

China's IP
in foreign eyes



上海大众

The quality of China's carmakers gap with foreign rivals is closing. The Chinese firms are busy hiring Western designers to make their models more distinguished. (China's carmakers, zoom, zoom, splutter, The Economist)

中国国产品牌汽车与外国对手的质量差距正在逐渐缩小。中国厂商们正忙着聘请西方设计师去完成车型的设计,力求与众不同。(“中国车企:实现雄心,任重道远”,经济学家)

Comment:

The government had hoped that, by now, domestic firms would have absorbed all they needed to know from the foreigners about making and selling world-class cars, and be ready to get by without them. While it's clear that, the government's ambition for China to boast two or three world-class car firms, with badges as recognisable as Toyotas or Fords, remains a long distance.

点评:

中国政府期待着国内制造商学习吸收一切必备的外来经验技术,并做好自力更生的准备以生产“世界级”轿车。事实上,想要培养出能够跟丰田和福特一样家喻户晓的汽车厂商,要实现这样的雄心壮志,中国车企还有很长的路要走。



The toys are made by a Chinese firm while this factory isn't in China, but in rural Andhra Pradesh, in southern India. It is one of more than 100 businesses in the Sri City Industrial hub - many of them Chinese - attracted by the Make in India campaign. (The Chinese firms opening factories in India, BBS news)

生产这些玩具的中国企业的工厂不是在中国,而是在印度南部安得拉邦的农村。这是一个拥有超过100家企业入驻的城市工业中心,很多是中国企业,它们是被“印度制造”运动所吸引来的。(“中国企业在印度开设工厂”,英国广播公司新闻网)

Comment:

After many years' business overseas, Chinese companies are no longer satisfied with the export of products. A lot of Chinese companies are now taking advantage of a new wave of innovation and new business overseas, putting their manufacturing facilities there and catering to the overseas demand. It's the continuous innovation and technology upgrading that enabled Chinese firms win the overseas market on the process of "going out".

点评:

经过多年的海外经营,中国企业在海外已经不再止步于单纯的出口产品。很多传统上出口产品到海外的中国企业,正在进行海外新一轮的创新和创业,建设自己的工厂并力促满足海外客户的需求。正是由于持续不断的创新和技术升级才使得中国企业在“走出去”的过程中赢得海外市场并站稳脚跟。

(李铎)

China's invention patent applications grow 21.7% in the first three quarters
今年前三季度中国发明专利申请受理量同比增长21.7%

Recently, SIPO published data of patents in the first three quarters of 2015. In the first three quarters of 2015, China received 1.876 million applications of the three kinds of patents, up 22.0%. Among them, 709,000 were invention patent applications, up 21.7%; 779,000 were utility model patent applications, up 33.6%; 388,000 were design patent applications, up 4.4%, respectively were 37.8%, 41.5% and 20.7% of the total.

In all the invention patent applications, 610,000 were from domestic, up 24.9%; 118,000 were from overseas, up 5.1%. In the domestic invention patent applications, 492,000 were service applications, accounted for 80.7%; 118,000 were non-service applications, accounted for 19.3%.

In the first three quarters of 2015, SIPO granted 1.176 million patents of all the three kinds, up 25.8%. Among them, 248,000 were invention patents, up 46.0%; 599,000 were utility model patents, up 18.9%; 329,000 were design patents, up 26.1%.

In all the invention patents granted by SIPO, 181,000 were domestic, up 52.5%; 67,000 were from overseas, up 31.1%. In the domestic invention patents, 164,000 were service invention patents, accounted for 90.6%; 17,000 were not service invention pat-

ents, accounted for 9.4%.

According to official from SIPO, there were three characteristics in the data. Firstly, the quantity of patent applications was growing rapidly, especially the growth rate of invention patents were up 9.5 percent than last year. Secondly, invention patents granted got a high growth rate of nearly 50%, while the rates of utility model patents and design patents were both higher than invention patents. Thirdly, the proportion of domestic service invention patents applications provided a stable level of over 80%, and the proportion of service invention patents granted in domestic patents was over 90%. (by Liu Lei)

本报讯 (通讯员刘磊北京报道)近日,中国国家知识产权局发布2015年前三季度专利申请量。今年前三季度,中国国家知识产权局共受理3种专利申请187.6万件,同比增长22.0%。其中,发明专利申请70.9万件、实用新型专利申请77.9万件、外观设计专利申请38.8万件,分别同比增长21.7%、33.6%、4.4%,分别占总量的37.8%、41.5%、20.7%。

在受理的发明专利申请中,中国国内申请61.0万件,同比增长24.9%,占86.0%;国外来华申请9.9万件,同比增长5.1%,占14.0%。国内发明专利申请中,职务发明申请49.2万件,占80.7%;非职务发明申请11.8万件,占19.3%。

今年前三季度,中国国家知识产权局共授权3种专利117.6万件,同比增长25.8%。其中,发明、实用新型、外观设计专利授权量分别为24.8万件、59.9万件、32.9万件,同比分别增长46.0%、18.9%、26.1%。

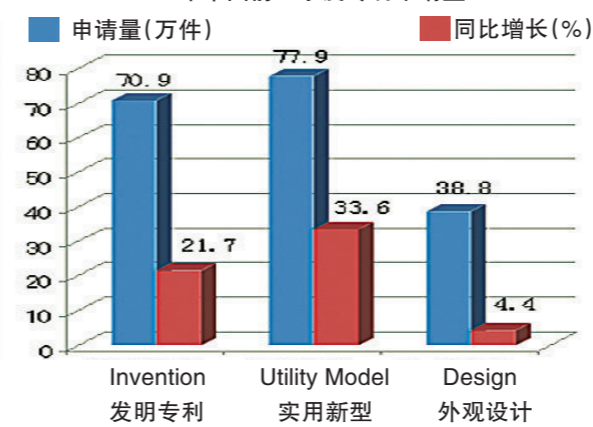
在授权的发明专利中,中国国内授权18.1万件,同比增长52.5%,占73.0%;国外授权6.7万件,同比增长31.1%,占27.0%。国内发明专利授权中,职务发明授权16.4万件,占90.6%;非职务发明授权1.7万件,占9.4%。

有关人士认为,今年前三季度专利申请与授权主要有3个特点,一是专利申请受理量继续保持本年度快速增长态势,其中,发明专利同比增长较上年同期提高9.5个百分点,实用新型专利占比及增长率均居3种专利之首;二是发明专利授权量以接

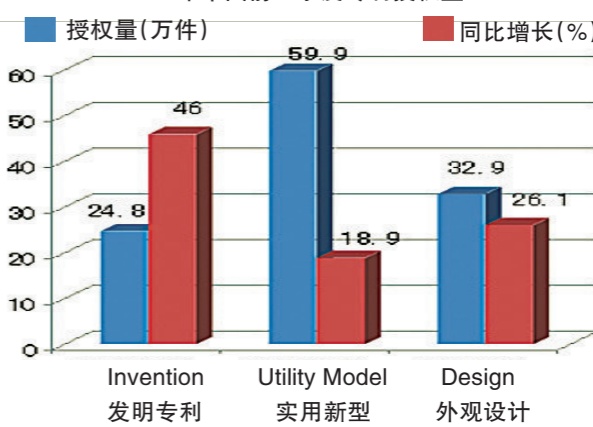


近50%的增长率高速增长,但实用新型和外观设计专利授权量仍高于发明专利;三是职务发明所占比重保持稳定,国内发明专利申请受理量中,职务发明所占比重已超过九成。李铎 制表

China's Patent Applications in the First 3 Quarters of 2015
2015年中国前三季度专利申请量



China's Granted Patents in the First 3 Quarters of 2015
2015年中国前三季度专利授权量



China promotes the amendment of Patent Administrative Enforcement Operations Guidance
中国推进《专利行政执法操作指南》修订工作

Recently, according to the work plan, the State Intellectual Property Office continued to promote the amendment of "Patent Administrative Enforcement Operations Guidance". According to the principles of legislation, the amendment work actively absorbs the advice and recommendations from local law enforcement and local IP officers, through several rounds of modification and drafts, the new drafts has been formed and would be open to whole society for public comment and

suggestions in the near future. After the completion of the work during this year, this amendment work would further standardize the system-wide patent administrative enforcement and enhance the ability of law enforcement.

According to an officer from SIPO, China will further improve its law enforcement regulations, refine the investigation basis of patent infringement behavior, patent infringement compensation calculation and the rules of evidence and other aspects, and actively conduct patent law

amendment work, promote system-wide capacity of law enforcement and investigation, in order to better safeguard the interests of patentees, for creating a favorable market environment for the steady growth and development of economy.

According to SIPO, in the first six months, China's total patent administrative law enforcement investigations reached 10,190, an increase of 107.7%. Among them, 5,437 for patent disputes (including 5,332 patent infringement cases), an increase of

167.6%; 4,753 counterfeiting patent cases were investigated, an increase of 65.4%. (by Wang Zhichao)

本报讯 近日,按照工作部署,中国国家知识产权局继续推进《专利行政执法操作指南》修订工作。按照立法原则,积极吸收中国各地局与一线执法人员意见和建议,经多轮修改,数易其稿,目前已经形成征求意见稿,拟于近期向全社会公开征求意见与建议,以进一步规范全系统专利行政执法工作,提升执法办案能力。

据中国国家知识产权局有关负责人介绍,今后将进一步完善执法办

案规范,细化专利侵权行为认定、专利侵权赔偿额计算等方面的执法办案依据,并积极做好专利法修改相关工作,促进全系统执法办案能力提升,以更好地维护专利权人和社会公众的合法权益,为稳增长促发展营造良好的法治和市场环境。

据了解,今年前6个月,中国专利行政执法办案总量突破万件,达1.0190万件,同比增长107.7%。其中,办理专利纠纷案5437件(包括专利侵权纠纷案5332件),同比增长167.6%;查处假冒专利案4753件,同比增长65.4%。(王志超)

Kung Fu Panda gets merchandising right
“功夫熊猫”获商品化权保护

Recently, Dream Works Animation SKG filed a dissent application against a "KUNGFUPANDA" trademark application applied on car seat covers filed by a Shandong nature person Hu Xiaozhong. After the trademark above approved by the Trademark Review and Adjudication Board (TRAB) under the State Administration of Industry and Commerce of China, Dream Works filed an administrative law suit to Beijing NO.1 Intermediate People's Court. Recently, Beijing Higher People's Court made the final judgment of the case, overruling the verdict made by TRAB and the judgment made by Beijing NO.1 Intermediate People's Court, and required a new verdict from TRAB.

Accordingly, Hu Xiaozhong filed the application of No. 6806482 "KUNGFUPANDA" trademark in December 2008, applied from Class 12 merchandise of car seat covers. In the statutory period, Dream Works filed a dissent application against the

trademark application above to the Trademark Office under the State Administration of Industry and Commerce of China and was then rejected. Dream Works then filed a reexamine application to TRAB.

Dream Works claimed that, the trademark was similar to its citing trademark on same or similar merchandise, and violated its merchandising right.

The Citing No. 5400891 "KUNGFUPANDA" trademark, ratified use of Class 9 merchandise of computer peripheral equipments, and No. 5400892 "KUNGFUPANDA", ratified use of Class 28 merchandise of toys, are registered by Dream Works from June 2006.

After that, Dream Works appealed to Beijing Higher People's Court. Dream Works claimed that, its famous film "KUNGFU PANDA" had already had a popularity in China before the "KUNGFUPANDA" trademark application filed, thus it should have the merchandising right of the

film, which would be violated by the "KUNGFUPANDA" trademark application.

The Court held that, the film "KUNGFU PANDA" and the characters in the film had already had popularity in China before the "KUNGFUPANDA" trademark application filed, and were created by Dream Works. So the Court held that the merchandising right of "KUNGFUPANDA" should be protected. (by Mao Ligu)

本报讯 此前,美国梦工场动画影片公司(下称梦工场公司)针对山东省自然人胡晓中申请注册的"KUNGFUPANDA"商标提出异议。

在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)裁定被异议商标予以核准注册后,梦工场公司向北京市第一中级人民法院提起行政诉讼。日前,北京市高级人民法院对该案作出终审判决,撤销了一审原判及商标评审委员会裁定,并要求商标评审委员会作出裁定。

据了解,涉案的第6806482号"KUNGFUPANDA"商标,由胡晓中于2008年12月提出注册申请,指定

使用在第12类方向盘罩、车辆座套等商品上。法定期限内,梦工场公司针对被异议商标向国家工商行政管理总局商标局提出异议申请,但未获支持。随后其向商标评审委员会申请复审。

梦工场公司称,被异议商标不仅与其在先申请注册的引证商标构成使用在同一种或类似商品上的近似商标,而且还侵犯了其在先商品化权。据了解,梦工场公司拥有的第5400891号"KUNGFUPANDA"商标,核定使用在第9类计算机外围设备等商品上;拥有的第5400892号"KUNGFUPANDA"商标,核定使用在第28类活动玩具等商品上。两者的申请注册时间均为2006年6月。

此后,梦工场公司向北京市高级人民法院提起上诉,其制作的《功夫熊猫 KUNGFUPANDA》电影已于被异议商标申请注册日前,在中国进行了广泛宣传并进行了公映,已具有一定知名度,该知名电影名称已蕴含了较高的商业价值和较多的商业机会,应当作为民事权益予以保护。被异议商标的注册和使用将损害梦工场公司享有的在先商品化权。

二审法院经审理认为,在被异议



商标申请注册日前,梦工场公司出品的影片《功夫熊猫 KUNGFUPANDA》及其中人物形象的名称在我国具有较高知名度。而且,该知名度的取得是梦工场公司创造性劳动的结晶。因此,“功夫熊猫 KUNGFUPANDA”作为在先知名的电影名称及其中的人物形象名称,应当作为在先商品化权得到保护。(毛立国)

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