

China's IP
in foreign eyes



China intends to spend more than \$360 billion through 2020 on renewable power sources like solar and wind, the government's energy agency said. (China aims to spend at least \$360 billion on renewable energy by 2020, by The New York Times)

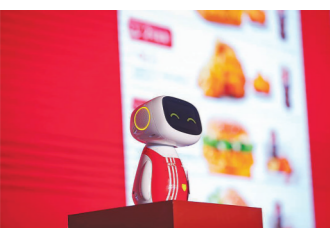
中国国家能源局宣布, 中国计划到2020年, 在太阳能和风能等可再生能源上将投资2.5万亿元人民币。(“中国将投资2.5万亿元人民币发展可再生能源”, 纽约时报)

Comment

Renewable power sources have a good development prospect. They are able to bring economic, environmental and social benefits to the society. Although China obtained high technical standard in some renewable energy sector, there is still a big gap in this sector compared with some developed countries. Policy support and innovations would be needed urgently.

点评

可再生能源有着良好的发展前景, 能够带来经济、环境和社会效益。虽然中国在一些可再生能源领域的技术水平比较高, 但与发达国家相比还存在较大的差距, 亟待政策和创新制度的支持。



Kentucky Fried Chicken launched its first artificial intelligence-enabled store in Beijing. If the consumer visits the store again and takes a picture with the machine, it will be able to recognize his or her face and show the previous purchase history, remember the customer's dining habits, and help to place an order faster. (KFC launches first AI-enabled outlet in Beijing, by Financial Times)

肯德基于日前在北京推出了第一个人工智能点餐店。如果顾客再次到这家店去, 并且用这台机器拍照的话, 机器将能够识别他们的脸, 从而显示出之前的购买记录、记住顾客的用餐习惯, 帮助他们更快地下单。(“肯德基与百度合作在北京推出智能点餐门店”, 金融时报)

Comment

KFC's innovations make use of the cutting-edge technologies, which will not only help to attract more young consumers who prefer fashionable new things, but also make them to experience the unique charm of innovation.

点评

肯德基创新性地利用了尖端技术, 不仅能帮助吸引更多喜欢时尚新事物的年轻顾客, 而且也会让顾客体会到创新的魅力。

(柳鹏)

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China's TCM law highlights IP protection

《中华人民共和国中医药法》颁布——

为中医药发展开出知识产权“良方”

The Law on Traditional Chinese Medicine (TCM) which focuses on encouraging TCM technological innovation, promoting TCM achievements, protecting IPR of TCM and improving TCM S&T level, was approved in midwinter. The relevant experts said that the law has found a way of developing TCM of China.

“With a history of thousands of years, TCM is seen as a national treasure in China. TCM should be well protected and developed,” said Li Shunde, Director of Law and IP Department, University of Chinese Academy of Science.

In the past, as the protection of TCM related IPRs had been lost, some TCM achievements were given away, which provided foreign companies with significant revenue who took Chinese TCM as their basic products. “In order to develop TCM, the IP protection should be put into focus,” said Chen Changzhi, Vice Chairman of the NPC Standing Committee.

“The IP protection of TCM was incorporated into the law has demonstrated that for one side, a large number of innovations need to be protected in the development of TCM, for the other side, it is much difficult for China to protect IP of TCM,” said Zheng Yongfeng, General Counsel of Tianjin



TASLY Pharmaceutical Company. The existing technology of TCM contains a lot of prescriptions and processes. “As a simple herbal formula is an agglomerate of innovation based on the existing technologies, it is difficult to determine whether the prescription is an innovative or not,” Zheng adds. He hopes to further specify the relevant clauses of IP protection of the law under such background and solve the existing problems as soon as possible.

In Li Shunde's opinion, although numerous TCM recipes in ancient books have exceeded the duration of intellectual property protection, with

the progress of science and technology, we should take full advantage of the existing system to protect the intellectual property of TCM. The TCM could be also protected as intangible cultural heritage, traditional knowledge and traditional medicine. The TCM, as the knowledge and technical achievements accumulated after many years could be well protected via IPR. Yunnan Baiyao, for instance, is a protected traditional medicine in China, and its formula is closely guarded secret. The administrative protection of TCM intellectual property is also essential. The National IP Strategy Outline issued in 2008 requires establish-

ing a comprehensive traditional knowledge protection system, and improving traditional medicine IP management, protection, and coordination mechanism.

“The issue of The Law on TCM protects IPR of TCM into the law, which would play a vital role in the development of TCM,” said Li Shunde. (by Wu Ke)

本报记者 吴珂

隆冬时节,《中华人民共和国中医药法》出台,就鼓励中医药科学技术创新、推广应用中医药科学技术成果、保护中医药知识产权、提高中医药科学技术水平等作出明确规定。有关专家认为,这为中医药发展开出了一剂“良方”。

“作为中国千年历史积淀下的民族瑰宝,中医药的传承和保护工作需要在立法层面上进一步完善。”中国科学院大学法律与知识产权系主任李顺德在接受中国知识产权报记者采访时表示。

在过去,中国的中医药知识产权保护没有得到相关部门、企业的足够重视,致使一些中医药成果被“拱手送人”,以中医药为基础的“产品”却为国外企业带来了巨额收入。全国人大常委会副委员长陈昌智提出,中医药要得到很好的发展,对中医药知识产权保护非常重要。

天津天士力制药集团股份有限

公司法务总监郑永峰认为,中医药法提出中医药知识产权保护,既说明中国中医药在发展中存在大量创新成果需要加以保护,另一方面也可以看出对于中医药的知识产权保护存在一定难度。郑永峰说,浩如烟海的中医药已有技术中包含着大量处方、工艺,一张简单中药配方也许是已有技术的创新凝聚,也造成中药成果创新性难以界定,不易保护。他希望在中医药法出台的基础上,相应知识产权保护条款可以得到进一步细化,消除目前存在的一些难题。

在李顺德看来,尽管古代典籍中许多中医药配方已超过知识产权保护期,但随着科技进步应当充分利用现有制度来保护中医药知识产权。从文化传承角度,可以将中医药作为非物质文化遗产、传统知识、传统医药加以保护。而中医药作为人类多年积累的知识和创新成果,是可以借助技术秘密、专利等知识产权进行保护的,如云南白药等中国传统中医药主要就是借助技术秘密进行保护的。同时,以行政的方式对中国中医药知识产权保护也是必不可少的,如2008年出台的《国家知识产权战略纲要》就提出建立健全传统知识保护制度,完善传统医药知识产权管理、保护和利用协调机制。

“中医药法的颁布使我国对于中医药知识产权保护与应用有法可依,对中医药事业的长远发展大有裨益。”李顺德认为。

IP Brief

Inner Mongolia

Thanks to the establishment of a base for education and training of Intellectual Property in School of Humanities Inner Mongolia University of Technology, the IPR talent cultivation have achieved remarkable results.

内蒙古

日前,内蒙古自治区知识产权局在内蒙古工业大学人文学院设立了“内蒙古知识产权培训基地”,旨在加强知识产权人才培养。



Shanghai

According to the agreement signed between Pudong Intellectual Property Administration and Shanghai Mari-

time University, both sides would promote and implement the work of IP.

上海

日前,上海浦东新区知识产权

局与上海海事大学签署知识产权战略合作框架协议。根据战略合作协议,双方将共同推动和落实知识产权工作。

Anhui

Recently, Anhui's 2016 edition of the Top 100 Unit on Patent has been revealed. The number of patent for inventions conforming to the participating standards has increased from 15 in 2015 to 25.

安徽

近日,2016年安徽省发明专利百强榜出炉。其中,上榜企业的发明专利拥有量由2015年的15件提高到25件。

Hubei

The relevant official of Hubei Province National People's Congress Standing Committee held a legislative forum on the Patent Regulation of the Province (amended version of draft) to listen to suggestions of intellectual property professors from Wuhan's colleges and universities.

湖北

近日,湖北省人大常委会有关负责人就《湖北省专利条例(草案修改稿)》召开立法座谈会,听取在汉高校知识产权专家、教授的意见和建议。

EXPRESS

GUCCI loses a trademark lawsuit “GUCCI”异议“白水杜康古驰”未果

The famous fashion brand GUCCI's owner Italy-based GUCCIO GUCCI S.P.A. (hereinafter referred to as GUCCIO GUCCI S.P.A.) filed an objection for the application of the trademark “白水杜康古驰” by Shaanxi Baishuidukang Co., Ltd (hereinafter referred to as Baishuidukang Company). After Trademark Office (TMO) under the State Administration for Industry and Commerce (SAIC) of China and Trademark Review and Adjudication Board (TRAB) under SAIC consecutively approved the registration of trademark “白水杜康古驰”, the case then entered into administrative litigation process. Recently, Beijing Higher People's Court made a second trial on the case, affirming the registration of “白水杜康古驰”.

No.9074381 “白水杜康古驰” trademark was registered by Baishuidukang Company in January 2011, certified to be used in Class 33 goods including drink (beverage) and fruit wine (including alcoholic). GUC-

CIO GUCCI S.P.A. applied for registration of No.177038 “GUCCI” trademark in April 1982, approved for Class 18 of goods including leather and artificial leather, suitcase, and wallet. No.539003 “GUCCI” trademark was filed by GUCCIO GUCCI S.P.A., approved for Class 32 of goods regarding beer, mineral drinks, soda water, drinks and juice beverage and juice.

After TMO approved the registration of “白水杜康古驰”, GUCCIO GUCCI S.P.A. submitted a review application to TRAB.

In February 2014, TRAB affirmed the registration of “白水杜康古驰”. GUCCIO GUCCI S.P.A. then filed an administrative lawsuit to Beijing No.1 Intermediate People's Court. After the case rejected, GUCCIO GUCCI S.P.A. brought the case to Beijing Higher People's Court.

Beijing Higher People's Court held that, the trademark in question was constituted by Chinese characters “白水杜康古驰”, while the refer-

enced mark was constituted by English letter “GUCCI”. There are significant differences between the two trademarks in pronunciation, font, meaning and applied goods. Therefore, the similarity was not constituted. Besides, GUCCIO GUCCI S.P.A. could not be able to approve the No.177032 “GUCCI” and No.1208581 “古驰” had become well-known on their goods before the application of “白水杜康古驰”. So confirmed.

(by Mao Ligu)

本报记者 毛立国

因陕西白水杜康酒业有限责任公司(下称白水杜康公司)申请注册了一件“白水杜康古驰”商标,引发了著名时装品牌“GUCCI”的品牌拥有者意大利古乔古希股份公司(下称古乔古希公司)的异议。在国家工商行政管理总局商标局(下称商标局)及商标评审委员会(下称商评委)相继裁定“白水杜康古驰”商标予以核准注册后,该案进入行政诉讼阶段。日前,北京市高级人民法院针对该案件

出二审判决,即“白水杜康古驰”商标予以核准注册。

据了解,第9074381号“白水杜康古驰”商标,由白水杜康公司于2011年1月提出注册申请,指定使用在第33类酒(饮料)、果酒(含酒精)等商品上。第177038号“GUCCI”商标,由古乔古希公司于1982年4月提出注册申请,后被核定使用在第18类皮革及人造皮革、公文箱、钱包、旅行箱、手提箱等商品上;第539003号“GUCCI”商标,由古乔古希公司于1989年12月提出注册申请,后被核定使用在第32类啤酒、矿物饮料及汽水、果汁饮料及果汁等商品上。

在商标局裁定“白水杜康古驰”予以核准注册后,古乔古希公司向商评委申请复审。

2014年2月,商评委作出裁定,“白水杜康古驰”予以核准注册。古乔古希公司不服,随后向北京市第一中级人民法院提起行政诉讼,但一审法院并未支持古乔古希公司的诉讼请求,随后其向北京

市高级人民法院提起上诉。

北京市高级人民法院经审理认为,“白水杜康古驰”是由汉字构成,“GUCCI”由英文构成,二者在字音、字形、字义、使用商品上差别较大,未构成近似商标。另外,该案中,古乔古希公司提交的证据不足以证明其拥有的第177032号“GUCCI”商标和第1208515号“古驰”商标在“白水杜康古驰”申请日之前在核定使用的手提包、公文包商品上已经达到了驰名程度。据此,二审判决维持了一审原判及商评委被诉裁定。



