

# China published judicial interpretation about intellectual property courts 最高法出台知识产权法院案件管辖司法解释

北京知识产权法院正式挂牌

On Nov. 3rd, the Supreme People's Court of China published the judicial interpretation about the jurisdiction of intellectual property courts. According to the judicial interpretation, all of the three intellectual property courts of Beijing, Shanghai and Guangzhou and the higher people's courts of the three cities will have jurisdiction over both civil cases and administrative cases. Besides, the Intellectual Property Court of Guangzhou will have territorial jurisdiction over technical intellectual property cases in some other regions.

There are eight articles in the judicial interpretation, mainly concerning the jurisdiction levels, like exclusive jurisdiction, territorial jurisdiction, and appellate jurisdiction and so on. According to the judicial interpretation, terms hereinafter comes under the jurisdiction of intellectual property courts: first instance civil and ad-

ministrative cases concerning patent, plant variety, layout design of integrated circuit, technology secret and computer software; administrative suits about copyright, trademark and unfair competition against departments of the State Council, or governments at or above the county level; civil cases about well-known trademark. In addition to this, the Intellectual Property Court of Guangzhou has jurisdiction over the whole Guangdong Province about first instance civil and administrative cases concerning patent, plant variety, layout design of integrated circuit, technology secret, computer software and civil cases about well-known trademark. The Intellectual Property Court of Beijing has exclusive jurisdiction over intellectual property right authorization and verification.

Besides, the 14th meeting of Standing Committee of Beijing Mu-

nicipal People's Congress recently voted to the appointment of the Intellectual Property Court of Beijing. Su Chi becomes to be the Director of the Intellectual Property Court of Beijing with Chen Jinchuan and Song Yushui being Vice Directors. Du Changhui becomes the Chief Judge of Case Tiling Tribunal, with Jiang Ying being the Chief Judge of the First Judicial Tribunal, Zhang Xiaojin being the Chief Judge of the Second Judicial Tribunal, and Zhang Xiaoxia being the Chief Judge of the Adjudication Supervision Tribunal. Besides, 18 judges are appointed, which means the Court is officially built up.

It is reported that the Court will gather all the intellectual property judges from Beijing Intermediate People's Courts to judge first instance civil and administrative cases concerning patent, plant variety, layout design of integrated circuit, technology secret

and computer software. If needed, cases of the Court will appeal to Beijing Higher People's Court. First instance civil and administrative cases of local courts concerning copyright and trademark will appeal to the Intellectual Property Court of Beijing.

(by Wei Xiaomao/Zhu Wenming)  
本报讯 11月3日,中国最高人民法院召开新闻发布会,正式对外公布知识产权法院案件管辖的司法解释。根据该司法解释,北京、上海、广州3个知识产权法院及其所在地高级人民法院将彻底实现民事和行政审判“二合一”,广州知识产权法院还将实现技术类知识产权案件跨区域管辖。

最高人民法院此次出台的司法解释共8条,主要涉及知识产权法院的案件管辖及审级关系,包括一审管辖、跨区域管辖、专属管辖、二审管辖、上诉管辖及未结案件处理等。司法解释中关于一审案件管辖具体内容包括:一是知识产权法院管辖的第一审案件为专利、植物新品种、集成



电路布图设计、技术秘密、计算机软件等技术类民事和行政案件;二是国务院部门或者县级以上地方人民政府所作的涉及著作权、商标、不正当竞争等行政行为为提起行政诉讼的行政案件。跨区域管辖是指广州知识产权法院将管辖全省范围内的第一审专利、植物新品种、集成电路布图设计、技术秘密、计算机软件等技术类民事和行政案件,以及第一审涉及驰名商标认定的民事案件。专属管辖是指北京知识产权法院将专属管辖知识产权确权类案件。

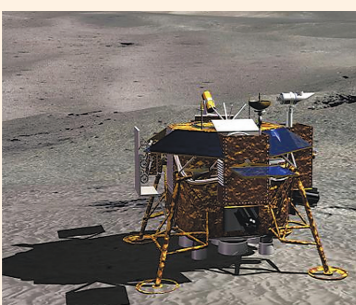
又讯 11月6日,北京知识产权法院已经组建完成,正式挂牌。据了解,北京市第十四届人大常委会第十

四次会议通过表决,任命宿迟为北京知识产权法院院长,陈锦川、宋鱼水为副院长,杜长辉为立案庭庭长,姜颖为审判第一庭庭长,张晓津为审判第二庭庭长,张晓霞为审判庭庭长,李燕蓉等18人为审判员。

据介绍,北京知识产权法院将集中目前北京市法院的知识产权审判专业人才,审理有关专利、植物新品种、集成电路布图设计、技术秘密、计算机软件等专业技术性较强的第一审知识产权民事和行政案件,上诉法院为北京高院。北京市各基层法院第一审著作权、商标权等知识产权民事和行政判决、裁定的上诉案件,也将由北京知识产权法院审理。

(魏小毛 祝文明)

## China's IP in foreign eyes



China launched an unmanned probe to the moon, as a rehearsal for a future robotic sample-return mission. It's another positive step China is taking towards its own human lunar landing. They have stayed with the same technology, making incremental improvements to reach higher and higher. (China's steady march to moon a lesson for West, by CBC News)

中国近日发射的无人月球探测器,是为未来机器人采样返回地球任务的预演。这是中国实现其人类登月目标的又一个巨大进步。他们保持着同等的技术水

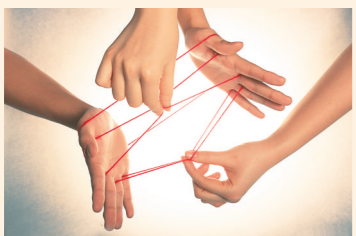
准,循序渐进地进步着,不断地向更高技术层面迈进。(“中国登月步伐稳健:给西方的一课”,加拿大广播公司新闻)

### Comment:

Unlike the rest of the space community, which has taken a cooperative international approach to space exploration, China has done it alone. Tremendous efforts on innovation pays off. The Chinese space program has been systematically achieving its goals step by step. We are looking forward to seeing a Chinese flag planting on the moon.

### 点评:

与其他国家采取以国际合作进行空间探索的方法不同,中国几乎是独自完成工作。中国对创新的巨大付出也得到了回报。中国的太空计划正在有步骤、有系统地实现其目标。我们期待着早日看到中国国旗在月球上飘扬。



The Chinese talk confidently about moving from an economy that makes things to an economy that creates things. The difference may sound subtle but it's huge in impact. And that transition will have an ever-greater influence on the global economy. The idea that China was merely trading off its ability to copy other people's ideas and then mass manufacture them more cheaply actually lost most of its currency a while ago. Now the Chinese constantly focus on improving innovation as a way of transforming the structure and vitality of their economy. (China seeks high-tech future, by Australia Financial Review)

中国人自信地谈论着从制造业经济向创造型经济的转变。这种差别可能听起来细微,但影响却巨大。而这种转变将会对全球经

济产生有史以来最大的影响。而曾经认为中国只是廉价生产工厂的观点早已成为过时的论调。如今的中国更加注重提高创新能力作为其转变经济结构和保持活力的方式。(“中国寻求高科技未来”,澳大利亚金融评论)

### Comment:

As China is determinedly increasing its awareness and spending on research and development, technological innovation is driving every industry. Entrepreneurs from other countries may have a chance to be part of that, because they remain positive and confident to do business with Chinese.

### 点评:

随着中国不断地增加在创新方面研发的投入,技术的发展正在推动着各行各业前进。来自世界各地的企业家都有机会成为中国高速发展进程中的一部分并从中受益,因为他们对中国保持着积极和乐观的态度。

(by Correspondent Wang Weiwei from Canada)  
(本报通讯员汪玮发自加拿大)

## China vows to combat international standard piracy 中国加大打击国际标准侵权盗版行为

On Oct. 21st, the International Standard Copyright Protection Symposium was held in Beijing. The International Standard Organization (ISO) expressed the acknowledgement to China for its efforts on international standard copyright protection.

According to GuoHui, the leader of Discipline Inspecting of Standardization Administration of China (hereinafter referred to as SAC), China put the fighting against piracy as an important part of its work on fighting against IP infringement. SAC has built a contacting system with network supervision departments and main websites in China. Since 2013, China has banned 23 piracy websites, established a long-term removing mechanism with 5 websites, and in-

vestigated 2 criminal cases.

Guo said that, in fighting against international standard piracy, the SAC would take two ways to deal with the problem. On one hand, SAC will cooperate with ISO to explore the extending and publishing system suitable for Chinese market to extend the international standard marketing and distribution; on the other hand, it will build a long-term mechanism of fighting against international standard piracy through the cooperation with the Supreme People's Procuratorate, the Supreme People's Court, and the Ministry of Public Security.

At present, the international standard network infringement is very complicated. According to this, Guo hoped that ISO would take a lead to build a linkage mechanism of fight-

ing against international standard infringement among the standardization administration of all countries, namely, through information share and collaboration, making joint efforts to fight against transnational infringement and crimes on international standard.

(by Dou Xinying)

本报讯 近日,推进国际标准版权保护工作座谈会在北京举行。会上,国际标准化组织(ISO)对中国在国际标准版权保护方面作出的努力表示肯定。

据中国国家标准化管理委员会(下称国家标准委)党组成员郭辉介绍,中国连续两年把打击标准侵权盗版作为打击侵犯知识产权工作的重要内容。国家标准委与重点网站和相关政府网络管理机构建立了联系机制。2013年以来,中国共取締

盗版网站23家,与5家网站建立了联动长效删除机制,查处刑事案件2起。

郭辉表示,在打击国际标准盗版方面,国家标准委将采取疏堵结合的方式,一方面与ISO探讨建立适应中国市场需求的标准推广发行体系,扩大正版国际标准的销售渠道,一方面继续加大与中国最高人民检察院、最高人民法院、公安部等部门的合作,形成联合打击标准侵权盗版的长效机制。

当前,国际标准网络侵权行为异常复杂,很多侵权盗版网站的服务对象在中国,但服务器、支付平台在其他国家。针对这一情况,郭辉希望由ISO牵头建立各国标准化机构打击标准侵权盗版联动机制,加强信息交流和协作,共同打击跨境标准侵权盗版违法犯罪行为。(姜新颖)



## Disney fights for Winnie the Pooh 迪士尼争议他人“威尼熊”

Within the legal time limit, TWDC filed a dispute application, asking for revoked the trademark in dispute for it being similar trademarks with the cited trademark on same or similar goods.

The cited trademark is No. 2018292 trademark "WINNIE THE POOH", registered by TWDC in January, 2001, ratified to be used on Class 25 goods like clothes and hats and so on.

TRAB held that, the dispute trademark and the cited trademark are similar trademarks on same or similar goods. For this reason, TRAB revoke the trademark. Lingxiuhongri then brought the case to the Court.

The court held that, the cited trademark, "WINNIE THE POOH", had a congruent relationship with Chinese words "小熊维尼" by the perennal use of TWDC; "小熊维尼" had become the socially recognized Chinese translation for "WINNIE THE POOH"; the trademark in dispute, "威尼熊" had the same meaning and similar pronunciation with "小熊维尼". Based on the reasons above, the court

made the decision. (by Zhang Ling)

本报讯 中国福建省石狮市灵秀红日针织服装厂(下称灵秀红日针织服装厂)在服装等商品上注册的一件“威尼熊”商标,引发美国迪士尼企业公司(下称迪士尼公司)的争议。在中国国家工商行政管理总局商标评审委员会(下称商评委)裁定争议商标予以撤销后,灵秀红日针织服装厂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评委被诉裁定。

争议商标为第3915462号“威尼熊”商标,由灵秀红日针织服装厂于2004年2月提出注册申请,后被核定使用在第25类服装、帽等商品上。

法定期限内,迪士尼公司针对争议商标提出争议申请。迪士尼公司认为,争议商标与引证商标构成使用在相同或类似商品上的近似商标,争议商标应予撤销。引证商标为第2018292号“WINNIE THE POOH”商标,由迪士尼公司于2001年1月提出注册申请,后被核定使用在第25类服装、帽、鞋等商品上。

商评委认为,争议商标“威尼熊”与引证商标“WINNIE THE POOH”已构成使用在相同或类似商品上的近似商标,据此裁定争议商标

予以撤销。

灵秀红日针织服装厂不服商评委裁定,向北京市第一中级人民法院提起行政诉讼。法院经审理认为,在争议商标申请注册日前,经过迪士尼公司长期使用,中文“小熊维尼”已经与引证商标“WINNIE THE POOH”建立起唯一对应关系。对于相关公众而言,“小熊维尼”已成为与“WINNIE THE POOH”相对应的中文译名。争议商标“威尼熊”与引证商标对应的中文译名均指向相同的客体,并在呼叫上相近,相关公众在看到争议商标“威尼熊”时,很容易联想到“小熊维尼”和引证商标“WINNIE THE POOH”。因此,争议商标与引证商标已构成使用在同一种或类似商品上的近似商标。(张玲)



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