



April

1. Join Sanyou at the INTA 2025 at the San Diego Convention Center in the United States

A promotional graphic for Beijing Sanyou Intellectual Property Agency Ltd. The background is a light blue wash with a traditional Chinese ink wash style, featuring a branch with pink blossoms in the center. On the left, a circular diagram lists various IP services: Patent, Trademark, Copyright, Translation, Prosecution, Annulment, Invalidation, Litigation, Investigation, Searching, FTO analysis, Patent mapping, and IP operation. The Sanyou logo is at the top center. Below it, the text 'Beijing Sanyou Intellectual Property Agency Ltd.' is written in blue. To the right of the blossoms, statistics are listed: 'SINCE 1986', '450 Staff', '180 Patent attorneys', '40 Trademark professionals', and '30 Lawyers'. Further right, another Sanyou logo is shown with the tagline 'Build IP Protection Worldwide.' At the bottom right, office locations are listed: 'Offices in China: Beijing Suzhou Dalian Hong Kong' and 'Offices Overseas: Tokyo Frankfurt'.

The 147th International Trademark Association (INTA) Annual Meeting will be held from May 17th to 22nd at the San Diego Convention Center in the United States. This annual global trademark event gathers elites from all walks of life. Sanyou will send a professional team of 12 senior trademark and patent attorneys to attend the conference at booth No. 1843. Sanyou sincerely welcomes friends and clients to visit our booth and explore hot IPR topics potential opportunities for cooperation.



Sanyou IP's Delegation for the 147th INTA Annual Meeting



2. The Regulations on the Handling of Foreign Related Intellectual Property Disputes will officially come into effect on May 1, 2025

The State Council of the People's Republic of China has passed and promulgated the Regulations on the Handling of Foreign Related Intellectual Property Disputes (the Regulations). On the one hand, the regulations aim to guide and assist Chinese citizens, enterprises and organizations in handling foreign-related intellectual property disputes, and on the other hand, it also protects the legitimate interests of foreign-funded enterprises operating in China, serving as a legal guarantee for the new development pattern of "dual circulation". The regulations will officially come into effect on May 1, 2025.

1. Major Highlights

1) Clarify the division of responsibilities of the government: Articles 2-6 establish a management system of "central departmental coordination + local cooperation" for government departments to handle foreign-related intellectual property disputes, which points out the leading position of the State Council's intellectual property management department and commerce department, and builds a cross departmental coordination mechanism. And, local people's governments at or above the county level and their relevant departments are responsible for specific dispute resolution.

2) Building an intellectual property government service system: Articles 4 and 5 require relevant departments such as the State Council's intellectual property management department and the commerce regulatory department to establish a mechanism for promoting foreign intellectual property laws and risk warning, which can provide accurate compliance guidance for domestic citizens and organizations. Article 6 requires relevant departments of the State Council to further refine the process of handling intellectual property

disputes and offer assistance to Chinese citizens and organizations in safeguarding their rights.

3) Establish a diversified dispute resolution mechanism: Article 7 innovatively introduces commercial mediation organizations and arbitration institutions to participate in the resolution of intellectual property disputes involving foreign parties, which echoes the successful experience of Singapore International Mediation Centre (SIMC). Compared to litigation, mediation and arbitration usually have lower costs and takes shorter periods, which saves time and costs for the parties involved.

4) Internationalization of professional services: Article 8 encourages legal service institutions to "go global" and open branch offices in foreign markets. Through this approach, it is more convenient to provide legal assistance to Chinese citizens and organizations when conducting business overseas, and it also helps to enhance the country's intellectual property image.

5) Explore intellectual property support mechanisms within the industry: Article 9 aims to reduce the cost of rights protection by encouraging the development of relevant insurance businesses and supporting the establishment of mutual aid funds for rights protection. Article 10: By encouraging organizations such as chambers of commerce, industry associations, and cross-border e-commerce platforms to establish foreign-related intellectual property rights protection assistance platforms, it can provide legal advice, guidance on rights protection strategies, integrate industry resources, promote communication and industry self-discipline among enterprises, enhance the overall image of the industry, and strengthen international competitiveness.

6) Enterprise compliance guidance mechanism: Article 11 innovatively requires enterprises to establish an "intellectual property overseas compliance system", including: improving internal rules and regulations, appointing dedicated intellectual property compliance officers, and establishing an overseas legal risk assessment system. At the same time, Article 11 also requires government departments to carry out foreign-related intellectual property training and legal publicity for enterprises, aiming to improve the level of intellectual property protection in China through the "corporate self-discipline + governmental guidance" model, and help enterprises achieve steady and long-term success in global competition.

7) Upholding procedural justice: Article 12 stipulates that documents shall be served; investigations and evidence be collected within the territory of China in accordance with domestic laws and international treaties concluded or acceded to by China. Article 13 stipulates that when providing evidence or relevant materials to overseas parties, they shall comply with the provisions of laws and administrative regulations. These two regulations provide clear compliance guidelines for citizens and organizations to safeguard their rights in intellectual property disputes, ensuring national security, personal information and data security, and safeguarding procedural justice.

8) Innovation of trade remedy mechanism: Article 14 refers to the intellectual property protection provisions (Articles 28 to 30) in the Foreign Trade Law of the People's Republic of China. By establishing a fast circuit breaker mechanism for imported infringing goods, anti-monopoly review of intellectual property license abuse rights, and the principle of equal international treatment for intellectual property protection. On the one hand, this law provides clear operational standards for law enforcement agencies to more accurately judge and handle foreign trade issues involving intellectual property rights; on the other hand, enterprises can have a clearer understanding of the intellectual property rules that should be followed in foreign trade, to avoid violations caused by ambiguity, and reduce legal risks.

9) Establishing intellectual property countermeasures mechanism: Articles 15-16 establish the "List of Anti-Foreign Discrimination Measures for Intellectual Property" system, which is the first time that China has applied the Anti-Foreign Sanctions Law of the People's Republic of China in the field of IPR. This mechanism effectively safeguards the legitimate rights and interests of enterprises by blocking unilateral foreign sanctions.

10) Intellectual property security screening: Article 17 establishes a linkage screening mechanism between intellectual property and national security, and specifies the initiation of special investigation procedures for intellectual property behaviors that endanger national security. Moreover, the article also specifies the basis for taking legal measures against different behaviors. For those who endanger China's sovereignty and security, corresponding measures shall be taken in accordance with the Foreign Relations Law and the Anti-Foreign Sanctions Law. Those who abuse intellectual property rights to exclude, restrict competition or engage in unfair competition shall be dealt with in accordance with the Anti-Monopoly Law or the Anti-Unfair Competition Law.

2. The impact on foreign enterprises

For foreign enterprises, the following provisions of this regulation need to be noted:

1) Article 7: Due to the increasing number of ways to resolve cross-border intellectual property disputes in the future, which may involve the application of laws in multiple countries, it is necessary to resolve them through mediation, arbitration institutions, or judicial procedures, making the process more complex. It is necessary to further understand the various resolution channels in China, which increases the difficulty of compliance management.

2) Article 12: For the service of documents or investigation and evidence collection within the territory of China, it is necessary to comply with Chinese laws and regulations. Therefore, it is recommended to entrust a service agency that understands the legal provisions of China to serve documents or conduct investigations and evidence collection within the territory of China.

3) Article 14: When signing a licensing contract with a Chinese enterprise, foreign enterprises need to negotiate equally with Chinese enterprises, decide on the intellectual property rights to be licensed based on their true intentions, and retain evidence of negotiation during the negotiation process to avoid licensing disputes in the future. In addition, it is necessary to pay attention to whether the country where the enterprise is located has implemented discriminatory intellectual property protection measures against Chinese enterprises, whether it grants national treatment principles to Chinese citizens and organizations, timely tracks the countermeasures list and related measures issued by the Chinese government, adjusts business strategies, and reduces losses caused by reciprocal retaliation.

4) Articles 15 and 16: Enterprises cannot cooperate with foreign governments to implement discriminatory intellectual property restrictions, otherwise they may be included in the list of anti-foreign discriminatory measures. They not only face countermeasures such as restrictions or prohibitions on transactions, freezing of assets in China, and prohibition of entry, but may also be sued by Chinese citizens or organizations in court and face high compensation risks.

3. Sanyou won the trademark distinctiveness defense representing Anker Innovation's "Soundcore Glow" trademark

Sanyou's client: Anker Innovation Technology Co., Ltd.

Hearing authority: The CNIPA

Trial result: The applied trademark registration on the goods in the review procedure has been preliminarily approved.

Introduction to the applied trademark: Soundcore Glow

soundcore (Soundcore) is an audio brand under Anker Innovation (Anker), and the trademark "Soundcore Glow" applied for in this case is a sub-brand of the applicant's **soundcore** portable wireless Bluetooth speaker product line.

Background introduction

For brand protection, Anker has applied to register the disputed trademark "Soundcore Glow" on goods of Class 9. According to the judgment of the CNIPA and the provisions of Paragraph 1 (2) of Article 11 of the Trademark Law, the registration application of Anker was rejected. The reason for rejection is that the logo used on the designated goods directly represents the functions and characteristics of the goods, and therefore cannot be registered as a trademark.

Dissatisfied with the ground for rejection, Anker entrusted Sanyou trademark attorney to apply for Review of rejection to the CNIPA.

Legal terms

Paragraph 1(2), Article 11 of the Trademark Law stipulates that signs that directly indicate the quality, main raw materials, function, purpose, weight, quantity, and other characteristics of goods shall not be registered as trademarks.

Defense approach

The core of the defense in the review of rejection procedure for the applied trademark lies in arguing that the applied trademark does not "only" and "directly" represent the characteristics of goods or services. 'Only' and 'directly' are two applicable elements of this clause. There is a progressive relation between the two.

First, "only" serves as a prerequisite, requiring the application for a trademark to describe the quality, main raw materials, functions, uses, weight, quantity, and other characteristics of the designated goods or services as a whole, or to include other constituent elements that do not have significant features.

Second, 'directly' requires that the overall description of the characteristics of goods or services of the trademark is not implicit or suggestive, but rather directly expresses the attributes of the goods or services.

In addition, the judgment of "only" and "directly" also needs to take into account factors such as the goods or services designated by the trademark, and the cognitive habits of the relevant public.

In this case, the main evidence presented by the trademark attorney of Sanyou in the review is that the applied trademark "Soundcore

Glow" is a fabricated word coined by the applicant, which does not directly explain or describe the functions and characteristics of the designated goods, and has strong distinctiveness. Especially, the first half of "Soundcore", as the core brand under the applicant, has gained high popularity and reputation through long-term extensive promotion and use by the applicant. At the same time, similar cases are cited. Based on the principle of consistency in examination standards, Sanyou attorney requests that the applied trademark should be preliminarily approved. The CNIPA finally granted Sanyou's request.

Typical significance

The application for a trademark must meet both the "only" and "directly" requirements, that is, a non-suggestive description of the characteristics of the designated goods or services as a whole. It cannot be mechanically determined that the trademark lacks distinctiveness just because it contains some directly descriptive elements, otherwise it will harm the applicant's reasonable expectations and legitimate rights and interests.

The trial and victory of this case have certain reference value for the defense of a trademark's distinctiveness in the review of rejection of trademark application in accordance with Paragraph 1(2), Article 11 of the Trademark Law.

In April 2024, after on-site evaluation by a third-party certification institution organized by the China Trademark Association and expert review meeting, Anker's trademark **ANKER** met the group standard of the "Well-known Trademark/Brand Evaluation Specification" (T/CNTA 002-2022) and was recognized as a "AAA Well-known Trademark Brand". And it also received the "AAA Well-known Trademark Brand" plaque during the China Brand Day (Shanghai) event in May of the same year.

- ▣ General Manager of Sanyou, DANG Xiaolin, was invited to give a keynote speech at the 'Trademark Five Party Talks' (TM5)
- ▣ Another 6 Sanyouers included as senior and first level talents in the trademark talent pool of the China Trademark Association
- ▣ Congratulations to Sanyou for multiple client patent projects being shortlisted for the 25th China Patent Award