

China's IP  
in foreign eyes



According to a statement from the Beijing IP Office, Apple infringed on a design patent used in a phone called the 100C, made by the Chinese phone maker Baili. Recently, a Chinese company won the right to sell leather goods under the iPhone trademark. (*Apple iPhone is Targeted in Beijing Patent Case, by The New Yorker Times*)

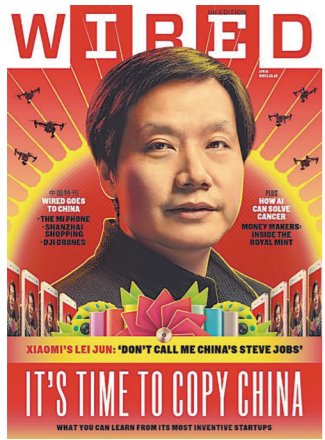
北京市知识产权局近日发布的一则通告称,苹果侵犯了中国手机生产商佰利生产的100C手机所使用的一件外观设计专利权。前不久,另一家中国企业赢得了使用iPhone商标销售皮具制品的权利。(*iPhone在中国被判侵犯国产手机专利,纽约时报*)

Comment

With the establishment and implementation of China's national IP strategy, the importance of IP protection was highly valued by the whole society, particularly the companies.

点评

该案例从侧面反映出,随着中国知识产权战略的深入实施,全社会尤其是企业的知识产权保护意识在日益提升。在竞争激烈的市场角逐中,知识产权才是核心竞争力。



Lei Jun, the founder of Xiao Mi company, has appeared on British Wire magazine cover. The magazine held that Xiao Mi, established six years ago, with a total value of 45 billion U.S. dollars, represented the internet thinking of Chinese S&T companies, which are of great reference value to European and U.S. peers. (*China is driving by innovation force, Finance Times*)

小米创始人雷军登上了今年4月号的英国版《连线》杂志的封面。该杂志认为,创立仅6年,估值已达45亿美元的小米,代表着中国科技企业的互联网思维,它的故事值得欧美同行借鉴。(*创新驱动中国,金融时报*)

Comment

The innovation climate cannot develop without the participation of whole society. Under the circumstance of mass entrepreneurship and innovation, more and more innovation-based companies like Xiao Mi would appear on the international market and show off their prowess.

点评

创新氛围的形成离不开全社会创造者的参与。在大众创业、万众创新的大背景下,小米公司只是创新创业发展的一个缩影。未来,在中国还将会有更多像小米这样的创新实力雄厚的公司涌现在国际的舞台上,展现企业实力。

(柳鹏)

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## State Council assigns tasks to facilitate building China into IP power house

《国务院关于新形势下加快知识产权强国建设的若干意见》重点任务分工方案》印发

# 106项具体措施明确知识产权强国建设责任书任务状

As efforts to facilitate building China into IP power house, the State Council recently released a paper to assign the tasks to relevant organs. The opinion requires the organs to fully implement national IPR strategy, deepen IPR reform, strengthen IPR protection and facilitate IPR strengthening the country.

The paper is based on the opinion facilitating building China into IP power house, which covers six major tasks, namely, advancing IPR management reform, strengthening IPR protection, promoting IPR creation and utilization, enhancing IPR overseas layout and risks control for key industries, advancing IPR cooperation level and reinforce policy support. The paper details the opinion into 106 measures and assigns each measure to a leading department.

According to the paper, relevant department should further detail the assigned task and stimulate detailed and enforceable measure. Tasks revolving



multiple agencies, a leading department should be determined, which should closely coordinate with other departments. Local governments should play positive role in organiz-

ing and supporting, implementing responsibility system and formulating corresponding measures in accordance with the opinion.

A representative from office of

joint Inter-ministerial Meeting of the State Council for implementing IPR strategy says that the office will bolster coordination, address major problems, reinforce policy implementation, inspection and supervision. According to this representative, as a leading member of joint Inter-ministerial Meeting of the State Council for implementing IPR strategy, SIPO is responsible for leading 51 tasks and participating 42.

(by Wang Yu)

本报讯 国务院办公厅日前印发《国务院关于新形势下加快知识产权强国建设的若干意见》重点任务分工方案》(下称《分工方案》)。《分工方案》围绕贯彻落实《国务院关于新形势下加快知识产权强国建设的若干意见》(下称《若干意见》),根据各相关部门职责,对各项任务进行了细化分工,明确了新形势下深入实施国家知识产权战略、深化知识产权领域改革、加强知识产权保护运用、加快知识产权强国建设的责任书任务状。

《分工方案》将《若干意见》部署的推进知识产权管理体制和机制改革、

实行严格的知识产权保护、促进知识产权创造运用、加强重点产业知识产权海外布局和风险防控、提升知识产权对外合作水平、加强政策保障等6方面重点任务,细化为28个方面共计106项具体工作措施,并为每一项工作措施明确了牵头部门和参与部门。

《分工方案》通知要求,各有关部门要进一步分解细化相关工作,制定具体措施。涉及多个部门的工作,牵头部门要加强协调,相关部门要密切配合。各省市区人民政府要加强组织领导,落实责任,结合实际制定实施方案和配套政策。

国务院知识产权战略实施工作部际联席会议办公室有关负责人表示,联席会议办公室将在国务院领导下,加强工作统筹,协调解决重大问题,加强对有关政策措施落实工作的指导、督促、检查。据悉,中国国家知识产权局作为国务院知识产权战略实施工作部际联席会议牵头单位,按照《分工方案》安排,将牵头负责51项工作任务,参与42项工作任务。

(王宇)

## State Council approves IPR reform on Sino-Singapore Guangzhou Knowledge City

# 中新广州知识城开展知识产权运用和保护综合改革试验

As a new model for Sino-Singapore collaboration, Sino-Singapore Guangzhou Knowledge City (SSGKC) now has a new strategic development opportunity.

The State Council recently agreed to officially launch a comprehensive reform on IPR utilization and protection for SSGKC, aiming to establish an IPR and innovation driven city, which is based in Guangdong, covering South-China, and piloting nationwide.

According to the paper, SSGKC will further enhance IPR strategy, deepen IPR reform, clear institutional mechanism barriers for innovation driven development, strengthen IPR protection, revitalize IPR utilization market, advance industrial level, stimulate innovation vitality, upgrade innovation chain, raise innovation-added value, encourage mass entrepreneurship and innovation.

The paper says that SIPO and Guangdong Provincial People's Gov-

ernment and other organizations should establish a working mechanism to advance the reform, jointly address major problems and policy demand. Organs under the State Council should implement the tasks accordingly and cooperatively, giving abundant support for mechanism innovation and policy implementation.

The paper emphasizes that Guangdong Provincial People's Government should play an important leadership role in formulating relevant matching measures and implementing responsibility system, establishing IPR industry park with high standards. Guangdong province will give full support to SSGKC to implement systematic comprehensive and coordinative reform. The trial-and-error mechanism should be established. SSGKC will introduce successful experiences and practices to manage, utilize and protect IPR based on the Singapore-Guangdong cooperation board system.

A representative from SIPO says that launching a comprehensive IPR reform in SSGKC is of great significance. Firstly, it is an important measure to introduce successful practice and deepen reform on IPR. Secondly, it will ensure that IPR will play a positive role in guaranteeing innovation, stimulating the market vitality and encouraging mass entrepreneurship and innovation.

(by Wang Yu)

本报讯 日前,国务院批复同意在中新广州知识城开展知识产权运用和保护综合改革试验,提出将中新广州知识城打造成为“立足广东、辐射华南、示范全国”的知识产权引领型创新驱动发展之城。

批复提出,要按照党中央、国务院决策部署,紧紧围绕加快实施创新驱动发展战略,深入实施知识产权战略,深化知识产权领域改革,破除制约知识产权支撑创新驱动发展的体制机制障碍,严格知识产权保护,盘活知识产权运营市场,提升产业发展层次,激发创新活力,打通创新链条,



释放创新效益,促进大众创业、万众创新蓬勃发展。

批复要求,中国国家知识产权局会同广东省人民政府及有关部门建立知识产权运用和保护综合改革试验工作机制,协调解决改革试验过程中遇到的重大问题和政策诉求。国务院有关部门要按照职责分工,落实相关工作任务,加强协调指导,在体制创新、政策实施等方面给予支持。

批复强调,广东省人民政府要加强对改革试验的组织领导,制定配套措施,落实工作责任,高标准规划建设知识产权服务园,指导中新广州知识城开展系统性、整体性、协同性改

革,支持和允许改革试验过程中试错、容错和纠错。要发挥新加坡—广东合作理事会机制优势,及时引进国际知识产权先进经验和做法。

国家知识产权局有关负责人表示,在中新广州知识城开展知识产权运用和保护综合改革试验,既是借鉴国际先进经验和做法,也是深入实施知识产权战略、探索加快知识产权强国建设路径的有益尝试,对于充分发挥知识产权制度激励创新的基本保障作用、激发市场活力和社会创造力、促进大众创业、万众创新具有重要意义。

(王宇)

## EXPRESS

## Red sole encounters trademark registration problem

# “红鞋底”在华能否如愿获准注册?

From the catwalk to the sidewalk, Christian Louboutin and his red sole design have come to define glamorous footwear to women around the world. This iconic designer recently has a trademark registration problem in China. In February 2015, the Trademark Review and Adjudication Board (TRAB) under State Administration for Industry and Commerce (SAIC) denied his filings red sole as trademark. Disgruntled Christian Louboutin brought TRAB to the Beijing IPR Court and seeks reversal. Now, the court has handled this case.

On January 22, 2015, TRAB held that the trademark is composed of regular high-heeled shoes figure and single color, which would mislead public when it was used on footwear products. In parallel, the applicants failed to prove that the trademark has distinctiveness after commercial use.

Christian Louboutin held that the scope of his trademark registration filings is only the red sole, not the figure of the high-heeled shoes, which is just to indicate the position of the mark. He could not agree with TRAB's decision that the mark is composed of regular high-heeled shoes figure and single color, the mark in question is non-obvious. He held that the TRAB should only examine the red sole, not the figure of high-heeled shoes.

According to Li Shunde, dean from Chinese academy of sciences, based on the current trademark law in China, position trademark filing or single color trademark filing could be rejected. But, Chinese law will provide conditional and proper protection to the unlicensed marks. "I am sure that China's trademark law will be further improved," says Li.

We will follow the development of this case.

(by Lv Keke)

曲线迷人的高跟鞋一直是许多爱美女性的心爱之物,法国鞋履设计师克里斯提·鲁布托(CHRISTIAN LOUBOUTIN)1992年设计出来的红色鞋底的高跟鞋更是时尚界的宠儿。然而,克里斯提·鲁布托在华注册 CHRISTIAN LOUBOUTIN 红鞋底鞋商标却并不顺利。2015年2月9日,因不服中国国家工商行政管理总局商标评审委员会(下称商评委)作出的《关于国际注册第G1031242号图形商标驳回复审决定书》(商评字[2015]第000008356号)(下称被诉决定),克里斯提·鲁布托以商评委为被告向北京知识产权法院提起商标行政诉讼,请求法院判决撤销该决定,并判令商评委重新作出决定。北京知识产权法院已两次开庭审理此案,目前仍在审理中。

据了解,2015年1月22日,商评

委作出复审决定,认为申请商标由常用的高跟鞋图形及鞋底指定单一的颜色组成,指定使用在女高跟鞋商品上,相关公众不易将其作为区分商品来源的标识加以认知,缺乏商标应有的显著性。申请人提交的证据亦尚不足以证明申请商标整体标识在指定使用商品上,经其实际有效的商业使用已具有商标应有的显著性。

克里斯提·鲁布托认为,其主张申请商标申请请求注册的范围仅为红鞋底,以虚线勾画的高跟鞋图形不是申请商标请求保护的范围,其作用仅在于指示该商标相对于鞋体的位置,被诉决定中商评委所认定的“申请商标由常用的高跟鞋图形及鞋底指定的单一的颜色组成”是错误的。克里斯提·鲁布托认为,商评委在审查时,应当将虚线部分的高跟鞋外形去掉,仅对剩下的红鞋底进行审查。在被诉决定中,商评委基于该错误的前提,作出“申请商标不具备显著性”

的认定是错误的。

中国科学院大学法律与知识产权系主任李顺德表示:“虽然中国商标法目前并未将位置商标和单一颜色商标规定为可注册商标,但是中国法律也会对未注册商标提供有条件的、适当的保护,并且今后随着中国商标实务的发展,中国可注册商标的范围有望得到进一步扩展。”

本报将持续关注此案的后续进展。

(吕珂珂)

