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**CHOOSING THE RIGHT TRADEMARK CLASS: COMMON
MISTAKES BUSINESSES MAKE AND HOW TO AVOID THEM**

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ABSTRACT

Trademark registration is often viewed simply as a means of securing exclusive rights over a brand name or logo. However, an equally important aspect of the registration process is identifying the appropriate class of goods or services. Since trademark protection is sought in relation to specified goods and services, an incorrect or incomplete classification may result in inadequate protection, examination complications, additional costs and difficulties in enforcement.

This article examines the significance of trademark classification in India under the Trademarks Act, 1999 and the Trademarks Rules, 2017. It discusses the Nice Classification system, the importance of accurately identifying goods and services, common classification mistakes made by businesses, and the circumstances in which multi-class applications may be appropriate. It also considers the judicial approach to classification through selected Indian decisions and provides practical guidance for businesses seeking to develop an effective trademark filing strategy. The article argues that trademark classification should not be treated merely as a procedural requirement, but as a strategic component of brand protection.

Keywords: Trademark Classification; Nice Classification; Trademark Registration;

Multi-class Applications; Trademark Protection.

1. INTRODUCTION

A business may spend years building a brand, developing customer recognition and creating goodwill around a particular name or logo. Yet, when seeking trademark registration, businesses often focus primarily on whether the brand name is available and overlook another equally important question: “For what exactly should the trademark be registered?”

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Consider a business that successfully registers its brand for clothing. A few years later, the same brand expands into footwear, bags and retail services. The proprietor may assume that the existing trademark registration automatically protects the brand across these new activities. However, trademark registration is connected to the goods and services for which protection is sought.

This makes the selection of the appropriate trademark class an important part of the filing strategy. India follows the Nice Classification system, under which goods and services are divided into 45 classes; Classes 1 to 34 covering goods and Classes 35 to 45 covering services. The Trademarks Registry uses this classification framework while processing applications.

The problem is that classification is often approached as a simple exercise of selecting a class number. The applicant must identify the actual goods and services offered under the trademark and describe them accurately. Businesses may therefore make mistakes by choosing the wrong class, filing in only one class, confusing goods with services, copying a competitor's classification or failing to consider genuine business expansion.

The question, therefore, is not merely which trademark class should be selected, but how should a business determine the classes that genuinely correspond to its commercial activities?

2. UNDERSTANDING TRADEMARK CLASSIFICATION IN INDIA

Trademark classification is the system through which goods and services are categorised for the purpose of trademark registration. The classification enables the applicant to identify the commercial activities for which trademark protection is sought.

The statutory foundation for classification is found in Section 7 of the Trademarks Act, 1999, which requires the Registrar to classify goods and services, as far as may be, in accordance with the international classification of goods and services for trademark registration. Section 8 further provides for an alphabetical index of the classification.

India follows the Nice Classification, an internationally recognised system administered by the World Intellectual Property Organization. The system contains 45 classes: Classes 1–34 relate to goods, while Classes 35–45 relate to services.

The Trademarks Rules, 2017 reinforce this framework. Rule 20 provides that goods and services are to be classified according to the current edition of the Nice Classification published by WIPO, while the Registrar publishes class-wise and alphabetical indices.

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However, selecting a class should not be reduced to identifying the broad industry in which a business operates. A business described as a “technology company”, for example, may manufacture hardware, provide downloadable software, develop software for clients or offer technology consultancy. These activities may require different classification considerations. Thus, the relevant question is always: What goods or services are actually being offered under the trademark?

3. WHY DOES CHOOSING THE CORRECT CLASS MATTER?

The importance of classification becomes clear when the scope of registered trademark rights is considered.

Under Section 28 of the Trademarks Act, 1999, registration confers upon the registered proprietor the exclusive right to use the trademark in relation to the goods or services in respect of which the trademark is registered, subject to the provisions of the Act.

Consequently, a business should not assume that registration of a mark for one category of goods automatically provides equivalent registered protection for every other product or service offered under the same brand.

Classification also becomes relevant in enforcement. Section 29 addresses infringement of registered trademarks and, among other circumstances, considers the identity or similarity of the marks and the goods or services covered by the registration. At the same time, trademark law does not treat class numbers as completely isolated compartments; the nature and commercial relationship between goods and services may also become relevant in a dispute.

The issue becomes even more important as businesses expand.

For example, a business may initially use its trademark for clothing and later introduce footwear, bags and retail services. The proprietor should reassess its trademark strategy as these activities develop instead of assuming that its original filing automatically covers every subsequent activity.

The objective, however, should not be to file in every conceivable class. A commercially sensible filing should correspond to the goods and services that the business offers or genuinely intends to offer.

4. COMMON MISTAKES BUSINESSES MAKE

4.1 Choosing the Wrong Class

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One of the most basic mistakes is selecting a class based merely on the broad description of the business.

For example, describing a business as a “food company” does not necessarily identify the appropriate class. A restaurant, a manufacturer of packaged food products and a business providing food-related services may have different classification requirements.

The appropriate class must therefore be determined by examining the specific nature of the goods or services, rather than simply the industry label.

4.2 Filing in Only One Class

Businesses frequently focus on their primary product and overlook other activities conducted under the same trademark.

A fashion brand, *for instance*, may initially sell clothing but later introduce footwear and bags and operate retail services. Registration limited to one category may not adequately reflect the broader commercial use of the brand.

Where a business genuinely operates across multiple categories, a multi-class filing strategy may therefore need to be considered.

4.3 Confusing Goods with Services

A business may manufacture, sell and provide services relating to the same general subject matter, but these activities are not necessarily classified identically.

This is particularly common in the technology sector. A business may provide downloadable software as a product while separately offering software development or technological consultancy services.

The fact that all activities fall under the umbrella of “technology” does not mean that they automatically belong to one class.

4.4 Copying a Competitor’s Classification

Another common approach is:

“My competitor has filed in Class X, so I should also file in Class X.”

This is not a reliable method of classification.

A competitor’s classification may be appropriate for its goods or services but inappropriate for another business with a different business model. Competitor filings can certainly be

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useful during trademark searches, but they should not replace an independent assessment of the applicant's own activities.

4.5 Ignoring Future Business Expansion

Businesses should also consider genuine and reasonably foreseeable expansion.

A clothing business planning to launch footwear, bags or retail services under the same brand should assess those activities before finalising its trademark strategy.

This does not mean filing in every class in which the business might possibly operate someday. The relevant consideration should be whether the proposed activities represent genuine commercial plans or intended use.

4.6 Using an Inaccurate Specification

Choosing the correct class is only half of the exercise. The description of the goods or services within that class is equally important.

A class number by itself does not provide a business with unlimited protection over everything falling within that class. The goods and services specified in the application must accurately reflect the applicant's actual or genuine intended use.

This is particularly important because an unnecessarily broad or inaccurate specification can create problems during examination and may not provide the practical protection the business expects.

4.7 Relying Entirely on Online Classification Tools

Online databases and classification tools can be useful for preliminary research. However, keywordbased searches may not always capture the legal or commercial distinction between different goods and services.

Accordingly, such tools should be treated as research aids rather than substitutes for a proper classification analysis.

5. PRACTICAL EXAMPLES

The following examples illustrate how the nature of the business activity affects classification:

Business Activity	Possible Relevant Class
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Cosmetics	Class 3
Clothing	Class 25
Restaurant services	Class 43
Advertising and business services	Class 35
Education and training	Class 41
Software	Class 9 / Class 42, depending on the activity

These examples should not be treated as universal rules.

For instance, Class 25 generally covers clothing, footwear and headgear. A fashion business selling clothing may therefore consider Class 25. If the same business operates retail services under the same trademark, however, those services require a separate classification analysis.

Similarly, software may involve Class 9 where the relevant subject matter concerns goods such as downloadable software, while certain software development and technological services may fall under Class 42.

Therefore, the question should never simply be, “*What industry am I in?*” It should be, “*What exactly am I offering under this trademark?*”

6. MULTI-CLASS APPLICATIONS: WHEN SHOULD BUSINESSES CONSIDER THEM?

A multi-class application allows an applicant to seek registration of the same trademark in respect of goods or services falling within more than one class. The Trademarks Act permits applications covering different classes, with the prescribed fee applicable to each class. The current official fee schedule likewise specifies fees on a per-class basis.

Consider a hypothetical brand, “ABC”, which begins as a clothing business but plans to expand into footwear, bags and retail services.

Rather than assuming that one registration will cover the entire business, ABC should separately identify:

- clothing;
- footwear;
- bags and related goods; and
- retail or business services.

The business can then assess the appropriate classes for each activity.

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A multi-class strategy may be particularly useful where a business genuinely operates across several categories under the same brand. However, filing in multiple classes also increases the cost and should therefore be commercially justified.

The best strategy is not necessarily maximum classes. It is appropriate classes supported by genuine commercial activity or legitimate intended use.

7. JUDICIAL PERSPECTIVE

7.1 *Vishnudas Kishandas v. Vazir Sultan Tobacco Co. Ltd.*

The Supreme Court considered the scope of a trademark registration where registration had been obtained in relation to a broad classification of goods. The Court recognised that where a trader deals with only particular goods within a broad classification and has no bona fide intention to deal with the remaining goods, registration should not be treated as creating an unrestricted monopoly over the entire category.

The decision is particularly relevant to businesses because it demonstrates that registration of a broad class should not be understood as automatically granting unlimited protection over every conceivable product falling within that class. The actual goods and genuine intention of the proprietor remain important considerations.

7.2 *H.S. Sahni v. Mukul Singhal &Anr.*

The Delhi High Court considered a dispute involving competing marks relating to cables and automobile-related products registered in different classes. In examining the relevance of classification, the Court observed that the classification of goods for trademark purposes should not be treated as consisting of separate or “airtight” categories. The Court noted that the classes are broad classifications and that the actual goods and their characteristics remain relevant.

The case provides an important practical lesson: The class number is significant, but it is not the only factor that determines whether goods or services are commercially or legally similar. These decisions demonstrate why businesses should approach classification carefully but should not assume that trademark disputes are decided solely by comparing class numbers.

8. A PRACTICAL APPROACH BEFORE FILING

Before filing a trademark application, a business should ask five basic questions:

First, what exactly are the goods or services being offered under the trademark?

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Second, does the business manufacture goods, sell goods, provide services, or do a combination of these?

Third, does the business genuinely intend to expand into additional goods or services under the same brand?

Fourth, has the applicant checked the relevant class as well as the specific description of goods or services within that class?

Finally, has a proper trademark search been conducted not only for identical marks but also for similar marks covering related or commercially connected goods and services?

This approach helps ensure that the trademark application reflects the business as it operates and as it genuinely intends to develop.

9. CONCLUSION

Choosing the correct trademark class is far more than a procedural step in the trademark registration process. It is a strategic decision that directly influences how a business defines and protects its brand.

A registration in an inappropriate class, an unnecessarily narrow specification or a failure to account for genuine business activities can create gaps between the protection sought and the commercial reality of the business.

At the same time, businesses should avoid the opposite approach of filing indiscriminately across numerous classes. The objective should be to create a commercially justified and legally sound filing strategy based on actual goods, services and genuine intended use.

Ultimately, effective trademark protection requires more than choosing a class number. It requires an accurate understanding of the business, a careful classification analysis, a properly drafted specification and an appropriate search strategy.

“Correct Classification + Accurate Specification + Proper Search + Strategic Filing
= stronger trademark protection”

BIBLIOGRAPHY

I. Statutes and Rules:

- **The Trademarks Act, 1999**, Act No. 47 of 1999, Government of India.
- **The Trademarks Rules, 2017**, Government of India.

II. Cases:

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- *Vishnudas Kishandas v. Vazir Sultan Tobacco Co. Ltd.*, (1997) 4 SCC 201.
- *H.S. Sahni &Anr. v. Mukul Singhal &Anr.*, Delhi High Court, FAO (COMM) 88/2021 & FAO (COMM) 89/2021, decided 10 November 2022.

III. International Classification:

- **Nice Classification**, World Intellectual Property Organization (WIPO), current edition.

IV. Official Sources:

- Office of the Controller General of Patents, Designs and Trademarks (CGPDTM), Government of India, **Trademarks Act, 1999 and Trademarks Rules, 2017**. ([IP India](#))
- Intellectual Property India, **Basics of Trademarks – Goods and Services Classification**. ([IP India](#))

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