

Changes in China: Retail and Wholesale Services

By Xiang Gao and Stephen Yang, Peksung Intellectual Property Ltd., China

According to the World Intellectual Property Organization (WIPO), a new version of the 10th edition of the *International Classification of Goods and Services for the Purposes of the Registration of Marks* (Nice Classification) entered into force on January 1, 2013. The new version includes a number of changes. On November 26, 2012, the China Trademark Office (CTMO) online published a notice concerning preparation for adoption of the new version from the same date.

The CTMO has a self-edited *Classification of Similar Goods and Services for Registration of Marks in China* (Classification Book) by adoption of almost all goods or services listed in the Nice Classification and addition of some Chinese-characteristic goods which do not appear in the Nice Classification. The CTMO had not previously accepted the term “retail or wholesale services”, so applicants in pursuit of protection for those services had instead, before applying, designated alternative acceptable services terms such as “business information”, “marketing”, “import-export agencies”, “sales promotion for others”, “procurement services for others [purchasing goods and services for other business]”, “presentation of goods on communication media for retail purposes”, which appear in the Classification Book. Alternatively, after office actions arose, applicants amended the originally designated “retail or wholesale services” to be those substitute services.

Now, applicants may have more options. The new version of the Nice Classification includes the newly added “retail or wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies”. On December 14, 2012, the CTMO online published a “notification about mark applications in respect of newly added retail or wholesale services”. In the notification, the CTMO makes clear explanations as follows.

The newly-added services

Based on the new version of the Nice Classification, the CTMO has set up a new subclass 3509 in the Classification Book to include the following acceptable service terms:

- Retail or wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies;
- Retail or wholesale services for drugs for human use;
- Retail or wholesale services for pharmaceutical preparations;
- Retail or wholesale services for sanitary preparations;
- Retail or wholesale services for medical products;
- Retail or wholesale services for veterinary drugs; and
- Retail or wholesale services for veterinary preparations.

Unacceptable terms

The CTMO has indicated that applicants must file applications in accordance with the newly-added services as listed above; the specifications of the applications must not exceed the scope of the newly-added services; and the CTMO will definitely not accept the following terms outside the scope:

- Retail or wholesale services;
- Retail or wholesale of drugs;
- Retail or wholesale services for names of drugs;
- Retail and wholesale services for certain brands of drugs;
- Providing information for retail or wholesale of drugs;
- Providing consulting services to customers during drug retailing;
- Retail or wholesale services for compound preparations provided by medical institutions; and
- Other non-standard items.

In light of this latest development, applicants involved in retail or wholesale services in this field in China should review their trademark coverage in China and consider trademark filings in respect of the newly-added services as soon as possible.

For more information on patents, please contact:



Xiang Gao
Partner, Head of Trademark Department
Peksung Intellectual Property Ltd.
gxiang@peksung.com
www.peksung.com



Stephen Yang
Partner, Patent Attorney
Peksung Intellectual Property Ltd.
yyong@peksung.com
www.peksung.com