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1. General information on how TM5 members describe goods and services

① Guidelines, manuals and /or examination standards of TM5 offices on how goods and/or services need to be described.

□ (EUIPO)



□ (JPO) The following is general information on how the Japan Patent Office (JPO) describes goods and services, including the Examination Guidelines for Trademarks and the Trademark Examination Manual at the JPO.

- “Information about designating goods and services” :
http://www.jpo.go.jp/sesaku_e/tips_on_designating_gs.htm
- “Chapter V: Article 6 (Single trademark on each application) of the Examination Guidelines for Trademarks”
- http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/pdf/tt1302-002/5.pdf
- “46.01 Administration of Examinations of Unclearly Designated Goods or Services of the Trademark Examination Manual”
- http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/pdf/46-01.pdf

□ (KIPO)

- Examination of designated goods
 - In principle, the comprehensiveness and clarity of the indication for designated goods will be determined by the official product indications prescribed by the “Goods Notification” which is established and notified by the KIPO Commissioner per Article 38.2 of Korean trademark Act
 - In case a non-official indication of goods which are not included in the Official Product Indications prescribed by the “Product Notification” is used for a designated product, examiners may accept it if it is used in the course of trade and falls under one Nice class and one similar group code. However, if an examiner cannot identify the function, purpose and nature of the product indicated in the non-official indication, he/she will notify an applicant of the provisional refusal of the application per Article 38.1 of Korean Trademark Act and then determines its acceptability after receiving information about the designated product from the applicant.

- In case a third party's trademark is used for a designated product, it will be deemed that the scope of the designated product is too comprehensive or the designated product is not clear.
 - Even in case an indication is included in the NICE Class headings or the Alphabetical List, if it is not identical to the terms included by the "Goods Notification" (where general indications are included) or if it falls under multiple classes by the Nice classification system or under multiple similar group codes by the "Goods Criteria", it will be deemed that the scope of product is too comprehensive or the designated product is not clear.
 - The terms "wholesale service", "retail service", "sales agency", "commodity brokerage", "repair service", "installation service", "maintenance service", "management service for institutes" are not acceptable as the goods to which the services relate are not sufficiently clear. If the terms are amended to, for example, "retail service for a certain product" or "retail service for a product indicated in the notified general terms prescribed by the Product Notification", it will be accepted. The scope of products that can be classified as the similar group will be determined by trade practice, consumer range, suppliers of the product, etc. and should be considered comprehensively.
 - In principle, whether the designated product's classification is correct, or whether its indication is too broad or not sufficiently clear will be determined when an application is filed and will not be retroactively applied. Hence, if new comprehensive terms are introduced by an amendment to the "Goods Notification", they will be accepted after the amendment takes effect.
- **(SAIC)** SAIC doesn't have the guidelines/standards in English.
- <http://sbj.saic.gov.cn/sbsq/spfl/>, this URL is an explanation of INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES FOR THE PURPOSES OF THE REGISTRATION OF MARKS, in Chinese.
- **(USPTO)**
- The USPTO's Trademark Manual of Examining Procedure (TMEP) is available online at:
 - <https://mpep.uspto.gov/RDMS/TMEP/current#/current/d1e2.html>
 - Chapter 1400 Classification and Indication of Goods and Services provides guidelines and examination standards on how goods and/or services need to be described.

② The URL where users can find a list of acceptable indications of goods and/or services, or can search for acceptable indications of goods and/or services.

❑ **(EUIPO)**

- Classification database available at <http://euipo.europa.eu/ec2/>. All terms which are marked as Harmonized (see the source on the right of the screen) are automatically accepted for classification.

❑ **(JPO)**

- “Searching Goods and Services” by the names of goods and services by using the J-PlatPat :
https://www2.j-platpat.inpit.go.jp/SH1/sh1e_search.cgi?TYPE=000&sTime=1468234783664

❑ **(KIPO)**

- Database of acceptable indications of goods and/or services, which is available for searching and downloading:
- http://www.kipo.go.kr/kpo/user.tdf?a=user.ip_info.codeDevide.BoardApp&c=1001&catmenu=m02_09_03_01&cp=1&pg=1&npp=20&version=10&pageGubun=&langGubun=KOR&searchName=%B5%F0%C0%DA%C0%CE%BE%F7&searchKey=and&searchCl=&searchKey2=and&searchSg=&x=0&y=0

❑ **(SAIC)**

- Users can find list of acceptable indications of goods and/or services at http://sbcx.saic.gov.cn:9080/tmois/spcx_getSpcxMain.xhtml

❑ **(USPTO)**

- Users can find list of acceptable indications of goods and/or services in the Trademark ID Manual, available online at: <https://tmidm.uspto.gov/id-master-list-public.html>

③ **TM5 Member's acceptable check results of Nice Classification (items in alphabetical list)**

❑ **(EUIPO)**

- EUIPO accepts all items in alphabetical list of NICE Classification.

❑ **(JPO)**

- Please see the attached (attachment 1)

❑ **(KIPO)**

- Please see the attached (attachment 2)

❑ **(SAIC)**

- Please see the attached (attachment 3)

❑ **(USPTO)**

- Please see the attached (attachment 4)
- Note : Under USPTO policy, square brackets should not be used in the identifications of goods or services. If square brackets are used in a listing of basic goods/services or a limitation thereof, a provisional refusal will be issued by USPTO examining attorneys. Accordingly, we do not accept any of the identifications for purposes of "acceptance checking" that contain brackets. Acceptance means that we accept the identification and classification, word for word, exactly as it appears on the list.

2. Specific information on how TM5 members describe goods and services

① Are there any different practices in accepting ID between local application and international application?

(EUIPO)

- International applications designating EUIPO are only examined for vague terms.

(JPO)

- The JPO basically follows the same operating practices in accepting ID for both domestic applications and international applications.

(KIPO)

- In principle, the same classification criteria are applied to both domestic and international applications; however,
- Using “including” in Korean and “in particular” in Korean are not allowed in indication of goods for domestic application, while such terms are allowed in international applications.

(SAIC) YES

(USPTO) No.

② How do TM5 members set off goods and/or services in the application form?

□ (EUIPO)

- Applicants are encouraged to use terms from the harmonized database, which will then be automatically accepted for classification. However it is still possible to enter free text; this will however have to be checked by an examiner, which thus adds more time.

□ (JPO)

- When examining international applications, the JPO, in principle, considers that semicolons, i.e. “;” set off (separate) the indications of goods and/or services in application forms. Nonetheless, in some cases, when English indications of goods and/or services are set off only by commas, the JPO considers that the commas set off goods and/or services. Also, the indications of goods and services written in Japanese for domestic applications are separated by double-byte commas.

□ (KIPO)

- For a domestic application, in principle, goods and/or services will be separated by commas.
- For an international application, goods and/or services will be separated by commas and semicolons. In case multiple goods and/or services are set out in a semicolon, they can be re-classified and separated by commas in accordance with the Korean classification criteria (similar codes).
 - (domestic application) Class 25 mufflers, hats, caps → ① mufflers ② hats ③ caps
 - (international application) Class 25 mufflers; hats, caps → ① mufflers ② hats ③ caps

□ (SAIC)

- E-filings → Applicants select items in the database.
- Paper filings → Applicants can fill in what they want. Examiner will review the acceptability. Acceptable items will be added to the public database after further review.
- We use semicolon (;) to set off goods, such as "cosmetics; soaps". However, we recommend that applicants use ordinals before the goods, such as "1.cosmetics; 2.soaps". The goods can be set off very clear even if the applicant uses other punctuation (ex, 1.cosmetics, 2.soaps).

□ (USPTO)

- In general, commas should be used in the identification to separate items within a particular category of goods or services. When the items are preceded by the word "namely," a comma should always be used before and after that term. For example, "clothing, namely, hats, caps, sweaters, and jeans" is an acceptable identification of goods and shows proper use of commas. TMEP §1402.01(a).
- Semicolons should generally be used to separate distinct categories of goods or services within a single class. For example, "cleaners, namely, glass cleaners, oven cleaners, and carpet cleaners; deodorizers for pets" is an acceptable identification. In this example, the word "cleaners" names the category covering "glass cleaners, oven cleaners, and carpet cleaners." The semicolon prior to "deodorizers for pets" indicates that the deodorizers are a separate category of goods from the cleaners. *Id.*
- Care should be taken to use commas and semicolons properly when identifying items that are part of a kit or system. In general, items that are to be sold together (e.g., as components of a system or kit) should be separated by commas. However, other goods within the same class that are to be sold independently of the kit or system should be separated by semicolons. This is an exception to the general rule regarding using semicolons to separate categories of goods. Here, the semicolons are used to separate items that in a non-kit or non-system identification would be separated by commas. For example, an identification that includes kits comprised of several items, as well as other goods sold independently from the kits, should be punctuated as follows: "nail care kits comprised of nail polish, nail polish remover, false nails, nail files, and printed instructions; nail glitter; body art stickers." The use of "and" before "printed instructions" indicates that they are the final items contained in the kit. The use of semicolons indicates that "nail glitter" and "body art stickers" are separate items and are not included in the nail care kits. *Id.*
- Commas, semicolons, and apostrophes are the only punctuation that should be included in an identification. Colons and periods should not be used as punctuation within the identification of goods and services. *Id.* Please see TMEP Section 1402.01(a) for general guidelines for using punctuation in identifications of goods and services.

③ Is it acceptable to use “namely”, “comprising”, “in particular”, “such as”, “including” and “specially” in ID of goods?

□ (EUIPO)

- Yes, this is acceptable in free text application, however this type of specification is avoided in database terms

□ (JPO)

- The JPO, in principle, does not consider that judgment on whether these terms can be used in indications of goods should be made simply based on the terms themselves. Instead, the JPO determines the validity of using these terms based on whether or not indications of goods, which include these terms, are clear as a whole, by taking into consideration all the words being used before and/or after these terms. Also, the JPO treats the term “namely” differently from “comprising,” “in particular,” “such as,” “including,” and “specially.” When indications of goods include the term “namely,” and if “namely” is used after the comprehensive indications and if the indications following “namely” are the specific indication of goods, the JPO accepts all the indications of goods, which include the term “namely.” That is because the JPO considers that the information represented by these indications of goods is limited to the specific indications following “namely.”
- On the other hand, when indications of goods include other terms, such as “comprising,” “in particular,” “such as,” “including,” and “specially” (hereinafter referred to as “comprising, etc.”), and even if indications following the terms “comprising, etc.” involve the specific indications of goods, the JPO may not accept them. That is because the content represented by these indications might not necessarily be limited to only the specific content following “comprising,” etc.

□ (KIPO)

- The terms “comprising”, “in particular”, “such as”, “including” and “specially” are not acceptable for domestic applications.
- The term of “namely” is preferred for international applications and the products followed by “namely” will be recognized as individual products. However, since the terms “comprising”, “in particular”, “such as”, “including” and “specially” are usually used to specify general indications or show examples, they will be acceptable only when the general indications comply with the Korean classification criteria.

- Class 8 Fixing products of metal, namely screws, washers, cotter pins, joist clamps →
 - ① Fixing products of metal, namely screws
 - ② washers
 - ③ cotter pins
 - ④ joist clamps
- Class 9. Software, in particular apps. → Acceptable
- Class 12. Vehicles, particularly cars, electronic cars → Not acceptable

□ **(SAIC)**

- These terms are not acceptable.

□ **(USPTO)**

- The terms "namely," "consisting of," "particularly," and "in particular" are definite and are preferred to set forth an indication that requires greater particularity. Please see TMEP Section 1402.03(a). Inclusive terminology. The term "specially" is acceptable.
- The terms "including," "comprising," "such as," "and the like," "and similar goods," "products," "concepts," "like services," "accessories" and other indefinite terms and phrases are almost always unacceptable because the USPTO considers these terms to be indefinite. Please see TMEP Section 1402.03(a).

④ Is it acceptable to use “and the like”, “... and similar goods”, “concepts”, “accessories therefor”, “kits”, “systems” “parts and fittings” and “components and accessories” in ID of goods?

□ (EUIPO)

- The terms “and the like” and “and similar goods” are too vague and will not be accepted; the scope of the list would not be sufficiently clear and precise. The terms “concepts” and “systems” are too vague, and would not be accepted; the term “kits” is acceptable as long as the primary content of the kit would be in one class (for example, “first aid kits” will be accepted in Class 5, and the Nice terms “cosmetic kits” and “sewing kits” in Classes 3 and 26 respectively.

□ (JPO)

- The JPO, in principle, does not consider that judgment on whether these terms can be used in indications of goods should be made simply based on the terms themselves. Instead, the JPO determines the validity of using these terms based on whether or not indications of goods, which include these terms, are clear as a whole, by taking into consideration all the words being used before and/or after these terms.
- The JPO accepts the use of the terms “and the like,” “accessories therefor,” “kits,” “systems,” “parts and fittings,” and “components and accessories” in indications of goods only when the JPO can determine that these terms represent the indications of goods within the designated classes. However, the JPO cannot accept the use of the terms “...and similar goods” and “concepts” in indications of goods.

□ (KIPO)

- In principle, the terms “and the like”, “... and similar goods”, “concepts”, “accessories therefor”, “kits” and “systems” will not be acceptable.
- But, the terms “kits” and “set” can be accepted if the product is composed of a kit or set of articles.
 - First aid kits(CI 5.), a set of golf clubs(CI 28.) → Acceptable

□ (SAIC)

- The terms “and the like”, “... and similar goods”, “concepts”, “accessories therefor”, “parts and fittings” and “components and accessories” are not acceptable.
- In principle, the term “systems” will not be acceptable.

- The term “kits” can be accepted when terms represent the indications of goods within the designated classes. Like "cosmetic kits", "sewing kits", "scale model kits [toys]".

□ **(USPTO)**

- The terms "and the like," "and similar goods," "concepts," "like services," “accessories” and other indefinite terms and phrases are almost always unacceptable because the USPTO considers these terms to be indefinite. Please see TMEP Section 1402.03(a).
- The terms “parts and fittings” is acceptable in certain circumstances.
- As to “kits” The USPTO permits registration of a kit or gift basket in a single international class, even if the indication of goods lists items that are classified in other classes. Generally, kits are identified and classified in two ways. If the kit is for the purpose of making a single object, it would be classified by the item it is intended to make (e.g., kits for making bird feeders would be classified in Class 21, even though the individual components would be classified in other classes). In addition, although certain types of kits are deemed acceptable for indication and classification purposes without listing the individual components (e.g., face painting kits and teeth whitening kits in Class 3, and first aid kits and ovulation test kits in Class 5), in general, the indication must indicate the type of kit and the principal components. For more information, please see TMEP §1401.05(a) Indication and Classification of Kits, Gift Baskets, and Items Sold as a Unit.
- In general, the USPTO will not accept indications of goods described as "systems" because the terminology is considered indefinite. For more information, please see TMEP §1401.05(d) - Indication and Classification of "Systems"

⑤ Is it acceptable to use “whole sales” or “retail sales”? (if not, what about [specific goods] of whole sales or retail sales?)

❑ **(EUIPO)**

- On their own, these terms are not accepted as they are seen as too broad. However the terms may be accepted if specified with the goods to which the services relate, for example “retail services relating to clothing” or the Nice term “retail or wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies”.

❑ **(JPO)**

- In Japan, it is not acceptable to use indications of services, which consist solely of “whole sales” or “retail sales.” Nonetheless, the JPO can accept indications of services, which consist of “wholesale services/retail services for [specific goods].

❑ **(KIPO)**

- The term “whole sales” or “retail sales” are not acceptable if it consists solely of “whole sales” or “retail sales” but the good to which the term relates is specified, it will be acceptable. (i.e. “wholesale services/retail services for [specific goods].)

❑ **(SAIC)**

- The terms which consist solely of “whole sales” or “retail sales” are not acceptable.
- Only these terms can be acceptable:
 - Retail or wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies
 - Retail or wholesale services for medicines
 - Retail or wholesale services for pharmaceutical preparations
 - Retail or wholesale services for sanitary preparations
 - Retail or wholesale services for medical supplies
 - Retail or wholesale services for veterinary medicines
 - Retail or wholesale services for veterinary preparations

❑ **(USPTO)**

- The activities recited in the indication must constitute services as contemplated by the Trademark Act. See TMEP §§1301.01 et seq. as to what constitutes a registrable service.

For example, "sales" cannot be listed as the primary activity in an indication, because the sale of one's own goods or services is not a registrable service.

- "Sales" cannot be listed as the primary activity in an indication of services, because the sale of one's own goods or services is not a registrable service. TMEP §1402.11. The indication should instead set forth the common commercial name of the activity, such as "retail clothing stores" or "computerized on-line ordering featuring general consumer merchandise."
- The wording "retail services" or "wholesale services" includes a wide array of services related to retailing and wholesaling, such as advertising or marketing services. Accordingly, indications for retail or wholesale services must set forth the nature of the retail or wholesale activity (e.g., on-line retail store services, wholesale distributorships, etc.). Please note that adding wording such as "on-line" or "via the Internet" to the terms "retail services" or "wholesale services" would only serve to indicate the manner in which the retail or wholesale services are provided, but would not explain what the retail or wholesale services are. The nature of the activity must be specified even if the retail or wholesale services are provided on-line. See generally TMEP §1402.11(a)(vi).
- Indications for retail or wholesale store services, distributorship services, ordering services, catalog service, and the like also require specification of the field or type of goods or services offered (e.g., electronic catalog services featuring car parts). For guidance on indications for retail or wholesale services that require specification of the field or type of goods or services offered, in addition to an indication of the nature of the retail or wholesale activity provided (e.g., on-line retail store services featuring {indicate field or type of goods}), please consult the ID Manual for relevant entries.

⑥ Is it acceptable to use curly brackets "{ }", square brackets "[]", and parentheses "()" in ID of goods?

□ (EUIPO)

- In applications square brackets and parentheses can be used, but these are avoided in database terms. Curly brackets are not used.

□ (JPO)

- The JPO has been accepting the use of square brackets "[]" and parentheses "()" in indications of goods.
- Also, at the JPO, curly brackets "{ }" can be accepted in indications of goods.
- Also, as is the case with the Alphabetical List, in most cases, the use of square brackets represents the concepts of goods.

□ (KIPO)

- Only parentheses "()" is currently acceptable.

□ (SAIC)

- curly brackets "{ }" : not acceptable.
- square brackets "[]" : Only the items already in NICE list
- parentheses "()" : acceptable.

□ (USPTO)

- The ID Manual includes two types of brackets - square brackets "[]" and curly brackets "{ }".
- Square Brackets : Wording included in square brackets in an ID Manual entry is informational in nature and does not need to be part of the indication unless the applicant wishes to include it or the examining attorney decides that the information would be helpful for likelihood of confusion purposes. Generally, brackets should not be used in indications of goods and services.
- TMEP §1402.12. Bracketed wording will be automatically deleted from the indication in a TEAS Plus application. In a TEAS Regular, TEAS RF, or paper application, the examining attorney may delete bracketed material from an indication by examiner's amendment without obtaining applicant approval.

- See TMEP §707.02. The following are examples of ID Manual entries with language in brackets that explains the entry but does not have to be included in the final indication of goods or services in order to be acceptable.
- ID Manual Entry Acceptable Indication.
 - Jackets [clothing] Jackets
 - Vegetable oils and fats [for food] Vegetable oils and fats
 - Garbage collection [trash pickup only] Garbage collection
 - Literary agencies [management] Literary agencies
- Curly Brackets: Curly brackets are used in ID Manual entries to indicate the type of information that an applicant must specify to render the indication acceptable. Curly brackets usually include wording such as "specify" or "indicate" to convey the type of information required and generally include examples of acceptable wording. The information in the curly brackets must be provided by the applicant as part of the indication. For example, acceptable indications based on the ID Manual entry "Pharmaceutical preparations for {specify disease or condition to be prevented or treated or the health goal to be achieved}" include "Pharmaceutical preparations for treating diabetes" and "Pharmaceutical preparations for the prevention of osteoporosis."
- In certain cases, the ID Manual may include a broader entry without curly brackets and a more specific entry with curly brackets for the same good or services. The applicant may choose to use the broader entry without brackets if it accurately describes the goods or services. For example, the ID Manual includes an entry for "Nursing services" and includes a bracketed entry for "Nursing services in the field of {specify, e.g., pediatrics, geriatrics, etc.}." In that case, "Nursing services" is an acceptable indication in Class 44 without a specification of the field. However, the ID Manual includes the bracketed entry for applicants wishing to provide greater specificity than the minimum required. If an entry with curly brackets is chosen, the bracketed information requested must be indicated or specified.
- Parentheses: Generally, parentheses should not be used in indications of goods and services because it may cause confusion with the USPTO's method of indicating goods or services that have been deleted from a registration or which are not claimed in an affidavit of incontestability under 15 U.S.C. §1065. See TMEP §1402.12. However, parentheses may be used in an indication to merely explain or translate the matter preceding the parenthetical phrase in such a way that it does not affect the clarity of the indication. Id. The ID Manual includes entries featuring parentheses used in such a permissible

explanatory manner, e.g., "Sash bands for kimono (obi)" and "Automatic teller machines (ATM)." Although bracketed wording will be automatically deleted from the indication in new applications filed under TEAS Plus, parenthetical information will not be automatically deleted from a TEAS Plus application. Please note that TEAS forms other than new applications, such as the Response to Office Action (ROA) form and Voluntary Amendment form, submit indication wording exactly as entered or amended and do not automatically delete bracketed information.

⑦ Is it acceptable to use “and/or” in ID of goods?

❑ **(EUIPO)**

- It is acceptable to use this in lists of goods and services as no ambiguity is created by their use (this presumes that the goods or services on either side of the phrase are acceptable).

❑ **(JPO)**

- The JPO accepts the use of “and/or” in indications of goods.

❑ **(KIPO)**

- It is acceptable to use “and/or” for indication of goods.

❑ **(SAIC)**

- In principle, “and/or” should be avoided.

❑ **(USPTO)**

- In general, the terminology “and/or” and “or” should be avoided in IDs to prevent possible problems.

⑧ Are “computer program” or “publication” acceptable?

❑ (EUIPO)

- Yes, these terms are acceptable with no further specification.

❑ (JPO)

- “Computer program” is acceptable as indications of goods in class 9.
- Nonetheless, the JPO cannot accept indications of goods and/or services, which consist solely of the term “publication.” Therefore, the JPO makes applicants amend these indications to “publication of ○○,” so as to become acceptable as indications of goods and/or services in class 41.

❑ (KIPO)

- “Computer program” is acceptable as indications of goods in class 9.
- However, the KIPO would not accept indications of goods and/or services, which consist solely of the term “publication.” Therefore, the KIPO require applicants to amend these indications to “publication of ○○,” so as to become acceptable as indications of goods and/or services in class 41.

❑ (SAIC)

- We accept "computer program" in Class 9 as "computer programs [downloadable software]".
- The terms which consist solely of “publication” are not acceptable. "Printed publications" can be accepted in Class 16. "Publication of publicity texts" can be accepted in Class 35. "Publication of books" can be accepted in Class 41.

❑ (USPTO)

- Generally, an indication for "computer software" or “computer programs” will be acceptable as long as both the function/purpose and the field of use are set forth. For example, “computer programs for processing digital music files” and “computer software for network management” are acceptable indications. However, specifying the field of use is not required when the identified software has a clear function and is not field-specific/content-specific. For example, “computer operating programs” is an acceptable indication. For more information, please see TMEP §10402.03(d) Identifying Computer Programs with Specificity.

- When the goods are publications, the indication must indicate both the specific physical nature and the literary subject matter of the publication.
 - Example - "Magazine devoted to medicine" is acceptable.
 - Example - "Television programming newsletter" is acceptable.

- In the case of publications of a specialized nature, the indication should describe the goods by specific names or wording that explains their specialized nature.
 - Example - "Children's storybooks" is acceptable.

- Even if the mark itself indicates the subject of a publication, the indication must specify the subject matter.

- As a general rule, "books" should be described by subject matter (e.g., religious books or travel books). In the case of a mark used by a publishing house on books, a general indication, such as "a house mark for books" or "a full line of books" is sufficient if supported by the record. However, if the goods are restricted to certain types of literature, such as science fiction, engineering, romance, or poetry, the indication should so indicate. The applicant may also indicate the channels of trade or groups of purchasers for the goods.

- For more information, please see TMEP §1402.03(e) Identifying Publications with Specificity