

IP5 High Level Meetings in Suzhou Pledge Better User Services

五局副局长会议、五局局长与产业界会议、五局局长会议相继在苏州召开

The series of high-level meetings among the world's largest five IP offices (IP5), namely, the State Intellectual Property Office of P. R. China (SIPO), the European Patent Office (EPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO) and the US Patent and Trademark Office (USPTO), are held in Suzhou on 20-22 May. Comprising the 14th IP5 Deputy Heads Meeting, the 4th IP5 Heads/Industry Meeting, and the 8th IP5 Heads Meeting, the meetings are a milestone for

IP5 cooperation and its future progress.

The meetings are hosted by SIPO and attended by the Deputy Director General of the World Intellectual Property Organization (WIPO) as an observer.

Being the most internationally renowned anchor event in IP5 cooperation, the IP5 Heads of Office Meeting has drawn wide interest of the global IP community. During the sessions, dozens of industry representatives from the 5 countries and regions gath-

ered together in Suzhou to hold a meeting of the industry on IP5 cooperation and to attend the IP5 Heads/Industry Meeting.

Launched in 2007, the IP5 cooperation is the joint efforts on patent examination among the world's largest IP offices aiming at avoiding unnecessary repetitive works, improving the efficiency and quality of patents examination, and guaranteeing the stability of patent rights. Eight years later, the coverage of IP5 cooperation has been expanded from the initial 10 basic

projects to dozens of projects under several working groups. IP5 cooperation has made significant progress in inter-office work sharing, improving efficiency and quality of patent examination procedures, and dissemination and utilization of patent information, benefiting IP users from the five countries/regions.

(by Hu An)

本报讯 5月20日至22日,中国国家知识产权局、美国专利商标局、欧洲专利局、日本特许厅、韩国特许厅五局局长系列会议在中国苏州举

办。会议期间,将先后召开第十四次五局副局长会议、第四次五局局长与产业界会议,以及第八次五局局长会议。会议的举办对于五局合作进程及未来发展具有里程碑式的重要意义。

此次会议由中国国家知识产权局主办。WIPO 副总干事作为观察员列席会议。据了解,五局局长会议是五局合作中国际影响力最大的活动,得到全球知识产权界的广泛关注。会议期间,来自5个国家或地区的数十位产业界代表同期召开五局合作产业界会议,并参加五局局长与

产业界会议。

据悉,五局合作始于2007年,是全球五大知识产权局之间为“避免不必要的重复工作,提高专利审批效率和质量,确保专利权的稳定”而开展的局间专利业务合作。8年来,五局合作的内容已由成立之初的10个基础项目扩展成为多个工作组下的几十个项目,在局间工作共享、专利审查效率和质量的提高,以及专利信息传播与利用等方面取得了许多实质性成果,为5个国家或地区的知识产权用户提供了便利。

(胡岸)



Photo News

On May 20th, the IP5 Deputy Heads Meeting was held in Suzhou, China. Deputy Heads of SIPO, USPTO, EPO, JPO, KIPO and WIPO attended the meeting. Report of WG1 Meeting, Global Dossier- Vision Statements based on Industry Priorities, three topics of PHEP were presented and discussed at the meeting. This meeting laid a solid foundation of the following IP5 Heads/Industry Meeting and the IP5 Heads Meeting.

(by Zhang Zihong/ Sun Di)

5月20日下午,中美欧日韩五局合作第十四次副局长会议在苏州召开。中国国家知识产权局副局长何志敏出席并主持会议。美国专利商标局副局长斯里夫、欧洲专利局副局长路兹、日本特许厅技监木原美武及韩国特许厅副厅长李俊熙率代表团出席会议,世界知识产权组织副总干事桑德奇作为观察员列席会议。会议围绕拟向五局局长会议汇报和授权的事项开展了充分的交流和讨论,并就各局分类合作、全球案卷优先事项、专利协调专家组优先主题等内容进行了深入探讨并达成共识,为即将召开的五局与产业界会议及五局局长会议奠定了坚实的基础。

本报记者 张子弘 孙迪 摄影报道

China's IP in foreign eyes



Huawei has unveiled its latest flagship phones with cameras that it says are capable of creating "professional" looking photos and videos. The firm said a mix of an advanced sensor and optical im-

age stabilisation tech offered superior night photos and the ability to create "light painting" effects with real-time previews. (Huawei says P8 phones have 'professional' camera features, by BBC News)

华为推出了其最新的旗舰手机 P8,这款手机具备专业水准的照相和视频功能。华为公司表示,这款手机涵盖先进的传感器和光学防抖技术装置组合,提供极佳的夜间照相和创建具有实时预览光影效果的能力。(“华为发布专业摄影功能手机 P8”,英国广播公司新闻网)

Comment:

According to the statistics of WIPO in 2014, ranking the first on the list of the most PCT patents ap-

plication enterprises, Huawei is undoubtedly the leader of the smartphone makers in China.

Huawei's effort to differentiate a great-looking device from the sea of similar smartphones is the real reason that Western consumers still perceive it as being a "value-for-money brand".

点评:

2014年,根据世界知识产权组织的统计显示,华为公司 PCT 国际专利申请量排名位居全球企业首位,华为已成为中国智能手机制造商的领导者之一。正是基于华为在智能手机制造方面所做出的努力,西方消费者把它视为“物有所值的品牌”。



If Apple were simply a hardware-maker, there would be reason to worry. It is losing market share to rivals such as Samsung of South Ko-

rea and Xiaomi of China, which make cheaper devices, and to Google's Android operating system, which runs on 71% of the world's smartphones. (Apple's future: Reluctant reformation, by Economist)

如果苹果只是一家硬件制造商,那么情况是令人担忧的,因为苹果的市场份额正在缩小。相反,韩国的三星公司和中国的 Xiaomi 公司凭借着价格优势和拥有全球 70% 市场份额的安卓操作系统,使其在市场份额上一路“高歌猛进”。(“苹果的未来:不得不进行的改革”,经济人)

Comment:

Innovation and reform has al-

ways been the ladder of development and progress for enterprise. In the global smartphone market, Samsung and Xiaomi meet opportunity as technology innovators, and create enormous pressure to Apple on smartphone market, undoubtedly a big hit to those who stick to the market without further innovation.

点评:

创新和知识产权始终是企业进步的阶梯。在全球智能手机市场上,韩国三星公司和小米公司先后以技术革新者的身份异军突起,并给苹果带来了巨大的市场压力。(李锋)

EXPRESS

New Balance charged 98 million Yuan “New Balance”一审被判赔9800万元

In July 2013, the US brand New Balance was sued by a Chinese natural person surnamed Zhou for using “新百伦” in sale. Recently, Guangzhou Intermediate People's Court made a decision that New Balance should pay 98 million Yuan for trademark infringement. The amount is the largest compensation in the decisions in Guangzhou Intermediate People's Court by now.

Accordingly, New Balance was suspected of being infringement for its selling productions using “New balance/新百伦” characteristic in its online stores, official website, advertisements and receipts and so on.

Zhou is the owner of No. 865609 trademark “百伦” and No. 4100879 trademark “新百伦” on Class 25th goods of Clothes and Shoes. Zhou claims that New balance' using “新百伦” is trademark infringement. Besides, Guangzhou Shengshi Changyun Commercial chain co., LTD, the retailer of New Balance, was also sued for

infringement.

According to the information from the Trademark Office under the State Administration for Industry and Commerce of China, No. 4100879 trademark “新百伦” was publicized in 2007. Then New Balance filed an objection requisition to the trademark. In 2011, the Trademark Office brought in a verdict that the trademark was not similar with the pertinent trademark, and affirmed the trademark. New Balance did not appeal.

The Court held that, New Balance' using “新百伦” in selling goods was using it as a trademark; “新百伦” was not the only transliteration name of New Balance. Thus, New Balance was subjective using “新百伦” trademark and infringed.

In confirmation of infringement responsibility, the Court held that, since New Balance use “新百伦” trademark in selling but did not directly use it on the goods, half of the profits should be paid as compensation. New Balance



was obliged to use its trademark carefully in public and avoid using trademark similar or same to other trademarks.

Besides, New Balance has been using “新百伦” trademark instead of its legal name “纽巴伦” with fully knowledge of Zhou's ownership of the trademark. This kind of activity would cause confusion among public, so New Balance should be responsible.

According to New Balance, it will institute an appeal to the higher court. CIP News will continue to follow the latest developments.

(by Yang Qiang)

本报讯 2013年7月,美国知名运动鞋品牌“New Balance”,因在中国市场的销售中使用“新百伦”字样,被广州市自然人周某提出的商标侵权诉讼。日前,广东省广州市中级人民法院(下称广州中院)针对该案作出一审判决,被告“New Balance”在中国的关联公司被认定侵权,需赔偿周某经济损失及合理支出共计9800万元。据悉,该案是目前广州中院判赔额度最高的商标侵权案件。

据了解,新百伦贸易(中国)有限公司(下称新百伦公司)被诉侵权的主要行为,系其在天猫商城和京东商城开设的旗舰店的醒目位置突出使用“新百伦官方旗舰店”等字样,并在每款产品介绍中均有“New balance/新百伦”标识;在其官方网站上使用“新百伦官方网站”字样,且该网页多处出现“新百伦”标识;此外,新百伦公司还在其宣传资料、产品宣传广告、产品销售小票及发票中多次使用“新百伦”标识。

周某则在25类服装、鞋等商品上分别拥有第865609号“百伦”商标及第4100879号“新百伦”商标。其认为,新百伦公司未经其许可,擅自使用

“新百伦”标识销售鞋等商品,侵犯了其上述两件注册商标专用权。据了解,同时被诉侵权的还有“New Balance”品牌的销售商广州市盛世长运商贸连锁有限公司(下称盛世公司)。

记者通过国家工商行政管理总局商标局(下称商标局)了解到,第4100879号“新百伦”商标于2007年8月初步审定并公告。之后,“New Balance”品牌拥有者美国新平衡运动鞋公司(NEW BALANCE ATHLETIC SHOE, INC.,下称新平衡公司)对该商标提出异议申请,认为该商标涉嫌抄袭、摹仿其“New Balance”商标,与其商标构成近似,要求驳回该商标的注册申请。2011年7月,商标局裁定两商标不构成近似。新平衡公司未就该裁定结果申请复审,第4100879号“新百伦”商标最终获准注册。

广州中院经审理认为,由于周某的两件商标均通过商标局注册取得,因此对其合法性予以认可。而新百伦公司在其天猫商城和京东商城旗舰店上销售商品时,在商品图片下方文字介绍中使用“新百伦”字样,在销售小票中使用“新百伦”字样等行为,均被

认定属于商标性使用。此外,“新百伦”并非“New Balance”的音译或意译,其意译应为中文“新平衡”,新百伦公司也称其关联公司“New Balance Athletic Shoe, Inc.”为“新平衡运动鞋公司”,产品之前名称为“纽巴伦”,故“新百伦”并非“New Balance”的唯一音译,因此,应认定新百伦公司使用“新百伦”标识的行为存在主观恶意。综上,新百伦公司被诉行为构成侵权。对于新百伦公司应该承担的相应责任,广州中院认为新百伦公司应停止侵权并赔偿原告经济损失。由于被告属于销售行为侵权,并未直接在所售商品上使用“新百伦”字样,广州中院判决新百伦公司向周某赔偿的数额应占其获利总额的1/2,即9800万元。

据悉,“New Balance”方面正在准备提起上诉。本报将继续关注该案进展。(杨强)

英文翻译	孙迪
Translator	Sun Di
责任编辑	王璐
Executive Editor	Wang Lu