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Deep dive into 2025 Annual Report case highlights difficulties for brand owners in proving trademark use under Class 35

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Tong Du, 16 July 2025, first published by [IAM](#)

Live commerce has emerged as a major consumer purchasing channel in recent years. However, the China National IP Administration (CNIPA) has not yet articulated under which subgroup of services such activities should fall. It is therefore critical to analyse the Beijing High Court's ruling in the Huya case, which breaks new ground on this issue and provides essential guidance to trademark owners in the live commerce industry looking to secure or maintain registration on services under "sales promotion for others".

This case has been selected for inclusion in the Top 10 Judicial Cases on Trademark Granting and Affirmation 2024 by the Beijing courts and the Annual Report on the Application of Laws in Intellectual Property Cases, which was released by the Supreme Court in April 2025.

Case background

Guangzhou Huya Information Technology (Huya) is a leading game-livestreaming platform in China that offers dynamic content across games, e-sports and other areas of entertainment. The platform has amassed a large, highly engaged, interactive and immersive community of game enthusiasts.

On 2 December 2014, Huya applied for an image registration in Class 35, covering services including "sales promotion for others". The trademark was registered on 7 February 2016.



On 22 November 2021, a third party launched a non-use cancellation action before the CNIPA, alleging that this mark had not been used for three consecutive years since 22 November 2018.

In response, Huya provided contracts demonstrating its business collaboration with various game developers and providers, in which Huya vowed to promote their games on its platform in exchange for a cut of the revenue that the games generate. The CNIPA deemed that the trademark use in connection with such promotion fell under the service category of "advertising" rather than "sales promotion for others". Therefore, the CNIPA cancelled the registration for "sales promotion for others" on 29 August 2023.

Huya filed for administrative litigation before the Beijing IP Court, and, to prove the use on the service "sales promotion for others", Huya supplied evidence of use of its trademark on live commerce, in which it organised livestreams to showcase clients' products in real time, allowing customers to watch product demonstrations, ask questions and make purchases directly on the platform.

On 5 June 2024, the Beijing IP Court dismissed the suit, holding that in the "sales promotion for others", service providers should provide planning, publicity, consultation and other services for selling the goods or services, which Huya's evidence did not cover (2023 Jing 73 Xing Chu 19003).

Huya appealed to the Beijing High Court, citing two precedent decisions, which define "sales promotion for others" as "providing explicit advisory, planning and consulting services to help others promote their

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goods/services in the marketplace” (Zhejiang High Court, 2022 Zhe Min Zhong 1289 and SPC, 2023 Zui Gao Fa Min Shen 112).

Huya argued that it promoted games by displaying an introduction to them, organising promotional activities and providing downloading channels during livestreams. Games downloaded through its platform would be marked so that users and their top ups could be traced. Huya would receive a proportionate share of the revenue yielded from this.

With regard to the live commerce activities, Huya argued that it hosted livestreams and conducted the overall planning to facilitate the sale of others’ products, and in return, Huya charged for these services.

Court decision

The Beijing High Court examined the cooperation agreements signed with multiple game developers and providers. It found that the combination of time-stamped download pages, consumer reviews and walkthroughs proved that Huya was leveraging its traffic and user base and receiving a proportionate share of revenue. Further, the contracts regarding live commerce activities, together with corresponding media coverage and video screenshots cited by Huya, sufficed to prove Huya’s services to promote the sale of various products in exchange for promotional fees. Such gaming collaboration and live commerce both fell under the category of “sales promotion for others”. The court therefore concluded on 23 October 2024 that Huya engaged in genuine and lawful use of the trademark and that the registration would be maintained (2024 Jing Xing Zhong 6099).

Key takeaways and the road ahead

In practice, brand owners can find it difficult to prove use under “sales promotion for others”. The CNIPA erroneously found that Huya’s use of the trademark in collaboration with various game developers and providers fell under the category of advertising – when advertising usually refers to the activity of mere promoting, not selling others’ goods. In this sense, a provider of advertising services does not offer any planning or promotional services aimed at boosting sales. However, under “sales promotion for others”, providers allow others to sell goods on their platforms and simultaneously offer various services to facilitate these sales – like Huya did in this case.

The Beijing High Court underscored that “sales promotion for others” means that providers render services to sellers for promoted goods or services by offering planning and promotion to facilitate these sales. Both the acts of selling products/services for others and planning and promotion for sales are crucial to proving use under “sales promotion for others”.

The ruling rendered by the Beijing High Court is groundbreaking in terms of providing guidance to trademark owners in the live commerce industry looking to secure or maintain registration under this section of Class 35.