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Thailand Trademark Update: Implementing the 10th Edition of the Nice Classification System

Thailand is not a contracting party to the “Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks,” and the Thai Trademark Registrars have their own sets of manuals (in Thai) that they rely on when examining which description of goods or services would be acceptable for trademark registration. Since June 2003, however, the Thai Trademark Registrars’ manuals have been in line with the 8th edition of the Nice Classification in terms of which goods or services fall under which class.

A decade later, on March 1, 2013, the Thai Trademark Office decided to skip the use of the 9th edition and implement classification manuals in line with the 10th edition of the Nice Classification system. This will hopefully bring the country’s trademark filing practices up to date and in line with the global standard, and it will contribute to the preparations for the smooth transition to the Madrid Protocol, which will likely happen by 2015.

This change will not affect applicants who filed their trademark applications before March 1, 2013, until the time comes for renewal of these registrations. Upon renewal, registrants will have to comply with the new classification system, which could mean that some goods or services will no longer be accepted in their current registration, and they may have to split their registrations into two or more classes.

In any case, this implementation of the new Nice edition will only affect how the goods or services are classified. It will not affect the Registrars’ practice of disallowing class headings or broad descriptions of goods or services. The Registrars will still rely on their own manuals (in Thai), so this will still be an important guideline for applicants when filing their applications. These changes will only result in the movement of some descriptions of goods or services from one class to another.

One of the benefits is that this should eliminate the problem of claiming priority of foreign applications when the goods or services fall under different classes. Previously, if a priority application was filed for “key rings” in Class 14, for example, when the applicant claimed priority and filed a corresponding Thai application, they would have to change “key rings” to “key rings made of precious metal.” If the applicant sells both “plastic key rings” and “key rings made of precious metal,” they would have to file two Thai applications, one in Class 14 and another in Class 20, to cover all the goods. However, the application in Class 20 might not be able to claim priority to the foreign application because of the inconsistency in the classes. This is because, to claim priority to a foreign application, some of the Registrars are very strict in that the goods/services and classes of the Thai application must be the same as those of the foreign application. This has been problematic for applicants, since Thailand was not using the same classification as many other countries. This problem should no longer exist in the new classification system.

As the Registrars have just started using the new classification system, they have not yet familiarized themselves enough to be confident in their examinations. As such, from our discussion, they agreed that when applicants view that a certain item of goods falls into a certain class, but the Registrar disagrees, they will allow applicants to print WIPO’s 10th edition of the Nice Classification to prove them wrong. The rules have clearly been set for the Registrars to comply with the 10th edition. They can only use their discretion to object to goods or services when the descriptions are unclear or are too broad for registration. ⚖️