



Chofn Intellectual Property

#703, 7th Floor, Glory Star Financial Tower,
Building 3, No.16 Lize Road, Fengtai District,
Beijing 100073, P.R. China

Tel: +86-10-6213 9699

Fax: +86-10-6213 1230

Email: trademark@chofn.cn; mail@chofn.cn

Web: www.chofn.com

CNIPA Views on Class 35 Services

Ms. Haiyu Li, Lawyer and Partner of Chofn IP

On December 7, 2022, the China National Intellectual Property Administration (CNIPA) released the *Guidelines on Application for Registration and Use of Service Marks in Class 35* (Guidelines), with the purpose of helping business correctly understand the connotation and extension of the Class 35 services and make reasonable trademark filing strategy.

The Guidelines stressed that the class 35 services are designed to provide assistance **to others** for their business operation, administration, advertisement, etc., rather than performing the acts to meet the business needs of the trademark registrants themselves. To explain the point further, the CNIPA selected 11 important service items and illustrate their coverage area and applicable subjects in detail. For several items of which the connotations are usually misunderstood by the public, the CNIPA specially elaborated the relevant exclusions.

In particular, the CNIPA has interpreted three of the typical service items below for reference:

1. The item “**sales promotion for others**” refers to acts of providing specific advising, planning, counselling, etc. services to help others increase the sale or demand for their goods or services in the market. The service item does not include such pure products sale behaviors as selling the trademark registrant’s own goods or services or earning profit by retailing others’ goods.
2. The subject of the item “**provision of an online marketplace for buyers and sellers of goods and services**” mainly includes those e-commerce platforms that provide online trading platforms for buyers and sellers, but not those sellers who operate online shops. I would consider Amazon, Alibaba, Ebay, etc. as such typical service providers.
3. The item “**commercial administration of the licensing of the goods and services of others**” refers to the business management services provided for the franchising behavior of others, excluding the franchising behavior itself carried out by the franchiser. The business management services of this kind can be such supporting services as business counselling, investigating, and managing acts related to franchise.

At present, the CNIPA still refuses retail and wholesale services for trademark registration, except for the retail and wholesale of pharmaceutical, veterinary and sanitary preparations and medical supplies. Nevertheless, class 35 is still a very crowded racing track, as many companies file defensive applications to prevent potential piracy or misleading use, despite the risk of non-use cancellation.