

NUMBERS

72,000

The executive meeting of China's State Council recently approved "the Medium and long-term Railway Network Program" in principle. According to the program, by 2030, a high-speed rail system with self-owned intellectual property will be established and perfected with the total mileage of high-speed railway network amounting to 72,000 km.

7.2万公里

日前, 中国国务院常务会议原则通过了《中长期铁路网规划》, 其中提出, 要建立和完善中国自主知识产权的高铁技术体系, 到2030年高速铁路网总里程达到7.2万公里。

21,019

In the first quarter of 2016, a total of 41,965 technology contracts were inked in technology market across the nation. 21,019 contracts were related to intellectual property, representing 89.5 billion yuan in value, up 8.6% over the previous year, accounting for 57% of the total value.

2.1019 万项

2016年第一季度, 全国技术市场共签订技术合同4.1965万项, 其中涉及知识产权的技术合同2.1019万项, 成交金额895亿元, 较上年同期增长8.6%, 占成交金额的57.0%。

93.95%

In June 2016, the monthly rate of patent E-filing was 93.95%. The rates in 22 provinces and municipalities such as Fujian, Anhui and Yunnan were higher than 90%, and those of other five provinces and municipalities were between 85% to 89.99%.

93.95%

今年6月, 中国专利月电子申请率为93.95%, 其中福建、安徽、云南等22个省、区、市月电子申请率高于90%, 有5个省、区的电子申请率在85%至89.99%之间。

19

By 2020, per 10,000 population in Guangdong province will obtain 19 invention patents and the annual growth rate of patent filings through PCT will be 10%, according to a implementation plan of building Guangdong into an IP power pilot province.

19件

《广东省建设引领型知识产权强省试点省实施方案》中指出, 到2020年, 广东省每万人口发明专利拥有量达到19件, 通过《专利合作条约》(PCT)途径提交的国际专利申请量年均增长10%。

3,967

The annual examination of enterprise patent liaison staff was finished in Anhui province. After the examination, the province boasted 3,967 enterprise patent liaison staffs in 2016, an increase of 947 over the previous year, up 31.3%.

3967名

近日, 安徽省企业专利联络员年审工作顺利完成, 经调整确定, 2016年全省企业专利联络员达3967名, 比上年净增947人, 增幅达31.3%。

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China initiated special campaign "Sword Net 2016" 中国启动“剑网2016”专项行动

On July 12, China's National Copyright Administration, the State Internet Information Office, the Ministry of Industry and Information and the Ministry of Public Security jointly initiated a special campaign "Sword Net 2016". According to an official with the national copyright regulator, the campaign aims to crack down on infringement and piracy of online literature and APPs and to regulate the online advertisement alliance within five months.

The campaign would focus on combating infringement and piracy of unauthorized illegal distribution of online literature, news, movies and television programs, safeguarding legal rights and interests of right holders. It would be centered on investigating and handling infringement and piracy in APPs, E-business platforms, main-



taining normal order of online copyright. It would further regulate copyright order of online music, cloud storage services and news reproduced

through the internet, building a sound ecological environment for online copyright protections.

The campaign related departments

would propose three major tasks. Firstly, carry out a special action against online literature infringement and piracy and strengthen supervision on copyright enforcement of online literature websites. Secondly, launch special campaign against APP infringement and piracy, and strengthen supervision on uploaders of APP and APP stores. Thirdly, regulate the internet advertisement alliance and strengthen regulation and supervision on the alliance concerning copyright protection. (by Liu Ren)

本报讯 7月12日, 中国国家版权局、国家互联网信息办公室、工业和信息化部、公安部在京联合启动“剑网2016”专项行动。国家版权局相关负责人介绍, 此次行动将用5个月时间完成打击网络文学侵权盗版、打击APP侵权盗版和规范网络广告联盟三大重点任务。

据介绍, 此次专项行动将突出整治未经授权非法传播网络文学、新闻、影视等作品的侵权盗版行为, 保障有关权利人的合法权益; 重点查处通过智能移动终端第三方应用程序(APP)、电子商务平台等进行侵权盗版行为, 维护网络版权正常秩序; 进一步规范网络音乐、网络云存储空间、网络转载新闻作品的版权秩序, 营造网络版权良好生态。

据悉, 此次专项行动相关部门将完成3项重点任务: 一是开展打击网络文学侵权盗版专项整治行动, 加强对文学网站的版权执法监管力度; 二是开展打击APP侵权盗版专项整治行动, 加强对APP上传者 and 应用程序商店的版权执法监管; 三是开展规范网络广告联盟专项整治行动, 加强对网络广告联盟在版权保护方面的监督管理。(刘仁)

Chinese enterprise should enhance awareness and capability of patent assets acquisition

中国企业“走出去”日益成为最活跃的“专利买家”, 专家提醒——

企业要加强专利收购的意识和能力

As China quickens its pace of going globally, it has becoming one of the most active patent buyers in the U.S. market. As experts suggested, Chinese enterprises should enhance awareness of overseas patent assets acquisition and capability of patent utilization, identify the value of the patents which they intend to buy and set up an efficient team to conduct the acquisition. Related authorities need to foster service capability of IP service agencies, enabling the enterprises to get the real valuable patents.

During the patent acquisition, enterprises are faced with many difficulties such as how to judge the value of the patent, how to negotiate in the acquisition and control the risks in the transaction. "Patent assessment is highly specialized and there might be some risks in the transaction which need the support of professionals," said Long Xiang, the president of a Beijing-based consulting company.

Moreover, Chinese enterprises know little about how to assess the

patent they intend to buy and lack experiences in negotiations, so they are in passive state in patent acquisitions. Jiang Danming, the executive vice president of Chaofan IP Co., LTD said, "IP department of an enterprise generally play a leading role in patent acquisition. However, patent acquisition can't be done by IP department only, it is just like playing a symphony in which every department of the enterprise should join in and play its part."

Chinese enterprises should identify the strategic intention of patent acquisition and know fairly well the value of each patent in the patent package. Jiang Danming suggested that acquiring enterprise should delete patents with less value or legal flaw in order to play an active role in transaction negotiation. Long Xiang stressed that both standard essential patents and patents which were involved in patent litigation but not invalidated are important factors to assess a patent.

In consideration of big differences



between China and other nations in patent systems and patent transaction markets, Chinese enterprises should seek support of professional institutions. "In the U.S. market, patent middlemen usually play roles as intermediary and information resources, they can provide more professional services for enterprises with professional level and confidentiality," said Long Xiang. He added that in china's patent transaction market, a group of patent transaction service agencies are developing. Related authorities may

develop service capability of these agencies helping them to provide professional and good patent services for enterprises. (by Chen Jie)

随着“走出去”的步伐越来越快, 中国企业正日益成为美国市场上最活跃的专利买家之一。对此, 专家建议, 中国企业需加强国外专利资产收购意识和运用能力, 在收购中明晰拟收购专利的价值, 组建高效合作的收购团队; 相关部门可在发挥市场作用的前提下, 大力培养知识产权服务机构, 使其帮助企业“淘”到专利资产中的“宝”。

在企业收购专利的过程中, 如何判断专利是否有收购价值、如何在收购中进行有效谈判并控制交易流程中的风险, 是企业面临的主要难题。“专利评估的专业性极强, 交易过程中也可能存在权属转移等一系列风险因素, 这都需要专业人士的支持。”七星天(北京)咨询有限责任公司总裁龙翔表示。

此外, 中国企业很多时候对拟收购专利资产的价值评估方法不甚了解, 同时缺少谈判经验, 在专利收购中常处于被动地位。超凡知识产权

股份有限公司常务副总裁姜丹明表示: “一般而言, 企业的知识产权部门是专利收购舞台上的主角, 但我国企业常常将其演绎成知识产权部门的‘独角戏’。殊不知, 专利收购应是企业各部门合唱的‘交响曲’。”

“中国企业应明确专利收购的战略意图, 对拟收购专利包中各个专利的价值做到心中有数。”姜丹明建议, 收购方要尽可能剔除价值不高或在法律上存在瑕疵或权利不稳定的专利, 从而在交易议价时占据主动。对此, 龙翔也强调, 标准必要专利以及曾涉及专利诉讼且未被无效的专利, 都属于判断专利价值的加分项。

考虑到其他国家专利制度和专利交易行情与中国有较大区别, 中国企业在收购海外专利时, 还应寻求专业机构的支持。“在美国市场上, 专利中间商往往充当中介和信息源的角色, 其专业水准和保密性要求能为企业带来更专业的服务。”龙翔表示, 在中国专利交易市场上, 一批提供专利交易服务的中介机构正逐渐成长起来。相关部门可以大力培养这些机构的涉外服务能力, 使其为企业提供更专业、良好的专利服务。(陈健)

EXPRESS

Ferrari may fail in trademark registration on 6 commodities “法拉利”商标在6种商品上恐难注册

Recently, the Beijing Higher People's Court rendered the final judgment on "法拉利" trademark dispute. The Court held that the prior trademark "法拉利" was an obstacle for Ferrari to file for a trademark registration of "法拉利", so the company might fail in trademark registration of "法拉利".

In August 2005, Ferrari applied for trademark registration of NO. 4859708 "法拉利" to the Trademark Office (TMO) under SAIC, certified to be used on 28 commodities including ties, scarfs, sport shirts and gloves (clothing). The TMO held that "法拉利" constituted similar trademark with prior marks like "法拉利", "法拉利 FOULLLARY" and "金顿·法拉利 JINDUN·FALAILI". The trademark of "法拉利" was registered by Shanghai FALALI Shoes Co. LTD in October, 1998, certified to be used on Class 25 products including "shoes, sneakers, caps, gloves and belts. After that, the exclu-

sive right of the trademark was renewed to March, 2020.

In January 2009, the TMO rejected the trademark registration of "法拉利". Then Ferrari submitted an application for review to the Trademark Review and Adjudication Board (TRAB). On September 2013, the TRAB made a decision by approving the registration of "法拉利" on ties and scarfs and rejected other claims. Ferrari brought an administrative lawsuit to Beijing First Intermediate People's Court. The court maintained the decision of the TRAB.

Ferrari went on to appeal to Beijing Higher People's Court. Recently, the court rendered the final judgment revoking the decisions made by the first-instance court and the TRAB and requiring the TRAB to review the decision. The higher court confirmed that among the 20 commodities on which "法拉利" was registered, there were six commodities rather than 26 commodities on which "法拉利" and "法

拉利" constituted similar marks. According to the decision, "法拉利" could not be registered on 6 commodities including "caps, shoes, shoots, belts, gloves(clothing) and slippers."

CIP News will follow the development of the case.

(by Zhao Shimeng)

日前, 北京市高级人民法院对“法拉利”商标案作出终审判决: 在与“法拉利”商标核定使用的商品相似类别上, “法拉利”商标恐仍难以获得注册。

据了解, 2005年8月, 法拉利公司向中国国家工商行政管理总局商标局提出第4859708号“法拉利”商标注册申请, 指定使用在“领带、围巾、运动衫、手套(服装)”等28种商品上。商标局审查后认为, 法拉利公司申请注册的“法拉利”商标与在先注册的“法拉利”商标、“法拉利 FOULLLARY”商标和“金顿·法拉利 JINDUN·FALAILI”商标构成类似商品上的近似商标。其中, “法拉利”商标是在1998年10月由上海法拉利鞋业有限公司申请注册, 并于2000年



3月被核准, 核定使用在第25类“鞋(脚上的穿着物)、运动鞋、帽子(头戴)、手套(服装)、腰带”商品上。此后, 该商标专用权期限续展至2020年3月。

2009年1月, 商标局驳回了“法拉利”商标的注册申请。随后, 法拉利公司向中国国家工商行政管理总局商标局评审委员会提出复审申请。2013年9月, 商标局评审委员会作出决定, “法拉利”商标在“领带、围巾”商品上的注册申请予以初步审定, 在其余商品上的注册申请予以驳回。法拉利公司随后向北京市第一中级人民法院提起行政诉讼。北京一中院维持了商标评审委员会决定。

法拉利公司不服一审判决, 随后向北京高院提起上诉。日前, 北京高院作出终审判决, 判令撤销北京一中院作出的一审判决及商标评审委员会的相关决定, 并要求商标评审委员会重新作出决定。这也意味着, 北京高院确认, “法拉利”商标申请注册的28种商品中, 与“法拉利”商标核定使用的商品类别构成近似的是6种, 而非此前商标评审委员会及北京一中院认定的26种。但依据该判决, 在“帽、鞋、靴、腰带、手套(服装)、拖鞋”6种商品上, “法拉利”商标恐仍难以获准注册。

本报将继续关注案件进展。(赵世猛)