

USPTO Proposal to Restructure Class 9

The U.S. Patent and Trademark Office (USPTO) recently submitted a proposal to the World Intellectual Property Organization (WIPO) suggesting the restructuring of Class 9 of the Nice Classification (Ninth Edition) into three separate classes. The proposal is expected to be included on the agenda of the upcoming Preparatory Working Group of the Nice Agreement, which will be held in October. (See www.inta.org/go/USPTOClass9Proposal and www.inta.org/go/USPTOClass9ProposalChart).

The USPTO reasons that, following the growth of the computer industry and the increased sophistication in the science and research fields, Class 9 has grown to an unwieldy size. The Office points out that Class 9 now includes items of very disparate natures, such as abacuses and sunglasses, and advocates that separating Class 9 into “more discrete subject matter classes” would allow for more efficient and logical anticipatory searching and facilitate the administration of trademarks in offices around the world.

Under the proposal, Class 9 would continue to include scientific, nautical, surveying, weighing, measuring, signaling, checking (supervision), lifesaving and teaching apparatus and instruments, and fire-extinguishing apparatus.

A new class would be created to encompass apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity.

Another new class would include apparatus for recording, transmission or reproduction of sound or images; photographic, cinematographic and optical apparatus and instruments; calculating machines, data processing equipment and computers; computer software and goods consisting of machine readable data and information; data carriers and information carriers that are machine readable; and apparatus and instruments for electronic telecommunication.

The USPTO has considered various options on how to number the new classes, and ultimately reasoned that the least problematic approach would be to add the classes as Class 50 and Class 51, leaving Classes 46–49 available for possible future service classes.

The USPTO has proposed additional changes and transfers to other classes, which are set forth in a separate, detailed list (www.inta.org/go/USPTOOtherClassProposals).

If you have any questions about this proposal and how it may affect your business, please contact Darren M. Geliebter at dgeliebter@lgtrademark.com or G. Mathew Lombard at mlombard@lgtrademark.com. By phone, we can be reached at (212) 551-1755.