

The main points for filing an application regarding retail services or wholesale services.

1. Designating services

- (1) If retail services or wholesale services deal in a variety of goods in each field of clothing, food and beverages, and livingware, and these goods are carried in a single business establishment (e.g. Retail services provided by a department store), the service should be designated as 「衣料品・飲食料品及び生活用品に係る各種商品を一括して取り扱う小売又は卸売の業務において行われる顧客に対する便益の提供」 “Retail services or wholesale services for a variety of goods in each field of clothing, foods and beverages, and livingware, carrying all goods together.”¹

Note: For example, “retail services or wholesale services for all goods”, “retail services or wholesale services for a variety of goods in each field of clothing and foods” will not be accepted as a designated service.

- (2) If retail services or wholesale services deal in specific goods (e.g. Retail services for foods and beverages, retail services for clothing), the goods should be specified. Examples of services are shown in the last part.

- (3) It is impossible to change from retail services or wholesale services of (1) to (2) and vice versa.

- (4) These are examples that cannot be accepted as a designated service.

リテーリング Retailing (Goods are not specified)

小売店サービス Retail store services (Goods are not specified)

小売サービス Retail services (Goods are not specified)

卸売サービス Wholesale services (Goods are not specified)

百貨店サービス Department store services (Goods are not specified)

販売サービス Sale services (Goods are not specified)

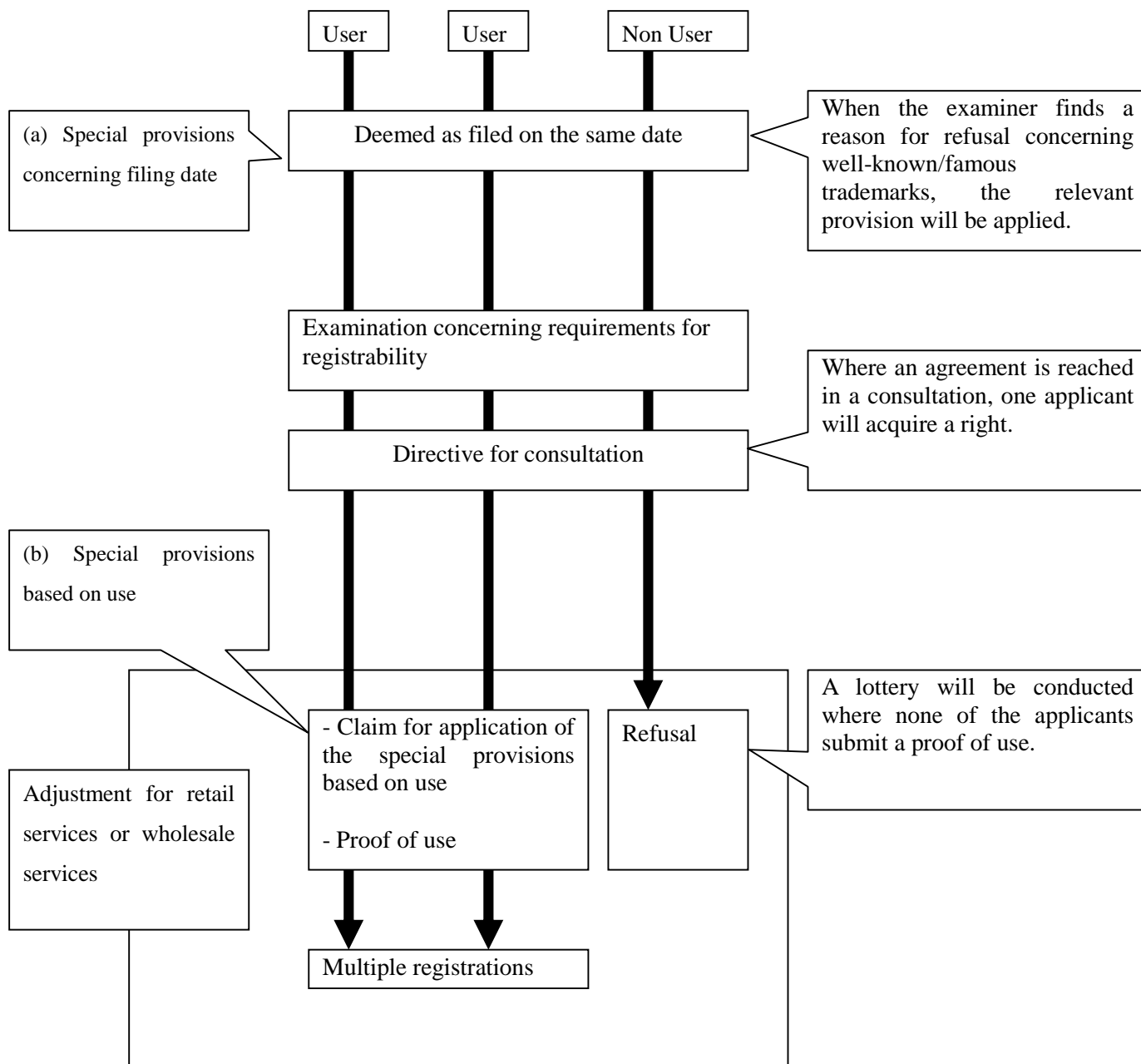
- (5) “The bringing together, for the benefit of others, of a variety of goods (excluding the transport thereof), enabling customers to conveniently view and purchase those goods” 「他人の便宜のために各種商品を揃え（運搬を除く）、顧客がこれらの商品を見、かつ、購入するために便宜を図ること。」 is treated as shown below.

¹ Services should be designated in the Japanese language. With regard to applications under the Madrid Protocol, services should be designated in English.

Under the revised Trademark Act, it is not clear whether “the bringing together, for the benefit of others, of a variety of goods (excluding the transport thereof), enabling customers to conveniently view and purchase those goods” 「他人の便宜のために各種商品を揃え（運搬を除く）、顧客がこれらの商品を見、かつ、購入するために便宜を図ること。」 specifies services for business support or retail services or wholesale services. The examiner therefore will confirm the applicant’s intention by issuing to the applicant a notification for reasons of refusal under Article 6 of the Trademark Act.

Where, as a result of confirmation, the above designation identifies services for business support, the examiner will suggest that the applicant amend the indication by adding, for example, “(other than retail services and/or wholesale services).” 「（小売又は卸売りの業務において行われる場合を除く。）」。 If retail services or wholesale services are being designated, the examiner will suggest that the applicant amend the indication to “Retail services and/or wholesale services for [indicate goods].” 「○○○の小売又は卸売の業務において行われる顧客に対する便益の提供」

2. Transitional measure



(a) Special provisions concerning filing date

- Two or more trademark applications designating retail services or wholesale services related to identical or similar trademarks that are filed within three months following the enforcement of the trademark system for retail and wholesale services (from April 1 to July 2, 2007) will be handled as applications filed on the same date.
- The first-to-file rule will apply for trademark applications covering “goods” or “services other than retail services or wholesale services.”

(b) Special provisions based on use

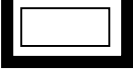
- As for applications deemed as those filed on the same date under the special provision on filing date, an application whose trademark has been used in Japan prior to the enforcement of the trademark system for retail and wholesale services will be registered in preference to other applications.
- The applicant must complete, within the allocated period for consultation, the procedures to claim the application of the special provisions based on use and submit proof of use. No such submissions will be accepted after the period.
- Where there are two or more applications for which the special provisions apply, multiple registrations will be allowed as long as they fulfill other requirements, such as not conflicting with a well-known/famous trademark of another legal entity.

(c) Right of continuing use

- If a person has been continuously using his trademark in relation to retail services or wholesale services prior to April 1, 2007 without the intention of unfair competition, a right of continuing use will be granted so as to enable the users to defense when sued for trademark infringement by a person who has acquired a trademark right for retail services or wholesale services.
- However, this right of continuing use does not apply to infringement suits by a holder of the trademark right for goods or services other than retail services or wholesale services.

Examples of designations for retail services or wholesale services

Note:

- (1) Retail services or wholesale services listed in the box of  are presumed to be similar to each other.
- (2) A particular code (e.g. 35K02) is given to each designated service and the services with the same code are presumed to be similar.
- (3) Please do not write the codes in an application form.
- (4) [About similarity between retail services or wholesale services and goods] When designated retail services or wholesale services specify goods, it can be treated as similar to the specified goods. (e.g. “Retail services or wholesale services for clothing” in Class 35 can be treated as similar to “clothing” in Class 25)
- (5) When you designate more than one retail services or wholesale services and they are dissimilar to each other (about dissimilarity, please refer to (1)), it can be thought that the application does not conform to the requirements as provided in the main paragraph of Section 3(1) of the Trademark Law. For details, please refer to Examination Guidelines for Trademarks.

(http://www.jpo.go.jp/cgi/linke.cgi?url=/tetuzuki_e/t_tokkyo_e/tt1302-002.htm)

Code:35K02

織物及び寝具類の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for woven fabrics and beddings
被服の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for clothing
おむつの小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for diapers
履物の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for footwear
かばん類及び袋物の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for bags and pouches
身の回り品の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for personal articles

Code:35K03

飲食料品の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for foods and beverages
酒類の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for liquor
食肉の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for meat
食用水産物の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for sea food
野菜及び果実の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for vegetables and fruits
菓子及びパンの小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for confectionery, bread and buns
米穀類の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for rice and cereals
牛乳の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for milk
清涼飲料及び果実飲料の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for carbonated drinks [refreshing beverages] and non-alcoholic fruit juice beverages
茶・コーヒー及びココアの小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for tea, coffee and cocoa
加工食料品の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for processed food

Code:35K04

自動車の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for automobiles
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Code:35K05

二輪自動車の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for two-wheeled motor vehicles
自転車の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for bicycles

Code:35K06

家具の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for furniture
建具の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for joinery fittings
畳類の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for tatami mats

Code:35K07

葬祭用具の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for ritual equipment
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Code:35K08

電気機械器具類の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for electrical machinery and apparatuses
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Code:35K09

手動利器・手動工具及び金具の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for bladed or pointed hand tools, hand tools, hardware
台所用品・清掃用具及び洗濯用具の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for kitchen equipment, cleaning tools and washing utensils

Code:35K10

薬剤及び医療補助品の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for pharmaceutical, veterinary and sanitary preparations and medical supplies
化粧品・歯磨き及びせっけん類の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for cosmetics, toiletries, dentifrices, soaps and detergents

Code:35K11

農耕用品の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for agricultural machines, implements and supplies
花及び木の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for flowers [natural] and trees

Code:35K12

燃料の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for fuel
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Code:35K13

印刷物の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for printed matter
紙類及び文房具類の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for paper and stationery

Code:35K14

運動具の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for sports goods
おもちゃ・人形及び娯楽用具の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for toys, dolls, game machines and apparatus

Code:35K15

楽器及びレコードの小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for musical instruments and records
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Code:35K16

写真機械器具及び写真材料の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for photographic machines and apparatus and photographic supplies
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Code:35K17

時計及び眼鏡の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for clocks, watches and spectacles [eyeglasses and goggles]
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Code:35K18

たばこ及び喫煙用具の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for tobaccos and smokers' articles
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Code:35K19

建築材料の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for building materials
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Code:35K20

宝玉及びその模造品の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for unwrought and semi-wrought precious stones and their imitations
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Code:35K21

愛玩動物の小売又は卸売の業務において行われる顧客に対する便益の提供	Retail services or wholesale services for pet animals
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