

# China issues The Further Implementation of the National IP Strategy Action Plan (2014-2020)

中国《深入实施国家知识产权战略行动计划(2014-2020年)》首次提出——

## 努力建设知识产权强国

Recently, the general office of State Council of China forwarded The Further Implementation of the National Intellectual Property Strategy Action Plan (2014-2020) (hereafter as the Action Plan) issued by the State Intellectual Property Office jointed with other departments. The Action Plan defined the guiding ideology, main goals and action steps of the implementation of the National Intellectual Property Strategy during the following period. For the guiding ideology, the Action Plan indicates, China should carefully plan the development path of its construction of IP power and take efforts to build IP power, for offering strong support to the building on an innovative country and a well-off society. For the main goals, the Action Plan indicates, by 2020, China will significantly increase the level of IPR creation, enhance the IPR utilization and improve the protection and management capability.

The Action Plan defines 12 expected targets related with intellectual property rights, and in accordance

with the requirements of encouraging creation, effective utilization, legal protection and scientific management, the government will focus on strengthening the utilization and protection of IPR, and actively create a favorable legal environment, market environment and cultural environment, and strive to build a IP power, and an innovative country and a well-off society.

The Action Plan puts forward four major actions to implement intellectual property strategy. The first is to promote the IP creation and utilization. The government will promote the development of IP-intensive industries and modern agricultural services to enhance the modern service industry, and finally to support industrial restructuring and upgrading. The second is to strengthen IPR protection. The government will strengthen IPR administrative law enforcement information disclosure to strengthen IPR law enforcement in key fields and promote software legalization, then strengthen criminal IPR law enforcement and judicial protection, put forward

the social prevention and mediation of IP disputes to create a favorable market environment. The third is to strengthen IPR management. The government will strengthen the scientific and technological innovation, IPR examination, implement intellectual property appraisal on major economic activities, guide enterprises to strengthen IPR management, IPR management on national defense affairs, to improve management efficiency. The fourth is to expand IPR international cooperation. The government will step up IP issues with foreign countries, and improve IP rules related with foreign trade, support domestic enterprises to go abroad, to enhance their international competitiveness.

The Action Plan defines the construction of three major infrastructure projects. The first is IP information service project. The government will promote interconnection among various IPR basic information public service platforms, and gradually realise the sharing of IP basic information resources, and open to the public for

free or at low-cost. The second is the IP survey and statistics project. The government will start IPR statistics and monitoring, and gradually establish a statistical system of IP industry, and contribute to revised accounting system of the national economy. The third is IP talent construction. The government will build national training base of intellectual property talents, and the intellectual property content should be concluded into school curriculum system, legal education and scientific literacy promotion of all people. (by Xin Hua)

本报综合新华社消息 中国国务院办公厅近日转发的中国国家知识产权局等单位《深入实施国家知识产权战略行动计划(2014-2020年)》(下称《行动计划》),明确了下一阶段国家知识产权战略实施的指导思想、主要目标和行动措施。其中,在指导思想中《行动计划》提出,认真谋划中国建设知识产权强国的发展路径,努力建设知识产权强国,为建设创新型国家和全面建成小康社会提供有力支撑。在主要目标中《行动计划》提出,到2020年,知识产权创造水平显



著提高,运用效果显著增强,保护状况显著改善,管理能力显著增强,基础能力全面提升。

《行动计划》明确了12项知识产权相关预期指标,要求按照激励创造、有效运用、依法保护、科学管理的方针,着力加强知识产权运用和保护,积极营造良好的知识产权法治环境、市场环境、文化环境,努力建设知识产权强国,为建设创新型国家和全面建成小康社会提供有力支撑。

《行动计划》从四方面提出了实施知识产权战略的主要行动。一是要促进知识产权创造运用,通过推动知识产权密集型产业发展,服务现代农业发展,促进现代服务业发展,支撑产业转型升级。二是要加强知识产权保护,通过加强知识产权行政执法信息公开,加强重点领域知识产权行政执法,推进软件正版化工作,加强知识产权刑事执法和司法保护,推进知识产权纠纷社会预防与调解工作,营造良好市场环境。三是要强化

知识产权管理,通过强化科技创新知识产权管理,加强知识产权审查,实施重大经济活动知识产权评议,引导企业加强知识产权管理,加强国防知识产权管理,提升管理效能。四是要拓展知识产权国际合作,通过加强涉外知识产权工作,完善与对外贸易有关的知识产权规则,支持企业“走出去”,推动国际竞争力的提升。

《行动计划》明确了建设三大基础工程。一是知识产权信息服务工程。推动各类知识产权基础信息公共服务平台互联互通,逐步实现知识产权基础信息资源共享,并免费或低成本向社会开放。二是知识产权调查统计工程。开展知识产权统计监测,逐步建立知识产权产业统计制度,在新修订的国民经济核算体系中体现知识产权内容。三是知识产权人才队伍建设工程。建设国家知识产权人才培养基地,将知识产权内容纳入学校教育课程体系以及普法教育和全民科学素养提升工作。



### Photo News

Maogusi Dance is an ancient and original dance of Tujia ethnic people, and is considered as the farthest source and living fossil of Chinese dance and drama. In Maogusi Dance performances, performers simulate ancient ancestors' work and life with dance and story-spoken characters, and with a high cultural value, the dance was included in the first group of national intangible cultural heritage list. (by Zhang Zihong)

莽古斯舞是土家族古老而原始的舞蹈,为舞蹈界和戏剧界公认的中国舞蹈及戏剧的最远源头和活化石。在莽古斯舞表演中,表演者用舞蹈和道白来模拟远古先民劳动和生活的故事情节,具有极高的文化价值,被列入第一批国家级非物质文化遗产名录。  
本报记者 张子弘 摄影报道



## BMW won trademark lawsuit “宝马”异议“宝马驰度”

Zhang Chongwei, the legal representative of Shandong Baoma Clothing Co., Ltd., wanted to apply for registration of “Baomachidu” trademark on clothing and other goods, leading to the objection by BMW AG (hereinafter referred to BMW).

After the Trademark Review and Adjudication Board (TRAB) under State Administration for Industry and Commerce made the decision that the trademark was not approved for registration, Zhang Chongwei filed an administrative lawsuit to the Beijing No.1 Intermediate People's Court. Recently, the first instance of the court maintained the decision by TRAB.

Actually, the questioned No.5154519 Baomachidu trademark was applied by Zhang Chongwei in February, 2006, for using on class 25 for clothing, underwear and shirt.

Then, BMW held that, the questioned trademark was similar or the same to its earlier applied “BMW” trademark and “BMW and figure” trademark, so BMW lodged an opposition within the statutory period. When its opposition was rejected, BMW applied re-examination to TRAB.

BMW held that, its “宝马”, “BMW” and “BMW and figure” trademark enjoyed high visibility, and had become well-known trademarks of Class 12 on cars and other goods. The questioned trademark was not only used on the same or similar goods of similar marks with three cited trademarks, but also constitutes a malicious imitation to well-known trademark BMW, which could cause consumers' confusion on a registered trademark. In addition, the questioned trademark caused infringement to the previous right of BMW, and constitutes unfair competition.

It is reported that, the first cited “BMW” trademark was No. 663925, an internationally registered trademark; the second cited No.673219 trademark was the internationally registered “BMW and figure” trademark;

the third cited trademark was No. 2019284 “宝马” trademark. These three trademarks are approved on class 25 for clothing, shoes, hats and other merchandise, owned by BMW.

After TRAB made the decision that the questioned trademark was not approved for registration, Zhang Chongwei filed an administrative lawsuit to the Beijing No.1 Intermediate People's Court. Zhang Chongwei alleged that the questioned trademark was its own unique-created trademark, and were not similar trademarks to three cited trademarks, and the applying for registration had no damage to the earlier trade name rights of BMW.

The court held that, the “宝马” trademark mastered by BMW had become correspondence with “BMW” trademark. The questioned trademark completely contained a “宝马”, and if coexisting on clothing and other goods with cited trademarks, it would easily lead to consumers' confusion, which constituted the using the same or similar goods on similar trademarks. In addition, since BMW's previously registered “宝马” had a certain reputation, the registration of questioned trademark had a damage to the earlier trade name rights of BMW.

本报讯 山东省宝马特制衣有限公司法定代表人张崇伟欲在服装等商品上申请注册“宝马驰度”商标,招致了德国宝马股份公司(下称宝马公司)的异议,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)裁定被异议商标不予核准注册后,张崇伟向北京市第一中级人民法院提起行政诉讼。日前,法院一审判决维持了商标评审委裁定。

据了解,被异议商标为第5154519号“宝马驰度”商标,由张崇伟于2006年2月提出注册申请,指定使用在第25类服装、内衣、衬衫等商品上。

法定期限内,宝马公司以被异议商标与其在先申请注册的“宝马”商标及在先经国际注册并领土延伸至中国受保护的“BMW”与“BMW及图”商标构成近似商标为由,提出异议申



请。在该异议申请未获得支持后,宝马公司向商标评审委提出异议复审申请。

宝马公司认为,其享有的“宝马”“BMW”和“BMW及图”商标具有较高的知名度,已成为第12类汽车等商品上的驰名商标。被异议商标不仅与3件引证商标构成使用在相同或类似商品上的近似商标,而且还构成对宝马公司驰名商标的恶意摹仿,被异议商标的注册会造成消费者的混淆、误认,从而造成不良影响。此外,被异议商标侵犯了宝马公司的在先商号权,并构成以不正当手段抢先注册宝马公司已经使用并有一定影响的商标。

据了解,引证商标一为国际注册第663925号“BMW”商标;引证商标二为国际注册第673219号“BMW及图”商标;引证商标三为第2019284号“宝马”商标,上述商标均核定使用在第25类服装、鞋、帽等商品上,商标权利人均为宝马公司。

在商标评审裁定被异议商标不予核准注册后,张崇伟向北京市第一中级人民法院提起行政诉讼。张崇伟诉称,被异议商标是其独创的商标,与3件引证商标不构成近似商标,而且被异议商标的申请注册也没有损害宝马公司的在先商号权。

法院经审理认为,宝马公司享有的“宝马”与“BMW”商标已经形成了对应关系。被异议商标完整包含了“宝马”,与引证商标共存于服装等商品上容易导致消费者产生混淆、误认,构成使用在相同或类似商品上的近似商标。此外,宝马公司的在先商号“宝马”具有一定知名度,被异议商标的申请注册同时损害了宝马公司的在先商号权。故作出了上述判决。(王国浩)

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## PPH pilot program adopts new form 中国2015年起PPH试点项目采用新请求表

Recently, the reporter learned from the SIPO that, from January 1st, 2015, applicants and agents are required to adopt a new “Patent Prosecution Highway (PPH) Pilot Project Request Form” when filling in the application of PPH pilot program.

In order to better serve the applicants and agents, SIPO jointed with the PPH partner bureaus and completed the new request form, which would be available since January 1st, 2015, replacing the original request form. And the corresponding requirements would be disclosed at the app window.

PPH is the faster review channel for overseas applicants submitting a patent application. Under PPH, the applicants are expected to be informed more quickly about the examiner's opinion; and it will reduce the cost of patent application, the number of replying the examiner's opinion will be reduced; in addition, the possibility of patent applications to be granted will increase. (by Wu Yan)

本报讯 日前,记者从中国国家知识产权局获悉,从2015年1月1日起,申请人和代理人填写PPH试点项目请求表时,将需采用新的《参与专利审查高速路(PPH)试点项目请求表》。

近日,中国国家知识产权局联合 PPH 伙伴局完成了《参与专利审查高速路(PPH)试点项目请求表》的修订工作。2015年1月1日起,正式启用该请求表,该请求表替代原《参与专利审查高速路(PPH)项目请求表》和原《权利要求对应表》使用,相应填写说明参见用户端弹出窗口。

据了解,PPH是申请人在海外提交专利申请的加快审查通道。利用 PPH,专利申请可以被加快审查,申请人有望更迅速地获知审查意见;专利申请的成成本会降低,答复审查意见通知书的次数会减少;另外,专利申请被授予专利权的可能性也会增加。(吴艳)