

INTA Statement during the Nice Committee of Experts – Business Segment – Nice Classification related issues

April 28, 2025, at around 10:15 a.m. Geneva Time (GMT +1).

Good morning,

I am Tat-Tienne Louembe, Chief Representative Officer Europe and Intergovernmental Organizations at the International Trademark Association (INTA).

First and foremost, we would like to express our sincere appreciation to WIPO for the invitation to participate in this important discussion. INTA is a global organization of brand owners and professionals committed to advancing trademarks and related intellectual property to support consumer trust, economic growth, and innovation.

Within INTA, the International Classification Subcommittee of the Harmonization of Laws and Practice Committee contributes to this mission by advocating for the consistent and effective use of the Nice Classification. We support WIPO's efforts to harmonize international classification initiatives, including, the definition of class scopes, the identification of classification items, and the creation and refinement of tools, particularly those addressing new and emerging goods and services.

Last year, the Chair of our Subcommittee was invited to provide a statement to the Nice Committee of Experts, outlining potential ways to manage the increasing size and complexity of Class 9. Today, we would like to reiterate the significance of this issue by recalling the concerns raised and the proposed solutions.

Class 9 has grown to a point where it could be described as a “mega-class”, exceptionally broad in scope, widely used in trademark filings worldwide, and continuing to expand, particularly with the rise of virtual goods and AI-related technologies. This expansion risks undermining the fundamental purpose of the Nice Classification: to provide clarity and consistency in trademark registration.

In response, our Subcommittee developed a paper that explored possible paths forward. One possible approach involves dividing Class 9 into smaller subdivisions, drawing on existing taxonomy work by WIPO, EUIPO, and national IP offices. These subdivisions (conceptualized as numerical or alphabetical extensions of Class 9) could be implemented in a way that maintains consistency with current registration structures and fee systems, while minimizing disruption. At the same time, this proposal raises practical concerns, such as how national offices would interpret and apply the new subdivisions, and whether this change would apply only to new filings or retroactively to existing registrations.

A second potential approach involves reassigning certain goods currently listed in Class 9 to other, already existing classes. This would entail identifying overlaps and similarities between items in Class 9 and items in other classes and reallocating them accordingly. For example, safety

clothing might be reassigned from Class 9 to Class 25, where other types of clothing are already categorized. Another possibility under this approach would be to consolidate underutilized classes (for instance, merging Classes 22 and 23) and use the resulting space to absorb specific items from Class 9. This option would preserve the overall number of classes while better distributing the classification load.

A third approach would be the creation of entirely new classes to accommodate the growing number of goods currently concentrated in Class 9. There is clear precedent for this strategy; two decades ago, Classes 43, 44, and 45 were introduced to alleviate pressure on Class 42, which had become overly broad. Creating new classes today could provide similar long-term relief.

A fourth consideration, which may merit further study, is whether the mere virtual version of a tangible good should require separate registration or whether such items might be covered under the existing classification of their physical counterparts. This line of inquiry could contribute to a more efficient and future-proof system.

As part of our ongoing efforts, we have engaged in policy dialogues with several intellectual property offices. These conversations have highlighted that not all offices perceive the expansion of Class 9 in the same way. In some jurisdictions, the prevailing view is that the challenges posed by this growth can be addressed through enhanced examiner, IP practitioner and brand owner training, and the deployment of more advanced search tools.

Reallocating goods from Class 9 to other existing classes may be seen as the most pragmatic and feasible solution. Many national offices may lack the infrastructure, resources, or legal frameworks necessary to adopt such measures effectively, and for some, the strain on Class 9 is already manifesting in tangible ways.

This diversity of experiences and capacities reinforces the need for a flexible, collaborative, and inclusive approach, one that reflects the practical realities of offices operating under a wide range of conditions. It is precisely for this reason that our Subcommittee remains committed to further researching this matter and to working in partnership with all stakeholders, including WIPO Member States, to identify and promote a solution that is both viable and minimally burdensome for trademark offices, legal practitioners, and brand owners alike.

Over the final course of our Subcommittee's current two-year term, we will continue consult with stakeholders and IP Offices to explore the outstanding questions raised by these proposals. These include how to mitigate switching costs for legacy registrations, whether national offices are equipped to manage subclass structures, and what the administrative and financial implications of implementation might be.

We welcome the feedback of this Committee and look forward to engaging in constructive dialogue throughout this meeting. We thank all parties involved for their consideration of the perspectives and proposals presented here as part of the broader conversation around the future of Class 9.

Thank you.
