



June

1. Gathering again at INTA 2024 in Atlanta to discuss hot topics on IPR protection

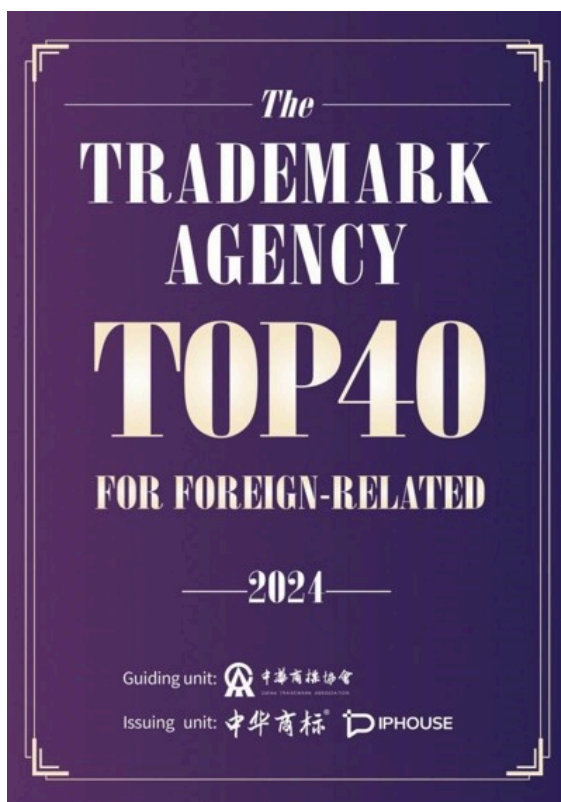


The 146th International Trademark Association INTA Annual Conference was held from May 18th to 22nd, 2024 in Atlanta, Georgia, USA. The conference brought together over 10000 brand professionals, senior lawyers, and corporate IPO elites from 136 countries.

As a member of INTA, Sanyou has been attending the conferences for many consecutive years. This year, Sanyou's IPR expert team has once again gathered with friends from all over the world to jointly discuss hot topics such as trademark strategic portfolio and IPR protection, and share cutting-edge industry trends and developments with each other. The mutual communications not only enhances our understanding of the latest developments in the field of trademarks, but also provides valuable reference and inspiration for future work.



Sanyou's trademark business has continued to grow in scale. Sanyou has been providing tailored solutions for foreign companies intending to protect their trademarks in China, winning high praise from clients. At this year's INTA Annual Conference, Sanyou was successfully selected as one of the **"Top 40 China Trademark Agency for Foreign Service Capabilities"** and **"AAA+++" China Professional Foreign Trademark Agency List (International Edition) for 2024 on the MOZLEN500 by the China Trademark Association**, and received special recommendations. The ranking is based on factors such as trademark big data and comprehensive influence both domestically and internationally. They serve as recognition and highlighting of Sanyou's professional capabilities in the field of trademarks.



In the future, Sanyou will continue to provide professional and efficient IPR services to various innovative entities with open attitude, safeguarding the construction of a solid intellectual property protection system for enterprises in the international market.

2. The "BARMAG" trademark opposition case represented by Sanyou has been selected as one of the Top 10 non litigation cases of trademarks by the Beijing Trademark Association in 2023

Recently, the Beijing Trademark Association released the "Top 10 Litigation and Non Litigation Typical Cases of Beijing Trademark in 2023", and the **"BARMAG" Trademark Objection Case represented by Sanyou was successfully selected as one of the Top 10 Non Litigation Typical Cases of Trademark in 2023.**



Sanyou Client: Oerlikon Textile GMBH & Co.KG

Hearing authority: CNIPA

Trial result: The opposed trademark is not approved for registration.

Case facts

Oerlikon Textile GMBH & Co.KG (hereinafter referred to as the "Opponent") is a German textile machinery manufacturing enterprise with a long history. Its trademark "BARMAG" was first registered by the Opponent on "pump gear pumps, plastic molding machines, gear pumps, metal wire rolling machines" and other goods, and has been widely used and promoted for a long time. It has already gained a certain level of popularity among the relevant public. The disputed trademark is designated for use on goods of Class 7. The Opponent has filed an opposition application against the "BARMAG" trademark (hereinafter referred to as the "objected trademark") under the name of a company in Ruian City (hereinafter referred to as the opposed trademark) that has been preliminarily approved and announced.

Focus of disputes and Typical Significance

1. According to the table for distinguishing similar goods and services, the goods designated by the opposed trademark and the goods approved by the cited trademark of the Opponent do not belong to similar goods. How to prove that the designated goods of the opposed trademark and the approved use of goods such as the cited trademark by the Opponent constitute similar goods has become a major challenge in this case.

The Opponent conducted sufficient patent and online searches, demonstrating that the goods designated for use by the opposed trademark and the goods approved for use by the cited trademark have intricate connections and inseparability in terms of product functions, industrial chains, and other aspects, and the goods of both parties have a high degree of correlation. The Opponent further conducted an on-site investigation into the use of the opposed trademark, proving that the actual goods used by the opposed party are the same as the Opponent's products, and that the areas of use highly overlap with the Opponent's, confirming that the coexistence of the opposed trademark and the cited trademark has led to the possibility of consumer confusion and misidentification of goods source.

2. In terms of testification of bad faith, as of the time of submitting the objection application, there were only three trademarks under the name of the opposed party. How to prove that the opposed trademark application is bad faith in nature has become another difficulty in this case.

In terms of consumer distribution, the Opponent and many of its customers are located in the Jiangsu Zhejiang area. The Opponent's textile fabric production and processing, spray dyeing machinery and its components, polyester fiber processing machinery, pumps, etc. have a high reputation in China, especially in the Jiangsu Zhejiang area. The actual business premises of the opposed party either overlap with or are close to the main business areas of the Opponent, making them competitors in the same industry. The opposed party's application for registration of the opposed trademark is thus of bad faith in nature, considering they should have known the existence of the Opponent's well-known trademark.

This case finally confirms that although the designated goods by both parties are not similar goods, they have a certain degree of association in actual use. The opposed party's plagiarism and imitation of other's trademark are of bad faith in nature, with the aim of taking free ride of the reputation of the Opponent's well-known trademark and seeking improper benefits, which violates the principle of good faith and credibility stipulated in Article 7 of the Trademark Law. If the opposed trademark is allowed to be registered, it will lead to confusion and misidentification of the origin of the goods by consumers. The opposed party did not submit a defense to provide a reasonable explanation.

Comment

When facing trademark registration with unclear malice, trademark owners should actively take all measures to uncover the clues of the other party's malicious behavior in actual use, retain relevant evidence, and try to elaborate on high correlation between the involved goods as much as possible. In opposition cases, the Trademark Office will comprehensively consider the possibility of confusion and misidentification caused by the trademarks of both parties, as well as bad faith and integrity of the opposed party, based on the originality of the trademarks, the actual use of trademarks by both parties, brand popularity, the nature of the industry they belong to, and the correlation between products.

- Sanyou was again awarded the honorary title of 'China's Outstanding Intellectual Property Service Team'
 - Sanyou TM has been recognized as a 'Well-known Trademark / Brand in Beijing' in 2023
 - Sanyou won the Trademark Opposition Case against "aotomechanika"
 - [4·26 Special Edition] 'Grounded in Innovation and Creation, Building a Common Future' - Sanyou Walking Event Held Successfully
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