

46.02

Designated Goods and Designated Services Related to Virtual Environments and Non-Fungible Tokens (NFTs)

The following describes the handling of designated goods and designated services related to virtual environments and non-fungible tokens (NFTs).

1. About virtual goods

(1) Definition

In this manual, the term "virtual goods" refers to "digital data for displaying the shape of the goods or the like mainly in virtual environments¹." Example of "virtual goods" include "virtual clothing," which refers to "digital data for displaying the shape of the clothing in virtual environments."

The term "virtual goods" alone is not acceptable as an indication of designated goods or designated services because it is unclear and broad as to what goods, etc., it represents. Furthermore, even if "virtual clothing" is considered to be an imitation of "clothing," it is not a term commonly known to the general public and is still unclear, so that it is not acceptable as an indication of designated goods or designated services.

However, as an exception, the indication shown in (2) below is acceptable from the viewpoint of harmonizing operations with other countries.

(2) Acceptable indication and similar group codes²

① Indications that are acceptable after the publication of this manual

- Class 9 "Downloadable virtual clothing" (NCL entry) ³11C01 24E02 26D01
- Class 35 "Online retail services for downloadable virtual clothing" (NCL entry) 11C01 24E02 26D01 35K08 35K15 35K99

② Indications that are acceptable continuing from before the publication of

¹Virtual environments refer to a virtual three-dimensional space built on the Internet where many people can participate and where participants can act freely. Source: https://www.meti.go.jp/policy/mono_info_service/contents/downloadfiles/report/kasou-houkoku.pdf *Only available in Japanese

²The classes, indications, and similar group codes may be changed in the future in line with changes in the international classification, and the like (the same applies below).

³"NCL entry" refers to indications listed in the alphabetical list of the International Classification of Goods and Services.

this manual (example)

- Class 9 "Downloadable computer programs for displaying clothing in virtual environments" 11C01
- Class 9 "Downloadable image files for displaying clothing in virtual environments" 24E02 26D01
- Class 41 "Providing online images for displaying clothing in virtual environment" 41E02
- Class 42 "Providing computer programs on data networks for displaying clothing in virtual environments" 42X11

In principle, in the indications offered in ① and ② above, the part "clothing" can be replaced by any goods listed in the Examination Guidelines for Similar Goods and Services or the like (in other words, it can be replaced by an indication that is acceptable as an indication of the designated goods alone).

Hereinafter, "clothing" or any indication of goods that can replace "clothing" is referred to as "○○".

(3) Indications that are unacceptable

Indications corresponding to any of ① to ③ below are unacceptable.

① Indications in which the "○○" part is broad and unclear

In the indication to be interpreted as virtual goods, the "○○" must, in principle, be an indication that is acceptable as an indication of designated goods alone (see (2) above). If the "○○" part is broad and unclear, it is not acceptable.

(Example)

- Class 9 "Downloadable virtual goods"
- Class 9 "Downloadable virtual livingware"
- Class 9 "Downloadable computer programs for displaying goods in virtual environments"
- Class 9 "Downloadable image files for displaying goods in virtual environments"
- Class 35 "Retail services for downloadable virtual goods"
- Class 35 "Retail services for downloadable virtual foods and beverages"
- Class 41 "Providing online images for displaying goods in a virtual environment"
- Class 42 "Providing computer programs on data networks for displaying

goods in virtual environments"

② Confusing indication with Class 9 "downloadable virtual ○○" or Class 35 "retail services for downloadable virtual ○○"

There is still no generally accepted definition of virtual goods, and it cannot be said that terms such as "virtual ○○" are widely used. Therefore, with regard to the indications listed in (2)① above, only indications that are consistent with these terms are considered clear, and in principle, confusing indications are unacceptable.

(Example)

- Class 9 "Virtual ○○," "Virtual goods featuring ○○," "Virtualized ○○," and "Virtual equivalent of ○○" and the like

The indications other than "virtual ○○" are not acceptable, even if "downloadable" is added at the beginning because they are inconsistent with "downloadable virtual ○○." Namely, for example, Class 9 "virtual clothing," "virtual goods featuring clothing," "downloadable virtual goods featuring clothing," and the like are unacceptable.

- Class 35 "retail services for virtual ○○," "retail services for virtual goods featuring ○○," "retail services for virtualized ○○," "retail services for virtual equivalent of ○○" and the like.

The indications other than "retail services for virtual ○○" are not acceptable even if "downloadable" is added before "virtual".

③ Indications that can be interpreted as virtual goods designated in a class of goods other than Class 9.

Downloadable virtual goods are not classified other than in Class 9. Therefore, if "downloadable virtual ○○" and the indication "virtual ○○" that can be interpreted as virtual goods are designated in the class other than Class 9, it is unacceptable.

(Example)

- Class 25 "downloadable virtual clothing"
- Class 25 "virtual clothing"

2. Designated Services related to Virtual Environments

(1) Acceptable indications and similar group codes

① Indications relating to providing the virtual environment platform itself (example)

- Class 38 "Providing chatrooms in virtual environments" (NCL entry) 38A01
- Class 38 "Providing online virtual environment-based forums for work collaboration" 38A01

The aforementioned services of Class 38 are those that provide communication lines.

- Class 42 "Hosting virtual environments" (NCL entry) 42X11
- Class 42 "Hosting software platforms for virtual environment-based work collaboration" 42X11

The aforementioned services of Class 42 are those that allow users to use platforms through communication lines.

② Indications relating to providing services on the virtual environment platform (example)

- Class 35 "Marketing through product placement for others in virtual environments" (NCL entry) 35A01 35A02 35B01
- Class 36 "Online banking services rendered in virtual environments" (NCL entry) 36A01
- Class 41 "Simulated travel services provided in virtual environments for entertainment purposes" (NCL entry) 41F06
- Class 41 "Entertainment services provided in virtual environments" (NCL entry) 41E01 41E02 41E03 41E04 41E05 41F01 41F06 41G01 41G02 41G03 41G04 41K01
- Class 41 "Online game services provided via virtual environments" 41K01 41Z99
- Class 41 "Providing in-game items especially for use in online games provided via virtual environments" 41K01 41Z99

(2) The concept of classes and similar group codes

The indication of "△△ in virtual environments" ("△△" represents any service indication) belongs in principle to the same class as "△△" and is given the same similar group code if the purpose or result of the service does not change compared to "△△" in reality.

① Examples that the purpose and the results of services remain the same in virtual environment and reality, and are acceptable in the same class and similar group codes

- Class 35 "Advertising for others in virtual environments" 35A01
Acceptable with the same class and similar group codes as Class 35 "advertising for others" 35A01.
- Class 41 "Presentation of music concerts in virtual environments" 41E03
Acceptable with the same class and similar group codes as Class 41 "Presentation of musical concerts" 41E03.

② Examples that the purpose and the results of services are different in virtual environment and reality, and are not acceptable in the same class and similar group codes

- "Providing foods and beverages in virtual environments"

Class 43 "providing foods and beverages" (42B01) involves consumption of real food and beverages, but "providing foods and beverages in virtual environments" does not involve consumption of real food and beverages, and the purpose and results of the services are different.

Therefore, "providing foods and beverages in virtual environments" is unacceptable in Class 43 (42B01). As an alternative, the indication of Class 41 "simulated restaurant services provided in virtual environments for entertainment purposes" (41K01 41Z99) can be considered.

(Note that the alternative above and similar group codes are for this example, and services with different purposes and results in virtual environments and reality are not necessarily acceptable with such class, indication, and similar group codes.)

3. Designated goods and designated services related to non-fungible tokens (NFTs)

(1) Definition

A "non-fungible token (NFT)" is "digital data that cannot be falsified or tampered with." It has a function of providing uniqueness to the digital data on the blockchain to ensure authenticity, and a function of allowing tracking of transaction histories.⁴

⁴Source: https://www.meti.go.jp/shingikai/sankoshin/shin_kijiku/pdf/004_05_00.pdf

*Only available in Japanese

In addition, this term is also used in the meaning of "something valuable that is not a reproduction, such as artwork, and that is embedded with information proving that it is the only one set of data."⁵

Accordingly, "non-fungible token (NFT)," "non-fungible token," and "NFT" are unacceptable as indications of designated goods or designated services because their meanings cannot be specified or clarified alone. However, it is acceptable if the indications are like those shown in (2) and (3) below.

(2) Acceptable goods indication and similar group codes (example)

- Class 9 "Downloadable digital image files authenticated by non-fungible tokens [NFTs]" (NCL entry) 24E02 26D01
- Class 9 "Downloadable computer software applications for minting non-fungible tokens [NFTs]" (NCL entry) 11C01
- Class 25 "Clothing authenticated by non-fungible tokens [NFTs]" (NCL entry) 17A01 17A02 17A03 17A04 17A07

* The terms "non-fungible token (NFT)," "non-fungible token," and "NFT" are interchangeable.

(3) Acceptable service indication and similar group codes (example)

- Class 35 "Retail services relating to downloadable digital image files authenticated by non-fungible tokens [NFTs]" (NCL entry) 24E02 26D01 35K15 35K99
- Class 35 "Provision of an online marketplace for buyers and sellers of downloadable digital image files authenticated by non-fungible tokens [NFTs]" (NCL entry) 35B01
- Class 35 "Listing of downloadable digital image files authenticated by non-fungible tokens [NFTs] in online marketplaces on behalf of others [office functions]" 35G03
- Class 35 "Obtaining authentication by non-fungible tokens [NFTs] for digital image files on behalf of others [office functions]" 35G03
- Class 35 "Purchasing of digital image files authenticated by non-fungible tokens [NFTs] on behalf of others" 35B01
- Class 36 "Management of crypto assets authenticated by non-fungible tokens [NFTs]" 36A01
- Class 42 "Providing online non-downloadable computer software for

⁵Source: <https://kotobank.jp/word/NFT-2783796> *Only available in Japanese

minting non-fungible tokens [NFTs]" (NCL entry) 42X11

(4) Indications that are unacceptable

The following indications are unacceptable in any class because the meaning of a non-fungible token (NFT) is unclear.

① Goods indication (example)

- "Non-fungible tokens [NFTs]"
- "Non-fungible tokens"
- "NFTs"

② Service indication (example)

- "Online retail services for non-fungible tokens [NFTs]"
- "Provision of an online marketplace for buyers and sellers of non-fungible tokens [NFTs]"
- "Providing online non-fungible tokens [NFTs]"

4. Date of commencement of application

This manual applies to applications for trademark registration pending with the Japan Patent Office on the publication date, or applications filed after the publication date, including designated goods and designated services related to virtual environments and non-fungible tokens (NFTs) in designated goods and designated services.