AFD China
INTELLECTUAL PROPERTY LAW OFFICE

Newsletter
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AFD China Recommended in Patent and Trademark Prosecution and Contentious by Asia IP

AFD China has once again been recommended for its outstanding performance in the patent and trademark fields by the 2025 Asia IP Profile, an authoritative annual publication of Asia IP. Our firm retains its Tier 2 ranking in patent prosecution, trademark prosecution, as well as trademark contentious work. Notably, AFD China achieved a significant advancement in the patent contentious category, rising from Tier 2 to Tier 1 recommendation this year.

Asia IP, a leading legal media platform specializing in intellectual property, delivers high-quality IP insights to businesses across Asia. The publication's annual rankings assess firms' true comprehensive capabilities and service quality based on core criteria including firm size, case volume, client feedback, and representative cases.

AFD China has participated in the Asia IP annual rankings for many consecutive years and consistently ranked high. This is a recognition of our team and our service quality. We believe in the power of shared experience and continuous learning. We work seamlessly, leveraging the team's collective resources and strengths to complement individual limitations. By assembling skilled and dedicated work teams, we ensure timely and effective solutions that safeguard clients' intellectual property.

We thank every client for their trust and honor the hard work of every colleague. Our original aspiration remains unchanged, and our service will never cease. We will continue to provide practical and effective services, providing clients with a one-stop service throughout the entire process of protecting your intangible assets.

AFD China Won China IP Awards 2025

The reputable intellectual property magazine Asia IP released its China IP Awards 2025, announcing the winning Chinese law firms in each practice area.

AFD China has once again been honored as "Technology, Media & Telecoms Firms of the Year," reflecting our outstanding IP expertise in the fields of technology, media and telecommunication, along with the trusted reputation earned from our clients through our consistent delivering timely, high-quality and customized services.

As one of the most influential awards in China's intellectual property field, China IP Awards carefully evaluated each firm's most important cases, portfolios and other notable work throughout the past year, combined with the clients' recommendations and feedback. Our retaining of the title of "Technology, Media & Telecoms Firms of the Year" this

year demonstrates our deep understanding and outstanding practices in the technology, media, and telecommunications industries, as well as our clients' recognition and appreciation for our customized intellectual property protection and enforcement strategies. This award will serve as ongoing motivation for us to further strengthen our efforts in related fields. We will continue to focus on client needs, upholding "professionalism, efficiency, integrity, and innovation" as our service philosophy, and supporting our clients' innovation and development through seamless teamwork.

We sincerely thank all our clients who have been with us throughout this journey. It is your trust that has made our achievements possible. Every recognition from you is the engine that drives us to strive for excellence; every request from you guides us in developing more professional solutions. Going forward, we will continue to proactively respond to client needs and safeguard your IP assets through tailored solutions.

AFD China was once again Recommended by IAM Patent 1000

The 2025 edition of IAM Patent 1000 has been released by Intellectual Asset Management (IAM), the world's leading IP business media platform. AFD China has once again been listed as a recommended firm for patent prosecution, marking our ninth consecutive listing since 2016. This year brings an additional milestone as we were included in patent litigation category for the first time. In addition, our founder Ms. Xia Zheng was once again recommended as a leading patent attorney - an honor she has consistently earned.

The listing of IAM Patent 1000 is widely regarded as one of the most authoritative and influential rankings in the global intellectual property field. The listing recommends world-class patent firms and excellent expertise, through deep investigation and comprehensive consideration of depth of knowledge, market presence, the level of work, and positive peer and client feedback.

AFD China has always been putting clients at the forefront of our minds. Our team's vast knowledge and unwavering exploration of intellectual property laws, practices, and a diverse technical background across major technology domains enable us to offer clients forward-thinking and comprehensive advise. With solid technological backgrounds, rich experience, meticulous attitude, perseverance and professionalism in pursuit of excellence, our team has received high praise from domestic and foreign customers.

This renewed recognition in the listing of IAM Patent 1000 underscores AFD China's proven capabilities and service standards in patent services. Our inclusion in patent litigation category powerfully reflects our professional commitment to the "Pursuit of Excellence". We stay abreast of industry developments, actively sharing and applying practical experiences, and making use of the collective resources and strengthens to complement individual limitations, which allowing us to empower clients' innovation and development.

Our achievements are inseparable from the trust and support of our clients and the hard work of every colleague. We accept every commission with respect and are grateful for the efforts and contributions of all our colleagues in providing high-quality, comprehensive, and case-specific intellectual property solutions. Achievements are never the end. We will continue to work diligently, hand in hand with clients and colleagues, to achieve greater progress.

XML Format is required by CNIPA as from October 1, 2025 for Patent Filings

Starting from October 1, 2025, Extensible Markup Language (XML) format is required by China National Intellectual Property Administration (CNIPA) for patent applications filed through its e-filing system.

Failure to do so will be deemed as an automatic waiver of the rights for certain examination procedures, such as the request for Patent Prosecution Highway (PPH), the request for deferred examination, etc.

And, CNIPA will gradually upgrade its online filing system in 2026 so as to only accept XML-format submissions for all patent applications filed through its e-filing system.

Thus, in order to maintain the applicants' rights to all available examination procedures including those mentioned above, it is recommended that the applicants prepare and submit all patent applications in XML format as required by CNIPA as from October 1, 2025.

China Boosts Judicial Shield for Innovators

Innovators from China's private sector will benefit from stronger judicial protection, especially those working in new technologies and emerging businesses, under a guideline issued on Friday by the country's top court.

Reiterating the private sector's important role in the Chinese socialist market economy, the Supreme People's Court (SPC) released a 25-article guideline requiring courts nationwide to focus more on intellectual property cases involving high-tech fields and to strengthen legal protection for key areas and core technological innovations.

The guideline also encourages judges to use punitive damages in IP cases to effectively combat violators and provide incentives for innovators.

Additionally, it allows courts across the country to foster the healthy development of the artificial intelligence industry, and conduct more research on safeguarding data rights while facilitating efficient data circulation.

The court said the guideline aims to ensure the accurate implementation of the Private Sector Promotion Law, which took effect on May 20. It is the country's first fundamental law in this regard, marking a milestone in bolstering private sector development and boosting entrepreneurs' confidence.

"Ensuring the equal protection of the legitimate rights and interests of private entities and their operators through adjudication is better to promote the sustainable, healthy and high-quality growth of the private economy," the court said.

While optimizing the rule of law environment for the private sector, the guideline also emphasizes the need to strengthen internal management within private enterprises.

For example, Chinese courts are mandated to tackle corruption within private companies with the same rigor as graft within state-owned enterprises. Judges are also tasked with providing stronger legal education and training for entrepreneurs to deter offenses such as bid rigging.

In shareholder disputes at private companies, courts at each level should patiently explain the laws and actively steer the parties toward a substantive resolution of business standstills through measures such as equity transfers, share repurchases, capital reductions and divisions. The goal is to prevent disruptions in corporate governance that could impede production and operations.

Before releasing the guideline, the top court disclosed several concluded cases to show judicial efforts to protect the legitimate rights of private firms and regulate the sector's development.

Earlier this month, it highlighted the successful mediation of several disputes involving three technological researchers, saying that resolving their problems at one time allowed them to focus on innovation rather than litigation.

It also mentioned a contract dispute between a company in Zhejiang province and a Spanish firm to show how Chinese courts have provided legal aid for domestic enterprises going global in line with the law.

The guideline also calls for the timely disclosure of such cases to help regulate private enterprise activities.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202508/1992806.html

China-SCO Science-Technology Innovation Cooperation Center unveiled in Qingdao

As a significant outcome of the Shanghai Cooperation Organization Tianjin Summit, the China-SCO Science-Technology Innovation Cooperation Center was officially inaugurated in Qingdao in Shandong province on Thursday, showcasing China's unwavering commitment to promoting the Shanghai Spirit and advancing the building of a community with a shared future for humanity through science and technology innovation cooperation.

The center, adhering to the concept of "being rooted in Shandong, radiating across the country and facing SCO member states", aims to build itself into a vital hub for scientific and technological cooperation among SCO countries and contribute technological strength to the construction of an SCO community with a shared future.

The center plans to focus on four main areas: enhancing scientific and technological exchanges through brand-name events; advancing joint research and development in critical sectors; building a technology transfer network by improving services related to intellectual property rights, financial empowerment and international technology transfer intermediaries; and establishing an international think tank to enable in-depth discussions on science and technology innovation policies and practical experiences, thereby offering intellectual support for global cooperation.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202509/1993130.html

China rises to global innovation top 10: WIPO index

GENEVA-China has risen to the 10th position in the global innovation ranking for 2025, up one spot from the previous year, marking its first entry into the top 10, according to the World Intellectual Property Organization (WIPO) on Thursday.

The Global Innovation Index (GII) 2025 report released by the WIPO evaluates the innovation performance of nearly 140 economies using approximately 80 indicators, including research and development (R&D) spending, venture capital (VC) deals, high-tech exports, and intellectual property filings.

Switzerland tops the latest ranking, followed by Sweden, the United States, the Republic of Korea, Singapore, the United Kingdom, Finland, Netherlands, Denmark, and China.

The report also highlights that China maintains its lead among middle-income economies globally and shows continued strength in R&D spending, high-tech exports and innovation outputs. For the third consecutive year, China hosts the highest number of top 100 global science and technology innovation clusters, with 24 clusters listed in the 2025 index. The Shenzhen-Hong Kong-Guangzhou cluster ranked first globally for the first time.

In GII 2025, 17 low- and middle-income economies are performing above expectations for their level of development, with India and Vietnam as longest-running innovation overperformers. Sub-Saharan Africa leads in the number of economies overperforming on innovation, led by South Africa, Senegal, and Rwanda.

Southeast Asia, East Asia, and Oceania remains a driving force in global innovation in 2025, with six economies ranked among the top 25.

Beyond the innovation rankings, the 2025 edition shows an uneven performance in leading indicators of future innovative activity.

R&D growth in 2024 fell to its lowest level since the 2010 financial crisis. Due to persistent inflation, real growth in business R&D expenditure slowed to 1 percent, well below the past decade's average of 4.6 percent. ICT-related companies, especially AI-intensive sectors, software, and pharmaceutical firms increased R&D budgets, while manufacturing sectors such as automobiles and consumer goods have cut R&D spending amid declining revenues.

Venture capital rebounded, with transaction value growing by 7.7 percent in 2024, largely driven by mega-deals in the United States and a surge in generative AI investments. However, excluding these, venture capital would have contracted.

Technological progress, a dimension covered in the GII Global Innovation Tracker, remained strong, with battery prices and supercomputer efficiency improving while the cost of genome sequencing declining further.

"However, innovation isn't standing still. It's recalibrating. New breakthroughs are still reaching people around the world. From green supercomputing and artificial intelligence, to smarter batteries, faster internet and better cancer care," said WIPO.

"While we see encouraging signs of recovery in areas such as innovation uptake and impact, the global innovation engine is not firing on all cylinders. Slower growth in R&D investments and declining VC activity reminds us that innovation requires sustained upstream and financial commitment," said WIPO Director General Daren Tang in the press release.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202509/1993199.html

China's annual IP conference kicks off in Beijing

The 2025 China Intellectual Property Annual Conference opened in Beijing on Thursday, focusing on the development, utilization and protection of IP in this rapidly growing digital age.

The two-day conference has attracted more than 8,000 participants, including those from government departments, domestic and foreign enterprises and IP service providers.

Shen Changyu, head of the China Intellectual Property Administration, said the world has entered a digital era where everything is interconnected, and computing is ubiquitous, adding that China has attached great importance to digital economic development and technological innovation.

"The development of the digital economy relies on the support of key core technologies, and the digital age is driving the transformation of IP systems," he noted.

In response, he said the administration has been actively improving and refining the IP protection system for new fields and business models such as big data and artificial intelligence.

Meanwhile, the administration has also been leveraging digital technologies to enhance the effectiveness of IP governance, he added.

Daren Tang, director general of the WIPO, said in his congratulatory letter to the conference that the global industrial economy is undergoing a transformation, entering an era driven by intellectual property, with many countries increasing their investments in the digital and creative economy sectors.

He praised China's increased investment and significant progress in various cutting-edge technology fields, including generative AI, quantum computing and cloud infrastructure, adding that WIPO is willing to collaborate with all sectors to foster a spirit of innovation, making IP a catalyst for the future development of humanity.

While exhibiting the latest achievements in the fields of patent, trademark and geographical indication, the conference will also host a main session and 12 subforums addressing key IP issues, aiming to establish a platform for participants to increase exchanges and strengthen cooperation.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202509/1993203.html

China Leads Global Core Digital Economy Patents in 2024

China ranked first worldwide in terms of the number of invention patent grants within the core industries of the digital economy in 2024, with a growth rate notably exceeding the global average, the country's top IP regulator said on Thursday.

According to the CNIPA, the number of authorized invention patents in these industries had reached 500,000 last year, recording a year-on-year increase of 23.1 percent.

This data was released at the ongoing 14th China Intellectual Property Annual Conference, themed "IP in the Digital Age."

The CNIPA noted this progress in the AI industry, saying that China has emerged as the leading country in terms of AI-related patent holdings globally, accounting for 60 percent of the world total.

It also highlighted the growth of international patents, saying that the number of overseas invention patents granted to the core industries of China's digital economy had increased from 21,000 in 2016 to 52,000 in 2024.

Meanwhile, the number of foreign enterprises applying for invention patents in these industries in China has also been rising steadily. As of the end of last year, 95 countries and regions had obtained valid invention patents in the core industries of the digital economy in China. The number of such patents amounted to 407,000, accounting for 43.7 percent of the total valid invention patents held by foreign innovators in China.

"This fully demonstrates that foreign enterprises are confident in the future development of China's digital economy," said Shen Changyu, head of the CNIPA.

https://english.cnipa.gov.cn/art/2025/9/16/art_2975_201564.html

2025 IP5 Trial and Appeal Boards High-Level Meeting Held in Fuzhou

On September 16, the 2025 IP5 Trial and Appeal Boards High-Level Meeting was held in Fuzhou. Hu Wenhui, Deputy Commissioner of the CNIPA, attended the meeting and delivered a speech. Heads and representatives from the trial and appeal boards of the IP5 Offices, as well as observers from the WIPO, attended both online and onsite.

The meeting emphasized that the establishment of the cooperation mechanism among the trial and appeal boards of the IP5 Offices is a valuable exploration in global innovation governance and a strong support for jointly addressing technological changes and challenges. CNIPA noted that building a global IP landscape requires joint efforts. China is willing to work with all parties in an open manner to build consensus, enhance pragmatic cooperation, and contribute Chinese wisdom and solutions to creating an international environment conducive to innovation and development.

The meeting marked the first time that such a high-level event was hosted in China. Representatives engaged in in-depth discussions on topics including the latest developments and initiatives of the trial and appeal boards, and reached consensus on the inaugural release of the User Guide of IP5 Trial and Appeal Procedures.

https://english.cnipa.gov.cn/art/2025/9/23/art_1340_201704.html

SUPPLEMENTARY ISSUE

Determination of Partial Priority in Invention Patents

The SPC, in second-instance judgments on two administrative disputes over the invalidation of two invention patents involving priority rights, clarified the rules for determining partial priority in invention patents.

Company A is the patentee of two invention patents titled "Method and Apparatus for Enhancing Uplink MAC Multiplexing and TFC Selection Process" and "Method, WTRU, and Base Station for Enhancing Uplink MAC Multiplexing and TFC Selection Process" (collectively, the "Patents"). Company A claimed three foreign priority rights for the Patents.

On May 15, 2020, Company B requested the CNIPA to invalidate the Patents, primarily arguing that the Patents lacked inventiveness. In response, Company A asserted that the Patents were entitled to priority based on: In response, Company A argued that the Patents were entitled priority based on Evidence 5 (the “First Priority Document”) and Evidence 6 (the “Second Priority Document”). Company B, in turn, argued that claims 2, 4, 6, 12, 14, 16, 18, and 24 of the Patents did not qualify for priority. In January 2021, the CNIPA issued its Invalidation Decisions (the “Disputed Decisions”), upholding the validity of the Patents. However, the CNIPA ruled that the aforementioned claims were not clearly recorded in Evidences 5 and 6 and therefore could not enjoy first and second priority rights, and did not comply with Article 29 of the Patent Law. On this Basis, the CNIPA also reassessed the inventiveness of the those claims. Dissatisfied with the ruling, Company A filed a lawsuit with the court of first instance, seeking to overturn the Disputed Decision’s priority determination and to fully affirm the Patents’ validity of the patent.

During the first instance, Company A submitted three pieces of evidence: two discussion draft documents from the TSG RAN WG2 meeting held before the filing date of the Patents, and the 3GPP standard published on June 30, 2005, purporting to demonstrate that a person skilled in the art could directly and unambiguously identify the technical solution defined in the Patents’ claims from the priority documents claimed. However, the court of first instance held that the evidence submitted by Company A could not prove that the technical solution defined in the relevant claims of the Patents was technical information that could be directly and unambiguously identified on the first and second priority dates, and that Company A's claims were untenable. The court of first instance therefore dismissed Company A's lawsuit. Dissatisfied with the first instance judgment, Company A appealed.

In the second instance, the SPC held that when determining whether a priority is established, examination should be carried out on whether the content defined in the claims of the later application can be directly and unambiguously derived from the patent document of the prior application. When a patent application contains multiple claims, or when a single claim defines multiple parallel and independent technical solutions, whether priority is entitled should be assessed separately for each distinct claim or technical solution. Therefore, even when an independent claim can enjoys priority, its dependent claims further – which further define additional technical features that alters the scopes of protection and constitute different technical solutions - must be investigated and evaluated for priority entitlement in accordance with the law.

In this case, first, although Evidences 5 and 6 (the priority documents at issue) recorded that header information and other control signaling overhead were considered when selecting an E-TFC, a person skilled in the art could not directly and unambiguously determine technical information. This is because Evidences 5 and 6 also implicitly disclosed that control information, such as scheduling information, must also be considered during E-TFC selection. Second, the

evidence submitted by Company A was insufficient to prove that incorporating scheduling information into the MAC-e header constituted technical information that a person skilled in the art could directly and unambiguously determine as of the first and second priority dates. Therefore, Company A's appeal, which claimed that the disputed claims of the Patents could enjoy first and second priority, was unsustainable.

The priority system enables patent applicants to apply for patent protection across multiple jurisdictions. When determining whether a patent qualifies for priority, a substantive examination must be conducted to confirm that the subsequent patent application discloses the same subject matter as the prior application for which priority is sought. This prevents applicants from using the priority system to improperly extend protection to inventions developed after the priority date into the technical solution of the subsequent patents, thereby improperly obtaining a prior application date and, consequently, undue benefits. The rules clarifying the determination of partial priority in this case provide valuable insights for similar situations.

(2024) Zui Gao Fa Zhi Xing Zhong Nos. 126 and 127

Determination of Patentable Subject Matter for Utility Model Patents

If the core improvement of a technical solution over the prior art lies in the shape, structure or a combination thereof, it is a patentable subject matter for utility model patent. However, if the core improvement lies in the improvement of the material or the method that does not contribute to an improvement in the shape, structure or a combination thereof, it is not a patentable subject matter for utility model patent.

Company A is the patentee of a utility model patent titled "Glass-based Articles and Devices Comprising the Same" (hereinafter referred to as “the Patent”). Claim 1 of the Patent recites: "1. A glass-based article, comprising: a first surface and a second surface opposite the first surface, defining a thickness (t) less than about 3 mm; and a stress distribution extending along the thickness, wherein, all points of the stress distribution within the thickness range from approximately 0t up to and including 0.3t and from greater than approximately 0.7t to t include the following tangent, the absolute value of its slope is greater than about 0.1 MPa/mm, wherein the stress distribution includes a maximum CS, DOC, and a maximum CT less than approximately 71.5/ √(t)(MPa)..."

On July 23, 2019, Natural Person X filed a request for invalidation against the Patent. On February 27, 2020, the CNIPA issued the invalidation decision (hereinafter referred to as the " decision at issue"), stating that the stress distribution and other parameters defined in claims 1-3 of the Patent did not constitute a new and practically applicable technical solutions related to the product’s shape or structure. As such, the solution was not patentable subjects matter for utility model patent. Therefore, the Patent was declared invalid in its entirety.

Company A was dissatisfied and filed a lawsuit with the court of first instance, seeking to overturn the decision at issue and an order for the CNIPA to make a decision anew. Company A argued that: the Patent involved a technical solution defining a three-layer macrostructure of glass, which constituted an improvement to the composite layer structure of glass articles. This solution was analogous to the "carburized layer" example cited in the Patent Examination Guidelines and thus was patentable subject matter for utility model patent.

The court of first instance issued an administrative ruling dismissing Company A's lawsuit. Company A appealed the ruling. On November 14, 2024, the SPC made the final judgment, dismissing the appeal and upholding the original judgment .

The court's effective judgment held that, according to Article 2(3) of the Patent Law, utility model patents only protect products, and such protection shall be limited to improvements made to the product's shape or structure. Therefore, to assess whether a technical solution qualifies for utility model patent protection, the key determination is whether the improvement over the prior art lies in the product's shape, structure, or a combination thereof, rather than modifications to methods or materials. The claims of utility model patents may include the name of a known material, which means that a known material from the prior art may be applied to a product with a certain shape or structure. However, if the core of the claim lies in the proposed improvements to the material itself, the claim would not be patentable subject matter for utility model patent.

In this case, a person skilled in the art, after reading the patent specification and claims, will understand that the inventive concept of the Patent is to address the problem in the prior art, where chemically strengthened glass cannot exhibit the stress distribution of thermally tempered glass. By employing ion exchange, the glass article claimed in the Patent exhibits a unique stress distribution along its thickness, thereby enhancing crack resistance. Therefore, both the technical problem to be solved by the Patent and the solution's technical means demonstrate that the Patent focuses on improving the material itself, rather than improving the product's shape or structure. The disputed decision and the first-instance judgment's determination did not err in determining that the Patent did not fall within the scope of utility model patent protection.

As for Company A's appellate argument that the stress layer defined in the patent claims is equivalent to the "carburized layer" specified in the Patent Examination Guidelines – both being structural features – such claim was untenable and hereby rejected. "Carburized layer" is the name of a known material. When it is applied to a composite layered product with specific shape and structure, it serves to define the product's structural configuration, rather than represent an improvement to the carburized layer itself. Therefore, it may property function as a structural feature for defining utility model patents. However, Company A did not prove that the "stress layer" referenced in the Patent is a name of a known material. In addition, the Patent's inventive contribution lies in the material itself, so it cannot be recognized as a structural feature. In summary, Company A's appellate claims are not untenable and should be dismissed.

(2023) Zui Gao Fa Zhi Xing Zhong No. 607

Navigating the Patenting of Antibodies in China: A Guide Based on Current CNIPA Practice

Introduction

Monoclonal antibodies remain one of the most commercially valuable classes of biologics, yet obtaining robust patent protection for them in China requires a precise understanding of the CNIPA's (CNIPA) evolving examination standards. This article aims to clarify how claims must be drafted, how novelty and inventiveness are assessed, and which formalities must be observed for applications relating to antibodies. Below is a concise roadmap that reflects CNIPA's current practice into practical advice for companies, universities, and patent attorneys.

1. Claim Language – Two Acceptable Paths

CNIPA accepts two alternative formats for antibody claims, i.e. the antibody can be defined by its structure or the hybridoma which produces the antibody. The applicant could choose the one that best aligns with the available experimental data.

Option A – Structural Definition

The antibody is defined by the amino-acid sequences of its complementarity-determining regions (CDRs).

Example: "A monoclonal antibody against antigen A, comprising a heavy-chain variable region (VH) CDR1, CDR2 and CDR3 having the amino-acid sequences of SEQ ID NOs: 1–3, and a light-chain variable region (VL) CDR1, CDR2 and CDR3 having the amino-acid sequences of SEQ ID NOs: 4–6."

This format is appropriate when full sequencing data are available and variability outside the CDRs is not relied upon for patentability.

Option B – Hybridoma Definition

The antibody is defined by the deposited biological material that produces it.

Example: "A monoclonal antibody against antigen A, produced by the hybridoma deposited under CGMCC No. XXX."

You may use this route when the exact CDR sequences have not been determined or when the hybridoma itself is the inventive contribution.

2. Novelty – Antigen-Driven Analysis

If antigen A itself is new, the monoclonal antibody against it is deemed novel.

However, if A is merely a variant of a known antigen A′ that shares the same epitope, the monoclonal antibody will be presumed NOT novel unless you can demonstrate that the claimed antibody is different from the antibody disclosed in prior art. Thus, if your antigen is a splice variant or point-mutant of a known molecule, prepare comparative binding or neutralization data to rebut the presumption of lack of novelty.

3. Inventiveness – The "Structural Leap" Test

A monoclonal antibody can be inventive if the following three cumulative conditions are met:

1) Its key functional sequences (typically the CDRs) differ significantly from all previously disclosed antibodies against the same antigen.

2) The prior art offers no teaching or suggestion that would lead a skilled person to the claimed sequences.

3) The antibody confers "beneficial technical effects," e.g., higher affinity, unique epitope specificity, improved safety profile, or unexpected cross-reactivity.

If the antigen is known and it is clear that the antigen is immunogenic (for example, the polyclonal antibody against the antigen is known or the antigen is a large polypeptide, which indicates that the antigen is obviously immunogenic), then an invention involving a monoclonal antibody defined only by the antigen does not involve an inventive step. However, if the invention is further defined by a hybridoma that secretes a monoclonal antibody against the antigen, and thereby produces

an unexpected technical effect, then the invention of the monoclonal antibody involves an inventive step.

4. Additional Formalities and Disclosure Requirements

For patent applications directed to antibodies, the specification should include characterization of the antibody (amino acid sequence, or if it is hybridoma-specific and the specific sequence is unknown, the deposit information is required), the preparation of the antibody, and experimental data on the effect or use.

For methods of preparing monoclonal antibodies, the method of obtaining or preparing the immunogen, the immunization method, the method of selectively obtaining antibody-producing cells, or the method of characterizing the monoclonal antibody should be described.

Deposit obligations:

When the invention involves a specific monoclonal antibody (for example, a specific binding constant is used to describe its affinity for antigen A), the hybridoma should be deposited with a depository in accordance with relevant regulations, unless the applicant can provide sufficient evidence to prove that a person skilled in the art can repeatedly prepare hybridomas based on the description.

Conclusion

China's patent framework for antibodies is stringent but predictable once the rules are understood. By choosing the correct claim format, marshalling comparative data to overcome novelty objections, and embedding the antibody's structural and functional novelty in the inventiveness narrative, applicants can secure enforceable rights that withstand post-grant challenges. Early alignment of experimental work with CNIPA's disclosure and deposit requirements will facilitate prosecution and maximize the commercial benefits of the resulting patents.

Interpretation of Key Revisions to the Anti-Unfair Competition Law

On June 27, 2025, the 16th Session of the Standing Committee of the 14th National People's Congress voted to adopt the revised draft of the Anti-Unfair Competition Law, which is taking effect as of October 15, 2025. This revision represents the second major revision of the law since 2017, introducing 8 new articles and revising 16 existing ones. The revised law not only clarifies and expands regulations concerning conventional unfair competition practices - including confusing conduct, commercial defamation, and false advertising - but also imposes stricter legal constraints on new forms of unfair competition arising in the digital economy. The following is an overview of the key revisions.

I. Refined the Definition and Application Rules of Conventional Unfair Competition Practices

In light of the increasingly diverse and complex forms that conventional unfair competition practices have taken within emerging business models, the revised law proactively expands and clarifies the criteria for identifying unfair behaviors and specifying their applicable rules. Key updates include:

1. Confusing conduct: The revised Anti-Unfair Competition Law explicitly classified the following as unfair confusing conduct:

1) unauthorized use of another person's new media account name, application name, or icon, which has certain fame;

2) unauthorized use of another person's registered trademark or unregistered well-known trademark as a trade name;

3) setting another person's goods name, corporate name (including its abbreviation or trade name), registered trademark, or unregistered well-known trademark as a search keyword, thereby misleading the public into believing that their goods are the goods of another person or that they have a specific connection with another person; and

4) aiding others in committing confusing conduct.

2. Commercial Bribery: The revised law added provisions prohibiting entities and individuals from accepting bribes, clarifying that both the party offering and the party accepting bribes bear equal responsibility.

3. False advertising: The revised law expanded the scope of those who may be misled by false advertising from "consumers" to "consumers and other business operators." The revision also stipulated that false advertising through false reviews is prohibited.

4. Unfair prize sales: The revised law stipulated that business operators must not arbitrarily change the term of a prize sales activity after its commencement;

5. Commercial defamation: the revised law expanded the target of commercial defamation from “competitors” to “other business operators.” The revision also prohibited business operators from instructing another person to engage in commercial defamation.

II. Strengthened Regulation of Unfair Competition in the Digital Realm

The revised Anti-Unfair Competition Law enhanced the protection of data rights, which introduced new provisions targeting malicious transactions and clarified the regulatory responsibilities of platform operators. Key measures include:

1. Explicit prohibition of illegal data collection practices;

2. New bans on fraudulent transactions, false reviews, and malicious returns facilitated by abuse of platform rules;

3. Emphasis on platform operators’ obligations to maintain standardized regulations, including establishing mechanisms for reporting, handling complaints, and resolving disputes, thereby guiding and regulating businesses on the platform to compete fairly and in accordance with the law.

III. Introduced Regulations Targeting Two New Forms of Unfair Competition Practices Affecting SMEs

The revised Anti-Unfair Competition Law introduced rules addressing two emerging forms of unfair competition that particularly harm small and medium-sized enterprises (SMEs): 1) “race-to-the-bottom” low-price competition and 2) the abuse of dominant positions by large enterprises. Key provisions include:

1. Prohibition of “race-to-the-bottom” unhealthy competition: Platform operators are prohibited from forcing or covertly forcing businesses on the platforms to sell goods at prices below cost.

2. Ban on abuse of dominant position by large enterprises: Unreasonable transaction terms and delayed payments to SMEs are prohibited. The application of this rule no longer requires the

offender to possess a “dominant market position” in the sense of China’s Anti-monopoly Law, significantly expanding the law’s coverage of unfair trade practices.

IV. Enhanced Provisions on Regulatory Measures, Enforcement Mechanisms, and Penalties

The revised Anti-Unfair Competition Law further clarified the regulatory framework and the criteria for determining legal liability in cases of unfair competition. Major updates include:

1. The revision introduced provisions on the extraterritorial application of the Anti-Unfair Competition Law, establishing a clear legal basis for regulating and penalizing overseas activities that disrupt domestic market order in China.

2. The revision introduced flexible enforcement instruments - including “rectification within a prescribed period” and “corrective interviews” - to provide businesses operators that violates the law an opportunity to rectify violations. This reflects a balanced legislative approach that combines severe deterrence with lenient opportunities.

3. Penalties have been rationally adjusted: the revision increased the maximum fines for offenses including trade secret infringement, commercial defamation, and online unfair competition; removed the minimum fine threshold for false advertising; and introduced an exemption clause for sellers engaged in confusing conduct who can demonstrate lack of awareness and provide evidence of legitimate product sources.

Overall, the revised Anti-Unfair Competition Law represents a proactive adaptation to the rapidly evolving digital economic environment. It tackles critical issues including the diversification of unfair competition practices in new business formats, “race-to-the-bottom” unhealthy competition, violations against data rights, and the protection of small and medium-sized enterprises. Through the establishment of a more comprehensive regulatory system, the revised law also delivers enhanced legal guidance for business operators, industry organizations, regulatory agencies, and judicial institutions in the execution of their relevant duties.