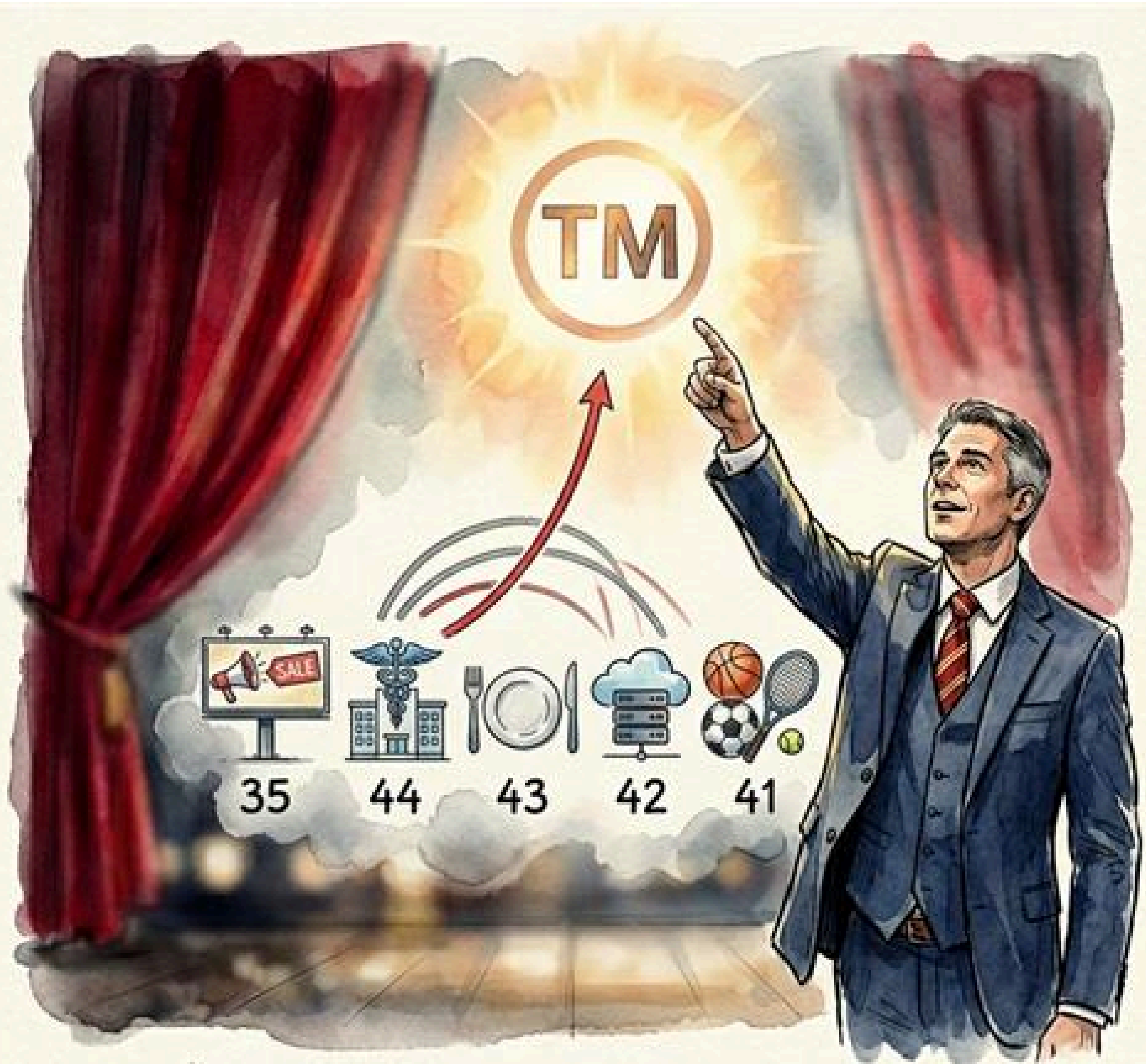


# NICE CLASSIFICATION: KEY CONSIDERATIONS FOR EFFECTIVE TRADEMARK PROTECTION



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Trademark protection extends beyond mere registration of a brand name and requires careful consideration of the goods and services it represents. Under the Nice Classification, trademarks are categorized into different classes. In India, this system is implemented under the Trade Marks Act, 1999 (“Act”) [1]. An incorrect or incomplete classification at the time of filing may lead to limited protection, objections, and potential challenges in enforcement. Accordingly, trademark classification should not be viewed as a procedural formality, but as strategic exercise requiring a clear understanding of the business and its present as well as future scope.

### **1.What is Nice Classification[2]?**

Ans: The International Classification of Goods and Services, known as Nice Classification, is a standardized system for classifying goods and services for the purpose of trademark registration. It was established under the Nice Agreement in 1957 and is administered by the World Intellectual Property Organization (WIPO). The Nice Classification system is currently adopted by many countries worldwide, including India.

The classification contains 45 classes of goods and services wherein class 1 to 34 covers goods, and Class 35 to 45 covers services, within which goods and services are systematically grouped according to their nature. This enables applicants to identify and select the appropriate class or classes suitable to their business activities.

As the Nice Classification is recognized across multiple jurisdictions, it makes international trademark registration more convenient and helps businesses secure protection for their brands in different markets.

[1] The article reflects the general work of the author on the date of publication and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice.

[2] <https://nclpub.wipo.int/enfr/>

## 2. How often is the Nice Classification updated and what is the impact of such updates?

Ans: The Nice Classification is periodically revised to reflect developing commercial practices, technological developments, and the introduction of new goods and services. The new editions are published every three years, along with annual updates issued by WIPO. However, it is important to note that such updates do not have retrospective effect. Existing registered trademarks and in process applications continue to remain classified in accordance with the version of the Nice Classification that was applicable at the time of their registration and applied for.



### 3. What are the common mistakes in choosing trademark classification and how can they be avoided?

Ans: Below are some common mistakes:

- **Incorrect identification of the relevant class:** A limited understanding of the nature, function and positioning of business often leads to incorrect identification of classes under the Nice Classification. Applicants often assume the trademark classes based on a general idea of their business, instead of carefully checking the detailed classification laid down under the Nice Classification. Incorrect classification can lead to objections, restricted scope of protection, additional filing costs and time, and inability to enforce rights against infringement in related business areas. It is therefore essential for applicants to clearly identify their core business activities, map them to the appropriate classes, and adopt precise descriptions of goods or services.
- **Using vague or generic descriptions of goods and services:** Another common issue in trademark applications is the use of vague, broad, or generic descriptions of goods and services. Applicants often use terms such as “all services”, “related goods” or “including but not limited to” without clearly specifying the exact nature of their offerings. Under the Nice Classification, the scope of protection is closely linked to the specific description provided in the application. It is therefore advisable to use clear and precise terminology, preferably aligned with or derived from the standard wording provided in the classification itself. Using such accurate terminology helps reduce the likelihood of objections, ensures consistency with the classification, and enhances the enforceability of trademark rights.

- **Relying only on class headings:** Class headings under the Nice Classification provide a broad indication of the general category but do not cover all goods or services falling within that class. Generally, trademark protection is granted based on the specific items listed in the application, not merely on the class heading. Therefore, using only the class heading may result in incomplete or inadequate protection. Applicants must include detailed and specific descriptions, using exact terms from the classification.
- **Filing application in a single class:** Businesses often limit their trademark application to a single class despite operating across multiple business verticals. Today businesses often extend products, services, technology, and distribution channels simultaneously. Under the Nice Classification, each distinct activity may fall under a different class. For instance, a technology-driven platform may involve software (Class 9), platform or SaaS services (Class 42), and marketplace or business services (Class 35). In such developing business models, restricting application in single class may result in limited protection. Hence, businesses must consider their current activities and future plans. Accordingly, decide whether to file in multiple relevant classes or apply in single class is sufficient.
- **Copy-Pasting descriptions without aligning with actual business activities:** Another common issue is adopting standard or third-party specifications without tailoring them to the applicant's actual business. While using standard wording is encouraged, merely copying descriptions may result in mismatch between the registered scope and actual use. This will weaken enforcement or even expose the mark to challenges on the ground of non-use. Applicants should ensure that the description is both standardized and accurately reflective of their operations.

#### **4. How do you determine the correct trademark class for your business?**

Ans: It is required to identify the exact nature of goods or services and mapping them to the appropriate class under the Nice Classification. Applicants should ensure that the specification of goods and services is clear and precise, as the scope of protection is limited to what is claimed in the application.

While identifying applicable classes, businesses must consider all business activities, including ancillary and planned expansion. Further it is advisable to conduct prior trademark search across relevant classes to identify potential conflicts and risk.

#### **5. Is it advisable to file trademark in multiple classes?**

Ans: Yes, it is advisable to seek protection in more than one class where business operates across multiple verticals or intends to expand into related areas. Section 18(2) of the Act provides that “a single application may be made for registration of a trade mark for different classes of goods and services and fee payable therefor shall be in respect of each such class of goods or services”.

**The application in multiple classes can be filed in the following ways:**

- i. Separate applications in different classes
- ii. Multi-Class application (Class 99)

Distinctions between Separate applications and Multi-Class application are set out below:

<b>Separate Applications (Each Class)</b>	<b>Multi-Class Application (Class 99)</b>
Individual applications are filed for each class of goods or services.	A single application is filed covering multiple classes of goods or services.
Government fees are payable separately for each application/class.	Government fees remain payable per class despite a single application.
Each application is examined and processed independently.	The application is examined in respect of all classes within a single filing.
An objection or delay in one class does not impact other applications.	An objection in one class may affect or delay the overall application.
Administrative efforts are higher due to multiple filings.	Administrative process is easy because of consolidated filing.

### Conclusion:

It is important to note that identifying the correct trademark class is a crucial step that directly impacts the strength and scope of brand protection. While the Nice Classification operates as an administrative tool for categorising goods and services, businesses should not treat classification as a routine formality, but approach it with due care, ensuring that the chosen classes and descriptions accurately reflect their operations. A well-considered filing strategy can help avoid unnecessary objections and reduce costs and time. Ultimately, aligning trademark filings with business realities ensures that brand rights remain effective, enforceable, and commercially valuable under the Act.

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