

Nice comes to Canada

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As part of the amendments under Bill C-31, it was required that Canada use the Nice Classification. Although Bill C-51 is not yet implemented and may not be until sometime in 2017, a giant step towards harmonization of Canada's trademark regime with most developed countries was made as the Canadian Intellectual Property Office (CIPO) announced that starting on September 28, 2015, it will accept trademark applications filed with goods and services classified using the Nice Classification system.

Although the actual date is somewhat of a surprise, we did note that CIPO had already started the process of assigning Nice classes to terms in its database.

The most notable changes we expect to see are:

- The Goods and Services Manual will be updated and will include the ability to search by Nice Class. Search tools to assist in classifying and grouping goods and services will be available to the applicant. The applicant will also be able to insert pre-approved terms from the Manual into its trademark application.
- The trademark online application form will be improved to support the Nice Classification.

The applicants and trademarks owners are expected to use the Nice Classification on a voluntary basis until the new Trademarks Act is implemented.

These changes will apply to pending applications, applications filed as of September 28, 2015 and trademark renewals.

The Nice classification will not allow the applicant to merely use classification headings. In fact, the Office is expected to be nearly as stringent as before in its degree of specificity in the identification of goods and services.

Also, the Office has not indicated whether objections will be made if the classification of goods and services is incorrect.

More importantly, the Office has not indicated yet whether there will be additional filing or renewal fees required on a per class basis. However, if the classification is optional for the time being, additional fees may not be required until the coming into force of the new Act.

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