

UAE Adopts the 10th Edition of the nice classification of Goods & Services

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The 10th Edition of the Nice Classification of Goods & Services has come into effect on 1 January 2012 and the UAE is one of the many countries to adopt the latest edition. Applications filed prior to 1 January 2012 will be examined based on the 9th Edition and there will be no need to reclassify a trademark at the time of renewal.

There are significant changes to the classification across several classes and highlighted below are some of the substantive changes:

- Dietary supplements, whether used as supplement to normal diet or to achieve a health benefit, will now be uniformly classified in Class 5. This removes the requirement to specify “for medical purposes”. Furthermore, Class 5 now extends to pharmaceuticals and other preparations, including dietary supplements, for veterinary purposes.
- Baby Diapers, napkin-pants and diaper-pants, regardless of whether they are disposable or made of textile, will be classified uniformly in Class 5 instead of Class 16.
- The distinction between deodorants for personal and non-personal use has been removed. Deodorants are now to be classified in Class 3 if they are “for human beings or for animals” or in Class 5 if they are “other than for humans or for animals”.
- Various items that were previously considered apparatuses under Class 9 will now be considered machines and machine parts under Class 7. For instance, welding and soldering apparatus, vending machines, electric door openers and closers, self-regulating fuel pumps, electrical packaging apparatus will now be classified under Class 7.
- Downloadable ring tones for mobile phones, downloadable music files, cell phone straps, portable media players, USB flash drives, and GPS apparatus have been added to Class 9.
- Floats for bathing and swimming, water wings, swimming belts, and swimming jackets, all being playthings, will now be classified under Class 28 and not Class 9.
- Entertainment and gaming devices are now classified uniformly in class 28. The previous distinction between consumer devices that are equipped with an external display screen or monitor (in Class 9) and those with built-in screen (in class 28) has been removed.
- Evaluation services in relation to standing timber and wool, previously settled under Class 35 services, will now be classified under Class 36 if they are financial evaluation services and under Class 42 if they are qualitative evaluation services.

Another important change being effected is the frequency of the updates. To date, updates occur every five years, however going forward the review of classification shall occur annually where the next review round will be released on 1 January 2013. Annual versions of the current edition will only include minor changes and substantive changes will continue to be released every five years.

While classification changes are procedural, they do have a substantive impact on the trademark examination process in some countries, such as the UAE, where a finding of similarity can be based simply on the goods being located in the same class even when the goods are in fact different. With the Classification now being revised every year, countries such as the UAE may need to reconsider their approach in determining similarity of marks to create uniformity in the outcome in the examination process.