

China's IP in foreign eyes

The U.S. Trade Representative (USTR) recently submitted a report to Congress on the state of China's compliance with WTO rules, including those on intellectual property (the TRIPS Agreement). The report states that "China has established a framework of laws, regulations and departmental rules that largely satisfies its WTO commitment." (USTR Says Chinese Intellectual Property Law "Largely Satisfies" WTO Requirements, by www.info-justice.org)

美国贸易代表办公室在最近向国会提交的一份报告中,汇报了关于遵守WTO规则的状况,以及与贸易有关的知识产权协议(TRIPS协议)。该报告指出,“中国已经建立了一个法律、法规和部门规章组成的框架,在很大程度上兑现了对世贸组织的承诺。”(“美国贸易代表办公室:中国知识产权法律‘很大程度上’兑现WTO要求”,公平信息网)

Comments:

It's not a surprise that USTR highlights China's achievements in intellectual property when you think of how much efforts we have made. That's for sure we will keep working on our weaknesses. But we improve ourselves for our own responsibility and interest rather than international reputation.

点评:

只要看看中国在知识产权保护方面所做的诸多努力,我们就不会为美国贸易代表办公室对中国知识产权的肯定感到惊讶。毫无疑问,中国还将继续努力,但这绝不仅仅是为了国际声誉,更是出于中国自身的责任和发展需要。



By pouring cash into science and technology faster than its economy has expanded, China has for the first time overtaken Europe on a key measure of innovation: the share of its economy devoted to research and development (R&D). The figures show that China's research intensity has tripled since 1998, whereas Europe's has barely increased. (China tops Europe in R&D intensity, by Nature)

与经济增长速度相比,中国的科技投入的速度更为迅速,其首次在“研发对经济的贡献率”这一创新的重要指标上超过欧洲。数据表明,1998年以来中国在研发投入方面的力度增加了两倍,而欧洲却几乎没有增长。(“中国研发力度超越欧洲”,自然国际科学周刊)

Comments:

The EU needs a real push now to increase R&D spending in the public sector. China has injected significant capital into R&D. However, China has still a long way to go in innovation.

点评:

与中国相比,欧盟的确需要一个真正的推力来实现公共部门研发支出的增加。从另一方面来说,尽管中国在研发方面投入大量资金,但中国在创新的道路上还有很长的路要走。

SIPO received 825,000 invention patent applications in 2013, up 26.3%

2013年,中国国家知识产权局共受理发明专利申请82.5万件,同比增长26.3%——

中国专利申请:结构更加优化 质量逐步提升

According to the latest statistics the State Intellectual Property Office (SIPO) released recently, SIPO received a total of 825,000 invention patent applications in 2013, up 26.3%, with 208,000 inventions granted, down 4.1%. Principal from SIPO's Planning and Development Department said there were three characteristics in this year, that's, the invention patent applications for the first time accounted for over one-third of the total, the inventions granted decreased a little and enterprises had been the main force of inventions.

According to the statistics, SIPO received a total number of 2,377,000 patent applications, up 15.9%, with 1,313,000 granted, up 4.6%. In this year, the invention patent filings were still on the fast track, accounting for 34.7% of the total, more than one-third for the first time. Of the 825,000 invention patent applications, 705,000 were from home, up 31.8%. Among the 705,000 domestic invention applications, 81.0% were service ones, up 33.4%. The Principal from SIPO's Planning and Development Department said these reflected China's patent application structure had been optimized and new breakthroughs had been made in patent quality.

Moreover, the inventions granted in this year decreased by 4.1%, marking China's progress in invention patent quality. Of the



208,000 invention patents, 144,000 were domestic, which is equal to that of last year. In this year, foreign inventions granted decreased by 12.3%. What's notable was that 427,000 invention applications were from domestic enterprises, representing 60.6% of the domestic invention applications, 79,000 of which were granted, accounting for 54.9% of the domestic invention grants. All these reflected that enterprises had been the main force of inventions. (by Liu Lei)

本报讯 日前,中国国家知识产权局发布最新统计数据,2013年,国家知识产权局共受理发明专利申请82.5万件,同比增长26.3%;授权发明专利20.8万件,同比下降4.1%。中国国家知识产权局规划发展司有关负责人表示,2013年中国发明专利申请和授权主要呈现出发明专利申请受理量占比首超1/3,发明专利授权量出现小幅回落,企业知识产权创造主体地位逐步稳固3个特点。

统计数据显示,中国国家知识产权局共受理发明专利申请、实用新型专利申请和外观设计专利申请

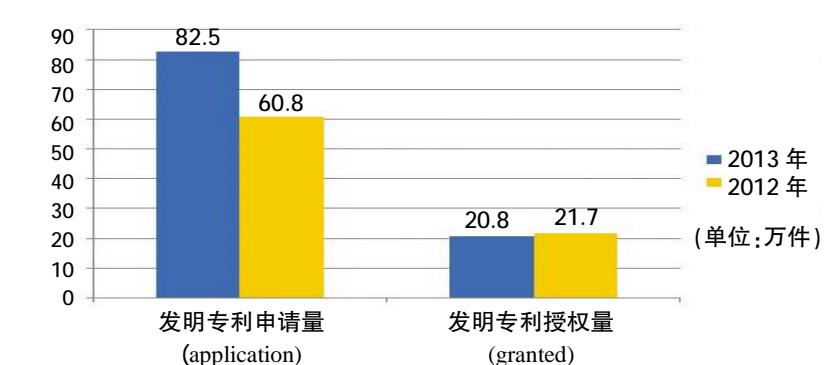
237.7万件,同比增长15.9%;授权3种专利共计131.3万件,同比增长4.6%。

统计数据显示,中国发明专利申请受理量保持高速增长,增速位居3种专利之首,且发明专利申请受理量占3种专利总量的34.7%,首次超过1/3。其中,国内发明专利申请量70.5万件,同比增长31.8%,国内职务发明专利申请比重达到81.0%,增速高达33.4%。中国国家知识产权局规划发展司有关负责人表示,这显示

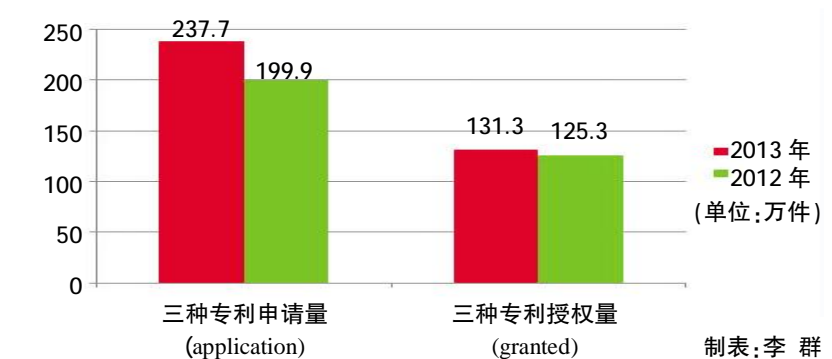
出我国专利申请结构进一步优化,专利申请质量逐步提升。

此外,中国发明专利授权量同比下降了4.1%,中国提升发明专利质量举措已显成效,其中,国内发明专利授权14.4万件,与去年持平,国外发明专利授权同比下降了12.3%。尤其值得一提的是,2013年,中国企业发明专利申请42.7万件,占国内总量的60.6%;中国企业获得发明专利7.9万件,占国内总量的54.9%,企业知识产权创造主体地位逐步稳固。(刘磊)

2013年中国国家知识产权局受理的发明专利申请量与授权量
The number of invention applications received and granted by SIPO in 2013



The number of three kinds of patent applications received and granted by SIPO in 2013
2013年中国国家知识产权局受理的三种专利申请量与授权量



制表:李群

Trademark “鹰视” revoked by court

法院认为“Eagle Eyes”与“鹰视”构成对应关系——

历时9年“鹰视”商标终被撤

American Sun Tiger Company, the owner of the brand “Eagle Eyes 鹰视”, have ever been a good business partner with Beijing Oriental Weiyi Science and Technology Co., Ltd. (Weiyi Company), its former franchiser in China. However, a trademark named “鹰视” brought both sides to court and turned them one against each other.

Recently, the Supreme People's Court heard the case, ruled “鹰视” and “Eagle Eyes” constituted trademark similarity, and rejected Weiyi Company's appeal.

Trademark “鹰视” triggered the dispute

The No. 3583073 trademark “鹰视” was applied for registration by Weiyi Company in June, 2003, and approved in December, 2004, certified to be used on Class 9, glasses, contact lenses,ect.

In July, 2002, the two company signed an agreement on sales and distribution, according to which, the Sun Tiger Company authorized Weiyi Company the exclusive right of selling its products in China and permitted Weiyi to use the trademark “Eagle Eyes”. The agreement lasts five years.

It's the agreement that made the Sun Tiger Company believe Weiyi Company violated the relevant provisions of the current Trademark Law.

According to the Sun Tiger Company, “鹰视”, as one translation version of its trademark “Eagle Eyes”, had been in correspondence with “Eagle Eyes”, and constituted trademark infringement.

Weiyi denied the trademark correspondence

“We are the prior applicants and users of the trademark ‘鹰视’”, said Liu Jutao, the general manager of Weiyi Company, who argued that “鹰视” was not the unique translation version of “Eagle Eyes”. Meanwhile, he said the company's first choice was “鹰眼” rather than “鹰视”.

It's known that Weiyi Company planned to apply for the trademark “鹰眼” over ten years ago. However, it subsequently applied for “鹰视” when finding that “鹰眼” had been registered. Up to the dispute, the trademark “鹰视” had been used for almost five years.

In July 2011, the Trademark Appeal Board revoked the trademark “鹰视”. Dissatisfied, Weiyi Company made an appeal to the Beijing No.1 Intermediate People's Court.

The court held that the trademark “Eagle Eyes” could be translated as “鹰眼” in Chinese. As “鹰视” has similar meaning as “鹰眼”, similarity was constituted. Hence, the court upheld the Trademark Appeal Board's ruling.

Disgruntled Weiyi then appealed to the Supreme People's Court.

The Supreme People's Court held that Weiyi Company had known the trademark “Eagle Eyes” before registering “鹰视” based on the agreement Weiyi signed with Sun Tiger. Moreover, from the No. 3177751 trademark “Eagle Eyes 鹰视及图” that Weiyi Company applied for registration, the court held that Weiyi Company itself had approved the correspondence between “Eagle Eyes” and “鹰视”. Hence, the court rejected Weiyi's appeal. (by Zhang Qianyu)

本报实习记者 张茜婷

美国太阳虎公司是“Eagle Eyes 鹰视”品牌太阳镜的拥有者,北京东方维亿科技有限公司(下称东方维亿公司)是在华原经销商,本应是一对商业好伙伴,却因后者在第9类太阳镜等商品上申请注册“鹰视”商标,而使双方卷入一场商标争议纠纷。

日前,这场持续多年的商标争议纠纷尘埃落定:最高人民法院经审理后认为,“Eagle Eyes”和“鹰视”形成商标对应关系,驳回了东方维亿公司提出的再审申请。

引发纠纷

据了解,争议商标是第3583073号“鹰视”文字商标,由东方维亿公司于2003年6月申请注册,2004年12月获得商标专用权,核定用于第9类眼镜、隐形眼镜等商品上。



2002年7月,太阳虎公司和东方维亿公司签订《销售和经销协议》。根据协议内容,太阳虎公司授权东方维亿公司享有在中国领域内代理销售前者生产的太阳镜等商品的独占权利,并许可东方维亿公司使用“Eagle Eyes”商标,协议有效期为5年。

正是基于这份协议,太阳虎公司认为东方维亿公司将“鹰视”注册为商标的行为,违反中国现行商标法的相关规定。

太阳虎公司表示,“鹰视”作为“Eagle Eyes”的中文翻译,与“Eagle Eyes”形成对应关系。东方维亿公司作为太阳虎公司的代理经销商,申请注册争议商标具有恶意。

东方维亿公司对此并不赞同。“‘鹰视’商标是在先申请注册并使用的”,东方维亿公司总经理刘聚海向记者表示,“鹰视”并不是“Eagle Eyes”的绝对唯一翻译,东方维亿公司最初计划注册的商标并不是“鹰视”,而是“鹰眼”。

据了解,东方维亿公司在10多年前便准备申请注册“鹰眼”商标,但查询后获知“鹰眼”商标已经被其他企业注册,东方维亿公司随后决定申请注册“鹰视”商标。直至太阳虎公司提出争议,争议商标已经连续使用将近5年。

再审被驳

2011年7月,商评委裁定撤销争议商标。东方维亿公司不服,遂向北京市第一中级人民法院提起行政诉讼。

一审法院和二审法院均认定“Eagle Eyes”翻译为中文“鹰眼”,“鹰视”与“鹰眼”含义相近,故“鹰视”与“Eagle Eyes”构成近似商标,判决维持商评委所作裁定。

东方维亿公司不服终审判决,随后向最高人民法院申请再审。

针对东方维亿公司提出的再审申请,经最高人民法院经审理后认为,根据双方签订的《销售和经销协议》,可以认定东方维亿公司在申请注册争议商标之前知晓太阳虎公司持有“Eagle Eyes”商标。从东方维亿公司申请注册第3177751号“Eagle Eyes 鹰视及图”商标可以看出,该公司认可“Eagle Eyes”和“鹰视”形成对应关系。故原审法院关于“Eagle Eyes”和“鹰视”形成对应关系,俩商标构成近似商标的认定并无不当,据此,驳回了东方维亿公司的再审申请。

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