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WORLD INTELLECTUAL PROPERTY ORGANIZATION GENEVA

SPECIAL UNION FOR THE INTERNATIONAL PATENT CLASSIFICATION (IPC UNION)

IPC REVISION WORKING GROUP

Session of Subgroup D (Subclass C 40 B)

Rijswijk, Netherlands, March 26 to 30, 2001

REPORT

adopted by Subgroup D

INTRODUCTION

1. Subgroup D of the IPC Revision Working Group held its session at the European Patent Office (EPO), Rijswijk, from March 26 to 30, 2001. The following members of the IPC Revision Working Group were represented at the session: Croatia, France, Germany, Ireland, Japan, Portugal, Romania, Russian Federation, Sweden, United Kingdom, United States of America, European Patent Office (EPO) (12). The list of participants appears as Annex I to this report.
2. On behalf of the Director General of WIPO, Mr. M. Makarov, Head, International Patent Classification Section, opened the session and thanked the European Patent Office for hosting the session.
3. Mr. H. Pauwels, Director, Data Management and Classification, European Patent Office, welcomed the participants. He expressed the hope that Subgroup D would be able to complete, in this session, the elaboration of an IPC area entrusted to it.

OFFICERS

4. Subgroup D unanimously elected Mr. H. Wongel (EPO) as Chair and Mr. H.-P. Gerster (Germany) as Vice-Chair.
5. Mr. M. Makarov (WIPO) acted as Secretary of the session.

ADOPTION OF THE AGENDA

6. Subgroup D unanimously adopted the agenda, which appears as Annex II to this report.

CONCLUSIONS, DISCUSSIONS AND DECISIONS

7. As decided by the Governing Bodies of WIPO at their tenth series of meetings held from September 24 to October 2, 1979 (see document AB/X/32, paragraphs 51 and 52), the report of this session reflects only the conclusions of Subgroup D (decisions, recommendations, opinions, etc.) and does not, in particular, reflect the statements made by any participant, except where a reservation in relation to any specific conclusion of Subgroup D was expressed or repeated after the conclusion was reached.

PRESENTATION OF THE TECHNOLOGY OF COMBINATORIAL CHEMISTRY

8. The Delegation of the EPO made a presentation of the technology of combinatorial chemistry and explained its development for over 15 years from the invention of this technology. The Delegation clarified various aspects of combinatorial chemistry by responding to questions raised by the participants.

ELABORATION OF A SUBCLASS COVERING COMBINATORIAL CHEMISTRY

9. Discussions were based on document IPC/WG/4/5 and the project file of Project C 422, in particular on the rapporteur report appearing as Annex 27 to the project file, in the light of the instructions given by the IPC Revision Working Group (see document IPC/WG/4/5, paragraph 10, Project C 422). Subgroup D agreed on a number of amendments to the IPC (see the Technical Annexes to this report).

10. Following the request made by the IPC Revision Working Group, Subgroup D considered the most appropriate place for a classification scheme covering combinatorial chemistry and agreed that, since members of combinatorial libraries could represent microorganisms, compounds, alloys and other substances, a new class (C 40), rather than the initially proposed class C 15, should be created at the end of section C. In order to provide a more logical structure of section C, Subgroup D also agreed to create a new subsection embracing the subject matter in question.

11. Subgroup D discussed how to classify non-combinatorial libraries, namely, arrays of substances obtained by non-combinatorial methods or which origin was not specified, and decided that such libraries should also be covered by the new subclass because no appropriate place could otherwise be provided in the IPC.

12. Subgroup D realized that class C 40 was the first class in the IPC created in the course of IPC reform and that its elaboration should be influenced by new features that the reform was bringing in the IPC. To this end, Subgroup D elaborated classification definitions for subclass C 40 B and for basic concepts thereof relating to “libraries” and “combinatorial synthesis.”

13. Subgroup D agreed on the main group structure of subclass C 40 B. In considering the order of main groups, Subgroup D noted that the ad hoc IPC Reform Working Group had elaborated a standardized sequence of main groups in IPC subclasses which was intended to serve as guidance when new subclasses were created or substantially revised. In attempting to introduce that standardized sequence proceeding from the most complex to less complex subject matter, Subgroup D came to the conclusion that its application in the field of combinatorial chemistry was difficult, namely in deciding which subject matter, methods or apparatus, was the most complex. It was also unclear which type of methods should be listed first. Subgroup D finally felt that, in this particular case, the standardized sequence of main groups was not beneficial because of the limited size of the classification scheme and the low risk of overlapping between main groups in subclass C 40 B. Subgroup D agreed, accordingly, to recommend to the IPC Revision Working Group that the sequence of main groups approved in subclass C 40 B, corresponding to basic successive stages of combinatorial technology, should be retained.

14. With regard to the subject matter relating to “methods specially adapted for identifying library members,” Subgroup D decided that a separate main group 7/00 could be created for this subject matter. In order to confirm the correctness of this decision, Subgroup D requested the EPO to prepare examples of patent documents illustrating the main group and invited its members to submit comments on the examples in time for the fifth session of the IPC Revision Working Group. The EPO was also invited to propose a note clarifying the borderline between screening and identification on one hand, and between subclass C 40 B and other subclasses, for example, G 01 N, in respect of screening and identification on the other.

15. Subgroup D decided that the technology of combinatorial chemistry should be subject to multi-aspect classification by combining symbols of subclass C 40 B with symbols of other relevant areas of the IPC. To this effect, Subgroup D elaborated a note explaining how multi-aspect classification should be applied in relation to library members and to methods and apparatus covered by the subclass.

16. Subgroup D noted that the problem of classifying library members, in view of their large number, was similar to the problem described in paragraph 71 of the Guide to the IPC in respect of “Markush”-type formulae and agreed that classification rules for library members should follow the procedure set up in paragraph 71. Subgroup D also agreed to recommend that, in the future revision of the Guide, paragraph 71 should be reconsidered with a view to its extension to cover also library members.

17. Subgroup D decided that relevant areas of the IPC which should be used in association with subclass C 40 B should be determined and indicated in the note explaining application of multi-aspect classification. The Delegation of the EPO volunteered to propose, by April 20, 2001, a list of most relevant of such places, as well as the draft of respective notes specifying their use in combination with subclass C 40 B, to be introduced in those places. Comments on the proposal to be submitted by the EPO were invited by May 15, 2001.

18. Finally, Subgroup D agreed to create one-dot subgroups in main group 9/00 relating to apparatus used in combinatorial chemistry and with libraries and invited comments, by May 15, 2001, on the desirability of the creation of one-dot subgroups in other main groups of subclass C 40 B, particularly in respect of "directed molecular evolution," "virtual libraries" and non-combinatorial versus combinatorial processes.

*19. This report was unanimously adopted by
Subgroup D at its closing meeting on
March 30, 2001.*

[Annexes follow]