

NUMBERS

12

According to the plan for national economic and social development during the 13th Five-Year plan period, patents owned by each 10,000 persons should increase to 12 from 6.3 in 2015.

12件

日前,中国发布了《国民经济和社会发展第十三个五年规划纲要》,其中提出,到2020年,每万人口发明专利拥有量从2015年底的6.3件提高至12件。

107

In 2015, SIPO has successfully implemented 107 proposals raised by National People's Congress delegates and Chinese People's Political Consultative Conference members during 2015 NPC and CPPCC meeting. Among which, 58 raised by the NPC delegates and 49 raised by CPPCC members.

107件

2015年,中国国家知识产权局已全部按期办结全国两会建议提案107件,其中人大代表建议58件,政协委员提案49件。

120,000

In 2015, the courts at all levels nationwide have concluded 120,000 IPR cases in the first-instance decision. Among which, 1,802 are unfair competition and anti-monopoly cases.

12万件

2015年,中国各级法院审结一审知识产权案件12万件,依法审结不正当竞争和垄断案件1802件。

64.9%

Latest statistics from Ministry of Commerce of P.R.C., total import and export volume on service amounted to 713 billion US dollar. It is worth noting that license fee on IPR export has increased by 64.9% than the previous year.

64.9%

中国商务部数据显示,2015年中国实现服务进出口总额7130亿美元。其中,知识产权使用费出口增幅达64.9%。

170 million yuan

Latest numbers from Music Copyright Society of China show that in 2015, 170 million yuan of music copyright license fee has been charged, up 24%.

1.7亿元

近日,中国音乐著作权协会数据显示,其2015年收取音乐作品著作权许可使用费共1.7亿元人民币,同比增长24%。

1,865

Based on a report on Top 50 universities owning the invention patents released by Ministry of Education of P.R.C., Zhejiang University ranks the top with 1,865 inventions.

1865件

近日,由中国教育部科技发展中心发布的《2015年发明专利授权量前50所高校》名单中,浙江大学以1865件发明专利授权量位居全国高校第一位。

英文翻译 姜旭

Translator Jiang Xu

责任编辑 王璐

Executive Editor Wang Lu

Why Xiaomi bought 332 patents from Intel?

从英特尔公司手中购买332件美国专利——

小米：“豪购”专利意欲何为？

Recently, Xiaomi Technology Co., Ltd. (referred to as Xiaomi) bought 332 U.S. patents from Intel Corporation (referred to as Intel). What's the consideration behind this acquisition? We will find out it through analyzing Xiaomi's patent applications and acquisitions in the US and its behavior at overseas in recent years.

Xiaomi phones have achieved great success in China with a variety of business marketing. Its founder Lei Jun cited data from International Data Corporation (IDC) that, nearly 65 million Xiaomi phones were sold in China in 2015, but compared to 2014, its sales growth has slowed down considerably. Faced with an increasingly saturated mobile phone market in China, Xiaomi began to try to "go out" in 2013, but not so successful.

In 2014, after less than 6 months entering in Indian market, hot sales of Xiaomi phone suffered setback since patent infringement, resulting in market share declined. Faced with the warning in Indian market, Xiaomi becomes more cautious for entering the United States market. In 2015, Xiaomi began selling mobile phone accessories in the United States but has not yet sold its main products like mobile phone or tablet; one of the important reasons is Xiaomi lacks of patent protection in the United States.

Although Xiaomi had also submitted a number of patent applications, but not begin the layout of the patent in the United States until 2013. From 2013 to 2015, Xiaomi submitted 41, 114 and 74 patent applications respectively in the United States. Searched results also confirmed that, as of February 26, 2016, Xiaomi only obtained 9 patents in the United States. So few patent reserves lead to that, Xiaomi became vulnerable when it faced frequent US NPE patent lawsuits.

Therefore, Xiaomi accelerated the pace of patent acquisitions. On October 23, 2015, Xiaomi bought 31 patents from Broadcom. And a few days later, its product "Red Rice 2Pro" was certificated by the US Federal Communications Commission (FCC) seeming to be the preparation for entry into the US market.

However, the road to US market seems be tough for becoming the NPE targets because of its few patent reserves, even though with good sales and huge market. In November 2015, one of the leading American Blue Spike NPE sued Xiaomi for patent infringement. A month later, Xiaomi and Qualcomm quickly reached a pat-

ent license agreement with purpose for solutions for patent litigation. But compared with the patent acquisitions, Xiaomi is urgent to create its own intellectual property rights to get rid of the kinds of dilemma. In this situation, Xiaomi's decision on acquisition of patents is not hard to understand.

According to Patents database, Xiaomi had acquired a total of 365 US patents involving content storage management, control logic, coding sequences, covering communications, electronics and software technologies. The number of patent family members (see Chart 1) aimed patent layout at the US market, seemingly low but just their needs. The 332 patents seems the drop in the bucket to Intel, which has tens of thousands of patents, and Intel could further optimize their patent assets. The citations frequency of Intel's patent (see Chart 1) is higher than that sold to Xiaomi, reflecting to some extent that, Intel is still retained in the sale of high-quality patents. Moreover, for the patent protection period (see Chart 2), the majority patents Xiaomi purchased from Intel were filed from 2000 to 2002, if these patents are invention patents, the term of protection remains average 5.9 years, not so long enough.

Smartphone is a typical patent-intensive industry, and highly mature European markets know well the use of intellectual property strategy. Xiaomi CEO Lei Jun said, "Patents are rules of the game of mobile phone industry." Whether Chinese companies like Xiaomi can successfully "go out", how to accelerate the development of

the core technology is the key, and also, how to use the intellectual property to protect enterprises interest is a question for Xiaomi. (by Luo Qian)

今年2月4日,中国北京小米科技有限责任公司(下称小米)从英特尔公司(Intel)“豪购”332件美国专利,这已是小米第二次进行美国专利收购的行为。通过对小米在美国提交的专利申请和收购情况进行专利检索,并结合其近年来进军海外的行为,可以一探究竟其“豪购”专利的背后到底意欲何为?

小米凭借手机产品运用各种商业营销手段在中国取得巨大成功。据其创始人兼CEO雷军引用国际数据公司(IDC)的分析数据,2015年小米手机在中国的出货量接近6500万台,但相比2014年,其销量增速已大大放缓。面对日益饱和的中国手机市场,小米早在2013年就开始尝试“走出去”,但一路可谓步履维艰。

2014年进入印度市场不到半年,小米的手机销量因侵犯爱立信专利权而遭受重挫,市场份额出现下滑。面对印度市场的前车之鉴,小米进军美国更加谨慎。2015年,小米开始在美国出售手机配件。而其迟迟未在美国销售手机、平板电脑等主营产品的一个重要原因就是缺乏专利的保护。

小米尽管已经拥有了一些专利储备,但直到2013年,才开始美国的专利布局之路。2013年至2015年期间,小米分别在美国提交专利申请41件、114件、74件。检索结果显示,截至2016年2月26日,小米在美国仅仅拥有9件专利。如此薄弱的专利储备,小米在专利“密布”的智能手机行业中,面对美国非专利实施实体(NPE)频繁挥动的专利诉讼“大棒”,未免显得力不从心。

正是因此,小米加快了专利收购的步伐。2015年10月23日,小米收购了博通公司的31件专利,几天后



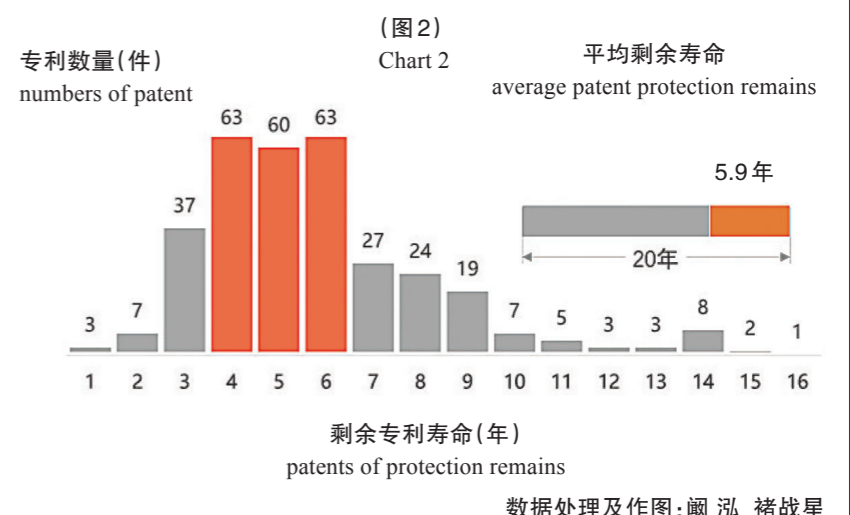
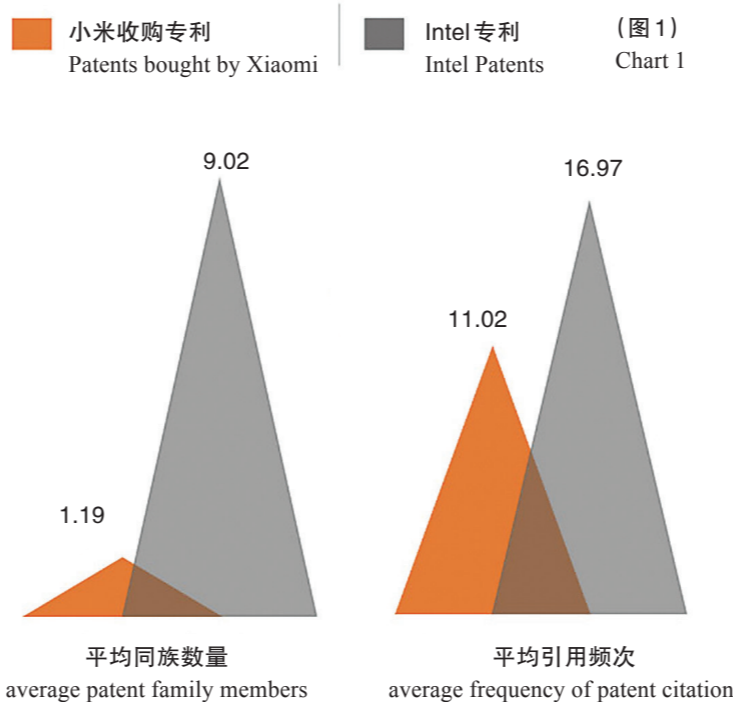
其产品“红米2Pro”通过了美国联邦通信委员会(FCC)认证,似乎已为进入美国市场做好了准备。

然而,小米手机巨大的市场销量和仍显薄弱的专利储备成为NPE的攻击目标,初见曙光的美国发展之路随即遭遇“围追堵截”。2015年11月,美国知名NPE之一Blue Spike公司起诉小米侵犯其专利权。一个月后,小米与高通迅速达成了之前久拖不决的专利授权协议,为应对专利诉讼寻找解决途径。但“借船出海”终非长久之计,小米迫切需要拥有自己的专利储备,摆脱受制于人的窘境。在这样的背景下,小米作出大手笔收购专利的决定也就不难理解了。

通过对Patents数据库进行检索发现,小米迄今为止共收购美国专利365件。从技术分布来看此次收购的332件专利中,涉及内容存储管理、控制逻辑、序列编码等,覆盖通信、电子器件和软件技术等领域。从专利的同族数量看(见图1),由于小米从Intel购买的专利旨在布局美国市场,因

此其平均同族数量接近于1件,看似较低但恰为其所需。而332件专利对于拥有几万件专利的Intel来说也是九牛一毛,Intel借此专利交易进一步优化了自己的专利资产。从专利平均引用频次看(见图1),Intel拥有专利的引用频次要高于其出售给小米的专利,一定程度上反映了Intel在出售高质量专利方面仍有所保留。从专利保护期限看(见图2),小米从Intel购买的大部分专利都是从2000年至2002年提交专利申请的且均已拥有专利权,如果这些专利均为发明专利,其平均保护期限仅剩5.9年左右,有效期并不算长。

智能手机是典型的专利密集型产业,高度成熟的欧美市场深知知识产权的运用策略。雷军曾在公开场合表示:“专利是整个手机行业的游戏规则。”像小米这样的中国本土企业是否能够成功“走出去”,加快核心技术研发是关键,如何运用知识产权为企业保驾护航应该是小米未来的重点发展方向。(罗倩)



Shanghai Gotop company loses first-instance over 高通 trademark

上海“高通”商标一审被撤

It is usually not an easy task to handle a trademark dispute, especially for transnational corporations. Because of a 高通 trademark, the Qualcomm corporation and a Shanghai based high-tech company, Shanghai Gotop, have filed several law suits against each other.

In 2014, Shanghai Gotop filed a lawsuit against Qualcomm on grounds of trademark infringement and unfair competition, claiming 100 million yuan for compensation. Qualcomm then fought back and brought Shanghai Gotop to the Trademark Review and Adjudication Board (TRAB) under the State Administration for Industry and Commerce (SAIC), seeking revoca-

tion of the trademark 高通 (Gotop in English) and its figures certified on services of telecommunication on grounds of unused for three consecutive years. TRAB supported Qualcomm's request. Disgruntled Shanghai Gotop filed an administrative lawsuit to the Beijing IPR Court. The court then sustained TRAB's decision in the first instance decision.

The court held that existing evidences Shanghai Gotop has provided are not interrelated with the trademark in dispute actually and failed to demonstrate the correlation between the services Shanghai Gotop provides and those the mark are certified. Meanwhile, the evidences could not prove

that the mark in dispute has been widely used. Upon this, the court held that Shanghai Gotop's evidences failed to prove that the mark had been used in commercial widely.

Shanghai Gotop then appealed to the Beijing Higher People's Court. The case is now under trial.

(by Mao Ligu)

本报讯 围绕着“高通”商标,美国卡尔康公司(下称卡尔康公司)与上海高通半导体有限公司(下称上海高通公司)数次对簿公堂。在2014年上海高通公司诉卡尔康公司商标侵权案赔偿亿元案尚未有果的情况下,卡尔康公司以连续3年停止使用为由,针对上海高通公司注册在电话通讯等服务上的“高通GOTOP及图”商标提出了撤销申请。



在中国国家工商行政管理总局商标评审委员会(下称商评委)裁定撤销“高通GOTOP及图”商标后,上海高通公司向北京知识产权法院提起行政诉讼。日前,法院对该案作出一审判决,维持了商评委被诉裁定。

法院经审理认为,上海高通公司提交的证据既未体现诉争商标,也未体现提供的服务与诉争商标核定使用的服务有关,同时其提供的相关证

据,不能证明诉争商标进入到流通领域。据此,法院认定上海高通公司提交的证明并不能证明诉争商标进行过商业性使用。

随后,上海高通公司向北京市高级人民法院提起了上诉。据悉,该案二审尚在进一步审理之中。(毛立国)

