

China's IP
in foreign eyes

Over the past five years, China-based companies have successfully participated in high-profile infrastructure projects. In the rail sector about 80 per cent of Malaysian rolling stocks are Chinese made. The Malaysian rail business is so lucrative that China Railway Construction Corporation (CRCC) opened a \$97m rolling stock manufacturing plant in the country in July 2015. (China takes the lead in Malaysian mega-projects, by Financial Times)

过去5年间,中国企业成功参与马来西亚受人瞩目的基础设施建设。在铁路部门,大约80%的马来西亚铁路用车由中国制造。2015年7月,中国铁建斥资9700万美元在马来西亚建设了铁路车辆生产工厂。(中国在马来西亚大型项目建设中领先,金融时报)

Comment:

The increasing projects of Chinese companies in Southeast Asia show that Chinese companies have kept footholds in overseas markets because of technological innovation and independent intelligent property rights.

点评:

中国企业在东南亚国家的数量不断增长。这充分说明,得益于拥有知识产权的自主创新,中国公司在海外市场已占有一席之地。



World Robotics recently published their annual update on the industry. It captures very clearly the trend in China towards higher value added production and towards substituting capital for labor. They believe global sales of multipurpose industrial robots last year was around 162,000, of which 25,000 were sold in China, slightly fewer than were sold in North America or Japan. By only 2016, they forecast that China will be consuming 38,000 robots, 20% more than either Japan or North America is expected to buy. (Coming To A Factory Near You: Chinese Robots, by McKinsey)

《世界机器人》近日公布了机器人行业最新年度报告。报告认为,中国向高附加值生产转型,由资本替代劳动的趋势十分清晰。2015年,中国多用途工业机器人销量为2.5万台,略少于北美或日本,2016年销量则预计可达3.8万台,超过日本或北美预计销量20%。(中国机器人:成为你身边的工厂,麦肯锡)

Comment:

Robotics is one of the booming industries driven by the process of transformation from low value-added manufacturing to high value-added manufacturing of China. The report of WIPO shows that Chinese applicants account for more than a quarter of patents worldwide in the area of robotics since 2005, which demonstrates China's competitiveness in the field.

点评:

受益于中国经济的转型升级,机器人工业方兴未艾。世界知识产权组织的报告显示,2005年以来,在机器人工程领域的专利申请中,有超过1/4来自中国,这表明中国在这一行业中的竞争力。

(孙易恒)

Jesper Kongstad: Step up cooperation and share development experience
“加强合作 分享经验 共促发展”

——访丹麦专利商标局局长康叶波

“China has made large progress in implementation of new IP policy, which will help China to grow its economy. In the past thirty years, I frequently came to China and follow the development of Chinese IP community. What impressed me most is that Chinese government has formulated and implemented national IP strategy, which created a sound IP protection environment for both Chinese and foreign companies,” Danish Patent and Trademark Office Director General Jesper Kongstad told China Intellectual Property News in an interview during his visit to SIPO.

“I am also quite impressed with the high examination efficiency of SIPO, and that compared well with the best countries in the world today. In IP protection area, I admired that China has established IP courts in some regions, which is a measure that bearing milestone significance in IP area. I hope that both two sides could further step up IP cooperation and jointly solve the problems ahead of us,” said Kong-

stad.

Now China is building itself into an IP power house, and strengthening IP use should be put into the vital place in this process. In his eyes, China fared well in use of IP. How to promote the SMEs to be more active in pursuing IP rights is a real issue. “Good protection of IPR can not only improve their business in China, but also at abroad. This is the area we have worked a lot within Denmark, and we will be very pleased to share with IP authorities in China. In a bid to help Chinese companies make full use of IPR and take part in international competition, I suggest that we could incorporate such item into our joint work program and step up cooperation between two sides,” Kongstad adds.

Kongstad also made positive comments on the cooperation between the two offices. “Great achievements have been made since the agreement was signed. During the cooperation course, both the two sides learned

from each other and improved the economic development of two countries. China and Denmark still have a long way to go to improve innovative capability, and there are still great possibilities for cooperation between two offices. We are determined to go on this way,” said Kongstad.

(by Liu Peng/photo by Zhang Zihong)

三月的北京,春暖花开。在对中国国家知识产权局进行访问期间,丹麦专利商标局局长康叶波欣然接受了知识产权报记者的专访。“中国在知识产权政策制定方面取得了长足的进步。毫无疑问,这将有助于推动中国经济的发展。过去30年里,我经常访问中国,同时也密切关注中国知识产权事业的发展。令我印象最深的是,中国政府制定实施了国家知识产权战略,为中国以及外国在华企业营造了良好的知识产权保护环境。”康叶波对记者表示。

“中国国家知识产权局的专利审查工作同样给我留下了深刻的印象,其效率之高,完全可以和世界任何发达国家的知识产权机构相媲美。在知识产权保护方面,我希望双方能够

进一步加强专利执法合作,解决双方共同面临的问题。此外,我对中国成立专门的知识产权法院表示赞赏,这是在知识产权领域一个具有里程碑意义的举措。”康叶波表示。

中国目前正在加快知识产权强国建设,而加强知识产权运用和保护应是重中之重。在康叶波看来,中国在知识产权运用方面取得了显著成效,中国的中小企业获得了更多的知识产权,并加强知识产权保护,这些举措不仅可以促进企业创新发展,而且可以推动中国企业“走出去”步伐。康叶波表示,丹麦在帮助本国企业更好地运用知识产权方面也做了很多努力,并积累了丰富的经验,丹麦愿意与中方进行分享。“希望将这一合作议题纳入到双方的联合工作计划中,并加强双方的合作,帮助企业更好地运用知识产权,积极参与国际竞争。”康叶波说。

对于中丹两局多年的合作,康叶波给予了积极的评价。“中丹两局自签署合作协议以来,双方取得了积极的成果。在合作过程中,中丹双方参

考和借鉴各自的经验和做法,推动了两国的经济发展。未来,双方在推动创新和知识产权方面有很长的道路要走,也有较大的合作空间,我们将满怀信心地走下去。”康叶波表示。

(柳鹏)

图为康叶波(Jesper Kongstad)
本报记者 张子弘 摄



MCSC charged royalties of above 1 billion yuan
中国音著协收取著作权许可使用费累计超10亿元

Music Copyright Society of China (MCSC) announced recently that it has charged copyright royalties of 170 million yuan in 2015, up 24% over 2014. As of now, the total royalties has reached 1.06 billion yuan since it was established for 23 years.

The statistics of MCSC show that if

the royalties were divided by rights, there were four rights including reproduction right, the right of derivation, broadcast right and right of dissemination via information networks. Among the royalties charged in 2015, the proportion for those four rights accounted for 5%, 41%, 23% and 27% respectively. The rest 4% were from

the Society in overseas.

(by Jiang Xu)

本报讯 近日,中国音乐著作权协会(下称音著协)对外透露,其2015年收取音乐作品著作权许可使用费共计1.7亿元人民币,较2014年增长24%,再创新高。至此,音著协成立23年来,为音乐著作权人收取使用费总额突破10亿元大关,达10.6亿

元人民币。

据音著协公布的数据显示,在所收取的著作权使用费中,按权利内容划分,共涉及复制权、表演权、广播权和信息网络传播权四项权利。2015年使用费中,复制权、表演权、广播权和信息网络传播权四项使用费分别占比5%、41%、23%、27%,其余4%的使用费由海外协会

收转而来。

据介绍,自1993年成立至今,音著协收取的著作权使用费在持续增长,且年均增长率超过30%。2015年,音著协收取的著作权使用费分配主要涉及8034位个人会员、67家出版协会会员、70家海外协会等。

(姜旭)

John Deere wins trademark battle in China
“约翰·迪尔”成功阻击“傍名牌”

Beijing Higher People's Court entered into the final decision for the U.S. John Deere Company, revoked the decision made by Trademark Review and Adjudication Board (TRAB) of the State Administration for Industry and Commerce (SAIC), and revoked the registration of约翰迪尔 yhdeR trademark.

The trademark 约翰·迪尔 was registered in September 2004, certified to be used in Class 7 products including scraper, excavator and bulldozer. John Deere Company, however, was not applied for registration in Class 4 lubricants products. In April 2004, Heilongjiang-based Lida eletromechanical department filed a trademark registration of约翰迪尔 yhdeR, and was approved by the Trademark Office under SAIC in January 2010. The trademark was certified to be used in Class 4 lubricant oil, grease and lubricants products.

In June 2010, John Deere company offered the objection application to TRAB. The Company held that the trademark in question was similar with the约翰·迪尔 trademark which has been registered in class 7 scraper, excavator and bulldozer products. The company claimed that Lida eletrome-

chaical department copied its registered trademark, which will bring confusion to consumer, and harm its interests.

In October 2013, TRAB held that the similarity was not constituted as distinctive differences in function, use, consumer and distribution channel exist between the trademark 约翰迪尔 yhdeR which was certified to be used in lubricant oil is different and约翰·迪尔 which was used in scraper, excavator and bulldozer products. John Deere Company was failed to prove that the trademark 约翰·迪尔 has become a famous one before 约翰迪尔 yhdeR filed for registration. It also failed to prove that the character 约翰迪尔 has developed as well-known trademark in lubricant market. So TRAB held that the registration of约翰迪尔 yhdeR does not violate Chinese trademark law and eventually affirmed the TMO decision.

The disgruntled plaintiff then appealed to Beijing No.1 Intermediate People's Court who would eventually uphold the decision made by TRAB.

The plaintiff refused the ruling of the court, and brought the case to Beijing Higher People's Court. The court held that although the two trademarks

were certified to be used in different classes, there is close correlation among function, distribution channel and consumers. Considering 约翰·迪尔 is a famous trademark, the two trademarks constitute similar trademark when used in same products. So ordered.

(by Su Jie)

本报讯 近日,北京市高级人民法院就美国约翰·迪尔公司提起的商标争议行政纠纷一案作出终审判决,撤销了中国国家工商行政管理总局商标评审委员会(下称商标评审委员会)此前的裁定以及一审法院的判决,认定“约翰迪尔 yhdeR”商标不应予以注册。

据了解,美国约翰·迪尔公司的“约翰·迪尔”商标于2004年9月在中国被核准注册,核定使用在第7类的铲土机、挖掘机、推土机商品上。但约翰·迪尔公司未在第4类润滑油等商品上申请注册该商标。2007年4月,黑龙江省佳木斯市富锦市建三江北区的利达机电服务部申请注册“约翰迪尔 yhdeR”商标,并于2010年1月被国家工商行政管理总局商标局予以核准。该商标核定使用在第4类的润滑油、润滑脂、润滑剂等商品上。

2010年6月,迪尔公司向商标评审委员会提起争议申请,请求撤销该商标。迪尔公司认为该商标与其在第7类铲土机、挖掘机、推土机等商



品类别上注册的“约翰·迪尔”商标构成类似商品上的近似商标;利达机电服务部申请注册该商标具有明显恶意,该商标是对迪尔公司驰名商标的抄袭模仿,误导消费者,致使迪尔公司的利益受到损害。

2013年10月,商标评审委员会就迪尔公司提起的商标争议案作出裁定,裁定“约翰迪尔 yhdeR”商标核定使用的润滑油、润滑剂等商品与“约翰·迪尔”商标核定使用的铲土机、挖掘机、推土机商品在功能、用途、消费对象及销售渠道等方面区别明显,不构成类似商品。迪尔公司提交的证据材料尚不足以证明“约翰·迪尔”商标在“约翰迪尔 yhdeR”申请日之前已经成为驰名商标,也不足以证明在此之前文字“约翰迪尔”作为迪尔公司的商号在“润滑油”等领域已具有一定知名度。据此,商标评审委员会认为,“约翰迪尔 yhdeR”的注册并不违反我国商标法的有关规定,该商标予以维持。

迪尔公司不服该裁定,向北京市第一中级人民法院提起行政诉讼。

北京一中院经审理,支持了商标评审委员会的上述主张,判决维持商标评审委员会作出的裁定。

迪尔公司不服北京一中院的判决,向北京市高级人民法院提起上诉。法院认为,虽然两个商标核定使用的商品分属不同类别,但是在功能用途、销售渠道、销售对象等方面存在密切关联,构成关联商品。考虑到“约翰·迪尔”商标的知名度,两个商标构成使用在类似商品上的近似商标。北京高院据此作出终审判决,撤销北京一中院的一审判决及商标评审委员会的裁定,判令商标评审委员会重新作出裁定。

(苏杰)



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