

# China vows to step up judicial protection on IP

“两高”工作报告显示——

## 中国进一步加大知识产权司法保护力度

On March 12, the third session of the 12th National People's Congress held the third plenary meeting, and listened to and deliberated on the report of Supreme People's Court and Supreme People's Procuratorate. According to the report, in 2014, China's court at all levels concluded 110,000 IP cases of first-instance, up 10%. Chinese procuratorial organs prosecuted 9,427 persons who suspect of infringing trademark right, patent right, copyright and trade secret, up 7.1%.

"In 2014, in a bid to implement national IP strategy and exert full of judicial protection, China established three IP courts in Beijing, Shanghai and Guangzhou respectively to hear IP civil and administrative case," said Zhou Qiang, president of the Supreme People's Court. "This year, Chinese courts at all levels would make steady strides to settle disputes in investment

and consumption, foreign trade and IP field, thus creating a fair system for social and economic development."

"In 2014, Chinese Procuratorial organs stepped up judicial protection on IP and joined hands with other relevant department to crack down on infringement and to support and protect innovation," said Cao Jianming, the procurator-general of the Supreme People's Procuratorate. He also points out that in 2015, the procuratorial organs would actively adapt to economic development and perform the duty of supervision.

(by Li Qun)

本报讯 3月12日,中国十二届全国人大三次会议举行第三次全体会议,分别听取和审议了中国最高人民法院和中国最高人民检察院的工作报告。报告分别显示,2014年,中国各级法院审结一审知识产权案件11万件,同比上升10%;中国检察机

关起诉侵犯商标权、专利权、著作权和商业秘密等犯罪9427人,同比上升7.1%。

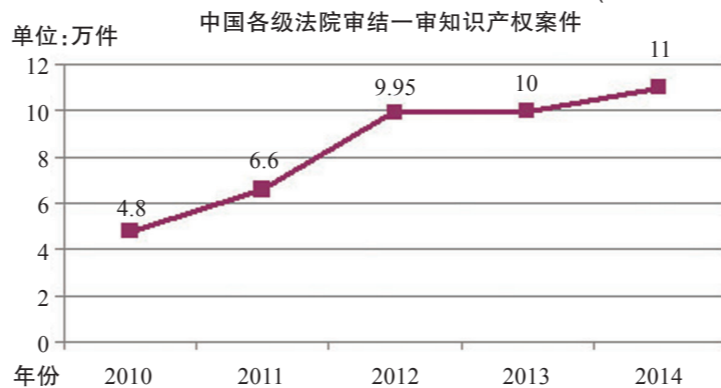
中国最高人民法院院长周强表示,2014年,中国在北京、上海、广州设立知识产权法院,审理知识产权民事和行政案件,落实国家知识产权战略,发挥司法保护知识产权的重要作用。他指出,2015年,人民法院要落实稳中求进要求,妥善化解投资消费、对外贸易、知识产权等领域的矛

盾纠纷,为经济社会发展营造公平正义的法治环境。

中国最高人民检察院检察长曹建明表示,2014年中国检察机关加大知识产权司法保护力度,与有关部门共建打击侵权假冒信息平台,坚决打击侵权行为,支持和保护科技创新。他指出,2015年,中国检察机关将主动适应经济发展新常态,依法履行法律监督职能。

(李群)

The concluded IPR cases of first-instance in China (2010-2014)



The criminal suspects prosecuted for violation of IPR in China (2010-2014)



李铎 制图



### IP Brief

representing 10.4% of Pudong's GDP.

#### 上海

近日,上海市公布相关数据,2014年上海多举措力促文化创意产业发展,其中浦东新区前三季度文化创意产业实现增加值528.67亿元,增长14.3%,占该区GDP的比重达到10.4%。

#### Tianjin

According to the statistics from Tianjin IP Office, in 2014, 25 companies, as patent utilization pilots, realize total income of 4.59 billion yuan, up 13.89%, in which 3.32 billion yuan are from patent product, up 22.7%, accounting for 72.4% of the total.

#### 天津

根据天津市知识产权局官网统计数据,2014年,天津市25家专利运用试点企业共实现企业总销售收入45.9亿元,同比增长13.89%,其中专利产品销售收入33.2亿元,同比增长22.7%,专利产品销售收入贡献率达72.4%。

#### Chongqing

In 2015, Chongqing will introduce two to three high level IPR service agencies with an aim of owning 100 IPR agencies in total and 1,300 relative employees. Meanwhile, Chongqing will set up an comprehensive IPR service system, providing market service and public service.

#### 重庆

3月4日,重庆市发布消息称,今年将引进2家至3家知识产权高端服务机构,并力争让全市知识产权服务机构达到100家,从业人员超过1300人,探索建立以市场服务为主体、公共服务为补充的知识产权服务体系。

#### Beijing

Recently, a cooperation framework agreement was jointly concluded by Beijing IPR office and Beijing Industrial University. Under the agreement, Beijing IPR College and Beijing IPR Research Institute will be established, which will be built into an IPR platform with significant influence and into an important think tank for Beijing government.

#### 北京

日前,北京市知识产权局、北京工业大学签署合作框架协议,双方将共建北京知识产权学院、北京知识产权研究院,力争建成有国内外影响力的知识产权研究交流平台,成为北京市政府决策的重要智库。

#### Guangdong

On March 1, Guangdong's three newly approved regulations on Guangdong free trade area went into effects. Under the regulations, Guangdong will set up comprehensive IPR administrative mechanism, covering FTA administrative management and protection. A comprehensive IPR department covering patent, trademark and copyright will be established.

#### 广东

3月1日,广东等新增设的3个自贸区相关法规正式生效。广东自贸区将建立统一的知识产权综合行政管理机制。探索建立与国际接轨的自贸区知识产权行政管理和保护机制,借鉴上海经验,成立集专利、商标、版权“三合一”的自贸区知识产权综合行政管理部门,实现知识产权“一站式”服务。

#### Shanghai

Latest news shows that Shanghai has adopted several measures to support and develop cultural creative industry development in 2014. In the first three quarters, the cultural creative industry has produced 52.867 billion yuan added value, increased by 14.3%, rep-

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## China patent E-filing sees rapid growth

### 中国专利电子申请实现跨越式发展

In recent five years, in a bid to make the E-filing service much better and more convenient, so as to provide a strong support for development of Chinese patent examination, SIPO is steadily popularizing and optimizing its E-filing system, and has achieved leapfrog development.

For five years, relying on local IP offices, SIPO has provided training courses for patent agencies, companies, universities and research institutes. By the end of 2014, the relevant departments of SIPO had completed training courses in 30 provinces, autonomous regions and municipalities.

"At present, SIPO has developed and utilized the E-filing supporting systems, including client management system of patent E-filing, Chinese patent search system, online payment platform, E-request for invalid patent systems in reexamination, E-filing system on integrated circuits. And other

supporting systems such as public service system, payment reduction approval system are being under construction." the director of the Examination Management Department told the reporter.

For five years, China has achieved rapid growth in E-filing, and the E-filing rate increased from 26%, 67.21%, 81.88% to 86.52% in 2010, 2011, 2012 and 2013 respectively. In 2014, there have been 64,170 new users registered in China's E-filing system, 1,103 patent agencies have submitted electronic patent application, 981 of which have E-filing rate of 98%. As of end of 2014, there have 190,000 users registered in the E-filing system, with an annual average E-filing rate of 89.62% in China.

(by Wu Yan)

本报讯 近日,记者从中国国家知识产权局获悉,5年来,中国国家知识产权局稳步开展电子申请推广专



项工作,同时不断优化电子申请系统,推出了一系列相应的配套系统,为专利申请人提供了方便快捷的服务,为中国专利审查提供了强有力的支撑,中国专利电子申请实现跨越式发展。

据介绍,5年来,依托地方知识产权局管理部门以及专利代办处,中国国家知识产权局针对重点专利代理机构、企业、高校或科研院所开展培训等多种活动。截至2014年底,国家知识产权局相关部门已赴30个省、区、市,顺利完成了电子申请培训、推广等专项工作。

"目前,国家知识产权局已经开发完成并上线投入使用的电子申请配套系统有专利电子申请客户端管理系统、中国专利查询系统、网上缴

费平台、复审无效电子请求系统、集成电路布图设计电子请求系统等,正处于开发建设阶段,即将上线的配套系统有对外公共服务系统、费用减缴审批系统等。"审查业务管理部相关负责人向本报记者介绍。

据介绍,5年来,我国电子申请率实现了跨越式发展,其中2010年为26%、2011年为67.21%、2012年为81.88%、2013年为86.52%。在2014年,中国专利电子申请系统新注册用户6.417万个,共有1013家专利代理机构提交了专利电子申请,其中981家专利代理机构的电子申请率超过98%;截至2014年底,已有近19万电子申请注册用户,全国年平均电子申请率已达89.62%,专利代理机构电子申请率达到99.67%。(吴艳)

## "LEXINGTON" won trademark lawsuit in China

### 美国“莱克星顿”在华成功维权

Lexington Furniture Industries Co., Ltd. (hereafter as Lexington) accused Tianjin Fusite Wood Co., Ltd. (hereafter as Fusite) and Laikexingdun (Tianjin) Trading Co., Ltd. (hereafter as Laikexingdun Tianjin) to Tianjin Binhai New Area People's Court for trademark infringement and unfair competition.

Tianjin Binhai New Area People's Court held that the two defendants constituted trademark infringement and should pay compensation to Lexington. However, both Lexington and Fusite appealed to Tianjin Second Intermediate People's Court. Recently, Tianjin Second Intermediate People's Court made final judgment that Laikexingdun Tianjin should stop using "Lexington" business name.

Tianjin Second Intermediate People's Court held that, after the termi-

nation of contact between Lexington and Fusite, the two defendants still used the registered "Lexington" trademark without permission, which constituted infringement of registered "Lexington" trademark and unfair competition. Fusite's continuing use of the domain name is sufficient to cause confusion and misidentification among the consumers, which also constituted unfair competition. And the domain name should be transferred to Lexington for free. In addition, the court also held that "Lexington" business name has a certain reputation in Chinese market, after the termination of contract, Laikexingdun Tianjin continued to use of the above business name, which was enough to cause public confusion and misidentification, so Laikexingdun Tianjin should stop using the "Lexington" character

in the business name. Accordingly, Tianjin Second Intermediate People's Court made the final judgment.

(by Mao Liguo)

因认为合作伙伴天津弗斯特木业有限公司(下称弗斯特公司)在合同期满后仍擅自将其商标进行宣传推广,"LEXINGTON"(莱克星顿)品牌拥有者美国莱克星顿家具实业有限公司(下称莱克星顿公司)将弗斯特公司及其关联公司(下称莱克星顿天津公司)以商标侵权及不正当竞争为由诉至天津市滨海新区人民法院。

一审法院认定两被告构成商标侵权,并要求两被告赔偿莱克星顿公司经济损失。莱克星顿公司及弗斯特公司均向天津市第二中级人民法院提起上诉。日前,二审法院对该案作出终审判决,莱克星顿天津公司停止使用含有“莱克星顿”字样的企业名称。



二审法院经审理认为,莱克星顿公司与弗斯特公司的合作协议终止后,两被告未经莱克星顿公司许可,擅自使用莱克星顿公司的注册商标用于宣传,侵犯了莱克星顿公司的注册商标专用权并构成不正当竞争,应当承担侵权责任。弗斯特公司在合作协议到期后,继续持有涉案域名足以引起相关公众的混淆和误认,构成不正当竞争,该域名应无偿转让至莱克星顿公司。此外,法院还认为“莱克星顿”字号在中国市场上具有一定的知名度,莱克星顿天津公司在合作协议到期后,继续使用上述字号,足以引起相关公众的混淆和误认,故其应停止使用包含“莱克星顿”字样的企业名称。由此,天津市第二中级人民法院依法作出了终审判决。(毛立国)

