

Why do Chinese domestic films catch up from behind in terms of ticket-office? 中国国产电影缘何上演逆袭大戏?

In this summer, Chinese domestic film, representing with *Monster Hunt*, *Pancake Man*, *Monkey King: Hero is Back*, arouses again high film seeing interest in the summer vacation film market, and the Chinese domestic film catches up from behind in terms of ticket-office.

Production innovation wins a good reputation

"The number of domestic films putting on in the summer vacation, have realized breakthrough on both box office and quality, which, on the one hand, own to their stronger competitiveness and ability to survive in the market, on the other hand, which respect the audience, the market, meet with the commercial law while no longer blindly pursue big scale of investment and big-budget production. The production focuses on the characteristics and content of the films, so the films win recognition of audience." Feng Jun, the senior analyst of entgroup.cn told reporters.

In fact, the innovation and breakthroughs on production, is surely the root cause that the domestic film is favored by audience. *Monkey King: Hero is Back* overcome the tendency of delivering infants and didactic lectures by plenty of domestic animation films, and on basis of *Journey to the West* from which is difficult to find another innovative point, *Monkey King: Hero is Back* constructs a story on return of hero that is suitable for seeing by both adults and children. *Story Monster Hunt* is a kind of rewriting of the original Chinese classical novel. Director Raman Hui, basing on his 26 years of working experience in the Hollywood DreamWorks Studios, adopts a completely new technique to show a demon world that is totally dif-



ferent with that in the traditional concept, and produces the film into a comedy movie that is suitable for people of all ages, which is also a more perfect combination of Chinese traditional culture and Hollywood's production philosophy. Under the environment that film and TV circles have attached great importance to the original intellectual property rights, such kind of thorough adaptation to the original novel in *Monster Hunt*, may be called developing a new method of its own.

"The production of these Chinese domestic films, in fact, is very different from big scale of magic production in Hollywood. These films, from the role setting, plot settings to realization of core values, all reflect the Chinese way of thinking and contain Chinese style of pursuing original culture. It is just relying on the production and innovation on basis of Chinese culture, can we make presence of a well-known works." Feng Jun said.

Copyright protection shall be strong

With the gradual improvement of

China's film market, China's protection for the film copyrights has been gradually strengthened, and China has introduced a lot of laws and regulations and policies to protect film copyrights. From PRC's first Copyright Law in 1990, to the Regulations on Administration of Films in 2001, the film copyright protection is more elaborated, and then to Guiding Opinions on Promoting the Prosperity and Development of the Film Industry introduced by the State Council, which clearly put forward that illegal and criminal activities such as film smuggling and piracy etc shall be resolutely crack down, the intellectual property rights on protection of film shall be protected, furthermore, China's policy documents on the development of film industry have also repeatedly stressed the importance of copyright protection.

The industry insiders have pointed out, many Chinese domestic films, such as *Monster Hunt*, *Pancake Man* and *Monkey King: Hero is Back*, while put on in the cinemas, the film production party also increasingly pays attention to copyright protection,

and actively explores how to provide protection on film and television works script writing, film and television screen, film and television distribution, copyright trading and derivative products development in all aspects of the film industry circle. Actually, in recent years, in order to achieve the purpose of copyright protection, the Chinese film industry, while try to protect the interests of film copyright owner through multiple channels of public show and network communications etc, also protect their interests through many other multiple platforms such as the Internet, wireless internet, in order to meet the copyright protection demand for the development of the film industry.

Huang Wei, associate research fellow at Development and Research Center of the State Administration of Press, Publication, Radio, Film and Television of The People's Republic of China, said that, in recent years, along with the strengthening of the national fight against piracy and the promotion of national copyright awareness, the film derivatives products market will start to set up soon. The

industry insiders pointed out, the development of Chinese film derivative products is still in a relatively weak stage, the sales of DVD, Blue Laser Disc, digital TV video on demand, on-line video on demand, pay movie channel authorization and peripheral products development etc, are still the direction of China's endeavor on development and protection for current film derivative products.

(by Dou Xinying)

本报记者 窦新颖

今年夏天,以《捉妖记》《煎饼侠》《大圣归来》为代表的中国国产电影掀起了热潮,上演了一场中国国产电影逆袭大戏。

制作创新赢口碑

暑期档这几部国产电影实现票房与质量双突破的原因在于,一方面是其有较强的竞争力和市场生存能力,在类型上各具特色;另一方面是在电影创作中能尊重观众、市场,符合商业规律,不再盲目追求大投资、大制作,专注于特色与内容,因此获得观众的认可。”艺恩高级分析师冯璐向记者表示。

实际上,制作上的创新突破,才是国产电影受到青睐的根本原因。冯璐表示,《大圣归来》克服了众多国产动画电影低幼说教的倾向,将已经很难再有创新点的《西游记》,展现了一个适合成人和孩子共同观看的英雄回归故事。《捉妖记》故事则是对中国古典小说的原创新改。导演许诚毅基于他在好莱坞梦工厂26年的经验,运用一种全新的手法来展现一个与传统观念完全不一样的妖的世界,把《捉妖记》拍成了一部老少咸宜的合家欢电影,也是中国传统文化和好莱坞的一些制片理念比较完美的一次融合。在影视界纷纷重视原创知识产权的环境下,《捉妖记》这样彻底性的原创性的改编,可谓是独辟蹊径。

“这些中国国产电影的制作,其实与好莱坞的魔幻大制作是有很大的不同,从角色设定、情节设置到核心价值观的呈现都体现出中国式思维方式,蕴含着中国式的寻根文化。只有基于中国文化基础之上的制作创新,才能推出家喻户晓的作品。”冯璐说。

版权保护要给力

随着中国电影市场的日益发展,中国对电影版权的保护逐渐重视,并相继出台了保护电影版权的法律法规和政策文件。从1990年新中国第一部《著作权法》,到2001年的《电影管理条例》,细化电影版权保护,再到2010年国务院出台的《关于促进电影产业繁荣发展的指导意见》明确提出要坚决打击电影走私、盗版等违法犯罪活动,保护与电影有关的知识产权,中国关于电影产业发展的政策性文件中也多次强调版权保护的重要性。

业内人士指出,《捉妖记》《煎饼侠》《大圣归来》等诸多中国国产电影在进入院线的同时,也愈发重视对于版权的保护,并且积极探索从影视作品剧本创作、影视拍摄、影视发行、版权交易到衍生产品开发所有电影产业链环节的版权保护。实际上,近些年来,为了达到版权保护的目的,中国电影产业正在试图从院线公映、网络传播等多个渠道保护电影版权人的利益的同时,也从互联网、无线等多个平台保护电影版权人的利益,以满足电影产业发展的版权保护需求。

国家新闻出版广电总局发展研究中心副研究员黄威表示,近年来随着国家打击盗版力度的加强,社会公众版权意识的提升,电影衍生产品市场启动在即。业内人士指出,中国电影衍生产品的开发保护仍然处于相对薄弱的环节,DVD、蓝光碟片的销售,数字电视视频点播,在线视频点播,付费电影频道授权以及周边产品开发等,依然是中国目前电影衍生产品开发和保护的而努力方向。

Electronic evidence: a new basis for judging patent infringement 电子证据:专利侵权判定的新依据

Recently, the Guangdong Higher People's Court, for the first time, regarded 'Taobao Transaction Snapshot' as the main evidence for judging constituting the practical patent infringement, which was considered as an important trial innovation in judicial practice.

It was understood that Ms Lu, made application for the practical new type of patent to the Patent Office of the State Intellectual Property Office for 'Simple Gondola Shelf' on June 21, 2012. In July 2013, she filed a lawsuit to the Foshan Intermediate People's Court and stated that, the Watson Gondola Shelf etc published and sold in the internet by hardware factory, violated her patent, and she demanded the hardware factory to make compensation for her loss. The court of first instance adopted two pieces of evidence provided by the hardware factory: one piece of evidence displayed that the factory's sales record and appraisal in Taobao.com and www.ugong.com; another record and appraisal displayed the record of the orders and transactions snapshot on the allegedly infringing products sold by the factory on Taobao.com. The order transaction time was earlier than the patent application date involved in the case. Accordingly, the court judged that the counterargument of a hardware factory on the existing technology was effective, and made a verdict that Ms

Lu's litigation application was rejected. Ms Lu refused to comply with the judgment and then appealed to a higher court, Court of Second Instance, also by adopting the related electronic evidence on snapshot transactions of commodity, and according to the technical characteristics comparison between snapshot transactions of commodity and the alleged infringing products, judged that the hardware factory did not constitute infringement.

Actually, along with the momentum of strong development of the network trade, the adoption of electronic evidence has become more common in the settlement of disputes. Electronic evidence is complex and difficult to acquire. As to the specificity of the electronic evidence, Li Shunde, Professor and doctoral advisor of law and Intellectual Property Rights Department, University of Chinese Academy of Sciences, said in this interview with our newspaper reporter, under usual conditions, an isolated electronic evidence cannot be admissible, there at the same time must be other related evidence together for constituting a complete and real chain of evidence that can prove the authenticity and reliability of the electronic evidence, then, such kind of electronic evidence can be likely to be admissible in court. Civil procedure law, criminal procedure law and contract law have all made the relevant provisions



on electronic evidence. In the process of case trial, the court must, according to the law, make strict quality confirmation, comprehensive, objective review and verification for a variety of evidence submitted by the parties.

The verdict of Court of Second Instance had law evidence; for the evidence submitted, therefore, they were adopted and became an important basis and evidence for judging infringement by the court.

(by Wei Xiaomao/Zheng Siliang)

本报记者 魏小毛 实习记者 郑斯亮

近日,广东省高级人民法院首次将“淘宝交易快照”作为认定是否构成实用新型专利侵权的主要证据,这被认为是司法实践中进行的一次重要审判创新。

据了解,卢某于2012年6月21日向国家知识产权局专利局提交了“简易中岛式货架”的实用新型专利申请。2013年7月,她向佛山市中级人民法院起诉称,某五金厂在网上公布和销售的屈臣氏中岛货架等侵犯了其专利权,要求五金厂赔偿其损失。一审法院采信了五金厂的两份证据:一份显示该厂在淘宝网及有功网的销售记录及评价;另一份记载了该厂在淘

宝网上销售被诉侵权产品的订单及其交易快照,该订单的成交时间早于涉案专利申请日。据此,法院认定,五金厂关于现有技术的抗辩成立,判决驳回卢某的诉讼请求。卢某不服判决上诉之后,二审法院同样采信了交易快照商品的相关电子证据,并根据交易快照商品与被诉侵权产品技术特征比对,认定五金厂不构成侵权。

实际上,伴随着网络交易的强劲发展势头,电子证据的采信在解决纠纷时也变得比较常见。电子证据复杂且不易取证,对于电子证据的特殊性,中国科学院大学法律与知识产权系教授、博士生导师李顺德在接受本报记者采访时认为,通常情况下,一个孤立的电子证据是不能被采信的,必须有其他相关的证据构成一个完整、真实证据链,能够证明该电子证据的真实性和可靠性,才有被法院采信的可能。民事诉讼法、刑事诉讼法和合同法等对电子证据都已经作出了相关的规定,在案件的审理过程中,法院都要依法对当事人提交的各种证据进行严格质证、全面、客观地审查核实。该案中,二审的判决书有据,不仅对淘宝平台的日常管理作出了说明,而且对所提交的证据作出了具体的说明和合理的分析,因此被法院采用,从而成为法院判断侵权的重要依据。

NUMBERS

2,790

As of the end of June 2015, China obtained cumulatively 2,790 GIs, while Shandong (399), Fujian (258), Hubei (214), Chongqing (198) and Jiangsu (188) are the five provinces with the most registration of GIs, sources from the State Administration of Industry and Commerce said.

2790件

中国国家工商总局最新数据显示,截至2015年6月底,中国累计注册地理标志证明商标2790件,已注册地理标志证明商标最多的5个省份分别为山东(399件)、福建(258件)、湖北(214件)、重庆(198件)、江苏(188件)。

102,000 times

According to the date provided by China Telecom and China Unicom, in 2014, the number of 12330 answered was 102,000 times, up 60%.

10.2 万次

中国电信、中国联通最新后台反馈数据显示,2014年全国12330电话接听数量约为10.2万次,同比增长约60%。

1,500

In the first half of 2015, Zhejiang IP administrations totally handled more than 1,500 patent in-

fringement cases in e-commerce sector, accounting for 48.6% of the total infringement cases.

1500 余件

今年上半年以来,浙江省知识产权系统累计调处电子商务领域专利侵权纠纷1500余件,占侵权纠纷案件总量的48.6%。

2.556 billion yuan

In the first half of 2015, Anhui Province secured 259 loans of 2.556 billion yuan by pledging patent rights.

25.56 亿元

今年上半年,安徽省专利权质押融资工作稳步推进,累计专利权质押贷款259笔,融资累计达25.56亿元。

39,292

In the first half of 2015, Sichuan filed 39,292 patent applications, up 32.47%, 11.97% higher than the average growth rate of the country. The number of patent application of invention is 14,209.

3.9292 万件

今年上半年,四川省专利申请量3.9292万件,同比增长32.47%,比全国平均增速高11.97%,其中发明专利申请1.4209万件。

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