be found in the International Classification of Goods and Services for the Purposes of the Registration of Marks (11th ed. 2017), published by the World Intellectual Property Organization and available online at <http://www.wipo.int>, and in the [ID Manual](#).

#### **1401.14(a) Cosmetic and Toiletry Preparations and Soaps**

Under the 11th edition of the Nice Classification, cosmetics, toiletry preparations, and soap are classified in Class 3, except when those goods are medicated, are for pharmaceutical purposes, or have antibacterial or disinfectant properties. In such cases, the goods are classified in Class 5. Under the 11th edition, "medicated soap" and "disinfectant soap" were transferred from Class 3 to Class 5. "Antibacterial soap," "medicated toiletry preparations," and "medicated shampoos" were added to the Alphabetical List in Class 5. Consequently, if an identification for soaps does not specify that the soaps are antibacterial, disinfectant, or medicated, the soaps are generally classified in Class 3. Similarly, if an identification for cosmetics or toiletry preparations does not specify that the cosmetics or toiletry preparations are medicated or for pharmaceutical purposes, it is generally presumed that the goods are non-medicated and classified in Class 3.

#### **1401.14(b) Household or Kitchen Serving Utensils and Small Hand-operated Kitchen Apparatus for Mincing, Grinding, Pressing, or Crushing**

Under the 11th edition of the Nice Classification, household or kitchen serving utensils, except for "serving knives," are classified in Class 21. "Serving knives" are classified with all other knives in Class 8 under the Class Heading "cutlery." The following are examples of serving utensils that are classified in Class 21: "sugar tongs," "ice tongs," "ice cream scoops," and "ladles for serving wine."

In addition, under the 11th edition, small hand-operated kitchen apparatus for mincing, grinding, pressing, or crushing are classified in Class 21. For example, the following small hand-operated kitchen apparatus are acceptable in Class 21: "non-electric mincers," "hand-operated coffee grinders," "garlic presses," "nutcrackers," and "mortars and pestles for kitchen use."

#### **1401.14(c) Dietetic Food and Beverages Adapted for Medical or Veterinary Use**

Under both the 10th (effective January 1, 2012) and 11th (effective January 1, 2017) editions of the Nice Classification, identifications for dietetic foods and dietetic beverages in Class 5 must indicate that the goods are "adapted for medical use" or "adapted for veterinary use" (or include other language indicating that these

items are adapted for a particular medical or veterinary use) to make clear that their purpose and use are not as part of a regular diet for human beings or animals.

Under the 10th edition, identifications for dietetic food and dietetic beverages adapted for medical or veterinary use in Class 5 were required to indicate the specific dietetic food, or dietetic beverage item.

See [TMEP §1401.13\(d\)](#). However, under the 11th edition, it is no longer a requirement that the particular dietetic food or dietetic beverage item adapted for medical or veterinary use be indicated. For example, "dietetic foods adapted for medical purposes" and "dietetic beverages adapted for medical purposes" are acceptable identifications in Class 5 under the 11th edition. For information about the effective date to ID Manual changes, see [TMEP §1401.10](#).

#### **1401.14(d) Nut and Plant Milks; Milk Substitutes**

Under the 10th edition of the Nice Classification, nut or plant milks were generally classified according to their purpose. If the goods were used as milk substitutes or used for culinary purposes, the goods were classified in Class 29. If the goods were used as beverages, other than milk substitutes, they were classified in Class 32.

Under the 11th edition of the Nice Classification, goods identified as "milk" or "milk-based beverages" must be classified in Class 29. The identification may indicate that the milk is used as a beverage or used for culinary purposes, but it is not required. For example, "almond milk," "almond milk-based beverages," and "almond milk for culinary purposes" are all acceptable in Class 29.

"Milk substitutes" was added to the Nice Alphabetical List in Class 29 under NCL 11-2017. Milk substitutes are replacements for animal milk and include, for example, "coconut milk" and "oat milk." "Milk substitutes" is an acceptable identification without further specification. The identification may indicate the particular type of milk substitute, but it is not required.

#### **1401.14(e) Security Services in Class 42 and Class 45**

Under the 11th edition of the Nice Classification, the Committee of Experts inserted new wording into the Class 42 Explanatory Note and changed the Class 45 Heading to distinguish between computer and technology services for securing computer data or personal and financial information and detecting unauthorized access in Class 42 and physical security services for protecting tangible property and individuals in Class 45.

These additions and modifications resolve ambiguity under NCL 10-2016 resulting from the co-existence in the Nice Alphabetical List of "computer security consultancy" in Class 42 and "security consultancy" in Class 45. Under the 11th edition, the Nice Alphabetical List entry "security consultancy" in Class 45 was amended to "physical security consultancy."

Examples of computer and information security services in Class 42 are "data encryption services," "electronic monitoring of personally identifying information to detect identity theft via the internet," and "monitoring of computer systems for detecting unauthorized access or data breach."

Examples of physical security services in Class 45 are "personal body guarding" and "monitoring of burglar and security alarms." Although the burglar and security-alarm monitoring activity could be rendered by computerized or electronic means, it is considered a surveillance service relating to the physical safety of persons and security of tangible property.

## **1401.14(f) Ivory, Bone, Whalebone, Horn, Tusks, or Other Items Prohibited under Federal Law**

Use of a mark in commerce must be lawful use to be the basis for federal registration of the mark. Thus, the goods or services to which the mark is applied must comply with all applicable federal laws. [TMEP §907](#). Identifications that include "ivory," "bone," "whalebone," "horn," or "tusks" may necessitate an inquiry regarding lawful use in commerce in connection with, for example, the Endangered Species Act (ESA), 16 U.S.C. §§1531-1544, the African Elephant Conservation Act, 16 U.S.C. §§ 4201-4246, and/or the Marine Mammal Protection Act (MMPA), 16 U.S.C. §§1361-1407. Accordingly, ID Manual entries related to "ivory," "bone," "whalebone," "horn," and "tusks" were deleted effective January 1, 2017. Additional entries, including "live coral," "ambergris," "whale oil and fat for food," and "live soft-shelled turtles," were subsequently deleted from the ID Manual because the identifications may necessitate an inquiry regarding lawful use in commerce. For additional information regarding lawful use in commerce, see [TMEP §907](#). For information regarding effective date changes to the ID Manual, see [TMEP §1401.10](#).

## **1402 Identification of Goods and Services**

### **1402.01 Specifying the Goods and/or Services - in General**

A written application must specify the particular goods and/or services on or in connection with which the applicant uses, or has a bona fide intention to use, the mark in commerce. [15 U.S.C. §1051\(a\)\(2\), \(b\)\(2\); 37 C.F.R. §2.32\(a\)\(6\)](#). To "specify" means to name in an explicit manner. The identification should set forth common names, using terminology that is generally understood. For products or services that do not have common names, the applicant should use clear and succinct language to describe or explain the item. Technical or esoteric language and lengthy descriptions of characteristics or uses are not appropriate.

The language used to describe goods and/or services should be understandable to the average person and should not require an in-depth knowledge of the relevant field. An identification may include terms of art in a particular field or industry that are definite and limited to a single class, but, if these terms are not widely understood by the general population, the identification should include an explanation of the specialized terminology.

"The identification of goods and/or services must be specific, definite, clear, accurate, and concise." *In re Carlton Cellars, LLC*, 2020 USPQ2d 10150 at \*3 (TTAB 2020) (citing *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 1 USPQ2d 1296 (TTAB 1986), *rev'd on other grounds*, 824 F.2d 957, 3 USPQ2d 1450 (Fed. Cir. 1987)); *see In re tapio GmbH*, 2020 USPQ2d 11387, at \*6 (TTAB 2020) (quoting *In re Cordua Rests., Inc.*, 823 F.3d 594, 605, 118 USPQ2d 1632, 1639 (Fed. Cir. 2016)).

"[The] applicant must identify the goods and services specifically to provide public notice and to enable the USPTO to classify the goods and services properly and to reach informed judgments concerning likelihood of confusion under [15 U.S.C. §1052\(d\)](#)." *In re SICPA Holding SA*, 2021 USPQ2d 613, at \*4 (TTAB 2021) (quoting *In re Fiat Grp. Mktg. & Corp. Commc'ns S.p.A.*, 109 USPQ2d 1593, 1597 (TTAB 2014); *In re Faucher Indus.*, 107 USPQ2d 1355, 1358 (TTAB 2013)). "An identification that fails to identify the goods and services with specificity is indefinite, either because the nature of the goods or services is not clear or because the wording is so broad that it may include goods or services in more than one class." *In re Carlton Cellars, LLC*, 2020 USPQ2d 10150 at \*3. The USPTO has discretion to require the degree of particularity deemed necessary to clearly identify the goods or services covered by the mark. *In re SICPA Holding*, 2021 USPQ2d 613, at \*4 (quoting *In re Omega SA*, 494 F.3d 1362, 1365, 83 USPQ2d 1541, 1544 (Fed. Cir. 2007)).

As indicated above, an identification should set forth the common name of a good or service using terminology that is generally understood. Wording such as "included in this class" is not the common name of particular goods or services and would not be understood by those unfamiliar with the Nice Classification. If an identification includes wording such as "included in this class," "belonging in this class," or "excluding goods/services in other classes," or the like, the examining attorney will require the applicant to delete such wording because it does not identify a particular good or service.

The identification itself must not include references to specific class numbers. Examining attorneys may delete wording related to the class number from the identification by no-call examiner's amendment and must ensure that such wording is removed from the identification prior to approving a mark for publication or registration. See [TMEP §707.02](#) regarding examiner's amendments without prior authorization. See generally [TMEP §817](#) regarding preparation of an application for publication or registration.

Terminology that includes items in more than one class is considered indefinite, even with such additional wording as "included in this class" at the end of the identification. See *In re Omega SA*, 494 F.3d at 1365, 83 USPQ2d at 1544 ("chronographs" includes both time recording devices in Class 9 and watches in Class 14; merely classifying the goods in only one of the classes does not preclude a requirement for further specificity in the identification).

*Example:* "Blankets" is not acceptable without qualifying wording because it is not particular enough to identify the kind of blanket on which the mark is used, e.g., fire blankets (Class 9), electric blankets for household purposes (Class 11), horse blankets (Class 18), and bed blankets (Class 24).

However, the conclusion that a term would clearly include items classified in more than one class should not be drawn unless reasonable, in light of the evidence of record. See *In re Thor Tech, Inc.*, 85 USPQ2d 1474 (TTAB 2007) ("park trailer" held to be an acceptable identification, where the applicant's evidence showed that it is a term of art generally understood by those in the industry and by consumers as a designation for a type of recreational vehicle, which unambiguously places it in Class 12; Board was not persuaded by the examining attorney's argument that the identification was indefinite because it could also encompass mobile homes in Class 19.).

In applications based on a single filing basis, each good or service should be listed only once in the identification. If an application is based on multiple filing bases, the identification should list each good or service only once for each applicable basis. See [TMEP §806.02\(a\)](#) regarding the procedure for asserting more than one filing basis. Redundancies in the identification of goods or services may be corrected by no-call examiner's amendment. See [TMEP §707.02](#).

The accuracy of identification language in the original application is important because the identification cannot later be expanded. See [37 C.F.R. §2.71\(a\)](#); *In re M.V Et Associes*, 21 USPQ2d 1628, 1630 (Comm'r Pats. 1991); [TMEP §§1402.06-1402.06\(b\)](#), [1402.07-1402.07\(e\)](#).

See [TMEP §1306.02\(c\)](#) regarding the identification of goods and services in certification mark applications and [§1304.02\(c\)](#) regarding identification language in collective membership mark applications.

## **1402.01(a) General Guidelines for Acceptable Identifications of Goods or Services**

With few exceptions, an identification of goods and services will be considered acceptable if it:

- Describes the goods and/or services so that an English speaker could understand what the goods and/or services are, even if the grammar or phrasing is not optimal;
- Meets the *standards* (not necessarily the language) set forth in the ID Manual;
- Is not a class heading; and
- Is in the correct class, i.e., there is no language in the identification that makes classification difficult or ambiguous; each class lists goods or services that are clearly in a single class.

Deference should be given to the language set forth by the applicant in the original application.

If an identification contains spelling errors, the examining attorney must require correction. Obvious spelling errors in an identification may be corrected by examiner's amendment without contacting the applicant.

See [TMEP §707.02](#). However, British English variants of American English spellings (e.g., colour, vapour, and organise) are acceptable and need not be changed.

In general, commas should be used in the identification to separate items within a particular category of goods or services. When the items are preceded by the word "namely," a comma should always be used before and after that term. For example, "clothing, namely, hats, sweaters, and jeans" is an acceptable identification of goods in Class 25 and shows proper use of commas. For additional information on the use of "namely" in an identification, see [TMEP §1402.03\(a\)](#).

Semicolons should generally be used to separate distinct categories of goods or services within a single class. For example, "cleaners, namely, glass cleaners, oven cleaners, and carpet cleaners; deodorants for pets" is an acceptable identification in Class 3. In this example, the word "cleaners" names the category covering "glass cleaners, oven cleaners, and carpet cleaners." The semicolon prior to "deodorants for pets" indicates that the deodorants are a separate category of goods from the cleaners. See *In re Midwest Gaming & Entm't LLC*, 106 USPQ2d 1163, 1166 (TTAB 2013) (finding that, because a semicolon separated the two relevant clauses in registrant's identification, its "restaurant and bar services" is a discrete category of services that stands alone and independently as a basis for likelihood-of-confusion analysis, and is not connected to nor dependent on the services set out on the other side of the semicolon).

Care should be taken to use commas and semicolons properly when identifying items that are part of a kit or system. In general, items that are to be sold together (e.g., as components of a system or kit) should be separated by commas. However, other goods within the same class that are to be sold independently of the kit or system should be separated by semicolons. This is an exception to the general rule regarding using semicolons to separate categories of goods. Here, the semicolons are used to separate items that in a non-kit or non-system identification would be separated by commas. For example, an identification that includes kits comprised of several items, as well as other goods sold independently from the kits, should be punctuated as follows: "nail care kits comprised of nail polish, nail polish remover, false nails, and nail files; nail glitter; body art stickers." The use of "and" before "nail files" indicates that the "nail files" are the final items contained in the kit. The use of semicolons indicates that "nail glitter" and "body art stickers" are separate items and are not included in the nail care kits. See [TMEP §1401.05\(a\)](#) for additional information on identifying and classifying kits.

Commas, semicolons, and apostrophes are the only punctuation that should be included in an identification. Other punctuation, such as colons, question marks, exclamation points, and periods should not be used in an identification. In addition, symbols, such as asterisks (\*), at symbols (@), or carets (^), should not be included in the identification.

## 1402.01(b) Identification of Goods and Services in a §44 Application

The identification of goods and services in an application based on §44 of the Trademark Act, [15 U.S.C. §1126](#), must comply with the same standards that govern other applications. The applicant must identify the goods and services specifically, to enable the USPTO to classify the goods and services properly and to reach informed judgments concerning likelihood of confusion under §2(d) of the Trademark Act, [15 U.S.C. §1052\(d\)](#).

Identifications in §44 applications must comply with identification and classification policy, including guidance set forth in the ID Manual, in effect on the filing date of the application with the USPTO. For applications filed under §44(d), the filing date, rather than the priority date, should be used to determine whether an identification is acceptable and properly classified. See [TMEP §1401.10](#). For applications filed under §44(e), the filing date, rather than foreign registration date, should be used to determine whether an identification is acceptable and properly classified.

Foreign registrations often include broad statements identifying the goods and services. In many cases, the identification is merely a repetition of the entire general class heading for a given class. These broad identifications are generally unacceptable in U.S. applications. The identification of goods and/or services in the U.S. application must be definite and specific even if the foreign registration includes an overly broad identification. See *In re Omega SA*, 494 F.3d 1362, 83 USPQ2d 1541 (Fed. Cir. 2007) (noting that the USPTO has discretion to require greater particularity than an entry in WIPO's Alphabetical List of goods and services); *In re Fiat Grp. Mktg. & Corporate Commc'ns S.p.A.*, 109 USPQ2d 1593 (TTAB 2014) .

Furthermore, in an application based on §44 of the Trademark Act, the identification of goods and services covered by the §44 basis in the U.S. application may not exceed the scope of the goods and services identified in the foreign registration. *Marmark Ltd. v. Nutrexpa, S.A.*, 12 USPQ2d 1843 (TTAB 1989) ; *In re Löwenbräu München*, 175 USPQ 178 (TTAB 1972) . However, if the applicant also relies on use in commerce under §1(a) or intent-to-use in commerce under §1(b) as a filing basis, the identification may include goods or services not listed in the foreign registration, if the applicant specifically limits the §44 basis to the goods and/or services covered by the foreign registration. See [37 C.F.R. §2.32\(a\)\(6\)](#). See [TMEP §806.02](#) regarding multiple-basis applications.

If a foreign registration in a single class includes a broad statement identifying the goods or services and the USPTO determines that the goods or services identified are in more than one class, the applicant may rely on the same foreign registration to cover the additional classes in the U.S. application, provided that the identification in the foreign registration encompasses all goods and/or services identified in the U.S. application and the applicant pays the fees to add the additional classes in the U.S. application. See [TMEP §§1403–1403.05](#) regarding multiple-class applications.

## 1402.01(c) Identification and Classification of Goods and Services in a §66(a) Application

The identification of goods and services in an application based on §66(a) of the Trademark Act, [15 U.S.C. §1141f\(a\)](#), must comply with the same standards that govern applications under §1 or §44. The applicant must identify the goods and services specifically to provide public notice and to enable the USPTO to reach informed judgments concerning likelihood of confusion under [15 U.S.C. §1052\(d\)](#).

The examining attorney will examine the identification of goods and/or services in a §66(a) application according to the same standards of specificity used in examining applications under §1 and §44 of the Trademark Act, [15 U.S.C. §§1051](#) and [1126](#). That is, the examining attorney must follow the procedures

set forth in the TMEP and identify the goods and/or services in accordance with the principles set forth in the ID Manual guidance in effect on the filing date of the request for extension of protection. See [TMEP §1904.01\(b\)](#) concerning the filing date of a request for extension of protection of an international registration to the United States. See also [TMEP §§1401.10\(a\), §1904.02\(c\)–1904.02\(c\)\(v\)](#). Thus, although international registrations often include broad statements identifying the goods and services, and in many cases use the entire class heading of a given class, these broad identifications are generally unacceptable in United States applications. The identification of goods and/or services in the request for extension of protection to the United States must be definite and specific even if the international registration includes an overly broad identification. See *In re Omega SA*, 494 F.3d 1362, 83 USPQ2d 1541 (Fed. Cir. 2007) (noting that the USPTO has discretion to require greater particularity than an entry in WIPO's Alphabetical List of goods and services).

When the original identification of goods and/or services in a §66(a) application is definite, but misclassified under United States standards, the examining attorney must accept the identification.

The international classification of goods and/or services in a §66(a) application **may not be changed** from the classification assigned by the IB. If the IB's classification of goods or services in the §66(a) application is different from the classification set forth in the ID Manual, the examining attorney will not request an amendment of the classification. In addition, the goods or services may not be moved to another class identified in the application. [37 C.F.R. §2.85\(d\)](#); [TMEP §§1401.03\(d\), 1904.02\(b\)](#). The examining attorney should notify the Office of the Administrator for Trademark Classification Policy and Practice of the particular definite, misclassified goods or services.

When a proposed amendment to the identification is definite, but describes goods and/or services in a class other than the original class assigned by the IB, the examining attorney will not accept it because the amended identification is outside the scope of the original goods and/or services. Because the international registration is limited to the class(es) assigned by the IB, any amendments to the identification of goods/services may only include goods or services that are properly within the scope of the class(es) set out in the §66(a) application. The inclusion of any goods and/or services outside of the scope of the IB-assigned class(es) in a §66(a) application would result in the lack of a basis for registration of such goods/services under U.S. law.

See also [TMEP §§1904.02\(c\)](#) *et seq.* regarding the examination of the identification of goods and services in a §66(a) application.

## **1402.01(d) Location of "Identification of Goods and Services"**

*TEAS Application.* In a TEAS application, only goods and/or services listed in the proper field (i.e., "Identification" field) will be considered part of the identification.

*§66(a) Application.* In an application under §66(a), the listing of goods and/or services for which the holder of an international registration seeks protection in the United States is transmitted to the USPTO from the IB. The goods and/or services may be all of those listed in the international registration – the "Basic Goods and Services." Alternatively, the holder of an international registration may seek protection for less than all the goods/services listed in the international registration. In such cases, in addition to the "Basic Goods and Services," the §66(a) application will contain "Limitation" details. The "limited" goods/services are the operative goods/services for the purposes of examination. Further limitations may be transmitted from the IB. Such limitations are processed by the Madrid Processing Unit (MPU) and examining attorneys are notified of changes as appropriate. See [TMEP §1904.02\(e\)\(ii\)](#) regarding limitations.

*Paper Application.* If a paper application is permitted (*see* [TMEP §301.02](#), and the applicant submits a separate drawing page in the paper application, this page is considered part of the written application and not a separate element. Any goods or services listed on the drawing page in a paper application will be considered part of the “identification of goods and services,” even if they do not appear within the body of the application.

There is no requirement that goods or services be listed in any particular place within the body of a written paper application. *See In re Atlantic Scientific Corp.*, 47 USPQ2d 1959 (Comm'r Pats. 1998). However, goods or services referenced only on the specimen(s) are not considered part of the identification.

### **1402.01(e) Responsibilities of Examining Attorney as to Identification**

It is the applicant’s duty and prerogative to identify the goods and services. However, the examining attorney may require amendment of the identification of goods and/or services to ensure that it is clear and accurate and conforms to the requirements of the statute and rules. The examining attorney should explain clearly and concisely the reason for requiring an amendment.

Under [37 C.F.R. §2.61\(b\)](#), the examining attorney may require information and evidence, if necessary, to ascertain the nature of the goods and/or services or otherwise permit proper examination of the application. *See* [TMEP §814](#).

When requiring amendment to the identification, the examining attorney should advise the applicant that goods or services deleted by amendment may not be reinserted at a later point in prosecution. *See* [TMEP §§1402.06\(a\), 1402.07\(e\)](#). Examining attorneys should take particular care to ensure that *pro se* applicants are aware of the restrictions on amendments to the identification of goods and services.

To determine proper classification and the acceptability of the language in an identification of goods and/or services, the examining attorney should review this chapter of the TMEP, the ID Manual, and any other resources provided by the USPTO relating to the principles of classification under the Nice Agreement and USPTO practices with regard to specificity of goods and services. After consulting these resources, if the examining attorney is uncertain as to the proper classification or acceptability of language in an identification, he or she should consult with a senior or managing attorney. If the issue still remains unresolved, questions about policy and practice regarding the goods or services at issue may be referred to the Office of the Administrator for Trademark Classification Policy and Practice.

The examining attorney has the discretion to issue a final refusal based on a requirement to amend the identification of goods and/or services. Examining attorneys should make every effort to resolve these issues during examination and should suggest an acceptable identification, if possible. The Office of the Administrator for Trademark Classification Policy and Practice should be consulted, whenever necessary, to resolve identification and classification issues that are the subjects of appeals, including applications remanded for review of requests for reconsideration after the filing of an appeal. Copies of appeal briefs that involve such issues should be sent to the Office of the Administrator for monitoring purposes.

*See* [TMEP §§718.02\(a\)](#) and [1402.13](#) for information regarding a requirement for an amendment of the identification of goods and/or services that is expressly limited to only certain goods/services.

## 1402.02 Entitlement to Filing Date With Respect to Identification of Goods and Services

An application under §1 or §44 must include an identification of goods or services to receive a filing date. [37 C.F.R. §2.21\(a\)\(4\)](#).

Only goods and/or services listed in the proper field on a TEAS application will be considered for determining whether the application meets the requirements for receipt of a filing date. Any goods or services listed on the drawing page of a permitted paper application are considered part of the identification of goods and services.

If the application does not identify any recognizable goods or services, the USPTO will deny a filing date. For example, a filing date will be denied if the identification of goods or services is blank or recites only the following:

- (1) the mark itself;
- (2) a class number;
- (3) wording such as "company name," "corporate name," or "company logo;"
- (4) "Internet services" or "e-commerce services;"
- (5) "business" or "business services;"
- (6) "miscellaneous" or "miscellaneous services;"
- (7) "personal services;"
- (8) "parts;"
- (9) "products;" or
- (10) "equipment."

These examples fail to meet the minimum requirements necessary to receive a filing date under [37 C.F.R. §2.21\(a\)\(4\)](#), because they do not provide adequate notice to third parties as to the nature of the goods or services.

In an application under §1 or §44, if an examining attorney finds that the application fails to specify any recognizable goods or services, the examining attorney should have the filing date cancelled for failure to specify recognizable goods or services, under [37 C.F.R. §2.21\(a\)\(4\)](#).

If the identification language includes wording that would not be sufficient and other wording that would itself be specific enough to entitle the application to a filing date, the USPTO will grant the application a filing date. However, any wording that would not otherwise be sufficient for a filing date will not be considered part of the application, and will be disregarded for the purpose of determining the scope of permissible amendments. For example, if the applicant uses "e-commerce services" along with definite language, such as "online retail store services featuring clothing," the identification of services may only be amended to identify services within the scope of the definite language, i.e., "online retail store services featuring clothing," and may not include services within the scope of "e-commerce services." Or, if the applicant uses "advertising and business," the USPTO will disregard "business," and the identification may only be amended to services within the scope of the term "advertising." See [TMEP §§1402.07](#) *et seq.* regarding the scope of an identification for purposes of amendment.

The fact that goods or services are referenced on the specimen(s) does not satisfy the requirement for an "identification of goods or services." In a TEAS application, the identification of goods and/or services must appear in the proper field. See [TMEP §1402.01\(d\)](#) regarding the location of the identification of goods

and/or services. In a permitted paper application, the written application and/or separate drawing page must indicate the goods and/or services.

The USPTO will not deny a filing date if the applicant uses the language of an international class heading or indicates that the mark is used on all goods or services in a certain class. However, the USPTO strongly discourages the use of the language of the international class headings or statements that the mark is used on all goods or services in a class to identify the goods or services for which registration of the mark is sought, and will generally require amendment of any such identification. *See In re Fiat Grp. Mktg. & Corporate Commc'ns S.p.A.*, 109 USPQ2d 1593, 1598 (TTAB 2014) (stating that "use of the words comprising a class heading as an identification in an application filed with the USPTO is not deemed to include all the goods or services in the established scope of that class"); [TMEP §1402.07\(a\)](#). See also [TMEP §1402.01](#) regarding use of "included in this class" and similar wording.

Note also that an applicant is required to submit a verified statement that the applicant is either using the mark in commerce or has a bona fide intention to use the mark in commerce on or in connection with all the goods and/or services set forth in the identification. It is unlikely that any applicant is using or intends to use a mark on all goods or services within a certain class. If an applicant claims use or asserts a bona fide intention to use the mark on all goods/services in a particular class but only uses or intends to use the mark on some of those goods/services, the resulting registration could be void. *In re Bose Corp.*, 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir.2009); *Torres v. Cantine Torresella S.r.l.*, 808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir.1986).

*Section 66(a) Applications*. Because the requirements for receipt of a filing date set forth in [37 C.F.R. §2.21](#) are specifically limited to applications under §1 and §44 of the Trademark Act, [15 U.S.C. §§1051](#), [1126](#), the USPTO does not apply these requirements to applications under §66(a) for "filing date" purposes. In an application under §66(a), the date of the international registration, or the effective date of a subsequent designation in which the holder of an international registration seeks extension of protection in the United States, is treated as the effective filing date.

### 1402.03 Specificity of Terms Used in Identifying Goods and Services

Applicants frequently use broad terms to identify the goods or services in an application. In applications based solely on §1(a), [15 U.S.C. §1051\(a\)](#), the applicant must have used the mark in commerce on all of the goods and/or services as of the application filing date. *See First Int'l Services Corp. v. Chuckles, Inc.*, 5 USPQ2d 1628 (TTAB 1987). In applications filed under §1(b), [15 U.S.C. §1051\(b\)](#), and §44, [15 U.S.C. §1126](#), the applicant must assert a bona fide intent to use the mark in commerce on or in connection with the specified goods and/or services as of the application filing date. [37 C.F.R. §2.33\(b\)\(2\)](#). In an application filed under §66(a), [15 U.S.C. §1141f\(a\)](#), the verified statement is part of the international registration on file at the IB, and must allege that the applicant/holder has a bona fide intention to use the mark in commerce with the goods/services identified in the international application or subsequent designation. [37 C.F.R. §2.33\(e\)\(1\)](#). The requirement for use or a bona fide intent to use is not necessarily violated by broad identifying terms. When a mark is used on a number of items that make up a homogeneous group, a term that identifies the group as a whole would be understood as encompassing products of the same general type that are commercially related.

As long as a broad term identifies the goods or services that are intended to be covered with reasonable certainty, it will be reasonable, from a commercial viewpoint, to consider that the mark has been used for all the related goods or services that fall in the designated group. *See In re Dynamit Nobel AG*, 169 USPQ 499 (TTAB 1971) ("ammunition" permitted because its scope was assumed to be understood); *In re Port*

*Huron Sulphite & Paper Co.*, 120 USPQ 343 (TTAB 1959) ("paper other than board papers" approved because of evidence of actual use on various types of paper).

Where an applicant has identified its goods or services very broadly but does not use the mark on a substantial number of related goods/services encompassed by the identification language, the USPTO may require further specificity.

The examining attorney must consider the following guidelines:

- (1) Terminology that includes items in more than one class is considered indefinite (e.g., "artists' materials"), even with such additional wording as "included in this class" at the end of the identification. *In re Omega SA*, 494 F.3d 1362, 83 USPQ2d 1541 (Fed. Cir. 2007) ("affirming decision that the examining attorney properly required amendment of the term "chronographs" in the identification of goods so that proper classification could be determined). Other examples are "blankets," which include such diverse and differently classified types as bed blankets in Class 24, fire blankets in Class 9, and horse blankets in Class 18; "boxes," which include set-top boxes and junction boxes in Class 9, music boxes in Class 15, and boxes for holding things, which are classified according to their material compositions; and "sports equipment," because the nature of the equipment will determine the class, e.g., football helmets would be in Class 9, football uniforms would be in Class 25, and footballs would be in Class 28. However, the conclusion that a term would clearly include items classified in more than one class should not be drawn unless reasonable, in light of the evidence of record. *See In re Thor Tech, Inc.*, 85 USPQ2d 1474 (TTAB 2007) ("park trailer" held to be an acceptable identification, where the applicant's evidence showed that it is a term of art generally understood by those in the industry and by consumers as a designation for a type of recreational vehicle, which unambiguously places it in Class 12; Board was not persuaded by the examining attorney's argument that the identification was indefinite because it could also encompass mobile homes in Class 19). See [TMEP §1402.05\(b\)](#) regarding goods that may be classified in more than one class depending on their material composition.
- (2) Some terminology is sufficient for purposes of according a filing date but too indefinite to enable proper examination. For example, in *In re Societe Des Parfums Schiaparelli, S.A.*, 122 USPQ 349, 350 n.4 (TTAB 1959), clarification of the term "beauty products" was held to be necessary because the term does not have a particular commercial meaning. In such a situation, the examining attorney may seek further information under [37 C.F.R. §2.61\(b\)](#). *See* [TMEP §814](#).
- (3) In rare instances, an identification may include a term that has multiple, entirely different meanings. If the meaning of such a term can be understood when read in association with the title of the class in which it is placed, and if the term is otherwise satisfactory, the examining attorney need not require amendment to further qualify the term. The limited number of items to which this applies, however, represents a narrow exception to the general rule that an identification must itself provide a clear indication of the nature of the goods or services, without reference to the class. *See* [TMEP §§1402.01](#) and [1402.05\(b\)](#). The title of a class cannot be used to define the nature of the goods when the same item could be classified in more than one class depending on its function, material composition, or field of use. *See In re Omega SA*, 494 F.3d 1362, 83 USPQ2d 1541 (Fed. Cir. 2007) (finding that "chronographs" includes both chronographs that function as time recording devices in Class 9 and chronographs that function as watches in Class 14).
- (4) The common understanding of words or phrases used in an identification determines the scope and nature of the goods or services. *In re Fiat Grp. Mktg. & Corporate Commc'ns S.p.A.*, 109 USPQ2d 1593 (TTAB 2014); [TMEP §1402.07\(a\)](#). A basic and widely available dictionary should be consulted to determine the definition or understanding of a commonly used word.
- (5) Many goods are commonly understood to move in a particular channel of trade or have particular attributes. When those goods are classified in the class that is appropriate for that common

understanding, often no further specification as to the nature of those goods is necessary. However, when the goods have a special use or attributes that are not typically associated with those particular goods that would cause it to be classified in a different class, that use or attribute should be indicated in the identification in order to justify the classification. For example, "toilets" usually refers to a particular sanitary apparatus and, thus, is classified in Class 11 without further specification. However, "toilets adapted for medical patients or for use by disabled persons" are classified in Class 10 as medical apparatus based on the particular use of the goods.

With broad identifications, as with any identification that includes more than one item, the amount of proof (normally by way of specimens) necessary to assure the examining attorney that the mark has been used on "all" the items in the application will vary. See [TMEP §904.01\(a\)](#). The USPTO does not require specimens showing use of the mark for every item set forth in an application. However, if an identification is broad or so extensive that it encompasses a wide range of products or services, the applicant may be required to submit evidence that it actually uses the mark on a wide range of products or services to obtain registration. [37 C.F.R. §§2.56\(a\)](#), [2.86\(a\)\(3\)](#), [\(b\)\(3\)](#), and [\(e\)](#). See *In re Air Products & Chemicals, Inc.*, 192 USPQ 84, *recon. denied* 192 USPQ 157 (TTAB 1976). See [TMEP §1402.05](#) regarding accuracy of the identification.

The examining attorney should consider the degree of commercial relationship between the products. For a closely related group, a specimen showing use of the mark on one item of the group is sufficient. As the closeness of the relationship becomes less certain, specimens of use on more than one item might be necessary to show generalized use. [37 C.F.R. §§2.56\(a\)](#), [2.86\(a\)\(3\)](#), [\(b\)\(3\)](#), and [\(e\)](#). The nature of the mark may also be considered. "House" marks are placed on all the goods that a company produces, whereas a "product" mark that is appropriate only for a specific commodity is used only on that commodity. See [TMEP §1402.03\(b\)](#) regarding house marks, and [TMEP §1402.03\(c\)](#) regarding identifications that refer to "a full line of" a genre of products.

The appropriateness of any broad identification depends on the facts in the particular case. The examining attorney should permit applicants to adopt terms that are as broad as the circumstances justify.

### **1402.03(a) Inclusive Terminology**

The identification should state common names for goods or services, be as complete and specific as possible, and avoid indefinite words and phrases. For example, the terms "including," "such as," "and similar goods," "and related goods," "products," "concepts," "like services" and other indefinite terms and phrases are almost always unacceptable. See also [TMEP §1402.02](#) regarding entitlement to a filing date with regard to identifications.

The terms "etc.," "e.g.," and "and the like" must not be included in an identification because they are indefinite and fail to indicate a particular good or service. Such wording must not be used in an identification even if it appears as part of an explanatory clause following definite goods or services. For example, while "clothing, namely, socks, shorts, and t-shirts" is an acceptable identification in Class 25, the identification "clothing, namely, socks, shorts, and t-shirts made of cotton, etc." is indefinite due to the ambiguous wording "etc." The term "etc." may refer to the material composition of the goods or, alternatively, may indicate additional articles of clothing. Accordingly, terms such as "etc.," "e.g.," and "and the like" are inappropriate in an identification because they create ambiguity regarding the particular goods or services for which applicant uses or intends to use its mark.

Although the ID Manual includes fill-in entries that contain indefinite terms within brackets, such as "etc." or "e.g.," said wording must not be included in an identification because it is only intended to provide

guidance regarding the use of the particular ID Manual fill-in entry. See [TMEP §1402.04](#) for additional information regarding fill-in ID Manual entries.

The terms "namely," "consisting of," "particularly," "in particular," and "in the nature of" are definite and are preferred to set forth an identification that requires greater particularity. The examining attorney will require that vague terminology be replaced by these terms (e.g., power tools, namely, hammer drills in Class 7; needlepoint kits consisting of needles, thread, and printed patterns in Class 26; or projectors particularly projectors for the entertainment industry in Class 9). The goods or services listed after "namely," "in the nature of," or the like must further define the introductory wording that precedes "namely," "in the nature of," or the like using definite terms within the scope of the introductory wording. For example, "clothing, footwear, and headwear, namely, t-shirts" is indefinite because the wording after "namely" does not include a more specific type of headwear. It is also not clear whether the goods are solely comprised of t-shirts or consist of t-shirts, footwear, and headwear. For clarity, the applicant should separate "footwear" and "headwear" from the "namely" clause using semi-colons, e.g., clothing, namely, t-shirts; footwear; headwear."

While the term "parts" alone is indefinite as an identification of goods, the wording "replacement parts therefor" or "structural parts therefor" is acceptable when such wording follows a definite identification. "Parts therefor," as related to machinery, is acceptable when it follows a definite identification for machines in Class 7.

"Accessories" and "accessories therefor" are usually considered indefinite. However, the ID Manual includes certain entries for toy, game, or plaything "accessories" in Class 28 that have been deemed acceptable for identification and classification purposes, e.g., "doll accessories." The wording "and accessories therefor" is also acceptable following a definite identification for toys, games, and playthings in Class 28. For example, "dolls and accessories therefor" and "toy vehicles and accessories therefor" are acceptable identifications because all goods that fall within that broad designation of "accessories therefor" would be classified in Class 28 with the dolls or toy vehicles and could be the basis for a refusal of registration under [15 U.S.C. §1052\(d\)](#).

If an international applicant under the Madrid Protocol identifies its goods as "parts," "fittings," or "accessories" without further specification, or includes the terms "and the like" or "etc.," the International Bureau is likely to issue a notice of irregularity requiring the applicant to clarify the goods. See [TMEP §1902.02\(f\)](#) for additional information regarding identifying goods and services in an international application.

### **1402.03(b) House Marks**

House marks do not identify particular goods or services – rather, they identify the provider of a wide variety of goods or services, with such goods or services often themselves identified by a separate trademark or service mark. Marks of this type are often used in the chemical, pharmaceutical, publishing, and food industries. A good or service may bear both a trademark or service mark and a house mark.

*Example:* A pharmaceutical manufacturer, XYZ Laboratories Corp., may sell a particular pharmaceutical preparation for a cough syrup under the product mark "FORMULA M" and also feature the house mark "XYZ LABS" on the packaging for the goods. XYZ may also use the same house mark on the packaging of its other pharmaceutical preparations to indicate that all such goods come from a common source.

*Example:* A financial-investment company, XYZ Investors, may provide a particular stock-brokerage service under the service mark ABC FUND and also feature the house mark "XYZ" on advertising for the services. XYZ Investors may also use the same house mark on advertising for its other financial-investment services to indicate that all such services come from a common source.

In an application for registration of a house mark, the identification of goods or services may include wording such as "a house mark for...." As with other applications, these applications must use definite wording and identify the type of goods or services with sufficient particularity to permit proper classification, in accordance with the international classification system, and to enable the USPTO to make necessary determinations under §2(d) of the Trademark Act, [15 U.S.C. §1052\(d\)](#). See [TMEP §1401.02\(a\)](#).

In an application to register a mark as a house mark based on use in commerce, the applicant must demonstrate that the mark is, in fact, used as a house mark. Therefore, the examining attorney must require that the applicant provide evidence showing broad use of the mark to substantiate this claim. See [37 C.F.R. §2.61\(b\)](#).

For example, an applicant seeking registration for a house mark for goods may provide catalogs or similar evidence showing use of the mark as a house mark. An applicant seeking registration for a house mark for services may provide a variety of advertising materials or web pages showing use of the mark as a house mark.

An intent-to-use applicant who wishes to register a mark as a house mark must clearly indicate its intention to register the mark as a house mark during initial examination, and the circumstances must establish that the applicant's proposed use of the mark as a house mark is credible. The nature of the mark and the capacity of the applicant to use the mark as asserted should be considered in determining whether the claim that the mark is to be used as a house mark is credible. If the applicant indicates such an intention, the examining attorney should advise the applicant that, upon filing of the allegation of use, the applicant will be required to provide evidence to substantiate use as a house mark. [37 C.F.R. §2.61\(b\)](#).

The USPTO will register a mark as a house mark only when evidence shows sufficient use as a house mark.

Therefore, if an applicant seeks to register a house mark in an application under any basis, including §44 or §66(a) of the Trademark Act, the examining attorney must require evidence that the mark is in fact used as a house mark. This is not a requirement for specimens, but rather a requirement that applicant provide evidence to substantiate the claim of use as a house mark. [37 C.F.R. §2.61\(b\)](#). If the applicant cannot do so, the identification of goods or services must be amended to remove the indication "a house mark for" and the remaining wording must comply with the requirements for sufficient specificity as to such goods or services.

*Example:* The identification specifies "a house mark for transportation of goods." The examining attorney must review the specimen and any other evidence of record to determine whether the mark is being used as a house mark rather than a service mark. If the record does not support use as a house mark for the services, the examining attorney may require applicant to provide additional evidence in support of applicant's claim. In the alternative, an applicant may amend the identification to remove the indication "a house mark for" and identify the services with sufficient specificity.

If an applicant further indicates that its "house mark" is to be used "for a full line" of products or services, the examining attorney must review both the nature of use of the mark as a house mark as well as the acceptability of the claim of "a full line" by considering the specimens or other evidence of record. See [TMEP §1402.03\(c\)](#) for the requirements for identifications for a "full line of" products. If the record does not support use of the "house mark" on a sufficient number or variety of products or services in its line, the examining attorney may require applicant to provide evidence in support of a "full line" or amend the identification to identify the goods/services with the requisite specificity.

*Example:* The identification specifies "a house mark for a full line of building paints." The examining attorney must review the specimen and any other evidence of record to determine (1) whether the mark is being used as a house mark rather than a trademark and (2) whether the mark is used on a sufficient number or variety of products (e.g., interior paints, exterior paints, house paints, floor paints, etc.) to substantiate use for a full line. If the record does not support both use as a house mark and use on a sufficient variety of products, the examining attorney may require applicant to provide additional evidence in support of applicant's claims of the mark being both "a house mark" and for "a full line." In the alternative, the applicant may amend the goods to remove the indication "a house mark for a full line" and identify the goods with sufficient specificity.

### 1402.03(c) Marks for a "Full Line of ..."

In rare circumstances, the USPTO may accept an identification of goods that refers to "a full line of" a genre of goods or services. To qualify for the use of such terminology, the line of goods or services must be in one class. The most commonly accepted situation is "a full line of clothing." While there may be some rare exceptions, all clothing is classified in Class 25. Other examples would be pharmaceuticals, which are almost all classified in Class 5, insurance services, which are classified in Class 36, and telecommunications services, which are classified in Class 38. Therefore, as long as the specimens and/or other evidence show use of the mark on virtually all of these goods or services, the "full line of" language may be used. *See* [37 C.F.R. §2.61\(b\)](#). It may not be used if the goods or services in the line are classifiable in more than one class, such as "a full line of hand tools." Even though Class 8 is the general class for hand tools, a number of items that might be considered hand tools are classified in other classes (e.g., non-electric egg beaters are in Class 21 but could be considered to fall within the broad category of "hand tools").

The "full line of" language may be used only in appropriate situations and the circumstances and specimens or other evidence of record must be analyzed carefully to ensure that an applicant who does not in fact use a particular mark on a sufficient number or variety of goods or services in its line does not receive a trademark registration that could potentially bar the registration of another applicant who uses a similar mark on different goods or services. If the goods are a "full line of pharmaceuticals," the examining attorney must require the applicant to provide evidence that it uses the mark in connection with pharmaceuticals to treat diseases or health problems in all chapters in the World Health Organization (WHO) International Statistical Classification of Diseases and Related Health Problems. *See In re Astra Merck Inc.*, 50 USPQ2d 1216 (TTAB 1999) (evidence of use on only three products does not justify registration of the mark for a full line of those products). *See also* [TMEP §904.01\(a\)](#).

The USPTO will accept "a full line of clothing" as a sufficient identification, because the applicant is committing to virtually all the goods in the specified class described by the broad language, and the validity of the registration depends on the applicant's statement that it is using the mark on all the goods and the evidence of such use as a "full line." However, the USPTO will not accept an identification of goods as merely "clothing" in any other situation. If the applicant does not provide a full line of clothing, the applicant must identify the items of the clothing by their common commercial name since the applicant is not likely using the mark for all items of clothing, and the registration should be limited to only those items of clothing on which the applicant is actually using the mark.

In some cases, it may be more appropriate to indicate that the applicant is providing a full line of a subset of a genre of goods or services (e.g., "a full line of sports clothing" or "a full line of anti-viral and cardiovascular pharmaceuticals"). As with any identification that refers to a full line of a genre of goods or services, all of the goods or services must be classifiable in one class and the specimens and/or other evidence must show use of the mark on virtually all of the relevant goods or services.

An intent-to-use applicant who wishes to register a mark for a full line of a genre of goods or services must clearly indicate an intention to register the mark for a full line during initial examination, and the circumstances must establish that the applicant's proposed use of the mark for a full line of goods or services is credible. The nature of the mark and the capacity of the applicant to use the mark as asserted should be considered in determining whether the claim that the mark is to be used for a full line of goods or services is credible. If the applicant indicates such an intention, the examining attorney should advise the applicant that, upon filing of the allegation of use, the applicant will be required to provide evidence to substantiate use for a full line of goods or services. [37 C.F.R. §2.61\(b\)](#).

The USPTO will register a mark for a "full line of" a genre of goods or services only when evidence shows the mark is actually used as such. If an applicant seeks to register a mark for a "full line of" a genre of goods or services in an application under any basis, including §44 or §66(a) of the Trademark Act, the examining attorney must require evidence to substantiate use for a full line. This is not a requirement for specimens, but rather a requirement that applicant provide evidence to substantiate the claim of use as a mark for a "full line of" a genre of goods or services. [37 C.F.R. §2.61\(b\)](#). For example, in the pharmaceutical context, proof of use in connection with pharmaceuticals to treat diseases or health problems in all categories in the WHO International Statistical Classification of Diseases and Related Health Problems reflects appropriate use to qualify for a "full line." Evidence to substantiate the claim of use as a mark for "a full line of insurance services" or "a full line of telecommunications services" could include brochures, flyers, or webpages showing use of the mark in connection with virtually all such services. If the applicant cannot establish sufficient use for a "full line of" a genre of goods or services, the identification of goods or services must be amended to remove the indication "full line of" and the remaining wording must comply with the requirements for sufficient specificity as to such goods or services.

### **1402.03(d) Identifying Recorded or Downloadable Computer Programs and Software**

Computer programs and computer software are goods classified in International Class 9 if they are recorded on media or are downloadable and thus can be transferred or copied from a remote computer system for use on a long-term basis. See [TMEP §1402.11\(a\)\(xii\)](#) for information about the Class 42 service of providing temporary use of online non-downloadable computer programs and software.

An identification for computer programs or computer software must be sufficiently specific to permit determinations with respect to likelihood of confusion. The purpose of requiring specificity in identifying these goods is to avoid the issuance of unnecessary refusals of registration under 15 U.S.C. §1052(d) where the actual goods of the parties are not related and there is no conflict in the marketplace. See *In re Linkvest S.A.*, 24 USPQ2d 1716 (TTAB 1992).

An identification for computer programs or software must indicate the function or purpose of the goods. The function is the action that the programs/software performs, for example, managing bank accounts, editing photos, or making restaurant reservations. If the computer programs or software are for use in a particular field or are content-specific, the identification should also indicate the specific field or content. The function/purpose and any field/content must be described with sufficient detail to provide public notice as to the nature of the goods and enable the USPTO to reach informed judgments concerning likelihood of confusion under [15 U.S.C. §1052\(d\)](#). See, generally, [TMEP §1402.01](#).

In addition, for applications filed on or after January 1, 2019, identifications for computer programs or computer software in Class 9 must indicate that the goods are "recorded" or "downloadable" in compliance with Nice Classification, 11th edition, version 2019 (NCL 11-2019), based on the inclusion of "computer programs, downloadable," "computer game software, recorded," and "computer game software, downloadable" in the Nice Alphabetical List in Class 9 and the amendment of the wording "computer software" to "recorded and downloadable ... computer software" in the Class Heading for Class 9.

*Example* - Downloadable spreadsheet software for use in the accounting field

*Example* - Recorded virtual reality software for medical teaching

The USPTO's *Acceptable Identification of Goods and Services Manual* (ID Manual) includes fill-in entries for various types of recorded or downloadable computer programs and software in Class 9, including

computer firmware, middleware, shareware, and mobile applications. These fill-in ID Manual entries may be used to describe the particular function/purpose and any field/content of the goods.

*Example* - Downloadable computer software for {specify the function of the software, e.g., use as a spreadsheet, word processing, etc. and, if software is content- or field-specific, the content or field of use}

*Example* - Downloadable mobile applications for {indicate function of software, e.g., managing bank accounts, editing photos, making restaurant reservations, etc. and, if software is content- or field-specific, the content or field of use}

*Example* - Recorded computer firmware for {specify the function of the program, e.g., use in database management, use as a spreadsheet, word processing, etc. and, if firmware is content- or field-specific, the content or field of use}

*Example* - Recorded computer programs for {specify the function of the programs, e.g., use in database management, use as a spread sheet, word processing, etc. and, if program is content- or field-specific, the content or field of use}

See [TMEP §1402.04](#) for additional information regarding the use of fill-in ID Manual entries.

Generally, an identification for recorded or downloadable computer programs/software will be acceptable as long as both the function/purpose and the field of use/content are set forth. However, specifying the field of use or content is not required when the identified computer programs/software has a clear function and is not field- or content-specific.

*Example* - Downloadable pattern recognition software for sorting spam emails

*Example* - Downloadable computer software for editing cinematographic film

*Example* - Recorded computer utility programs for performing computer maintenance

*Example* - Recorded desktop publishing software

An identification for recorded or downloadable computer programs/software that merely indicates the intended users, field, or industry of the goods will generally be deemed indefinite. However, the ID Manual does include exceptions and lists acceptable entries for certain broader types of recorded or downloadable computer programs/software generally based on industry practice, such as “downloadable anti-spyware software.” The ID Manual should be consulted to determine if broader categories or types of recorded or downloadable computer programs/software may be accepted as identifications.

Computer programs/software that are sold preinstalled or embedded in other goods are types of recorded computer programs/software. While recorded computer programs/software are generally classified in Class 9, computer programs/software that are sold embedded or preinstalled on other goods will be classified in the same class as the finished goods on which they are embedded or preinstalled. In such cases, the identification must (1) indicate that the goods are preinstalled or embedded computer programs or computer software, (2) set forth the function and any field of use of the computer programs/software, (3) indicate that the embedded or preinstalled computer programs/software are sold as a component of another finished product, and (4) set forth the common name of the finished product of which the embedded or preinstalled computer programs/software form a part. The identification may indicate that said embedded or preinstalled computer programs/software are “recorded,” but it is not required. For example, “preinstalled software for accepting wagers sold as a component of gaming machines” is classified in Class 28, the class of gaming machines. See [TMEP §1402.05\(a\)](#) for additional information regarding identifying and classifying goods that are components.

If computer software or programs are included as part of an identification for kits, systems, gift baskets, or items sold together as a unit, the identification must indicate that the computer software or programs are goods (e.g., recorded or downloadable) to preclude inclusion of a service in an identification of goods. Without a clear indication that the computer software or programs are goods, the identification is overbroad and may encompass, for example, Class 42 technological services. An identification may not combine both goods and services.

*Example* - Electronic communications systems comprised of computer hardware and recorded software for the transmission of data between two points

See [TMEP §1401.05\(a\)](#) for additional information regarding identifying and classifying kits, gifts baskets, and items sold as a unit. See [TMEP §1401.05\(d\)](#) for additional information regarding identifying and classifying systems.

### **1402.03(e) Identifying Printed, Downloadable, or Recorded Publications with Specificity**

Identifications for publications must indicate the specific type (e.g., magazines, newsletters, periodicals, etc.) and the literary subject matter of the publications. Additionally, for proper classification, identifications for publications that are goods must indicate if the publications are “printed,” “downloadable,” or “recorded on computer media” (or equivalent wording). Publications are classified in Class 16, if printed, and in Class 9, if downloadable or recorded on computer media.

The requirement to indicate that identifications for publications are “printed” for classification in Class 16 went into effect on January 1, 2021.

The Nice Class Heading for Class 16 includes “printed matter,” and the Class Heading for Class 9 includes “recorded and downloadable media.” The Nice Alphabetical List also includes publications such as “printed sheet music” in Class 16 and “electronic sheet music, downloadable” in Class 9. Thus, it is necessary to indicate the format of the publications as printed, downloadable, or recorded on electronic media, in order to properly classify the goods.

*Example* - “Printed magazines in the field of medicine” is acceptable in Class 16, the class for printed matter.

*Example* - “Downloadable electronic books in the field of golf instruction” is acceptable in Class 9, the class for downloadable media.

In the case of publications of a specialized nature, the identification should describe the goods by specific names or wording that explains their specialized nature.

*Example* - “Printed storybooks” is acceptable in Class 16.

Even if the mark itself indicates the subject of a publication, the identification must specify the subject matter of the goods to enable informed judgments concerning likelihood of confusion under [15 U.S.C. §1052\(d\)](#). Generally, the identification should include a particular subject matter, e.g., biology or history. However, “general human interest” and “general interest” are acceptable subject matters of magazines and newsletters, because they are recognized terms of art in those industries. See [TMEP §1402.03\(f\)](#) regarding recognition of industry terms. “General human interest” indicates that a wide range of topics may be covered that appeal to the general public.

*Example* - “Printed magazines and newsletters in the field of general human interest” is an acceptable identification in Class 16.

However, the terms “general human interest” and “general interest” do not have a particular meaning in other industries and generally may not be used as the subject matter of other types of goods or services. For example, “printed books in the field of general human interest” in Class 16, “general feature audio recordings” in Class 9, and “providing ongoing television programs in the field of general human interest” in Class 41 are not acceptable identifications because the subject matter of the goods and services is indefinite.

As a general rule, books should be described by subject matter (e.g., “printed religious books” or “printed travel books”). In the case of a mark used by a publishing house on books, a general identification, such as “a house mark for printed books” or “a full line of printed books” is sufficient if supported by the record.

See [TMEP §§1402.03\(b\), 1402.03\(c\)](#). However, if the goods are restricted to certain types of literature, such as science fiction, engineering, romance, or poetry, the identification should so indicate. The applicant may also indicate the channels of trade or groups of purchasers for the goods.

Identifications for “electronic publications” must indicate the type and subject matter of the publications and must specify that the goods are downloadable or recorded on computer media for classification in Class 9.

*Example* – “Electronic publications, namely, { indicate specific type of publication, e.g., book, magazine, manual } featuring { indicate subject matter } recorded on computer media” is acceptable in Class 9.

*Example* – “Downloadable electronic publications in the nature of { indicate specific nature of publication } in the field of { indicate subject matter of publication }” is acceptable in Class 9.

See [TMEP §1402.11\(a\)\(x\)](#) regarding the Class 41 service of providing online publications.

### **1402.03(f) Recognition of Industry Terms**

Widely used industry terminology that is definite and limited to a single class should be recognized as sufficient to identify the goods or services when supported by dictionary definitions or other authoritative references. Examples of acceptable terminology are “telecommunications services, namely, personal communications services” and “telecommunications services, namely, ISDN services.” If there is any doubt as to the widespread recognition of the terminology, a brief explanation of the product or activity should be included in the identification, but the accepted industry terminology may remain part of the identification as well. See [TMEP §1402.01](#) regarding “terms of art.”

### **1402.03(g) Name and/or Acronym of Trademark Protection System or Scheme for Geographical Indication Appearing in Identification**

A geographical indication of origin identifies goods as originating in a territory known for a given quality, reputation, or other characteristic associated with the goods. WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, Art. 22.1, Apr. 15, 1994. Geographical indications are used in connection with wines and spirits, foodstuffs, and agricultural products. They are typically names of geographic places and identify the goods as having characteristics associated with the named places, e.g., “Parmigiano Reggiano” for cheese, “Barolo” for wine, “Colombian” for coffee, and “Parma” for ham. See [TMEP §§1210.08 and 1306.02](#).

Different countries, as well as governmental organizations such as the European Union, have different legal systems or schemes to protect geographical indications of origin. They also have different terminology that

has significance in the relevant territories. The following are examples of acronyms and their full names used to designate a protection system or scheme in a particular territory:

COUNTRY	ACRONYM	FULL NAME
Austria	DAC	Districtus Austriae Controllatus (Controlled District of Austria)
Brazil	GI	Geographical Indication
Canada	VQA	Vintners Quality Alliance
Chile	DO	Denominación de Origen (Denomination of Origin)
European Union	AOP	L'Appellation d'Origine Protégée (Protected Designation of Origin)
European Union	PDO	Protected Designation of Origin
European Union	IGP; PGI	Indication Géographique Protégée; Protected Geographical Indication
France	AOC	Appellation d'Origine Contrôlée (Controlled Designation of Origin)
Italy	DOC	Denominazione di Origine Controllata (Controlled Designation of Origin)
Italy	DOCG	Denominazione di Origine Controllata e Garantita (Controlled and Guaranteed Designation of Origin)
Italy	DOP	Denominazione di Origine Protetta (Protected Designation Origin)
Italy	IGP	Indicazione Geografica Protetta (Protected Geographic Indication)
Italy	IGT	Indicazione Geografica Tipica (Typical Geographical Indication)
Portugal	DOC	Denominação de Origem Controlada (Controlled Denomination of Origin)
Romania	DOC	Denumire de Origine Controlat (Controlled Designation of Origin)
South Africa	WO	Wine of Origin
Spain	DO	Denominación de Origen (Designation of Origin)
Spain	DOCa	Denominación de Origen Calificada (Qualified Denomination of Origin)

The identification should only contain the common commercial or generic name of the goods and/or services, using terminology that is generally understood by the average consumers in the United States. *See* [TMEP §1402.01](#). Therefore, if the identification refers to a protection system or scheme, such wording should not be part of the identification of goods and/or services featuring those goods. This includes not only when the protection system or scheme is indicated by an acronym and/or full name along with reference to a region-specific or particular protection system or scheme (e.g., "DOCa wines with a protected designation of origin Rioja"), but also when the full name is used in a general or broad sense and without reference to a region-specific or particular protection system or scheme (e.g., "wines protected by appellation of origin" or "distilled spirits protected by geographical indication").

The examining attorney must issue an identification requirement instructing the applicant to submit an amended identification that is definite and complies with the USPTO identification practice. Applicant may not delete the reference to a protection system or scheme entirely from the identification because such an amendment would impermissibly broaden the scope of the goods and/or services. *See* [TMEP §§1402.06, 1402.07](#). In general, the amended identification must indicate that the goods are made or produced, or the services feature goods made or produced, in accordance with certain, specific, or adopted standards. The language used to describe the goods and/or services should be understandable to the average person and should not require an in-depth knowledge of the relevant field. [TMEP §1402.01](#).

Examples of original identifications and the amended wording that may be recommended are:

ORIGINAL ID	RECOMMENDED AMENDMENT
DOCG wines protected by the designation of origin Barolo, Italy	Wines produced in the Barolo region of Italy in accordance with adopted standards
AOC wines, namely, wines with protected appellation of origin	Wines made from grapes from <i>{insert geographic name or region}</i> in accordance with specific standards
Distilled spirits protected by appellation of origin	Distilled spirits produced in <i>{insert geographic name or region}</i> in accordance with certain standards
PGI distilled spirits from a protected geographical indication	Distilled spirits from <i>{insert geographic name or region}</i> made in accordance with adopted standards
Grape brandy protected by the appellation of origin (AOC) Beaujolais	Brandy from the Beaujolais region of France made in accordance with adopted standards
Cheeses complying with the characteristics of the Franche-Comté registered designation of origin	Cheese made in the Franche-Comté region of France in accordance with specific standards
Retail store services featuring cheese with the protected designation of origin Franche-Comté	Retail store services featuring cheese from the Franche-Comté region of France made in accordance with specific standards

While the aforesaid identification guidance generally should be followed, there may be exceptions in light of other laws or regulations. Using Cognac as an example, identifications for grape brandy distilled in the Cognac region of France should be identified as “grape brandy distilled in the Cognac region of France in compliance with the laws and regulations of the French Government,” and identifications for grape brandy distilled in the Armagnac region of France should be identified as “grape brandy distilled in the Armagnac region of France in compliance with the laws and regulations of the French Government.” See [27 C.F.R. §5.22\(d\)\(2\)](#). Examining attorneys may consult their senior or managing attorney regarding the acceptability of amended identifications. The senior or managing attorney will make the final determination or may seek guidance from the Office of Legal Policy regarding such marks.

Please note that, occasionally, the acronym and/or full name of a non-English region-specific protection system or scheme may be part of the mark and appear on the drawing. In such cases, a translation and/or disclaimer of the non-English wording must be made of record, as appropriate, the same as with other marks comprising foreign matter that is descriptive or generic. See [TMEP §§809–809.03](#) regarding translations and [TMEP §§1213–1213.11](#) regarding disclaimers.

## 1402.04 Acceptable Identification of Goods and Services Manual

The USPTO maintains the Acceptable Identification of Goods and Services Manual (ID Manual) in electronic form. The ID Manual comprises a listing of identifications of goods and services that is compiled by the Office of the Administrator for Trademark Classification Policy and Practice and includes goods and services that are properly classified in accordance with the current edition of the Nice Classification. The ID Manual is updated periodically, and the listed entries are more extensive and specific than the Alphabetical List under the Nice Classification that is published by WIPO. The listing is not exhaustive, but is intended to serve as a guide to examining attorneys in acting on applications and to the public in preparing applications.

The ID Manual includes two types of entries: those that are acceptable as written and those with a fill-in feature. Fill-in entries use curly brackets to indicate the type of information an applicant must specify to

render the identification acceptable. Curly brackets usually include wording such as “specify,” “indicate,” “etc.” to convey the type of information required from an applicant and generally include examples of acceptable wording. If an applicant chooses to use a fill-in entry, the information requested within the curly brackets must be provided by the applicant as part of the identification; however, wording used to introduce examples of types of information within the curly brackets, such as “specify,” “indicate,” or “e.g.,” and wording used to indicate other similar items or subjects, such as “etc.,” must not be included in an identification because they are indefinite and only intended to provide guidance. Also, curly brackets must not be included in the identification. See [TMEP §1402.12](#) regarding the use of brackets in an identification and [TMEP §1402.01\(a\)](#) regarding acceptable punctuation in an identification. An examining attorney will review all identifications and may require an amendment to any indefinite or unacceptable wording, including wording in fill-in entries.

*Example* – “Pharmaceutical preparations for {specify disease or condition to be prevented or treated or the health goal to be achieved}” is a fill-in entry. It is unacceptable verbatim because the indefinite wording within the curly brackets is not clarified. An acceptable identification replaces the curly brackets and wording within the curly brackets with definite information, for example, “Pharmaceutical preparations for treating diabetes.”

*Example* – “Microbes for use in the manufacture of {indicate, e.g., probiotic supplements, etc.}” is a fill-in entry. “Microbes for use in the manufacture of, e.g., probiotic supplements” is unacceptable because it is indefinite. An acceptable identification replaces the curly brackets and wording within the curly brackets with definite information, for example, “Microbes for use in the manufacture of probiotic supplements and food for humans.”

When a fill-in entry is selected in a TEAS application, the bracketed information will be replaced by a highlighted text box in which the applicant must insert the required information. In limited circumstances, additional fees may be required for the improper use of a fill-in entry for TEAS Plus applications. For more information regarding additional fees, see [TMEP §819.01\(g\)](#).

Although the ID Manual includes entries that are acceptable as written, the examining attorney may require an amendment to an otherwise definite identification in certain circumstances. See, e.g., [TMEP §§1401.07](#) and [1203.02\(e\)\(ii\)](#).

Using identification language from the ID Manual enables trademark owners to avoid objections by examining attorneys concerning indefinite identifications of goods or services; however, applicants should note that they must assert actual use in commerce or a bona fide intent to use the mark in commerce for the goods or services specified. Therefore, even if the identification is definite, examining attorneys may inquire as to whether the identification chosen accurately describes the applicant’s goods or services. See [TMEP §1402.05](#) regarding accuracy of identifications.

No listing could include all possible identifications for the multitude of products and services for which marks may be registered. Therefore, a primary use of the ID Manual’s listings, in addition to indicating precise identifications that will be accepted, is to indicate by analogy and example the kinds of identifications that will be acceptable for products and services not covered by the existing listings.

Any identification of goods and services in the ID Manual that has a letter “T” in the TM5 column indicates that the identification is acceptable in the USPTO, the China National Intellectual Property Administration (CNIPA), the European Union Intellectual Property Office (EUIPO), the Japan Patent Office (JPO), and the Korean Intellectual Property Office (KIPO).

In a TEAS Plus application, the application must include correctly classified goods and/or services, with an identification of goods and/or services taken directly from the USPTO ID Manual, available through the TEAS Plus form. [37 C.F.R. §2.22\(a\)\(8\)](#); [TMEP §819.01\(g\)](#). In a TEAS Standard application, the applicant

may include correctly classified goods and/or services taken from the ID Manual or may create and enter a listing of recognizable goods and/or services. See [TMEP §805](#) regarding listing particular goods or services in an application and designation of international class number(s) and [TMEP §1402.02](#) regarding entitlement to a filing date with respect to the identification of goods and services.

The ID Manual can be viewed from the USPTO website at <http://www.uspto.gov>, and it is accessible from within TEAS.

## 1402.05 Accuracy of Identification

An identification is unacceptable if it is inconsistent with the goods or services indicated by the specimens or if the ordinary meaning of the identification language is at variance with the goods or services evidenced by the specimens or any other part of the record.

The examining attorney may require an amendment of the identification language to accurately describe the goods or services. *In re Omega SA*, 494 F.3d 1362, 83 USPQ2d 1541 (Fed. Cir. 2007) (affirming decision that the examining attorney properly required amendment of the term "chronographs" in the identification of goods so that proper classification could be determined); *In re Faucher Indus. Inc.*, 107 USPQ2d 1355, 1361 (TTAB 2013) (finding that examining attorney properly questioned the nature of the goods and required that the identification of goods be amended to disclose the material composition of the goods so that proper classification could be determined). Moreover, the examining attorney must require an amendment to the identification language when it includes broad wording that would normally be acceptable, but the specimen(s) shows that the actual goods or services are a specialized type or are used only in a specialized trade channel. In this situation, the identification would be misleading. The amended identification should specify the specialized characteristic or specialized trade channel to accurately describe the goods or services. *In re Petroglyph Games, Inc.*, 91 USPQ2d 1332, 1335 (TTAB 2009) (Board stating that "[t]he Office's requirement that the examining attorney ensure the accuracy of the identification of goods is abundantly clear."); *In re Water Gremlin Co.*, 635 F.2d 841, 208 USPQ 89 (C.C.P.A. 1980), *aff'd* 204 USPQ 261 (TTAB 1979) (examining attorney has discretion to require applicant to state whether goods are packaged in container to which mark refers); *Kiekhaefer Corp. v. Willys-Overland Motors, Inc.*, 236 F.2d 423, 111 USPQ 105 (C.C.P.A. 1956) (requirement to restrict identification to "outboard motors" considered proper); *The Procter & Gamble Co. v. Economics Laboratory, Inc.*, 175 USPQ 505, 509 (TTAB 1972), *modified without opinion*, 498 F.2d 1406, 181 USPQ 722 (C.C.P.A. 1974) (noting that, in view of specimens, greater specificity should have been required in identifying registrant's detergent product); *In re Toro Mfg. Corp.*, 174 USPQ 241 (TTAB 1972) (noting that use on "grass-catcher bags for lawn-mowers" did not justify the broad identification "bags," which would encompass goods diverse from and commercially unrelated to applicant's specialized article); *Ex parte Consulting Engineer Publishing Co.*, 115 USPQ 240 (Comm'r Pats. 1957) (amendment of "periodical" to "monthly news bulletin" required).

In *Petroglyph Games*, 91 USPQ2d at 1336, the Board addressed the question of whether the identification "computer game software" was accurate for the mark BATTLECAM if the mark was being used only for a feature of a computer game. The Board found that the subsets of computer code identified by the mark, which the specimen indicated supported only particular aspects or features of the computer game, could also be accurately identified as "computer game software," noting that although "there is a market for selling or distributing to computer game players all the software that allows a game to be played in its entirety, there may also be a market for computer game software related to only certain game features, perhaps among game developers or producers who might want to include a particular feature in a complete game, or perhaps among players seeking after-market add-ons or enhancements for existing games." Therefore, it would not be inaccurate to identify such software simply as "computer game software." For information regarding identifying and classifying software goods pursuant to NCL 11-2019, see [TMEP §1402.03\(d\)](#).

The wording of an identification cannot be amended to accurately describe the goods or services if the amendment would add to or expand the scope of the identification. See [37 C.F.R. §2.71\(a\)](#); [TMEP §§1402.06 et seq.](#) and [1402.07 et seq.](#)

See [TMEP §1402.13](#) regarding requirements to amend a portion of the identification of goods/services.

### **1402.05(a) Goods That Are Components or Ingredients**

When a mark is used to identify only a component or ingredient of a product, and not the entire product, the identification must (1) precisely set forth the common name of the component or ingredient, (2) indicate that the component or ingredient is sold as a component or ingredient of another finished product, and (3) set forth the common name of the finished product of which the identified component or ingredient forms a part, e.g., "acoustic baffles sold as a component of loudspeakers." In other words, when the specimen or other material in the record clearly indicates that the mark relates only to a distinguishable component or ingredient of a finished product, then the application should identify that component or ingredient as the goods rather than the finished product. The identification should leave no doubt that the mark refers only to the component or ingredient and not to the entire product. See, e.g., *Ex parte Joseph & Feiss Co.*, 114 USPQ 463 (Comm'r Pats. 1957); *Ex parte Palm Beach Co.*, 114 USPQ 463 (Comm'r Pats. 1957). For example, if a mark is used on a label for fiber-optic cables to identify only the optical fibers that are components of the cables, "optical fibers sold as a component of fiber optical cables" would be an acceptable identification to accurately identify the goods.

The examining attorney should examine the specimen to determine whether it shows use of the mark to identify the separate component or ingredient or the finished product in its entirety. See *In re Fallon*, 2020 USPQ2d 11249, at \*5 (TTAB 2020) (citing *In re Minerva Assocs., Inc.*, 125 USPQ2d 1634, 1638-39 (TTAB 2018) (noting "it is particularly important that the specimen contain some visual or verbal identification of the component to create the required direct association between the mark and the identified goods")).

Components or ingredients sold as part of a finished product are classified in the class of the finished product, since the components or ingredients have been incorporated into other finished goods.

*Example* – The identification of goods lists "glass door lites," in Class 19. (Glass door lites are glass panes for installation into doors.) The specimen is a label for a metal door which shows use of the mark to identify a particular component of the door, while the door itself is identified by a different mark. As the mark for which registration is sought identifies a component of a finished product and not a separate finished product, the identification must specify that the goods are "glass door lites sold as components of metal doors," and the proper classification is that of "metal doors," namely, Class 6.

If the mark does not pertain solely to a component or ingredient rather than the finished or composite product, the identification should not specify the component or ingredient as the goods.

Components or ingredients used for the manufacture of other finished products that are sold *separately* from the finished products are classified in the class of the specified components or ingredients, since the components or ingredients have not yet been transformed into the finished goods.

The same rules of language construction for purposes of amendment, as set forth in [TMEP §§1402.01 et seq.](#), [1402.06 et seq.](#), and [1402.07 et seq.](#), apply to amendments of identifications to indicate components or ingredients. Thus, whether an identification may be amended will depend on the particular circumstances of each application.

*Example* - The indefinite term "fabric" may be amended to the definite identification "fabric sold as an integral component of finished furniture" but may not be amended to "furniture," which is beyond the scope of the identification.

See [TMEP §1402.05](#) regarding accuracy of the identification.

### 1402.05(b) Material Composition

According to the General Remarks of the Nice Classification, unworked or semi-worked raw materials are in principle classified according to their material composition. See [TMEP §1401.02\(a\)](#). For example, "unworked or semi-worked gold" is classified in Class 14 and "raw or semi-worked rubber" is classified in Class 17.

The General Remarks of the Nice Classification also provide the following guidance on the classification of finished goods:

A finished product is in principle classified according to its function or purpose. If the function or purpose of a finished product is not mentioned in any class heading, the finished product is classified by analogy with other comparable finished products, indicated in the Alphabetical List. *If none is found, other subsidiary criteria, such as that of the material of which the product is made or its mode of operation, are applied.*

[TMEP §1401.02\(a\)](#) (emphasis added). If an identification of goods is specific, but the goods could be classified in more than one class depending on the material composition, then the material composition must be indicated in the identification of the goods.

*Example* - "Statues" refers to specific items; however, the classification depends on the material composition. "Statues of non-precious metal" are classified in Class 6; "statues of precious metal" are classified in Class 14; "statues of wax, wood, plaster, or plastic" are classified in Class 20; and "statues of glass" are classified in Class 21.

However, in certain situations, because of the nature of the particular industry and the knowledge that the items are made out of different materials and are classified accordingly, an indication of the material composition in the identification may be unnecessary. See [TMEP §§1401.07](#) and [1402.03](#) for further explanation.

When goods, whether finished or not, are classified according to material composition, and the goods are made of more than one material, the goods are classified according to the material that predominates. See Nice General Remarks in [TMEP §1401.02\(a\)](#). The identification must clearly set forth the primary material composition of the goods for proper classification.

*Example* - "Statues primarily of precious metal and also including glass" are classified in Class 14 because the primary composition is precious metal, and statues of precious metal are classified in Class 14.

*Example* - "Statues primarily of glass and also including precious metal" are classified in Class 21 because the primary composition is glass, and statues of glass are classified in Class 21.

### 1402.06 Amendments Permitted to Clarify or Limit Identification

Trademark Rule 2.71(a), [37 C.F.R. §2.71\(a\)](#), restricts amendments to the identification of goods or services as follows, "The applicant may amend the application to clarify or limit, but not to broaden, the identification of goods and/or services . . . ." [37 C.F.R. §2.71\(a\)](#); see *In re Jimmy Moore LLC*, 119 USPQ2d 1764 (TTAB 2016). This rule applies to all applications.

Section 7(c) of the Trademark Act, [15 U.S.C. §1057\(c\)](#), provides that filing an application for registration on the Principal Register establishes constructive use and nationwide priority, contingent on issuance of the registration (see [TMEP §201.02](#)). Therefore, the identification of goods and/or services in an application

defines the scope of those rights established by the filing of an application for registration on the Principal Register.

### **1402.06(a) Limiting the Identification of Goods and Services**

As noted above, the rules permit amendments to limit the identification of goods and services.

Deletions from the identification of goods and services are also permitted. "Deletion" means the elimination of an existing item in an identification of goods and services in its entirety. If the applicant wishes to amend the identification of goods and services to delete one or more items, the examining attorney should accept the amendment, if it is timely and otherwise proper. However, once the applicant has expressly amended the identification of goods and services to delete an item, it may not be reinserted in a later amendment.

If the applicant wishes to amend the identification of goods and services to restrict one or more of the items by inserting qualifying language within the scope of the identification or substituting more specific language, the examining attorney should accept the amendment, if it is timely and otherwise proper. Qualifying language, however, may not be deleted from an identification.

*Example* - If the applicant initially identifies the goods as "printed publications," the applicant may amend to substitute one or more terms that fall under the definition of printed publications. Likewise, if an applicant identifies its goods as "printed pamphlets," the applicant may amend to include "printed brochures" in Class 16 because these terms are generally equivalent and interchangeable. In either case, the applicant must specify the subject matter. *See* [TMEP §1402.03\(e\)](#).

*Example* - If the applicant initially identifies the goods as "commercial cooking ovens sold to restaurants" in Class 11, the applicant cannot delete the language "sold to restaurants," because this would broaden the identification.

If an applicant wishes to amend the identification of goods and services to insert a good or service that is equivalent to or logically encompassed by a good or service already included in the identification of goods and services, the examining attorney should permit the amendment, if it is timely and otherwise proper.

On the other hand, an applicant may not amend an identification of goods/services to add or substitute a term that is not logically included within the scope, or to add exclusionary language that falls outside the scope, of the terms originally identified or that is otherwise qualitatively different from the goods and services as originally identified.

*Example* - If the applicant initially identifies the goods as "hats," the applicant may not add or substitute "scarves." Likewise, the applicant may not add or substitute "shirts" for "slacks."

*Example* - If the applicant identifies its services as "ophthalmology services," the applicant may not amend the identification to "medical services," because the amendment would expand the identification to include services beyond the scope of those identified initially.

The scope of the goods and services, as originally identified or as acceptably amended by an express amendment, establishes the outer limit for any later amendments. *See* [TMEP §1402.07](#).

Under [37 C.F.R. §2.71\(a\)](#), there is no general prohibition against specific types of limitations in identifications of goods and services, such as the use of negatives, exceptions, or similar language. Limitations on identifications phrased in the negative or as exceptions are acceptable, if they are otherwise proper.

*Example* - If the applicant initially identifies the goods as "hats," the applicant may amend its identification to "hats, excluding baseball hats" because "baseball hats" are within the scope of "hats."

*Example* - If the applicant initially identifies the goods as “hats,” the applicant may not amend its identification to “hats, excluding handbags” because the exclusionary language “excluding handbags” falls outside the scope of “hats.”

Although limitations on identifications phrased in the negative or as exceptions are acceptable, if they are otherwise proper, an identification may not include phrases such as “included in this class” or “not included in other classes.” Such wording is not part of the common name of a good or service, and those unfamiliar with the Nice Classification would not understand the limitation. See [TMEP §1402.01](#) for additional information.

Because [37 C.F.R. §2.71\(a\)](#) precludes additions that broaden the identification, examining attorneys should not require or suggest unduly restrictive identifications. See *In re Sentry Chem. Co.*, 230 USPQ 556 (TTAB1986). Once the identification has been limited, it cannot be expanded later. See *In re Swen Sonic Corp.*, 21 USPQ2d 1794 (TTAB 1991); *In re M.V Et Associes*, 21 USPQ2d 1628 (Comm’r Pats. 1991). Also, when requiring amendments to the identification, examining attorneys must advise applicants that additions that broaden the identification are not permitted.

### **1402.06(b) Clarifying the Identification of Goods and Services**

Under [37 C.F.R. §2.71\(a\)](#), an applicant may amend “to clarify” the identification of goods and/or services. The applicant may clarify an identification that is indefinite or overly broad to identify goods and/or services that are within the scope of the goods and services in the identification. As noted in [TMEP §1402.06](#), filing an application for registration on the Principal Register establishes a constructive date of first use in commerce, contingent on issuance of the registration. [15 U.S.C. §1057\(c\)](#). Accordingly, the applicant may not expand those rights through an amendment that broadens the identification of goods and/or services.

Thus, the applicant may amend from the more general to the specific, but the applicant may not amend from the specific to the more general. The scope of the goods/services identified initially, or as acceptably limited by an express amendment, establishes the outer limit for permissible amendments. See [TMEP §§1402.07](#); *In re Jimmy Moore LLC*, 119 USPQ2d 1764 (TTAB 2016).

In an application under §1 or §44 of the Trademark Act, classification may provide some guidance in determining whether an amendment exceeds the scope of the goods/services identified initially, but it is not controlling. In an application under §1 or §44, the examining attorney may suggest and accept amendments to the identification that result in a change of class, if the amended identification does not exceed the scope of the original identification.

*Example* - If an applicant has erroneously identified its goods and services as “menus” but, in fact, the applicant intends to register the mark for restaurant services, the applicant may not amend the identification to “restaurant services.” In such a case, the original identification, which is specific and narrow in scope, may not be expanded to services beyond the scope of that identification.

*Example* - If an applicant has erroneously identified its goods and services as “bottles for salad dressing” but, in fact, the applicant intends to register the mark for salad dressing, the applicant may not amend the identification to “salad dressing.” However, if an applicant identifies its goods and services as “bottles of salad dressing,” the applicant may amend the identification to “salad dressing.” As above, where the original language is specific and narrow in scope, the identification may not be expanded to goods beyond that scope.

*Example* - If an applicant has erroneously identified its goods and services either as “packaging and labels” or as “packaging and labels for toys” but, in fact, the applicant intends to register the mark for toys, the applicant may not amend to correct the identification, because “toys” is not within the scope of the initial identification.

In a §66(a) application, classification is assigned by the IB and may not be changed unless such change is to agree with a notice of correction from the IB that specifically changes classification. [37 C.F.R. §2.85\(d\)](#). See [TMEP §§1401.03\(d\)](#), [1402.01\(c\)](#), and [1904.02\(b\) and \(c\)](#) regarding §66(a) applications.

## **1402.07 Scope of Identification of Goods and Services for Purposes of Amendment**

### **1402.07(a) The Ordinary-Meaning Test**

In applications under §1 or §44, for the purpose of determining the scope of an identification, the examining attorney should consider the ordinary meaning of the wording apart from the class number designation. The class number ( *see* [TMEP §§1401.03 et seq.](#) ), whether inserted by the applicant or the USPTO, does not limit the scope of permissible amendments. [37 C.F.R. §2.85\(f\)](#). If the applicant designates the class by number, this information may be weighed with other factors for the benefit of the applicant in determining the scope of permissible amendments.

However, if the applicant does not merely designate the class number, but expressly limits the goods or services recited to those that are within one or more classes, the applicant may not amend to specify items not in those classes.

In many cases, the identification is merely a repetition of the entire general class heading for a given class.

However, use of the words comprising a class heading as an identification of goods or services in an application filed with the USPTO, or in a request for extension of protection notified under the Madrid Protocol, is not deemed to include all the goods or services in the established scope of that class. *In re Fiat Grp. Mktg. & Corporate Commc'ns S.p.A.*, 109 USPQ2d 1593, 1598 (TTAB 2014) . In this situation, the USPTO will look to the ordinary meaning of the words for the purposes of determining the scope of the identification. The USPTO will not permit the applicant to amend to include any item that falls in the class, unless the item falls within the ordinary meaning of the words in the heading. *See id.* at 1597 (finding that the wording from the class heading, "business management services," refers to services that are significantly different from and do not include "retail store services"). As noted in [TMEP §1402.01\(b\)](#), class headings are generally unacceptable to identify goods/services in United States applications, even if the class heading is used as the identification in the foreign registration.

In §66(a) applications, the classification assigned by the IB cannot be changed, so the scope of the identification for purposes of permissible amendments *is* limited by the class. [37 C.F.R. §2.85\(f\)](#). *See* [TMEP §§1401.03\(d\)](#), [1402.01\(c\)](#), and [1904.02\(c\)](#). For example, if an identification in a §66(a) application is the entire class heading for a particular class, the applicant must replace any indefinite wording with goods or services within the ordinary meaning of the indefinite wording in the heading and may not amend the identification to include goods or services in other classes.

### **1402.07(b) Ambiguous Identifications**

An applicant may amend an ambiguous identification of goods or services (i.e., an identification that fails to indicate a type of goods or services) in order to specify definite goods *or* services within the scope of the indefinite terminology.

*Example* - "Food" is indefinite, and may be amended to "fresh fruit" (Class 31), or "processed fruit" (Class 29), or "dog food" (Class 31). However, "food" may not be amended to "whiskey" (Class 33).

*Example* - "Metal parts" is indefinite, and may be amended to "metal threaded fasteners" (Class 6), or "machine parts, namely, metal grounding bushings" (Class 7). However, "metal parts" may not be amended to "metal chairs" (Class 20).

Likewise, if the applicant includes wording in an indefinite identification of goods or services that, in context, is obviously superfluous, the applicant may amend the identification to specify goods *or* services within the scope of the indefinite terminology. In many cases, the superfluous wording will not restrict the range of permissible amendments.

*Example* - If the applicant begins an indefinite identification of goods with superfluous wording such as "sale of . . .," "production of . . .," "making of . . .," "manufacture of . . ." (as long as it does not include the wording "custom" or "to the order and specification of others"), or similar wording, the applicant may amend to specify either goods or services within the scope of the existing identification. However, the specific terms used to preface the goods do establish some limitation as to scope. "Sale of" may justify an amendment to retail store or mail order services for specific goods, or to the goods themselves, but not to custom manufacturing or advertising agency services related to those goods.

The policy permitting applicants to amend to specify *either* goods *or* services should be construed narrowly. The applicant should only be permitted to amend from goods to services, or vice versa, when the existing identification of goods and services fails to specify a definite type of goods or services *and* when the existing identification provides reasonable notice to third parties that the applicant may be providing *either* goods *or* services within the scope of the existing identification. See [TMEP §1402.07\(c\)](#).

*Example* - If the applicant specifies "computer anti-virus software," the applicant may only amend the identification to specify computer software goods or services within the scope specified, e.g., "downloadable computer anti-virus software," in Class 9 and/or "providing temporary use of non-downloadable computer anti-virus software," in Class 42. The applicant may not amend from "providing temporary use of non-downloadable computer anti-virus software" to "downloadable computer anti-virus software" or vice versa because the format of the software has been limited in the identification. Nor may the applicant amend to any goods or services outside the scope of those already identified, such as "Computer virus protection services," in Class 42.

In §66(a) applications, the classification assigned by the IB cannot be changed, unless the IB corrects the classification; thus, the applicant must replace any unacceptable wording in a §66(a) application with definite goods or services properly classified in the class assigned by the IB. See [TMEP §§1401.03\(d\)](#), [1402.01\(c\)](#), and [1904.02\(c\)](#).

### **1402.07(c) Unambiguous Identifications**

An applicant may amend an unambiguous identification of *goods* that indicates a specific type of goods to specify definite and acceptable identifications of *goods* within the scope of the existing terminology.

An applicant may amend an unambiguous identification of *services* that indicates a specific type of service to specify definite and acceptable identifications of *services* within the scope of the existing terminology.

*An applicant filing under §1 or §44 may not amend a definite identification of goods to specify services, or vice versa, except that if the goods are of a type that are available in more than one medium, and the applicant does not specify the medium in the identification of goods, the applicant will be allowed to amend to any medium, even if one of the mediums is classified as a service.*

*Example* - If the applicant specifies "newsletters in the field of accounting," the applicant may amend to "printed newsletters in the field of accounting" (Class 16), "downloadable electronic newsletters in the field of accounting" (Class 9), "electronic publications, namely, newsletters in the field of accounting recorded on computer media" (Class 9), or "providing on-line newsletters in the field of accounting" (Class 41). See [TMEP § 1402.11\(a\)\(x\)](#) regarding online publications.

*Example* - If the applicant identifies the goods as "recorded computer programs" without specifying the field, the applicant is limited to types of specific recorded computer programs for the purposes of amendment. The applicant has identified a particular type of goods, but USPTO policy requires further specificity as to the purpose or function of the goods. An applicant who has identified its goods as "clothing" would likewise be limited to goods within the scope of the term "clothing."

*Example* - If the applicant specified "retail store services," the applicant would be limited to amendments within the scope of this service. Although USPTO policy requires further specificity as to field, the applicant has identified a definite type of service.

*Example* - If the applicant identifies its goods as "stationery," "wine labels," or "menus," the applicant is restricted, in any amendments, to goods within the scope of the type indicated. The applicant could not amend to specify other types of goods or services, such as "wine" or "restaurant services."

### **1402.07(d) Permissible Scope of Identification Not Affected by Proposed Amendment That Is Unacceptable**

If the applicant proposes an amendment to the identification of goods or services, and the examining attorney determines that the amendment is unacceptable, the examining attorney should refer to the identification of goods or services before the proposed amendment to determine whether any later amendment is within the scope of the identification. In such a case, the applicant is not bound by the scope of the language in the proposed amendment but, rather, by the language of the identification before the proposed amendment.

If the applicant submits an amendment to the identification of goods and services, and the examining attorney determines that it is unacceptable, in whole or in part, the examining attorney must advise the applicant of the item or items that are unacceptable. For those items which are unacceptable, the examining attorney should also advise the applicant that the previous items listed in the existing identification (not the unacceptable substitute) remain operative for purposes of future amendment. If portions of an amended identification are accepted, those items may not be further amended to exceed the scope of the accepted amendment. See [TMEP §1402.07\(e\)](#).

If the applicant submitted the amendment in response to a requirement, the examining attorney must issue a final requirement for amendment of the identification, if the proposed amendment raises no new issues and the application is otherwise in condition for a final action. See [TMEP §714.05\(a\)\(ii\)](#).

### **1402.07(e) Permissible Scope of Identification Affected by Proposed Amendment That Is Acceptable**

Once an applicant amends the identification of goods and/or services in a manner that is acceptable to the examining attorney, the amendment replaces all previous identifications and restricts the scope of the goods and/or services to that of the amended language. Further amendments that would add to or expand the scope of the recited goods or services, as amended, will not be permitted. [37 C.F.R. §2.71\(a\)](#); *In re Swen Sonic Corp.*, 21 USPQ2d 1794 (TTAB 1991) ; *In re M.V Et Associes*, 21 USPQ2d 1628 (Comm'r Pats. 1991).

This includes amendments to the identification submitted in an amendment to allege use, a statement of use, or a request for an extension of time to file a statement of use. See [37 C.F.R. §§2.71\(a\)](#), [2.88\(b\)\(1\)\(iv\)](#), [2.89\(f\)](#). See [TMEP §1104.10\(b\)\(iii\)](#) regarding submission of a response to Office action and amendment to allege use that contain different amendments to the identification of goods and/or services, [TMEP §1108.02\(d\)](#) regarding identifying the goods and/or services in a request for an extension of time to file a statement of use, and [TMEP §1109.13](#) regarding identifying the goods and/or services in a statement of use.

The only circumstance in which the applicant may reinsert goods or services that were omitted or deleted from the identification of goods or services is when before publication or within six months of the issuance of an examiner's amendment (see [TMEP §§707-707.03](#)), whichever is earlier, the applicant objects to an amendment of the identification of goods and/or services in the examiner's amendment on the ground that the examiner's amendment does not reflect the agreement between the applicant and the examining attorney.

## 1402.08 Moving Goods and Services Between Companion Applications

If an applicant has filed separate applications to register the same mark, the applicant may, in a limited situation, amend to move items of goods or services from one application to another, if the application from which the item is to be moved was filed on or before the filing date of the application to which it is to be moved. Such an amendment will be permitted only if some of the goods/services in one application should be classified in a different class and the companion application includes that class. If the companion application does not include that class, the proper recourse is for the applicant to file a request to divide. See [TMEP §§1110-1110.11\(a\)](#).

Moving goods/services between applications in this way may only be done if neither of the marks involved has been approved for publication in the *Official Gazette*. Moreover, items of goods/services can be moved between applications only in applications filed under §1 or §44 of the Trademark Act. In applications under §1, the applicant may request to move goods/services under a §1(b) basis to a companion application that includes goods/services in the same class, but which are under a §1(a) basis, or vice versa. However, the examining attorney must ensure that the application to which the goods/services are moved clearly indicates that more than one basis is claimed and separately lists each basis, followed by the goods/services to which that basis applies. See [TMEP §806.02\(a\)](#). The applicant cannot amend to move items of goods/services to or from a §66(a) application.

The applicant must file a separate amendment for each application, that is, a request to delete specified goods/services in the application from which they are to be moved, specifying the serial number of the application to which they should be added, and an amendment in the application to which those goods/services are to be added, specifying the serial number of the application from which they are to be moved. The examining attorney(s) must ensure that the USPTO automated records are updated to reflect the changes in both applications.

An applicant may file a request to move all the goods/services from one application to another, if the applicant meets the requirements set forth above. The USPTO will construe such a request as a request to expressly abandon the application from which the goods/services are moved. If the request to move all the goods/services is granted, and no goods or services remain in the application from which the goods/services are moved, the USPTO will abandon the application. The USPTO will not refund the application filing fee. See [TMEP §718.01](#) regarding express abandonment.

## 1402.09 Use of Marks or Terms "Applicant" and "Registrant" Inappropriate in Identifications

If a mark that is registered to an entity other than the applicant is used in the identification of goods or services, the examining attorney must require that it be deleted and that generic wording be substituted. It is inappropriate to use a registered mark, or its plural or punctuated/non-punctuated forms, to identify a kind of product or a service, because such a mark indicates origin in only one party and cannot be used to define goods or services that originate in a party other than the registrant. *Camloc Fastener Corp. v. Grant*, 119 USPQ 264, 265 n.1 (TTAB 1958). The identification should set forth common names, using terminology that is generally understood. Accordingly, it is inappropriate to use a misspelling or phonetic equivalent of a registered mark in the identification unless such misspelling or phonetic equivalent is the common name of the goods or services. In place of the mark, a generic term must be used.

Generally, an applicant should not use its own registered or unregistered mark in an identification of goods or services in its own application. If the applicant chooses to do so, however, the applicant should use the mark as an adjective modifying the generic name of the goods or services.

In addition, the words "applicant" or "registrant" must not appear in the identification of goods or services. Before registration, use of the term "registrant" is inaccurate, and, after registration, use of the term "applicant" is inaccurate.

If the examining attorney issues a *nonfinal* action requiring amendment of the identification because it is indefinite, and the applicant responds with an amended identification that is definite but is unacceptable because it includes a registered mark or the terms "applicant" or "registrant" in reference to the party seeking registration of the mark, this is not considered a new issue, and the examining attorney must issue a final requirement for amendment of the identification. However, if the examining attorney issues a *final* action requiring amendment of the identification because it is indefinite, and the applicant responds with an amended identification that is definite but includes a registered mark or the terms "applicant" or "registrant," the examining attorney should treat the response as incomplete, and grant the applicant additional time to cure this deficiency, pursuant to [37 C.F.R. §2.65\(a\)\(2\)](#). See [TMEP §718.03\(b\)](#) for further information about granting an applicant additional time to perfect an incomplete response. *Examining attorneys are encouraged to try to resolve this issue by examiner's amendment.*

## **1402.10 Identification of Goods and Services in Documents Filed in Connection with §1(b) Applications**

See [TMEP §1104.10\(b\)\(iii\)](#) regarding examination of the identification of goods or services in an amendment to allege use; [TMEP §1108.02\(d\)](#) regarding the identification of goods or services in a request for an extension of time to file a statement of use; and [TMEP §1109.13](#) regarding examination of the identification of goods or services in a statement of use.

## **1402.11 Identification of Services**

This section addresses identifications of particular types of services.

The primary requirements for an acceptable identification of services are: (1) the identification must be definite and limited to services in a single class; (2) it must use the common name or terminology for the services, so as to be readily understandable; (3) it must accurately describe the services; and (4) it must constitute a service as contemplated by the Trademark Act, and not merely refer to collateral or related activities associated with rendering the service. See [TMEP §§1301.01-1301.01\(b\)\(v\)](#) for information on what constitutes a service.

*Example* - "Radio broadcasting" (Class 38) would be an appropriate identification when a radio station uses a mark, such as call letters, to indicate the source of its broadcasting services generally. On the other hand, if an applicant is using the name of a weekly comedy television show as a mark, "television broadcasting" would not be appropriate because the mark does not serve to identify and distinguish the electrical transmission of the program. Instead, the applicant should identify the services as "entertainment in the nature of ongoing television programs in the field of comedy" (Class 41).

Generally, the identification of a service should not emphasize the method or manner by which the service is provided. However, in some circumstances, it may be helpful to include such information in a trailing phrase.

*Example* - "Accounting services" (Class 35) is an acceptable identification of services; thus, whether this type of service is rendered online or through other means need not be mentioned.

*Example* - "Dinner theaters" (Class 41) emphasizes the entertainment aspect associated with theater generally. The fact that dinner is also served at the theater performance is ancillary to the primary service of presenting the theatrical production.

Fashion-show services are generally classified either as promotional services rendered by the organizer of the fashion show to the businesses or groups that sponsor the event or as an entertainment service. When the record shows that the primary purpose of conducting such a fashion show is to promote the sale of goods or services of the sponsors, the service should be recited as "promoting the goods or services of others by means of a fashion show" or "fashion show exhibitions for commercial purposes" in Class 35. Where the fashion show is presented primarily as entertainment for the general public, the service should be identified as "entertainment in the nature of fashion shows" in Class 41.

The phrase "providing a website" merely indicates the means by which an activity is conducted and does not itself identify a particular, classifiable service for others. Although websites involve technology, "providing a website" does not in itself indicate a technological service in Class 42. The identification must set forth the particular services provided by means of a website. If "providing a website" is used in the identification of services in an international application under §66, the International Bureau (IB) is likely to issue a notice of irregularity requiring the applicant to clarify the nature of the services. See [TMEP §1902.02\(f\)\(ii\)](#). To avoid issuance of a notice of irregularity by the IB, an international applicant may wish to set forth its services with the activity listed first and then indicate that such services are provided "via a website." For example, services may be identified as "providing business information via a website" in Class 35 (instead of "providing a website featuring business information") and "providing financial information via a website" in Class 36 (instead of "providing a website featuring financial information").

The activities recited in the identification must constitute services as contemplated by the Trademark Act. See [TMEP §§1301.01 et seq.](#) as to what constitutes a registrable service. For example, licensing of intangible property has been recognized as a separate service for others. See [TMEP §1301.01\(a\)\(ii\)](#) regarding licensing. However, "sales" cannot be listed as the primary activity in an identification, because the sale of one's own goods or services is not a registrable service. Moreover, the Explanatory Note for Class 35 of the Nice Classification specifically indicates that "[for] the purposes of classification, the sale of goods is not considered to be a service." See [TMEP §1401.02\(a\)](#). Thus, "sales" is also unacceptable as the primary activity in an identification because it is not classifiable under the Nice Classification.

The Class 40 Explanatory Note provides the following guidance regarding production or manufacturing of goods:

For the purposes of classification, the production or manufacturing of goods is considered a service only in cases where it is effected for the account of another person to their order and specification. If the production or manufacturing is not being performed to fulfil an order for goods which meet the customer's particular needs, requirements, or specifications, then it is generally ancillary to the maker's primary commercial activity or goods in trade. If the substance or object is marketed to third parties by the person who processed, transformed or produced it, then this would generally not be considered a service.

See [TMEP §1401.02\(a\)](#). Thus, identifications for manufacturing services must specifically indicate that the services are "custom," are provided "to the order and specification of others," or equivalent wording, for compliance with the Nice Classification and to ensure that the activities listed constitute services under the Trademark Act. See [TMEP §1301.01](#) and [§1401.02\(a\)](#). Identifications for custom manufacturing services generally must also indicate the type of goods manufactured, e.g., "custom manufacture of furniture."

Holding companies are companies "whose primary business is holding a controlling interest in the securities of other companies." <https://www.merriam-webster.com/dictionary/holding%20company> (accessed June 3, 2020). Holding companies typically do not produce goods or provide services of their own, but

instead exercise control over and obtain profits from subsidiary companies held by the holding company. Holding company services are not recognized as services under the Trademark Act, unless the services are clearly provided to entities other than those being held by the holding company. The activity must also meet all criteria for services set forth in [TMEP §1301.01\(a\)](#). Identifications for services in applications filed by holding companies must clearly indicate that the services are performed for third parties and not merely for the holding company's own subsidiaries. It is insufficient to merely indicate that the services are "for others," because said wording is ambiguous and may refer to entities held by the holding company rather than third parties. For example, "holding company services performed for third parties, namely, investment management" would be an acceptable identification in Class 36.

See also [TMEP §§1401.11–1401.11\(a\)](#) regarding the changes in the international classification of services effective January 1, 2002.

## **1402.11(a) Computer Services**

### **1402.11(a)(i) Services Classified in Classes 35, 36, 37, 39, 40, 41, 43, 44, and 45**

Any activity consisting of a service that ordinarily falls in these classes (e.g., real estate agency services, dating services), and that happens to be provided over the Internet, is classified in the class where the underlying service is classified.

The following are examples of acceptable identifications:

- "Internet advertising services in Class 35."
- "Providing online reservations and bookings for temporary lodging and accommodations in Class 43."
- "Online cosmetic skincare consultation services in Class 44."
- "Internet-based dating, social introduction and social networking services in Class 45."

### **1402.11(a)(ii) Content Providers**

The term "content provider" is generally used to indicate a person or entity that provides information or entertainment content for use on the internet or electronic media. Content-provider services may be classified in a variety of classes depending upon the nature of the activity provided. Thus, the activity provided must be specified in the identification. As discussed below, the subject matter of the services may also be required for appropriate classification.

#### *Information Provider Services*

The service of providing information via the Internet is classified in the class of the service-related subject matter of the information. Entities that provide these services by computer are considered to be "content providers," that is, they provide the informational or substantive content of a website and/or home page. If an entity provides information in a wide variety of fields, the applicant must select the subject matter to be protected and classify the services accordingly (e.g., providing business information in Class 35 and providing home repair information in Class 37). See [TMEP §1402.11\(b\)](#) regarding information services.

Some acceptable identifications:

- "Providing business information via a website in Class 35."
- "Providing real estate listings and real estate information via the Internet, in Class 36."
- "Providing real-time information concerning vehicle parking space availability, in Class 39."

### *Audiovisual Content*

Content-provider services involving the provision of online, non-downloadable videos are classified in Class 41 regardless of the subject matter of the videos. The subject matter of the videos must also be included in the identification to assist in likelihood of confusion determinations under [15 U.S.C. §1052\(d\)](#). For additional information on identifying and classifying computer entertainment services, see [TMEP § 1402.11\(a\)\(vii\)](#).

### *Other Services Offered by Content Providers*

Businesses and individuals commonly provide content services in addition to other types of services. For example, Internet Service Providers (ISPs) often provide online content as well as Class 38 internet access services. For information about identifying telecommunications services provided by ISPs, see [TMEP § 1402.11\(a\)\(iii\)](#). Online audiovisual content providers may similarly offer both video streaming services in Class 38 and online non-downloadable videos in Class 41. Content providers also may provide a variety of technological services, such as website hosting services, in Class 42. Each service on or in connection with which the applicant uses, or has a bona fide intention to use, the mark in commerce should be set forth in the application. [15 U.S.C. §§1051\(a\)\(2\)](#) and [1051\(b\)\(2\)](#); [37 C.F.R. §2.32\(a\)\(6\)](#). For multiple-class application requirements, see [TMEP §1403.01](#).

## **1402.11(a)(iii) Provision of Telecommunications Connections to the Internet**

Telecommunication connections, such as those provided by AT&T® and Verizon®, are the wired, or wireless, electronic means by which one telecommunications-enabled device, such as a telephone, smartphone, or computer, communicates with another telecommunications-enabled device. The Class 38 activities of a telecommunications connection provider do NOT include providing the computer hardware or software that enables the electronic transmission of the data. These telecommunications services connect the user's device to the internet via wired or wireless means.

Just because an applicant is conducting an internet-based activity or rendering a service that involves electronic transmission of data, the applicant's service is not automatically considered a telecommunications service in Class 38. For example, an applicant who merely provides a website featuring sports information is not providing "electronic transmission of messages and data in the field of sports," in Class 38. The telecommunications services providers, such as AT&T® and Verizon®, are providing the Internet connections for the actual transmissions; the applicant is merely making the information available.

Providing online bulletin boards and chat rooms is classified in Class 38 *regardless of the content or subject matter*. The rationale for this stems from the fact that these services allow individuals to communicate with each other, like other Class 38 services.

"Providing multiple-user access to the Internet," is classified in Class 38. *Note:* This identification covers those services provided by Internet Service Providers ("ISPs"), such as Cox®, AOL®, Comcast®, Verizon®, and AT&T®. ISPs provide the computer connection (often using the Class 38 telecommunications services of other entities) that enables a computer user to access the databases and websites of others via the Internet. These entities are considered "access providers" in that they provide the computer connection needed for

a computer user to access a content provider. The word "access" should be limited to these services and should not be used in describing the services of a content provider.

*Some acceptable identifications:*

- "Providing telecommunications connections to the Internet or databases, in Class 38."
- "Transmission of electronic mail, in International Class 38."
- "Broadcasting of video and audio programming over the Internet, in Class 38."
- "Webcasting services, in Class 38."
- "Web conferencing services, in Class 38."
- "Providing on-line chat rooms for transmission of messages among computer users concerning topics of interest to teens, in Class 38."
- "Providing multiple-user access to the Internet, in Class 38." Many ISPs have expanded their services to encompass content-based services for their subscribers. The "providing multiple-user access" identification only covers the ISP services. If the applicant wishes to protect its "content-based" services, it must identify those services with specificity and pay any additional fees, as appropriate. For information on identifying and classifying content-provider services, see [TMEP § 1402.11\(a\)\(ii\)](#).

#### **1402.11(a)(iv) Office-Function-Type and Computerized Web Traffic Services**

"Office functions" appears in the Nice Class Heading for Class 35. The following services are essentially office function services (e.g., filing and record keeping) that happen to be conducted with the use of a computer:

- "Data processing services, in Class 35."
- "Computer data entry services, in Class 35."
- "Compilation of information into computer databases, in Class 35."

Computerized web services include website-focused activities the primary function of which is to promote, advertise or market the websites of others by improving a website's visibility in search engine results. For example, the following are acceptable identifications:

- "Web site traffic optimization, in Class 35."
- "Consulting services in the field of search engine optimization for sales promotion, in Class 35."
- "Promoting the goods and services of others through search engine referral traffic analysis and reporting, in Class 35."

#### **1402.11(a)(v) Computer Installation and Repair Services**

As set forth in the Nice Alphabetical List, installation, maintenance, and repair of computer hardware are in Class 37, while installation, maintenance, and updating of computer software are activities in Class 42. Therefore, for classification purposes, the applicant must distinguish between computer *hardware* and computer *software* when identifying installation, maintenance, and repair services. For example:

- "Installation, maintenance, and repair of computer *hardware*, in Class 37."
- "Installation, maintenance, and updating of computer *software*, in Class 42."

If the installation and maintenance services refer to networking hardware, the service should be classified in Class 37. For example:

"Installation, maintenance, and repair of Ethernet and wireless networking hardware, in Class 37."

If the applicant applies for " *technical support services*," the examining attorney will require the applicant to further specify the nature of the services. Technical support services may include services classified in more than one class, including the following:

- "Technical support services, namely, troubleshooting in the nature of the repair of computer hardware, in Class 37;"
- "Technical support services, namely, providing technical advice related to the manufacture of {indicate goods being manufactured}, in Class 40;"
- "Technical support services, namely, troubleshooting of computer software problems, in Class 42;" and
- "Technical support services, namely, troubleshooting in the nature of diagnosing computer hardware and software problems, in Class 42."

### **1402.11(a)(vi) Computer Retail Services**

Effective January 2, 1997, retail store, catalog, and ordering services are classified in Class 35. (The aforesaid services were previously classified in Class 42.) The rendering of the retail store, catalog, and ordering services by electronic means, such as by telephone or computer, does not affect the classification of these services. Any of the following identifications is acceptable:

- "Computerized on-line retail store services in the field of {indicate field of goods}, in Class 35."
- "Web-based catalog services featuring {specify goods}, in Class 35."
- "Computerized on-line ordering services in the field of {indicate field of goods}, in Class 35."

Other types of retail services, including marketing, advertising, and promotion services, are also classified in Class 35 regardless of how the services are conducted. For example:

"Marketing, advertising, and promoting the retail goods and services of others through wireless electronic devices, in Class 35."

### **1402.11(a)(vii) Computer Entertainment Services**

Generally, entertainment services are classified in Class 41. However, the type of entertainment activity the applicant is conducting must be specified. Therefore, the wording "providing a website featuring entertainment" is not acceptable. The website is merely the means by which the entertainment services are provided. "Providing a website" does not itself indicate a definite or classifiable service. Instead, one of the following may be appropriate.

If the services comprise an " *online game*:"

- "Entertainment services, namely, providing an on-line computer game, in Class 41."
- "Providing a computer game for use network-wide by network users, in Class 41."

If the services involve *chat rooms*: "Providing on-line chat rooms for transmission of messages among computer users concerning {indicate field or subject of chat room}, in Class 38."

If the services involve providing *information*: "Provision of information relating to electronic computer games provided via the Internet, in Class 41." See [TMEP §1402.11\(b\)](#).

If the services involve providing *non-downloadable videos*: "Providing non-downloadable videos in the field of {indicate field or subject matter of videos} via a website, in Class 41."

If the services consist of *providing a particular online show webcasted* over the Internet: "Entertainment services, namely, providing webcasts in the field of {indicate field or subject matter}, in Class 41."

### **1402.11(a)(viii) Computer Design and Development Services**

Generally, computer-related design and development services, such as "design and development of computer hardware and software," are classified in Class 42. It is important to remember that these services must be performed for the benefit of *others*. For example, if an applicant is developing its own software, it is not engaging in a recognized service. (See [TMEP §§1301.01 et seq.](#) regarding activities that do not constitute services.) The specimens must show that the applicant provides these services for other parties. Some acceptable identifications are:

- "Design and development of wireless computer networks, in Class 42."
- "Creating and maintaining web sites for others, in Class 42."
- "Duplication of computer programs, in Class 42."

### **1402.11(a)(ix) Database Services**

Prior to January 1, 2002, the service of providing an on-line database via the Internet was classified in Class 42 if the database included a wide variety of subject matter. However, effective January 1, 2002, the *service-related subject matter or content of the online database* now governs the classification of the services. Applicants must now separate the subject matter or content of the databases into their appropriate individual international classes, such as:

- "Providing an on-line searchable database featuring employment opportunities, in Class 35."
- "Providing an on-line computer database in the field of stock/securities market information, in Class 36."
- "Providing an on-line searchable database in the field of {indicate specific scientific or technology-related field} for scientific research purposes, in Class 42."

A database is "a usually large collection of data organized especially for rapid search and retrieval (as by a computer)." <https://www.merriam-webster.com/dictionary/database> (accessed June 5, 2020). The activity of providing an online computer database comprises providing a searchable compilation of data on particular subject matters. Thus, identifications that reference specific functions of an online database service are typically indefinite as they potentially include services in multiple classes. For example, the identification "providing an online computer database which allows hospitals to download medical records" is unacceptable. It is unclear if the applicant provides (1) a database service classified according to service-related subject matter, (2) a Class 42 technological service provided on a database, such as "providing temporary use of a

non-downloadable web application for downloading medical records via a database for use by hospital staff," or (3) both a database and a technology service.

In determining whether the specimens support "database provision services," look for the following clues:

- See if the specimens use words like "to access our database," "our database includes...", etc.
- Confirm that the information provided online is capable of being searched, sorted, re-arranged, and indexed like a traditional database.
- If the specimens consist of merely a series of web pages, this is NOT a database. A more appropriate identification might be "providing information in the field of {indicate service-related subject matter or field} via a website, in Class \_\_\_\_ (classification depends on the subject matter)."

See [TMEP §1402.11\(b\)](#) regarding information services.

Other common database services include the following:

- "Database development services, in Class 42."
- "Computerized database management, in Class 35."

When recorded on computer media or downloadable, databases are goods classified in Class 9. Identifications for downloadable or recorded databases in Class 9 must also include the subject matter of the database.

### **1402.11(a)(x) Online Publications**

Online publications are non-downloadable publications provided via the internet. All online publications are classified in Class 41 *regardless of the subject matter*. The identification for online publications must indicate both the specific nature, e.g., magazines, newsletters, etc., and the subject matter of the online publication. An acceptable identification would be:

"Providing on-line publications in the nature of {indicate specific nature of publications} in the field of {indicate subject matter of publication}, in Class 41."

The examining attorney should verify from the specimens that the information is presented in a "publication" format. An online magazine in Class 41 must really look like and have the attributes of a magazine, i.e., contain monthly or periodic articles, sections, features, advertisements, credits, etc.

If an applicant identifies its goods and/or services as "publications, namely ...," and it becomes apparent during examination that the publications are non-downloadable online publications, the applicant may amend the identification to indicate that the services are providing online publications in Class 41, as the term "publications," without additional context, is broad enough to encompass, for example, printed, downloadable, and online publications. On the other hand, if the applicant identifies its goods as "printed publications...", the identification cannot be amended to "online publications," because this would exceed the scope of the original identification. See [37 C.F.R. §2.71\(a\)](#); [TMEP §1402.07\(b\)](#).

### **1402.11(a)(xi) Electronic Storage, Hosting of Data, and Cloud Computing**

Electronic storage of data for others is considered a computer technology service as it requires the provision of technological means to conduct the activity and is classified in Class 42 as of the 10th edition, 2014

version of the Nice Classification system. Hosting of computer websites and other data, including software as a service, is also a computer technology service when conducted for third parties. The storage or hosting of one's own data is not considered a service within the meaning of the Trademark Act. See [TMEP §§1301.01 et seq.](#) regarding activities that constitute services under the Trademark Act. Some acceptable identifications are:

"Electronic data storage, in Class 42."

"Electronic storage of documents and archived emails, in Class 42."

"Hosting of digital content on the Internet, in Class 42."

"Web site hosting services, in Class 42."

Cloud computing comprises a variety of Class 42 activities that must be further specified for purposes of examination on the basis of likelihood of confusion under §2(d), [15 U.S.C. §1052\(d\)](#). Some acceptable identifications are:

"Computer services, namely, cloud hosting provider services, in Class 42."

"Providing virtual computer systems and virtual computer environments through cloud computing, in Class 42."

"Cloud computing featuring software for use {specify the function of the programs, e.g., for use in database management, for use as a spreadsheet, for word processing, etc. and, if software is content- or field-specific, the field of use}, in Class 42."

#### **1402.11(a)(xii) Non-Downloadable Computer Software**

On-line non-downloadable software or providing on-line non-downloadable software is considered a computer service in Class 42 because it is generally provided for use on a temporary basis. For definiteness and for proper classification in Class 42 as a technological service, identifications for non-downloadable software and provision of non-downloadable software must (1) indicate the function or purpose of the non-downloadable software and (2) specify the manner of presentation of the non-downloadable software, for example, that it is provided "on-line," is "web-based," and/or that its use is provided on a temporary basis. If the non-downloadable software has a particular field of use or is content-specific, the field of use or content should also be set forth in the identification. However, specifying the field of use or content is not required when the identified non-downloadable software has a clear function and is not field-specific/content-specific. For example, "providing on-line non-downloadable geographic information system (GIS) software" and "providing temporary use of non-downloadable computer software for tracking packages over computer networks, intranets and the internet" are acceptable identifications in Class 42.

Downloadable software and non-downloadable software recorded on computer media are both considered goods and are classified in Class 9. For additional information about identifying software goods, see [TMEP §1402.03\(d\)](#). However, the identification "providing downloadable software" is indefinite and encompasses both goods and services. "Providing downloadable software" is ambiguous because it combines the terms "providing," which suggests a service activity, and "downloadable software," which are Class 9 goods. The identification must accurately indicate the nature of the goods or services, for example, "online retail store services featuring downloadable software" in Class 35 or "downloadable software for {specify the function of software, e.g., managing bank accounts, editing photos, making restaurant reservations, etc. and, if software is content- or field- specific, the content or field of use}" in Class 9.

## 1402.11(b) Information Services

Prior to January 1, 2002, the identification "providing information in a wide variety of fields" was an acceptable identification of services, particularly in the context of Internet websites. The only caveat being that the website or information services *did* provide information in a wide variety of fields.

Effective January 1, 2002, the "miscellaneous" phrase has been eliminated from the heading of Class 42 ( *see* [TMEP §1401.11\(a\)](#)). Therefore, the examining attorney must require that the applicant indicate the fields in which it is providing information so that the service can be accurately classified. The fields may be listed somewhat broadly, but with enough specificity to allow classification. "Bundling" of the fields of information (that is, listing all fields of information but allowing the dominant or most significant field to control the classification with the other fields simply "along for the ride") is no longer acceptable. The General Remarks of the Nice Classification provide the following guidance on identifying and classifying information services:

Services that provide advice, information or consultation are in principle classified in the same classes as the services that correspond to the subject matter of the advice, information or consultation, e.g., transportation consultancy (Cl. 39), business management consultancy (Cl. 35), financial consultancy (Cl. 36), beauty consultancy (Cl. 44). The rendering of the advice, information or consultancy by electronic means (e.g., telephone, computer) does not affect the classification of these services.

See the Nice General Remarks in [TMEP §1401.02\(a\)](#).

Since information services must now be classified according to the service-related subject matter of the information, the nature or subject matter of the information provided must be specified to allow for proper classification. For example, "information in the field of automobiles" is not sufficiently definite to allow for proper classification. If the information pertains to purchasing an automobile, then the service is classified in Class 35. If the information pertains to the care and maintenance of automobiles, the service is classified in Class 37. If the service involves insurance or financing of automobiles, then Class 36 is the proper class.

The best way to ensure that the information is classified correctly may be to identify the subject matter of the service. For example, "providing information in the field of automobile financing" is adequate to classify the service in Class 36. Another way to clarify the classification of information services is to characterize the information itself. Thus, "providing financing information in the field of automobiles" clearly puts the service in Class 36.

As with many other service identifications that require an indication of the subject matter or field, the subject matter or field does not have to be as specific as would be required if the subject matter or field were the service itself. However, an indication of the nature of the information must be included, either by reference to the type of information or the subject matter of the information provided, and must be sufficiently specific to enable proper classification of the services and facilitate informed judgments concerning likelihood of confusion under [15 U.S.C. §1052\(d\)](#). For example, classification cannot be determined from the indefinite wording "providing information in the field of general human interest" or "providing information on topics of general interest." The service-related subject matter of the information is unclear and said wording is too broad to give constructive notice of the subject matter to third-parties to facilitate a likelihood-of-confusion analysis. Similarly, classification cannot be determined from the indefinite wording "providing educational information," and such wording is too broad to facilitate likelihood-of-confusion determinations. Since all information can be characterized as educational, describing information as "educational" is not sufficient to justify classification in Class 41, the class for education services. "Educational information" services are classified in the same manner as all information services - according to the service-related subject matter

of the information. "Providing educational information about healthcare" is classified in Class 44 because the information pertains to healthcare and healthcare services are generally classified in Class 44, whereas "providing information in the field of education regarding healthcare" is classified in Class 41 because the information pertains to the subject matter of education, specifically healthcare education, and education services are generally classified in Class 41.

An applicant is not required to register in all classes in which it provides information, but may instead choose to register only the classes of the fields that are most important to it. The examining attorney will ask the applicant to indicate the fields of information to assist in classification. The applicant must decide if it wishes to: (1) go forward and register the information services in all of the appropriate classes; or (2) choose the class(es) that are most important to its business and amend the identification to delete reference to fields of information that fall into other classes. See [TMEP §1401.04\(b\)](#).

### **1402.11(c) Association Services**

The classification of services rendered by associations was affected by the reorganization of Class 42 (see [TMEP §§1401.11 et seq.](#)). Prior to January 1, 2002, the Explanatory Notes regarding this topic for the old Class 42 included the language "services (not included in other classes) rendered by associations to their own members." This language in the old Class 42 allowed identifications of services such as "association services, namely, promoting the interest of lawyers" to be accepted in Class 42. Effective January 1, 2002, there is no reference to "services rendered by an association" in the Class Heading or Explanatory Notes for any of the service classes; association services are accordingly classified by the nature of the service provided for applications filed on or after January 1, 2002.

The common name of the service provided by the association must be indicated. Most activities rendered by associations are easily classified based on the branch of activity provided, e.g., business services (Class 35), insurance services (Class 36), transportation arrangements (Class 39), training and entertainment (Class 41). See [TMEP §1401.02\(a\)](#) for information about the Nice Classification.

### **1402.11(d) Charitable Services, Other than Monetary**

Prior to January 1, 2002, non-monetary charitable services were classified in Class 42, regardless of the type of service being provided by the charity. Effective January 1, 2002, non-monetary charitable services are classified by the nature of the service provided. The wording "charitable services" merely indicates that a service is provided for charitable purposes, but does not set forth the nature of the activity provided for those purposes. Appropriate classification of the services cannot be determined from the wording "charitable services." For information about classifying services pursuant to the Nice Classification, see the Nice Class Headings and Explanatory Notes in [TMEP §1401.02\(a\)](#). The particular activity must be specified for proper classification. For example, the wording "charitable services, namely, providing temporary shelter for the homeless" is acceptable in Class 43, like other temporary accommodation services; "charitable services, namely, providing tutoring in the field of math for underprivileged students" is classified in Class 41, like other educational services. See [TMEP §§1401.11 et seq.](#) regarding the changes in the international classification of services effective January 1, 2002.

Charitable services that involve donating or providing a specific type of non-monetary goods to those in need are classified according to the service-related activity of the goods provided. For example, "charitable services, namely, donating bicycles to the needy" is classified in Class 39 because the service-related activity provided by bicycles is transportation, and transportation services are classified in Class 39; "charitable services, namely, providing first-aid supplies to those in need" is classified in Class 44 because the

service-related activity provided by first-aid supplies is medical services, and medical services are classified in Class 44.

### **1402.11(e) Consulting Services**

Prior to January 1, 2002, all consulting services were classified in Class 42 except those relating to business (Class 35) and financial or insurance (Class 36). Effective January 1, 2002, consulting services are classified in the class of the service-related subject matter of the service. *See* [TMEP §§1401.11–1401.11\(a\)](#).

The General Remarks of the Nice Classification provide the following guidance on identifying and classifying consulting services:

Services that provide advice, information or consultation are in principle classified in the same classes as the services that correspond to the subject matter of the advice, information or consultation, e.g., transportation consultancy (Cl. 39), business management consultancy (Cl. 35), financial consultancy (Cl. 36), beauty consultancy (Cl. 44). The rendering of the advice, information or consultancy by electronic means (e.g., telephone, computer) does not affect the classification of these services.

*See* the Nice General Remarks in [TMEP §1401.02\(a\)](#).

As with many other service identifications that require an indication of the subject matter or field, the service-related subject matter or field of the consultation service does not have to be as specific as would be required if the subject matter or field were the service itself. However, the service-related subject matter or field must be sufficiently specific to enable proper classification of the services and facilitate informed judgments concerning likelihood of confusion under [15 U.S.C. §1052\(d\)](#). For example, classification cannot be determined from the indefinite wording “providing consultation in the field of general human interest” or “consulting on topics of general interest.” The service-related subject matter of the consultation service is unclear from “general human interest” or “general interest,” and said wording is too broad to give constructive notice of the subject matter to third-parties to facilitate a likelihood-of-confusion analysis.

Examples of acceptable identifications for consulting services include the following:

"Consulting in the field of telecommunication services, namely, transmission of voice, data, and documents via telecommunications networks, in Class 38."

"Consulting in the field of telecommunications technology, in Class 42."

"Consulting in the field of maintenance and repair of telecommunications network hardware, apparatus, and instruments, in Class 37."

Technical consulting is like any other consultation service, although it focuses primarily on how things work. Thus, the field or subject matter of technical consultation services must be set forth with adequate specificity to allow for accurate classification in accordance with the related branch of activity specified in the Class Headings.

Examples of acceptable identifications for technical consulting services include the following:

- "Technical consulting related to the installation of oil and gas equipment, control systems, and machinery, in Class 37."

- "Technical consulting related to the manufacturing of oil and gas equipment, control systems, and machinery, in Class 40."
- "Technical consultancy in the field of environmental science, in Class 42."

It should be noted that *technology* consulting is classified in Class 42 because it encompasses consulting about the technology aspects of the subject matter given, and "technological services" appears in the Class 42 Class Heading. While technology consulting is clearly classified in Class 42, identifications for technological consulting services must also indicate the particular field of the consultation in order to facilitate likelihood-of-confusion determinations, for example, "technological consulting in the field of cryptocurrency."

The ID Manual previously included the entry "Computer consultation" in Class 42, but that entry was deleted because it is indefinite. See [TMEP §1401.10](#) regarding the effective date of changes to the ID Manual. As indicated above, consultation services are classified in the same classes as the services that correspond to the subject matter of the consultation. See [TMEP §1401.02\(a\)](#). The service-related subject matter of "computer consultation" is unclear and could encompass services in multiple classes. For example, "consultation about the repair of computer hardware" is classified in Class 37 (the class for computer hardware repair services), and "consultation about the maintenance and updating of computer software" is classified in Class 42 (the class for maintenance and updating of computer software). "Computer *technology* consultancy" is also classified in Class 42 based on the wording "technological services" in the Class 42 Class Heading.

#### **1402.11(f) Distribution of Videotapes, Audiotapes, Videodiscs, and Similar Goods**

The services of production and distribution of motion pictures and television programs are classified in Class 41. This service involves the actual creation of the motion picture or television program and the accompanying activity of distributing it to movie theatres and television stations for display to the public.

In this service, the ownership of the physical product does not leave the producer. The movie theatre or television stations "lease" (in a sense) the film or tape for a period of time and then return it to the producer.

This is not the case when distribution relates to videotapes, audiotapes, or other hard goods that result from the production of visual or audio entertainment. When these goods are distributed, it is the same as the distribution of any other kind of hard goods by any other manufacturer. The ownership of the physical product is transferred to the purchaser just as it is with clothing, toys, food products, or computers. For this reason, the identification "distribution of videotapes, audiotapes, and videodiscs" should not be accepted as a service even when the distribution is linked to the production of these goods. The production of the entertainment product is perfectly acceptable in Class 41; however, the distribution of the hard goods that result from that production is not a service in that class. It is possible that such distribution could be considered a distributorship service in Class 35, but that must be determined on a case-by-case basis.

Distribution of one's own goods is not a service; it is merely a necessary part of doing business. However, if the applicant distributes the videotapes, audiotapes, etc. of others as well as those it has produced, it may be identified as a distributorship service in Class 35.

See [TMEP §§1301.01](#) *et seq.* regarding the criteria for determining whether an activity constitutes a service.

#### **1402.11(g) Recorded Entertainment Services**

For entertainment services such as those rendered by a musical group, the performance must be live. The recording of a live concert or studio performance is not considered a service of the performing group.

Similarly, performances for the sole purpose of recording are not considered services. The production by another entity of a performance by a musical group for recordation would be a service, but an identification

such as "live and recorded performances by a musical group" could not be accepted as a valid service identification unless the words "and recorded" were deleted.

Recorded entertainment usually takes the form of goods in Class 9, such as videotapes, audio cassettes, DVDs, CD-ROMs, etc. This is consistent with the treatment of "distribution" of these products as goods and not services as discussed in [TMEP §1402.11\(f\)](#).

See [TMEP §§1301.01](#) *et seq.* regarding the criteria for determining whether an activity constitutes a service.

#### **1402.11(h) Identification of "Bonus Programs"**

Many businesses offer "bonus programs" or "frequent patron programs" to encourage patronage of that business. However, promotion of one's own goods or services is not considered a service under the Trademark Act since the beneficiary of such an activity is the business itself and not a third party. See [TMEP §1301.01\(b\)\(i\)](#). These special programs do confer some benefit to the customers who participate in the program, but this benefit flows directly from use of the trademark owner's goods or services. Thus, a frequent flyer program provided by an airline to encourage use of its own air transportation services would be identified as "air transportation services featuring a frequent flyer bonus program" and it would be classified in Class 39. Similarly, a retail store that has a program through which patrons earn points that result in discounts on future purchases at that store would be identified as "retail store services in the field of {indicate field or type of goods/services} featuring a frequent patron program in which points are accumulated to be used for discounts on future purchases." This service would be in Class 35 because it is primarily a retail store service. It should be noted that organizing and conducting a program of this type for a third party is a promotion/advertising service and would be classified in Class 35 and identified with language such as "promoting the goods and services of others by means of a point accumulation program with points used for discounts on future purchases of those goods and services" (or whatever the details of the program may be).

#### **1402.11(i) Marketing Services and Advertising Services**

Effective January 1, 2012, "Marketing" was added to the Nice Alphabetical List. See [TMEP §1401.13\(e\)](#). As with "Advertising services," the entry is listed in the ID Manual as "Marketing services" to emphasize that the activity is a service (i.e., an activity done for the benefit of others) and to make clear that use of both terms is preferred.

However, if upon consideration of the entire application, including the specimen of use, other wording in the identification or other information in the application, the Examining Attorney determines that an applicant is actually promoting its own goods and/or services, a refusal may be issued on the basis that the record fails to identify a registrable service as contemplated by the Trademark Act. See [TMEP §§904.07\(b\), 1301.01-1301.01\(b\)\(v\)](#). Further, the unambiguous wording "marketing of {specify goods}" may not be clarified to identify only goods. For example, amendment of "marketing of shirts" to "shirts" would be beyond the scope of the original, acceptably definite identification.

#### **1402.11(j) Issuing Awards**

Services that involve the issuance of awards are usually classified in Classes 35 and 41. Classification depends upon the purpose of the award program. If the award program is an employee incentive rewarding excellence in job-related performance that actually furthers the business of an employer (e.g., safety, quality,

productivity, customer service), then the service is classified in Class 35. For example, the following identifications are acceptable in Class 35:

Conducting employee incentive award programs to promote {indicate specific area, e.g. on the job safety, quality and productivity}, in Class 35

Incentive award programs to promote the sale of products and services of others, in Class 35

If the award program is to recognize excellence or achievement unrelated to the participants' business or professional endeavors (e.g., achievements in community service, excellence in country music performance), then the service should be classified in Class 41. For example, the following identifications are acceptable in Class 41:

Providing recognition and incentives by the way of awards to promote reading by middle school students, in Class 41

Arranging and conducting incentive award programs to encourage the frequent, continued and effective practice of physical exercise, in Class 41

The distinction is that Class 35 award programs do further the business interests of an employer by encouraging positive business-related performance, while Class 41 award programs reward excellence for endeavors that do not further the business interests of an employer.

### **1402.11(k) Accreditation- and Certification-Related Services vs. Certification Marks**

Service marks are used to identify and distinguish the services of one person from the services of others and to indicate the source of the services. [15 U.S.C. §1127](#). For information about what constitutes a service under the Trademark Act, *see* [TMEP §1301.01 1301.01\(b\)\(vi\)](#). Unlike service marks, certification marks are not used by their owners but instead are used by authorized producers of goods or services to indicate that the goods or services possess certain prescribed characteristics or meet certain standards established by the certification mark owner. *See* [TMEP §1306.01 1306.06](#).

Accreditation and certification activities are not considered "services" under the Trademark Act or Nice Classification and should not be included in the identification of services for a service-mark application. However, activities underlying the accreditation or certification, such as testing goods/services to determine whether they conform to established accreditation/certification standards, may constitute services under the Trademark Act if they are performed for the benefit of others and meet the other criteria for activities that constitute services. *See* [TMEP §§1301.01\(a\) 1301.01\(a\)\(iii\)](#). The development, evaluation, or testing of accreditation or certification standards may also constitute services under the Trademark Act when those activities are performed for the benefit of or to the order and specification of others. *See generally* [TMEP §1301.01](#).

Identifications for accreditation- or certification-related services should make clear the nature of the activities performed for the benefit of others. Therefore, examining attorneys must require clarification of an identification for accreditation- or certification-related services where the activity identified does not clearly constitute a service under the Trademark Act. For example, the identification "Accreditation services, namely, setting and providing standards for {indicate field or subject matter} for the purposes of accreditation" is indefinite because the activities may be performed by the accrediting body for its own benefit rather than by a third party for the benefit of the accrediting body. Thus, it is unclear whether the activities encompassed by the identification constitute services under the Trademark Act and clarification is required.

For information on identifying goods or services of authorized users in certification mark applications, see [TMEP §1306.02\(c\)](#).

## **1402.12 Parentheses and Brackets Should Not be Used in Identifications of Goods and Services**

Generally, parentheses and brackets should not be used in identifications of goods and services. The Post Registration Section of the USPTO uses single square brackets to indicate that goods/services have been deleted from a registration either by amendment under [15 U.S.C. §1057](#), filing of a partial affidavit of continued use under [15 U.S.C. §1058](#) or [15 U.S.C. §1141k](#), or filing of a partial renewal application under [15 U.S.C. §1059](#). The Post Registration Section also uses double parentheses to indicate that certain goods or services are not claimed in an affidavit of incontestability under [15 U.S.C. §1065](#). See [TMEP Chapter 1600](#) regarding affidavits of continued use or excusable nonuse, renewal applications, affidavits of incontestability, and amendment of registrations. Therefore, to avoid confusion, applicants should not use parentheses and brackets in the identification of goods or services in an application.

The only time parentheses may be used in an identification is when the parentheses merely explain the matter preceding the parenthetical phrase in such a way that it does not affect the clarity or scope of the identification. For example, although not required, it is acceptable to include an acronym in parentheses after the wording for which the acronym stands because it would not impact the clarity of the identification, e.g., "consulting services in the field of software as a service (SAAS)" in Class 42 or "mountaineering and rock climbing equipment, namely, spring-loaded camming devices (SLCDs)" in Class 28. In general, synonyms or foreign translations of terms should not be included in parentheses in an identification. However, the ID Manual does include several TM5 entries with the transliteration of primarily food items in parentheses. An identification of goods such as "fried tofu pieces (abura-age)" in Class 29 is acceptable because the parenthetical phrase merely provides further information about the goods in a manner that does not create ambiguity or impact the scope of the identification.

If the wording contained within the parentheses limits the nature, function, purpose, use, channels of trade, or intended users of the goods/services, such wording likely will affect the clarity of the identification. For example, "bags (tote)" in Class 18 would not be an acceptable use of parentheses. If the identification were misinterpreted to mean that "tote" was no longer part of the identification of goods (due to an amendment of the goods or filing of a partial affidavit of continued use or renewal application), the item would merely read "bags." That would create an ambiguity within Class 18, since it could refer to any type of bag – from all purpose sports bags to evening bags – and would make a determination of likelihood of confusion difficult. Also, some bags are in classes other than Class 18. Without an indication of the type of bag, classification of the goods is problematic. In the preceding example, "bags" is indefinite and overly broad. However, definite identifications should also not be followed by parenthetical information that affects the clarity of the identification; for example, although "coats" is acceptable in Class 25, "coats (cotton)" is unacceptable because the nature of the goods is limited by the parenthetical wording. The parenthetical information should be incorporated into the identification rather than merely appearing within parentheses. "Coats made of cotton" would be an acceptable amendment of "coats (cotton)."

If bracketed material is entered in an identification, it will be automatically deleted in all TEAS applications. However, bracketed material will not be automatically deleted from the identification in applications filed under §66(a) or in paper applications. In a paper application, the examining attorney may delete the bracketed material with a "no-call" examiner's amendment. See [TMEP §707.02](#).

See [TMEP §§1904.02\(c\)](#) and [1904.02\(h\)](#) regarding the circumstances in which parenthetical information may be removed from the identification in an application filed under §66(a) by "no-call" examiner's amendment.

### 1402.13 Requirement for Amendment of Portion of Identification of Goods/Services

If a requirement for an amendment of the identification of goods and/or services is expressly limited to only certain goods/services, and the applicant fails to file a response to the refusal or requirement, the application shall be abandoned only as to those particular goods/services, if it is otherwise in condition for approval for publication. [37 C.F.R. §2.65\(a\)\(1\)](#); [TMEP §718.02\(a\)](#). However, if the Office action includes an advisory stating that amendment would require the payment of additional fees because the fee paid is insufficient to cover all the classes, and the applicant fails to file a response, the entire application will be abandoned. [TMEP §718.02\(a\)](#).

Accordingly, when the identification of goods/services includes some terminology that is indefinite and some terminology that is acceptable, the examining attorney should specify which terminology is indefinite, suggest amended language if possible, and indicate that the rest of the identification is acceptable. If the examining attorney has not expressly limited the requirement to the particular indefinite wording, and it is appropriate to do so (*see* [TMEP §718.02\(a\)](#)), the applicant may request in a request for reconsideration, filed after a final Office action or with a notice of appeal, that the requirement be limited accordingly.

When an applicant fails to respond to a requirement to amend some terminology in an otherwise acceptable identification of goods/services, and the application is otherwise in condition for approval for publication, the examining attorney should issue an examiner's amendment that clearly sets forth the changes that will be made to the identification of goods/services. No prior authorization from the applicant is needed to issue an examiner's amendment in this situation. See [TMEP §707.02](#) regarding examiner's amendments without prior authorization by the applicant.

### 1402.14 Identification of Goods/Services Must Conform to Rules and Policies in Effect at the Time Registration is Sought

The question of whether the identification and/or classification of goods/services is acceptable must be determined on the basis of the facts and evidence that exist on the application filing date. *Cf.* [TMEP §1216.01](#). The international classification system and USPTO policy on acceptable identifications change periodically (see, e.g., [TMEP §§1401.11 et seq.](#) regarding the restructuring of international class 42). Therefore, the fact that an identification of goods or services was accepted in an earlier-filed application or prior registration does not necessarily mean it is controlling in a later-filed application. *See In re Omega SA*, 494 F.3d 1362, 83 USPQ2d 1541 (Fed. Cir. 2007) (examining attorney's requirement for amendment of the term "chronographs" in the identification of goods upheld, notwithstanding applicant's ownership of several registrations in which this term appears without further qualification in the identification).

### 1402.15 Procedures for Processing Unacceptable Amendments to Identifications

If an applicant submits an amendment to the identification of goods/services and the examining attorney determines that the amendment is unacceptable, the examining attorney must issue an action refusing to accept the amendment. If an unacceptable amendment was entered into the automated records of the USPTO, and an acceptable amendment was subsequently submitted, the examining attorney must ensure that the automated records are modified to reflect the acceptable identification prior to approving the mark for publication.

If the applicant later submits arguments in support of acceptance of the amendment and the examining attorney determines that the amendment is still unacceptable, the examining attorney must issue a final refusal of the amendment, if the application is otherwise in condition for final action.

## 1403 Combined or Multiple-Class Applications

### 37 CFR §2.86. Multiple-class applications.

- (a) In a single application for a trademark, service mark, and/or collective mark, an applicant may apply to register the same mark for goods, services, and/or a collective membership organization in multiple classes. In a multiple-class application, the applicant must satisfy the following, in addition to the application requirements of § 2.32 for a trademark or service mark, and § 2.44 for collective marks:
  - (1) For an application filed under section 1 or 44 of the Act, identify the goods, or services, and/or the nature of the collective membership organization in each international class and/or the nature of the collective membership organization in U.S. Class 200; for applications filed under section 66(a) of the Act, identify the goods services in each international class assigned by the International Bureau in the corresponding international registration;
  - (2) Submit the application filing fee required by § 2.6 for each class; and
  - (3) Include either dates of use and one specimen for each class based on section 1(a) of the Act; or a statement that the applicant has a bona fide intention to use the mark in commerce, for a trademark or service mark, or a statement that the applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce, for collective marks, for each class based on section 1(b), 44, or 66(a) of the Act. When requested by the Office, additional specimens must be provided.
- (b) In a single application for a certification mark, an applicant may apply to register the same certification mark for goods and services. In such case, the applicant must satisfy the following, in addition to the application requirements of § 2.45:
  - (1) For an application filed under section 1 or 44 of the Act, identify the goods in U.S. Class A and the services in U.S. Class B; for applications filed under section 66(a) of the Act, identify the goods and services in each international class assigned by the International Bureau in the corresponding international registration;
  - (2) Submit the application filing fee required by § 2.6 for both classes; and
  - (3) Include either dates of use and one specimen for each class based on section 1(a) of the Act; or a statement that the applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce for each class based on section 1(b), 44, or 66(a) of the Act. When requested by the Office, additional specimens must be provided.
- (c) In a single application, both section 1(a) and 1(b) of the Act may not be claimed for identical goods or services.
- (d) In a single application based on section 1 or 44 of the Act, goods or services in U.S. Classes A and/or B may not be combined with either goods or services in any international class or with a collective membership organization in U.S. Class 200; and in a single application based on section 66(a) of the Act, a certification mark application may not be combined with goods, services, or a collective membership organization in any international class. See § 2.45(f).
- (e) An amendment to allege use under § 2.76 or a statement of use under § 2.88 for multiple classes must include, for each class, the required fee, dates of use, and one specimen. When requested by the Office, additional specimens must be provided. The applicant may not file an amendment to allege use or a statement of use until the applicant has used the mark on or in connection with all the goods, services, or classes, unless the applicant also files a request to divide under § 2.87.
- (f) The Office will issue a single certificate of registration for the mark, unless the applicant files a request to divide under § 2.87.

In a single application for a trademark, service mark, and/or collective mark, an applicant may apply for the same mark for a combination of goods, services, and/or a collective membership organization in multiple classes. [37 C.F.R. §2.86\(a\)](#). Additionally, in a single application for a certification mark, an applicant may apply for the same certification mark for both goods and services in U.S. Classes A and B. [37 C.F.R. §2.86\(b\)](#). The USPTO calls these types of applications a "combined" or "multiple-class" application.

A multiple-class application may be viewed as a group of applications for registration of one mark in connection with goods, services, or a collective membership organization in particular classes, all combined into one application. Generally, an applicant is in the same position that he or she would have been if they had filed several single-class applications instead. *G&W Labs., Inc. v. G W Pharma Ltd.*, 89 USPQ2d 1571, 1574 (TTAB 2009) .

A multiple-class application must pertain to only one mark, and to only one register. A single certificate of registration will be issued, unless the application is divided. [37 C.F.R. §2.86\(f\)](#). See [TMEP §§1110-1110.11\(a\)](#) for information regarding requesting to divide an application.

## 1403.01 Requirements for Combined or Multiple-Class Applications

In addition to the requirements for a trademark, service mark, collective mark, or certification mark application ( *see* [TMEP §§801-806.01\(e\)](#), [1303.01](#), [1304.02](#), [1306.02](#)), a multiple-class application must contain the following:

- (1) Class Designations: For a §1 or §44 multiple-class application, the class numbers for which registration is sought, and the goods/services/collective membership organization appropriately classified in each class. [37 C.F.R. §2.86\(a\)\(1\)](#), [\(b\)\(1\)](#). The classes must be set forth in consecutive numerical order beginning with the lowest number, and the goods/services/collective membership organization must be listed in association with their class number. Setting out the classes and the goods/services/collective membership organization in tabulated form rather than narrative form is recommended because it adds clarity. For a §66(a) multiple-class application, the classes are assigned by the International Bureau. [37 C.F.R. §2.86\(a\)\(1\)](#), [\(b\)\(1\)](#).
- (2) Filing Fees: A filing fee for each class. [37 C.F.R. §§2.6\(a\)\(1\)](#), [2.86\(a\)\(2\)](#), [\(b\)\(2\)](#); *see* [TMEP §§810.01](#), [§1403.05](#).
- (3) Section 1(a) Application: For an application filed under §1(a) of the Act:
  - (a) Dates of use: The dates of first use and first use in commerce for each class. [37 C.F.R. §2.86\(a\)\(3\)](#), [\(b\)\(3\)](#). If the dates are the same for all the classes, the dates may be stated once, with the statement that the mark was first used on said dates in connection with the goods/services/collective membership organization in all the classes. If the dates of use differ for different classes, the appropriate dates for each class must be specified separately. The dates may be set forth in separate clauses, sentences, or paragraphs, or in tabular form, whichever will give complete information in the clearest way under the circumstances.
  - (b) Specimens: One specimen supporting use of the mark for each class. [37 C.F.R. §2.86\(a\)\(3\)](#), [\(b\)\(3\)](#). If a single specimen supports multiple classes, the applicant may so indicate, and the examining attorney need not require multiple copies of the specimen. The examining attorney should enter a Note to the File in the record, indicating which classes the specimen supports.
- (4) Section 1(b), 44, or 66(a) Application: For an application filed under §1(b), §44, or §66(a) of the Act, a statement that the applicant has a bona fide intention to use the mark in commerce, for a trademark or service mark, or a statement that the applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce, for collective or certification marks, for each class. [37 C.F.R. §2.86\(a\)\(3\)](#), [\(b\)\(3\)](#). *See* [TMEP §1904.01\(c\)](#) regarding the bona fide intent statement in a §66(a) application.

In a §1(b) application, prior to registration, the applicant must file an allegation of use under [15 U.S.C. §1051\(c\)](#) or [15 U.S.C. §1051\(d\)](#) that states the mark is in use in commerce on or in connection with the goods/services/collective membership organization; and includes dates of use, the filing fee for an allegation of use for each class, and one specimen evidencing use of the mark for each class. [37 C.F.R. §2.86\(e\)](#). *See* [37 C.F.R. §2.76](#) and [TMEP §§1104-1104.11](#) regarding amendments to allege use and [37 C.F.R. §2.88](#) and [TMEP §§1109-1109.18](#) regarding statements of use. An applicant may not file an allegation of use until the applicant has used the mark in connection with all the goods/services/classes in the application, unless the applicant also submits a request to divide the application under [37 C.F.R. §2.87](#). [37 C.F.R. §2.86\(e\)](#).

Further, an applicant may not claim both §1(a) and §1(b) for identical goods or services in the same application. [37 C.F.R. §2.86\(c\)](#).

Additionally, an applicant may not apply for a certification mark and a trademark, service mark, or collective mark in the same application. [37 C.F.R. §§2.45\(f\), 2.86\(d\)](#). See [TMEP §1306.04\(f\)](#) for more information on restrictions to certification marks.

## **1403.02 Amendment of Combined or Multiple-Class Application**

An application under § 1 or § 44 of the Trademark Act may be amended during prosecution to delete, correct, or add classes, when appropriate.

In a § 66(a) application, classes may be deleted, but classes may not be added, and goods/services may not be transferred from one class to another class. [37 C.F.R. §2.85\(d\)](#); see [TMEP §§1401.03\(d\), 1402.01\(c\), 1904.02\(b\), \(c\)](#).

### **1403.02(a) Deletion of Classes**

An applicant may delete a class or classes and prosecute the application only in the remaining class or classes. Normally, the filing fee is not refunded when a class is deleted. See [37 C.F.R. §2.209\(a\)](#); [TMEP §§405.04, 810.02](#).

If the applicant designates the classes incorrectly and there are actually no goods, services, or collective membership description in one of the classes designated in a multiple-class application, the fee for that class may be refunded. See [37 C.F.R. §2.209\(a\)](#).

### **1403.02(b) Correction of Classification**

In an application under § 1 or § 44 of the Trademark Act, improper classification may be corrected by switching goods/services by amendment from one to another of the classes originally set forth, or by changing the class designations, as long as the number of classes is not increased.

The examining attorney may correct classification by examiner's amendment, without prior authorization by the applicant. See [TMEP §707.02](#). Correction of classification after publication for opposition does not require republication. See [TMEP §1505.03\(b\)](#).

When more than one item of goods or services is listed in a class, the specimen and dates of use given do not necessarily apply to all the items listed. If the item to which the specimen and/or dates pertain is removed from the identification by amendment, the applicant must submit a new specimen and/or dates of use for that class. If the new dates differ from the dates originally set forth, the additional dates must be verified by an affidavit or declaration by the applicant. See [37 C.F.R. §2.71\(c\)](#). See [TMEP §903.04](#) regarding a permissible amendment of dates of use.

In a § 66(a) application, classes may not be added, and goods/services may not be transferred from one class to another in a multiple-class application. [37 C.F.R. §2.85\(d\)](#); see [TMEP §§1401.03\(d\), 1402.01\(c\), 1904.02\(b\), \(c\)](#).

### **1403.02(c) Addition of Classes**

In an application under § 1 or § 44 of the Trademark Act, class(es) may be added if any of the items originally recited are properly classified in class(es) not originally indicated. The applicant must pay an additional fee for each new class.

The amount of the fee varies depending on the method used to file the original application and the amendment adding classes, and the filing fees in effect at the time of the amendment, as follows:

- If the original application was filed through TEAS Standard or TEAS Plus and the amendment is filed through TEAS (either as a voluntary amendment or a response to an examining attorney's Office action) or entered by examiner's amendment, then the fee for adding a class is the same as the TEAS Standard or TEAS Plus application filing fee per class (*see* [37 C.F.R. §2.6\(a\)\(1\)\(iii\)](#), [\(iv\)](#)).
- If the amendment is permitted to be filed on paper, then the fee for adding a class is the same as the fee per class for filing an application on paper (*see* [37 C.F.R. §2.6\(a\)\(1\)\(i\)](#)), regardless of how the original application was filed.

The current fee schedule is available on the USPTO website at <http://www.uspto.gov>.

If dates of use for a class that is added are different from dates previously set forth, the applicant must submit an affidavit or declaration under [37 C.F.R. §2.20](#) to verify these dates. *See* [37 C.F.R. §2.71\(c\)](#). *See* [TMEP §903.04](#) regarding a permissible amendment of dates of use.

An additional specimen that is not identical to a specimen originally filed must be supported by an affidavit or declaration attesting to its use as of an appropriate date. [37 C.F.R. §2.59\(a\)](#); [TMEP §904.05](#).

If an intent-to-use application is amended to add class(es), the applicant must submit, for each added class, the basic application fee *and* fees for the allegation of use (i.e., either the amendment to allege use or the statement of use), and any extension request(s) granted in the interim. This applies even if the classes are added after the amendment to allege use or statement of use is filed, or the extension request(s) is granted.

In a §66(a) application, classes may not be added, and goods/services may not be transferred from one class to another in a multiple-class application. [37 C.F.R. §2.85\(d\)](#); *see* [TMEP §§1401.03\(d\)](#), [1402.01\(c\)](#), [1904.02\(b\)](#), [\(c\)](#).

### 1403.03 Dividing of Combined or Multiple-Class Application

A delay in registration of one class in a multiple-class application will mean delay for the entire application. In such a situation, upon payment of the applicable fee, the applicant may file a request to physically divide the original application into separate applications. These new applications are assigned new serial numbers and cross-referenced with the original application. The additional separate applications are given the same filing date as the original application.

The following are examples of situations when an applicant may want to have class(es) divided out into one or more separate applications:

- (1) Registration is refused in less than all the classes;
- (2) A notice of opposition is filed against goods/services/a collective membership organization in less than all the classes; or
- (3) The applicant in a §1(b) application begins using the mark in commerce on goods/services/a collective membership organization in less than all the classes.
- (4) The applicant intends to respond to a refusal by amending to the Supplemental Register as to only certain goods/services/classes in the application. *See* [TMEP §§801.02\(b\)](#), [816.04](#).

When a multiple-class application is divided, the application is separated or divided into individual applications. See [TMEP §§1110-1110.11\(a\)](#) for information regarding requesting to divide an application.

#### **1403.04 Refusals and Oppositions as to Less Than All the Classes in a Multiple-Class Application**

A refusal to register or a requirement may be made for less than all the classes in an application. Whether it is appropriate to make a refusal or requirement with regard to less than all classes must be considered on a case-by-case basis.

When issuing a refusal or requirement pertaining to less than all the classes, the examining attorney must expressly state that the refusal or requirement that applies only to certain class(es), and indicate the class(es) to which the refusal or requirement pertains. If an applicant fails to file a complete response to a refusal or requirement that was expressly limited to certain class(es), the application shall be abandoned only as to those class(es) if it is otherwise in condition for approval for publication. However, if the Office action includes an advisory stating that amendment would require the payment of additional fees because the fee paid is insufficient to cover all the classes, and the applicant fails to file a response, the entire application will be abandoned. [37 C.F.R. §2.65\(a\)](#). See [TMEP §718.02\(a\)](#).

When an opposition is sustained only as to some of the class(es) in a multiple-class application, the application is returned to the examining attorney. The examining attorney must perform the proper Trademark database transaction to ensure issuance of registration for only the proper class(es).

#### **1403.05 Fees for Action After Filing, Multiple Classes**

In a multiple-class application or registration, a fee for each class must be paid when filing an allegation of use or request for extension of time to file a statement of use for applications under §1(b) of the Trademark Act; ex parte appeal to the Trademark Trial and Appeal Board; affidavit or declaration under §8 or §71 of the Act; affidavit of incontestability under §15 of the Act; application for renewal of a registration under §9 of the Act, opposition, or petition for cancellation of a registration under §14 of the Act. [15 U.S.C. §§1051, 1058, 1059, 1063, 1064, 1065, 1141k](#).

In these situations, when a party submits a fee that does not cover all the classes in the application or registration, the party should state that action is sought only for the number of classes equal to the number of fees submitted, and should specify the classes for which action is being sought. This may avoid an unnecessary inquiry by the USPTO.

See [TMEP §1403.02\(c\)](#) regarding the fee(s) for adding class(es) to an application.

#### **1403.06 Surrender or Amendment in Multiple-Class Registrations**

In a multiple-class registration, deletion of less than all the goods or services in a single class constitutes an amendment, whereas deletion of an entire class constitutes a surrender of the registration for cancellation as to the class deleted. [37 C.F.R. §2.172](#); [TMEP §1609.03](#).