

ANNEX VII

GUIDELINES FOR DETERMINING WHERE TO
CLASSIFY PATENT DOCUMENTS WITHIN THE IPC

GENERAL

The Reformed IPC utilizes three distinct general classifying rules (i.e., first place priority, last place priority, and common) for determining the appropriate groups for obligatory classification of inventive things within subclass schemes. Optimally, the Classification, or at least each of its subclass schemes, should when feasible use only a single general classifying rule. This is an ultimate goal of the Reformed IPC.

Currently, many of the existing IPC subclasses use more than one general classifying rule within their schemes (e.g., main groups in the same scheme may use different general classifying rules). Unfortunately, until each of these mixed-rule type schemes undergoes reclassification or reorganization, it is not possible to convert them to a single general classification rule.

In schemes in which several general classification rules are used, it is sometimes difficult to determine which rule to follow when selecting a group. For example, only one main group in a scheme may use the last place priority rule and the other main groups use the common rule. In this example, the appropriate main group is selected using the common rule and the indented groups are selected using the general rule used by their main group. Normally, for main groups, the general classification rule specified at the subclass level is used for all main groups and, when no rule is specified for any main group, the “default” common rule is used.

The “subject of the invention” within a patent document includes each distinct inventive thing (e.g., an embodiment, a novel and unobvious subcombination) that is claimed or disclosed. The “subject of the invention” is determined in the same manner for all of the general classification rules. For each inventive thing, the procedure specified by the appropriate general classification rule is followed for determining its classification within the scheme of the specific subclass or group covering it. All inventive things forming the subject of the invention are classified.

COVERING DISTINCT INVENTION FEATURES IN THE SAME GROUP

If two or more distinct things within a patent document separately fit within the same group, the classification symbol of the group is allotted only once to the document. Moreover, when an inventive thing in a patent document is appropriate for an obligatory classification and another thing in the same patent document is appropriate for a non-obligatory classification into the same group, the document is assigned only the obligatory classification.

COVERAGE OF CLASSIFICATION PLACES

It is important for classifiers and searchers to remember when using any of the three general classification rules that the inventive things proper for each subclass or group are not just specified by their titles alone. The “explicit” coverage of any group (i.e., the subject matter that is unambiguously stated as being properly obligatorily classified in the group) is limited by *all* the restrictions to the group’s scope actually stated in the title of its subclass, all higher level group titles under which it is indented, its own title, and relevant definitions, notes, and limiting references.

For an inventive thing to be obligatorily classified into any group, except as noted below, it must satisfy all of the explicit restrictions to the group’s coverage. This is important for classifiers and searchers to remember when determining the group for which the inventive thing is proper. For example, within a scheme, a group having a broad title that the inventive thing *does fit* within should be selected for obligatory classification rather than a coordinate group having a more restrictive title that the inventive thing *almost fits* within.

However, the “actual” coverage of any group is more than what is explicitly stated and depends on other factors (e.g., the group’s interrelationship with other groups in its scheme, the coverage of related subclasses). In addition to the inventive things explicitly covered by its title, a group may also cover inventive things that are:

- Combinations of the explicitly stated subject matter of its title with other subject matter normally outside of the scope of its subclass, when the combination is not clearly specified as being covered by another subclass.
- Combinations of the explicitly stated subject matter of its title with other subject matter within the scope of its subclass, when the combination is not (a) explicitly covered by another group or (b) clearly implied as proper for another group because of stated precedence or priority.
- Categories of invention (for example, processes, products, or apparatus), that are not otherwise provided for by another classification place, that are related to the subject matter of another category of invention that is explicitly stated as being within the coverage of the group. For example, the explicitly stated scope of group A44B 19/00 is “Slide fasteners”; nevertheless the group also covers “Making slide fasteners by processes not fully provided for in another subclass.” In another example, the title of subclass C09K does not explicitly cover the inventive things added to the scope of the subclass by note (1) following it.
- Details or components that are specially adapted for, or used only with, the explicitly stated subject matter of its title when they are not otherwise provided for by another classification place.

UNIVERSAL PROCEDURES FOR LOCATING A SUBCLASS

The methods for determining the most appropriate subclass for an inventive thing are the same for all three of the general classification rules.

Frequently, classifiers and searchers already know of one or more potential subclasses covering the inventive thing or related inventive things. In these situations, they merely review the subclass titles, schemes, notes, and references within the known subclasses looking for an appropriate group. If one is found covering the inventive thing, its subclass is deemed appropriate for classification purposes.

When classifiers do not know of an appropriate subclass or related subclasses, one or more potential subclasses for the inventive thing are normally locatable using terms for the inventive thing or technical terms related to the inventive thing. This is done by:

- text searching of schemes, definitions, or catchword indexes using the identified terms,
- alphabetic searching of catchword indexes using the identified terms, or
- text searching patent documents using the identified terms and reviewing the classifications of those patent documents most related to the inventive thing.

After one or more potentially appropriate subclasses are found using the identified terms, the titles, definitions, schemes, and references of the potential subclasses are checked to determine which of these subclasses, if any, is appropriate in scope for the inventive thing. However, since different Offices have not always identically classified the same subject matter in patent documents, particular care must be taken when utilizing only the classifications of patent documents to locate appropriate subclasses. Sometimes two or more subclasses may seem equally appropriate based merely on the classifications of the documents located. When plural subclasses seem equally appropriate for the inventive thing, the method stated below is used to determine the correct subclass.

If classifiers are unable to determine the correct subclass for an inventive thing using the above methods (e.g., the terms for new technology are not covered explicitly by any subclass or group title), classifiers must follow an exhaustive systematic approach based on the principle of hierarchy. This involves first scanning the eight sections of the IPC and selecting possible subsections and classes by title. It is then necessary to turn to the subclass titles under the selected classes and note those subclasses that appear to include the inventive thing. After one or more potentially appropriate subclasses are found, the titles, definitions, schemes, and references of the potential subclasses are checked to determine which of these subclasses is most appropriate in scope for the inventive thing. The subclass that most satisfactorily covers the inventive thing should be selected or, if none can be located, the most appropriate “Subject matter not otherwise provided for in this section” subclass.

GENERAL RULES FOR SELECTING GROUPS FOR CLASSIFICATION

After selection of the appropriate subclass, the procedure using the hierarchical structure of the IPC should be followed for determining the relevant main group and subgroup in the identified subclass. Before applying this procedure, it is necessary to check which of the three general classification rules, described below (the common rule, the first place priority rule and the last place priority rule), is used in the selected subclass and whether any special classification rules are applied within the scheme or parts of the scheme.

While the paragraphs below indicate the differences between the three general classification rules, it is important to remember that the general rules share the following essential features:

- (a) many inventive things are completely covered by only one group in the subclass scheme; in this situation, the thing is classified in that group regardless of the general classification rule used in the subclass;
- (b) if two or more inventive things are disclosed in the patent document, the general rule used in the appropriate subclass is separately applied for classifying each;
- (c) if a subcombination of the inventive thing is novel and non-obvious itself, it is separately classified according to the general rule used in the subclass appropriate for it.

It is only in situations where the inventive thing is covered by two or more groups of the subclass (i.e., some groups have potentially overlapping scope or groups are only available for subcombinations of the thing and not for the thing as a whole) that the general classification rule used in the subclass is important for determining a relevant group or groups.

“First Place Priority” Rule

Any subclass scheme where the “first place priority” rule is utilized has a note stating that the “first place priority” rule is used in the whole scheme or in a particular set of groups. This note is located with the subclass title or precedes the highest group in the scheme covered by it. This type of note states, “In this subclass/main group(s)/group(s) classification is made according to the first place priority rule (i.e., in the first appropriate place in the scheme).” For example, see the relevant notes in subclasses C40B and F23B.

Schemes, or distinct portions of schemes, covered by this general classification rule utilize the arrangement of groups in their scheme to determine priority and follow the “standard subject matter sequence” concepts (i.e., more complex to less complex, combinations to basic subject matter to details, specialized to non-specialized). This means that groups covering the most complex or specialized invention information are located at the top of the scheme, or distinct portion of the scheme, and those covering progressively less complex or non-specialized invention information are successively located lower in the scheme or distinct portion of the scheme.

Broadly stated, when this rule is applied, an inventive thing is classified by successively, at each indentation level, locating the first group providing at least in part for the thing, until a subgroup is selected for classification at the deepest appropriate indentation level. When several inventive things are included within the subject of the invention, the first place priority rule is separately applied to each of them.

Specifically, after the appropriate subclass for the inventive thing is determined, the group in the scheme that covers this information is selected by sequentially:

1. determining the topmost main group in the scheme which provides for this inventive thing (i.e., the first main group that covers at least in part the inventive thing and does not preclude the inventive thing as a whole or any portion of the inventive thing);
2. determining, under this main group, the topmost one-dot subgroup that provides for this inventive thing (i.e., the first subgroup that covers at least in part the inventive thing and does not preclude the inventive thing as a whole or any portion of the inventive thing); and
3. repeating the procedure of the previous step through successive indentation levels of subgroups until the topmost appropriate subgroup in the deepest (greatest number of dots) subgroup level is determined (i.e., until the last level of indentation is reached or until none of the subgroups at the next indentation level provide for the inventive thing).

“Last Place Priority” Rule

Any subclass scheme where the “last place priority” rule is utilized has a note stating that the “last place priority” rule is used for the entire scheme or a particular set of groups. This note is located with the subclass title or precedes the highest group in the scheme covered by it. This type of note states, “In this subclass/main group(s)/group(s), in the absence of an indication to the contrary (e.g., a reference to another group, an exception stated in a note of the scheme), classification is made according to the last place priority rule (i.e., in the last appropriate place in the scheme for the inventive thing being classified).” For example, see the relevant notes in subclasses A61K, C07, C08G and C10M.

Schemes, or distinct portions of schemes, that use the “last place priority” rule use the arrangement of the groups in their scheme to determine priority. In classification schemes where the last place priority rule has been introduced, a sequence of groups is not formally standardised. However, the sequence of groups frequently follows the principle of proceeding from less complex or more general subject matter at the top of the scheme to progressively more complex or specialized subject matter located lower in the scheme.

Broadly stated, where this rule is used, if two or more main groups or subgroups having the same indentation level within a group branch provide for one of the facets of the inventive thing being classified, the last group is selected. According to this rule, an inventive thing is classified by successively, at each indentation level, locating the last group, providing at least in part for the inventive thing until a subgroup is selected for classification at the deepest appropriate indentation level. When several particular inventive things form the subject of the invention, the last place priority rule is separately applied to each of them.

Specifically, after the appropriate subclass for the inventive thing is determined, the group in the scheme that covers this information is selected by sequentially:

1. determining the last main group in the scheme which provides for this inventive thing (i.e., the last main group that covers at least in part the inventive thing and does not preclude the inventive thing as a whole or any portion of the inventive thing);
2. determining, under this main group, the last one-dot subgroup that provides for this inventive thing (i.e., the last subgroup that covers at least in part the inventive thing and does not preclude the inventive thing as a whole or any portion of the inventive thing); and
3. repeating the procedure of the previous step through successive indentation levels of subgroups until the last appropriate subgroup in the deepest indentation level (greatest number of dots) is determined (i.e., until the last level of indentation is reached or until none of the subgroups at the next indentation level provide for the inventive thing).

“Common” Rule

The “common” rule is the “default” general classification rule and is applied in all areas of the Reformed IPC where no other general classification rule or special classification rule is specified for a subclass scheme or a portion of a scheme.

Schemes, or distinct portions of schemes, that use the “common” rule require that an inventive thing be obligatorily classified in the group within whose scope this particular inventive thing is most completely embraced. This rule generally requires devising subclasses and the classification schemes, or portions of schemes, where it is applied in such a way that one and the same type of inventive thing can be classified in only one place in the scheme. This means, for this rule to be optimally applied, that classification places must be mutually exclusive of each other for every possible inventive thing at all hierarchical levels. In situations where there are plural groups in the subclass scheme within which an inventive thing could potentially fit (e.g., different groups cover portions of the entire inventive thing, a very specific and a more general group could both cover the inventive thing), specific procedures for determining relative priority between the possible groups are followed, specified below, to determine which group most completely embraces the inventive thing.

In contrast to the first and last place priority rules described above, no general priority based on the relative position of groups in a scheme is applied in the common rule areas of the IPC. However, the following principles of priority are applied to limit unnecessary multiple classification and to select the group that most adequately represents the inventive thing being classified:

(a) Groups for more complex matter take priority over groups for less complex matter. For example, groups for combinations take priority over groups for subcombinations and groups for “whole things” take priority over groups for “details.”

(b) Groups for more specialized subject matter take priority over groups for less specialized subject matter. For example, groups for unique types of matter or groups for matter with means for solving particular problems take priority over more general groups.

However, when references or local precedence rules apply, these overrule the above principles of priority.

These principles of priority are also used to form the standardised sequence of main groups. The standardised sequence can therefore, in many situations, be used as a guide when applying the above priority principles. However, it should be borne in mind that the standardised sequence gives priority between all main groups of a subclass. This includes groups of similar complexity and groups that have a similar degree of specialisation whose location in the sequence does not indicate an actual difference in their relative priority based on historical placement. Thus, in the common rule areas of the IPC, when the inventive thing can fit within two or more groups of equal complexity or specialisation, classification should not only be made in the first appropriate group in the sequence, but in all appropriate groups of equal complexity or specialisation.

Specifically, after the appropriate subclass for the inventive thing is determined, the group in the scheme that most completely embraces it is selected by sequentially:

1. Determining, by review of all of the main groups in the scheme, if only one main group covers the inventive thing. If this is so, go to step 3.

2. If it is determined in step 1 that two or more main groups could potentially cover the inventive thing being classified (e.g., the group titles state only subcombinations of the inventive thing), then the principles of priority stated above or the standardized sequence, should be used as guidance.

(i) If these principles indicate a priority between the groups, the group given priority must be selected. Other groups with a lower priority may also be selected for classification if they are considered to be useful for search purposes, for example for performing Boolean searching. Step 3 should then be applied separately for each selected group.

(ii) If priority between the groups cannot be determined by these principles, then step 3 should be applied separately for each group.

3. Determining, by repeating step 1 and, if necessary, step 2 at each subsequent hierarchical level, the appropriate subgroup in the deepest indentation level (i.e., until the last level of indentation is reached or none of the subgroups at the next hierarchical level provides for the technical subject).

If no specific place for a combination is provided in an area of classification where the common rule applies, it is classified based on its subcombinations, following the principles of priority stated above. Subcombinations not selected for classification according to these principles should be considered for classification as additional information.

SPECIAL AND SUPPLEMENTARY RULES FOR OBLIGATORY CLASSIFICATIONS

In situations where problems exist that prevent fully covering the inventive thing, or its novel and unobvious components, by the sole use of a single scheme and a general classification rule, a note may be added within a scheme specifying a “special classification procedure” for adding supplementary obligatory classifications. Such a note stipulates the classification rule used for assigning additional obligatory classification(s), and what novel and unobvious “aspect” of the inventive thing, or its components, the supplementary rules are intended to cover (e.g., a novel and unobvious compound is classified based on its formula and is also classified within a separate scheme covering one or more of its novel applications).

In a limited number of places in the Classification, special classification rules are used for obligatory classifications. In these places, the procedures for obligatory classification stated in the special rules override the general classification rules. Wherever special rules are used, they are clearly specified in notes at the places concerned, e.g., C04B 38/00, C08L, G05D. For example, Note 2 (b) following the title of subclass C08L (Compositions of macromolecular compounds) specifies that, “In this subclass, compositions are classified according to the macromolecular constituent or constituents present in the highest proportion; if all these constituents are present in equal proportions, the composition is classified according to each of these constituents.”

Supplementary and special rules are required to operate effectively in both the core and advanced level and utilize the “standard division policy between core and advanced level groups.” This means at the very least, that the introduction of a special or supplementary rule in the advanced level or core levels should allow the documents that are classified in dependent subgroups of the advanced level to be rolled up to the same group that they would otherwise have been properly assigned to if only the core level were used in their initial classification.

SELECTING NON-OBLIGATORY, i.e., DISCRETIONARY CLASSIFICATIONS

Patent documents may be assigned non-obligatory classifications to groups whenever examiners or classifiers believe particular subject matter disclosed in the patent documents is useful for searching.

Nevertheless, to encourage the consistency of non-obligatory classification within a portion of a subclass scheme, procedures or recommendations may be stated (e.g., in a note) for guidance to classifiers or examiners on how to most efficiently assign non-obligatory classifications in this part of the scheme.

[Annex VIII follows]