

China's IP
in foreign eyes



Huawei has made a bold prediction, saying it plans to surpass Apple as the second-biggest smartphone player in the world in three years and leapfrog Samsung by 2021. By most measures, Huawei has its work cut out for it. The company shipped 108 million smartphones in 2015, exceeding its own expectations with a 44 percent increase in sales, compared to 2014. (Huawei: We'll leapfrog Samsung, Apple in Market share, by CNBC)

日前,华为公司对外宣布:3年之内超越苹果成为第二大智能手机厂商,到2021年超越三星成为世界第一。在很多人看来,华为为此已经做好了充分准备。2015年,华为手机出货量达1.08亿台,比上年增长44%。(华为:未来我们的市场份额将超越苹果三星,美国全国广播公司财经频道)

Comment:

After seeing solid growth in its smartphone shipments last year, Huawei has reason to be confident that it can unseat its rivals. Owing to brilliant R&D capability and good IPR layout, Huawei become more competitive in global smartphone market.

点评:

去年乐观的销售数据让华为公司有理由对未来充满信心。杰出的研发能力和良好的专利布局使华为在全球智能手机市场中越来越具有竞争力,也显示了其优越的创新力。



China's Xiaomi has unveiled the ceramic-cased Mi5 Android smartphone. Xiaomi executive Hugo Barra said the Mi5 would be the first phone to feature Qualcomm's Snapdragon 820 processor. Xiaomi had also secured 21 patents of its own for its display technologies, mostly in China, although one had been in the US. (MWC 2016: Xiaomi unveils ceramic-backed Mi5 smartphone, by BBC News)

小米近日发布了陶瓷外壳手机——小米5。小米全球副总裁雨果·巴拉介绍,小米5将是全球首款搭载骁龙820处理器的手机。在这款手机的显示技术中,小米拥有21件专利,其中大部分为中国专利,1件为美国专利。(2016世界移动通信大会:小米发布陶瓷外壳手机——小米5,英国广播公司)

Comment:

Intellectual property had been a weakness of Xiaomi to expand overseas market. In recent years, Xiaomi begin to put a high value on research and development, and the release of Mi5 shows that Xiaomi's innovation-oriented strategy have obtained preliminary results.

点评:

知识产权曾是小米进军全球市场的一块短板,但目前来看,小米正在努力弥补中。近年来,小米加大了技术研发力度,新推出的小米5中包含了大量的技术创新与知识产权,标志着小米以创新为导向的策略取得了初步成效。

(孙易恒)

China announces the first sound trademark

中国首件声音商标通过初审并公告——

“好声音”如何来保护?

On February 13, as China's first application for registration of sound trademark, "Sound mark of China Radio International" by the Trademark Office under State Administration for Industry and Commerce (hereinafter referred to as the Trademark Office) was approved through primarily examination into the notice period, becoming China's first registration of sound trademark.

It is reported, on May 1st, 2014, China formally implemented the current Trademark Law, and the Trademark Office started to receive and examination sound trademark and issued "the formative and substantive examination standard on sound mark (Trial)", which defined the concept of sound marks that sound mark means a trademark that can distinguish the goods or services according to the sound source. A sound trademark may be constituted by the sound nature of the music, such as a piece of music; may consist of non-musical sounds of nature, such as the sounds of human or animal; also can be music by the nature and both the nature of music and the non-music sound. Chinese Trademark Net data shows that, since May 1st, 2014 Trademark Office started receive and examination sound Trademark application. And by the end of January this year, the office has received 450 sound trademark applications for registration. According to Chinese Trademark Net, the "sound trademark of China Radio International", lasting 40 seconds, is the starting music of this radio program.

Different from word trademarks and figurative trademarks or other visible traditional trademarks, sound marks are to help consumers distinguish a particular source of goods or services through hearing. According to the regulations of China Trademark Law, the situation like staves or notations without clef and musical notes, the staves or notations containing the names of the song, the too simple text description, the unclearly recognized sample sound, trademark description inconsistent with sample sound, do not meet the requirements of sound trademarks. The sound trademark substantive examination introduces the same standard with visible trademark, including examination of the disabled terms, the salient features, common or similarity features.

For the examination of disabled terms, according to the Chinese Trademark Law and Trademark Law Implementing Regulations, the same or similar sound or melody with Chinese or foreign national anthem or The Internationale, religious music or the sound of terrorist or violence and other sounds with adverse effects are prohibited to be registered.

Meanwhile, the application for registration of the sound trademark needs the examination of salient features. The sound of direct representation on the designated goods or services, consumers and other features, but lacking of distinctive character cannot be registered as a sound trademark; other sound lacking the salient features, such as simple or ordinary tone or

melody; a complete or long song or music, common slogans sang or called directly in the usual tone, the industry common music or sound, cannot be fit for sound trademark registration.

In addition, the application for registration of a sound trademark still needs examination on common or similarity. In principle, a sound sample for sound trademark needs to be heard for the examination. If two sound trademarks, a sound mark and a visible trademark are easy to cause the confusion to relevant public on the produced sources of the goods or services, or there is a specific link between both, they will constitute the same or similar trademark.

Industry Insiders held that, the sound with significant brand applied for registration as a trademark, is conducive to better protect the rights and goodwill of brands, and will play a positive role for innovation and brand protection, and help to promote more unique and innovative "Chinese sound" grow into "Chinese brand", assisting Chinese enterprises to better develop the market.

(by Wang Guohao)

2月13日,作为中国首件提出注册申请的声音商标,“声音商标 中国国际广播电台”通过中国国家工商行政管理总局商标局(下称商标局)初步审定进入公告期,成为中国首件被初审公告拟核准注册的声音商标。

据了解,2014年5月1日中国现行商标法正式施行后,商标局依法开始受理和审查声音商标,并出台了《声音商标形式和实质审查标准(试

行)》。其中明确了声音商标的概念:声音商标是指由能够区别商品或服务来源的声音构成的商标,可以由音乐性质的声音构成,如一支乐曲;可以由非音乐性质的声音构成,如自然界的声音、人或动物的声音;也可以由音乐性质与非音乐性质兼有的声音构成。中国商标网上的数据显示,自2014年5月1日起开始受理和审查声音商标至今年1月底,商标局已受理450件声音商标的注册申请。根据中国商标网信息显示,该“声音商标 中国国际广播电台”为中国国际广播电台广播节目的开始曲,全长40秒。

与文字商标、图形商标等传统可视性商标不同,声音商标是从听觉的角度帮助消费者对特定来源的商品或服务进行区分。据了解,中国现行商标法实施条例明确规定了以声音申请商标注册的条件,其中规定,五线谱或简谱没有谱号和音符、五线谱或简谱上含有乐曲名称、文字描述过于简单、声音样本不能清晰识别出声音、商标描述与声音样本不一致等情形,均不符合声音商标形式要件要求。声音商标实质审查,采用的是与可视性商标相一致的审查标准,包括禁用条款审查、显著特征审查、相同近似审查。

对于禁用条款审查,根据中国商标法及商标法实施条例等相关规定,禁止作为商标注册使用的声音包括:与中国或外国国歌、军歌或国际歌等旋律相同或近似的声音,宗教音乐或

恐怖暴力等具有不良影响的声音等。同时,声音商标的注册申请需要通过显著特征审查。仅直接表示指定商品或服务内容、消费对象及其他特点的声音,缺乏显著特征的声音不得作为声音商标注册;其他缺乏显著特征的声音,如简单、普通的音调或旋律;一首完整或冗长的歌曲或乐曲,以平常语调直接唱呼普通标语或口号,行业内通用的音乐或声音,亦不得作为声音商标申请注册。

此外,声音商标的注册申请还需要通过相同近似审查。原则上,声音商标以听取声音样本为主进行相同近似审查。如果两件声音商标或者一件声音商标与一件可视性商标,易使相关公众对商品或服务来源产生混淆误认,或者认为二者之间存在特定联系的,则两者构成相同或近似商标。

业内人士表示,将具有品牌标识意义的声音申请注册为商标,有利于更好地保护品牌所承载的商誉与权利,对于品牌的创新和保护将起到积极的作用,有助于推动更多独具创新性的“中国好声音”成长为“中国好品牌”,助力中国企业更好地开拓市场。(王国浩)



EXPRESS

LV accused Taobao shop owners in China

路易威登诉淘宝店主侵权索赔25万元

Surnamed Liang, Liang, and Han were accused by Louis Vuitton Malletier, the "LV" trademark holder, to the court for selling fake scarves, purses, shoes and other goods of "LV" trademark in Taobao shop, being asked to stop trademark infringement and a compensation for economic loss of 250,000 yuan. Recently, the Beijing Haidian District People's Court received the case.

Since July 2011, Liang started selling all kinds of counterfeit trademark clothing, shoes, bags and so on in his Taobao shop, and he was responsible

for the purchase of goods, pricing and production of graphic description, and another surnamed Liang was responsible for daily management, taking orders and so on. Since February 2013, Liang had purchased counterfeit "LV" trademark goods for resale from Han, involving a total of more than 1 million yuan. In 2014, due to the sale of counterfeit trademark goods of Louis Vuitton Malletier, surnamed Liang, Liang, and Han were prosecuted for the criminal behaviors.

Louis Vuitton Malletier held that, according to the relevant provisions



of China Trademark Law, surnamed Liang, Liang and Han should also undertake corresponding civil liability, and suited to the court.

At present, the case is under further

investigation.

(by Huang Xiaoyu)

本报讯 梁某、梁某某、韩某3人因在其经营的淘宝网中销售假冒的“LV”围巾、皮包、鞋子等商品,被“LV”商标持有人路易威登马利蒂诉至法院,要求其停止商标侵权行为并赔偿经济损失25万元。日前,北京市海淀区人民法院受理了该案。

据了解,自2011年7月起,梁某经营的淘宝网开始销售各类假冒注册商标的服装、鞋包等,梁某某负责商品进货、定价及图文介绍制作,并安排梁某负责网店日常管理、

接单等工作。自2013年2月起,梁某某陆续从韩某处购入假冒注册商标的商品进行转售,涉案金额共计100余万元。2014年,因销售假冒路易威登马利蒂上述商标的商品,梁某某、梁某、韩某被提起公诉,经刑事判决认定梁某某、梁某、韩某从事了销售假冒注册商标商品的行为。

因此,路易威登马利蒂认为,依据中国商标法相关规定,梁某某、梁某、韩某在承担刑事责任的同时,还应承担相应的民事责任,故向法院提起诉讼。

目前,该案正在进一步审理中。(黄晓宇)

MY CHINESE DREAM

The emotional sustenance on patent

难以割舍的专利情缘

Today, when walking on the city landscape river embankments, people often feel refreshed because of the green grass on it. But for Hu Kaiyan, the president of Wuhan Kelan Jinli Ltd. (hereafter as Kelan Jinli), this green grass is not the refreshed view but also the emotional sustenance on patent. And the story dates from the patent of "Environmental compatibility prefabricated blocks" she encountered 14 years ago.

In 2001, in an exhibition hosted at Shanghai, under the impact by her father who were engaged in water conservancy Hu Kaiyan got interested in a patent by a South Korean inventor, and she decided to introduce this technology and put into actual production,

and Kelanjinli, the China-ROK joint venture, was established. Compared with conventional concrete revetment, this eco-friendly plant raw block could decrease the river flowing rate and resist embankment erosion of both sides, coupled with the emerging "grass clumps" a few months after the construction just like the natural landscape, therefore, the patented product became popular in the market and was widely used in Jiujiang, Wuhan, Three Gorges Reservoir Area, Chongqing and other places.

However, patent infringement followed the increasingly use of this technique. Some construction units used the company's patents without the Kelanjinli's permission. Because of

Kelanjinli's rigorous and meticulous work in the patent application and protection, the company was hopefully to win the patent litigation or ended it for settlement. Hu Kaiyan said, "The win in litigation is not our intention, we hope the infringers realize the importance of protecting patent, and we also hope they can develop their own inventions, and intellectual property departments better strengthen law enforcement, increase tort compensation, to create healthy competition environment." (by Sun Yiheng)

如今,当人们在城市景观河道的河堤上漫步时,经常会为堤坝上的一抹新绿而感到神清气爽。而对于武汉科兰金利建材有限公司(下称科兰金利)董事长胡凯燕而言,这抹新绿

不仅是养眼的景色,更是一段难以割舍的专利情缘。这段情缘,要从14年前胡凯燕接触的1件“环境相容式预制块”专利讲起。

2001年,上海举办了一次展览会上,从小从事水利工作的父亲影响,胡凯燕看中了一位韩国发明人展示的这件“环境相容式预制块”专利,遂决定引进此技术并投入实际生产,成立中韩合资公司科兰金利。与常规的混凝土护坡相比,这种亲环境植生块有使河川流速降低、抵抗对堤防两岸的冲刷等优势,加之铺装几月后护堤就可显现“植草丛生”的自然景致,因此,该专利产品在投入市场后大受欢迎,在九江、武汉、三峡库区、重庆等地得到广泛应用。

不过,随着植生块技术在护坡工程中“大放异彩”,侵权行为也随之而

来。有些施工单位未经授权使用了科兰金利公司的专利。由于科兰金利在专利申请和保护方面的工作做得十分严谨、细致,因此企业的专利诉讼都是以胜诉或和解告终。

胡凯燕说:“在诉讼中获胜并不是我们的初衷,我们希望通过诉讼能使侵权业主和施工单位意识到保护专利的重要性,也希望侵权单位自己多多发明创造,各地知识产权部门加大执法力度,提高侵权行为的赔偿金额,从源头上斩断侵权行为,创造良性竞争的环境。”(孙易恒)

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