

China's IP  
in foreign eyes



Just days before Alibaba Group Holding is expected to kick off its initial public offering in the U.S., the Chinese e-commerce giant Alibaba said in a statement that it will work with the China-Britain Business Council to familiarize U.K. companies with the Chinese firm's existing system for reporting and removing products that allegedly infringe intellectual property rights. (Alibaba Teams Up With U.K. Business Body to Fight Fakes, by Wall Street Journal)

就在阿里巴巴首次公开募股的几天前,这家中国电子商务巨头在一份声明中表示将与中英商会合作,协助英国公司了解阿里巴巴现行的关于涉嫌侵犯知识产权产品的报告和删除体系。“阿里巴巴携手英方打击盗版”,华尔街日报)

Comment:

Alibaba founder Jack Ma used to describe counterfeiting as “a cancer we have to deal with.” Following a new initiative to automatically remove fake products listed on Taobao earlier this year, Alibaba's action of how this international Chinese company is stepping up its battle against counterfeiting.

点评:

阿里巴巴创立者马云曾将盗版描述为“一个我们必须治疗的癌症”。继今年早些时候发起的从淘宝网上自动删除假冒产品列表的行动以来,阿里巴巴此举再次显示了其作为一家国际化中国公司正在加速与盗版斗争的步伐。

In laboratories and startups across China, tinkers with big dreams are pushing what many in the industry see as a potential new wave of Chinese innovation. They see smart gadgets as an opportunity to create a Chinese-designed product for a global audience. “China will be one of the most advanced research-and-development centres for the new convergence between hardware and software, given it's the world's factory,” said Annabelle Long, a director of venture capital for Bertelsmann Group. (Chinese Gadgets Signal New Era of Innovation, by Wall Street Journal)

在遍布中国的实验室和新兴企业里,怀揣远大梦想的能工巧匠们正在为中国的创新前景推波助澜。在他们眼里,那些精巧的小商品里蕴藏着为全球消费者创造“中国设计”产品的巨大机遇。贝塔斯曼风险投资的一位负责人龙宇认为,中国将成为全球最先进的整合软硬件的研发中心之一。“中国小应用预示创新新时代来临”,华尔街日报)

Comment:

China is betting heavily on innovation as a way to help its economy develop beyond its traditional reliance on factories, exports and government spending. Already some Chinese companies are showing greater ability to compete in relatively new areas. China is definitely struggling off its reputation for succeeding by merely copycatting.

点评:

中国越来越重视创新,利用其推动经济发展并超越基于生产制造、出口及政府投资的传统模式。一些中国公司已经显示了其在新兴领域竞争的能力。中国无疑正在摆脱其单纯依靠模仿取得成功的旧有形象。

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

# Neville Rolfe vows to strengthen IP exchange and cooperation with China

## 罗尔夫:探路中英知识产权交流

On September 1st, Beijing welcomed its first rain since autumn came. On that day, a guest came from UK attended the 2nd China-UK IP Symposium held by SIPO and UKIPO in Beijing. This is not her first visit to China, but it is easy to feel the importance that she attaches to the IP cooperation and exchange between the two countries. She is British Business, Innovation and Skill Minister Neville Rolfe.

Before her visit to China, she wrote an article named The Lure of IP on her blog. “One of my tasks is to develop international partnership between UK and other countries. I would make my first trip aboard to China to implement the cooperation agreement reached by Prime Minister Cameron and Chinese Prime Minister Li Keqiang in December last year. We would jointly hold a symposium on IP

to help companies of both two countries better understand how IP system works.” Rolfe said in her blog.

For the importance of IP cooperation between two countries, Rolfe held that UK has a strong creative industry, which contributes 6% to employment and 10% to export. In parallel, China has been increasingly relying on innovation, trademark and copyright protection. In her opinion, China has over 1.2 billion consumers, which is more attractive and important to EU members such as UK. “And on this basis, we hold symposium to exchange ideas and improve IP enforcement, protection and respect creativity and innovation.” Said Rolfe.

She holds that, China and the Britain will benefit from the increasing trade, investment and innovation between both. They have a lot of space in IP cooperation, and The 2nd



UK-China Intellectual Property Symposium is a good start. She hopes, through the symposium, both countries can take jointly effort to promote the IP cooperation and communication. (by Liu Peng/Photo by Jiang Wenjie)

本报记者 柳鹏

9月1日,北京下起了入秋以来的第一场雨。这一天,一位远道而来的客人在京出席了由中国国家知识

产权局和英国知识产权局共同举办的第二届中英知识产权研讨会。虽然这不是她第一次来华访问,但是在就职以后首次出访就选择了中国,足以看出她对中英两国知识产权合作和交流的重视。她就是刚刚被任命为英国商务、创新和技能部国务大臣的内维尔·罗尔夫。

在访问中国之前,她在其个人博客上发表名为《知识产权的魅力》的文章中强调:“我的任务重点之一就是发展英国与重要的国际合作伙伴的关系。我首次出访将会去中国,这是落实去年12月卡梅伦首相和李克强总理会晤时达成的协议。我们将和中国的知识产权政府部门共同举办一个研讨会。此次研讨会为英国和中国的企业真正了解这两个国家的知识产权制度是如何运作的提供了一个重要机会。”

对于中英两国知识产权合作的必要性,罗尔夫认为,英国拥有强大的创意产业,英国近6%的就业和10%的出口都来自于创意产业。同时,中

国企业将越来越强调创新,逐渐重视从商标到版权保护。对英国而言,更具吸引力的是,中国拥有12亿人口的消费者,这对英国等欧盟成员来说是非常重要的目标市场。“在此基础上,双方召开研讨会,交流信息,从而促进知识产权执法,为创新创造一个良好环境。”她说到。

内维尔·罗尔夫表示,中英双方不断增长的贸易、投资以及创新将为彼此带来益处。中英双方在知识产权合作方面空间巨大,此次中英第二次知识产权研讨会的成功举办就是最好的例证。她希望双方利用此次举办研讨会的契机,加强合作交流,共同推动知识产权事业向更高层次发展。

图为内维尔·罗尔夫

本报记者 蒋文杰 摄



# IP Courts to be established in Beijing, Shanghai and Guangzhou

## 京沪穗将设知识产权法院



On Aug 31st, the 10th meeting of the 12th Standing Committee of the National People's Congress (SCNPC) passed “the Decision on establishment of intellectual property courts in Beijing, Shanghai and Guangzhou”. Within the Decision, according to the Constitution and the Organic Law of the People's Courts, the SCNPC decided to establish intellectual property courts in Beijing, Shanghai and Guangzhou, motivating the National Innovation-driven Development Strategy and further strengthening the IP protection to safeguard the interest of patent owners and social public.

The Decision confirmed, The intellectual property courts are responsible for the first instance of civil and administrative cases on IP issues including professional and technical cases about patents, new plant varieties, integrated circuit layout design and technical secret. IP courts could conduct cross-regional jurisdiction on IP cases. Cross-provincial practice would be conducted during the forthcoming 3 years.

The Decision also confirmed, Beijing Intellectual Property Court would be responsible for the cases on the first instance IP issues owing to the refusal to the ruling or decision by administrative department of the State Council. Intellectual Property Courts would also be responsible for the cases on appeal for the first instance of civil and administrative judgment on IP issues, such as Copyright and trademark, by the local inferior people's courts. And the appeals on the first instance by Intellectual Property Courts would be issued to the local supreme

people's courts.

According to the statistics, the number of first instance cases on IP issues in Beijing, Shanghai and Guangdong respectively reaches to 12,464, 5,158, and 24,843, and that of second instance to 14,934, 5,708 and 29,836.

(by Zhao Jianguo)

本报讯 近日,中国十二届全国人民代表大会常务委员会第十次会议审议通过《关于在北京、上海、广州设立知识产权法院的决定》。《决定》指出,为推动实施创新驱动发展战略,进一步加强知识产权司法保护,切实依法保护权利人合法权益,维护社会公共利益,根据宪法和人民法院组织法,特决定在北京、上海、广州设立知识产权法院。

《决定》确定,知识产权法院管辖有关专利、植物新品种、集成电路布图设计、技术秘密等专业技术性较强的第一审知识产权民事和行政案件。知识产权法院对这些案件实行跨区域管辖。在知识产权法院设立的3年内,可以先在所在省(直辖市)实行跨区域管辖。

《决定》确定,不服国务院行政部门裁定或者决定而提起的第一审知识产权授权确权行政案件,由北京知识产权法院管辖。知识产权法院所在市的基层人民法院第一审著作权、商标等知识产权民事和行政判决、裁定的上诉案件,由知识产权法院审理。知识产权法院一审判决、裁定的上诉案件,由知识产权法院所在地的高级人民法院审理。

统计数据显示,2013年北京、上海和广东各级法院一审审理的知识产权案件分别达到1.2464万件、5158件和2.4843万件,二审案件分别达到1.4934万件、5708件和2.9836万件。(赵建国)

# Coca Cola won the “Ice Dew” trademark administrative lawsuit

## 可口可乐赢得“冰露”商标行政诉讼

The mineral drinking water “Ice Dew” (trademark) produced by The Coca-Cola Company (Coca-Cola) was put into the market in 2010. However, a man surnamed Zhang in Guangdong province applied the trademark “Ice Dew” for canned fruit, canned mushrooms and milk drinks, which resulted in the objection from Coca-Cola. The trademark registration was approved by Trademark Review and Adjudication Board (TRAB) of the State Administration for Industry and Commerce (SAIC), then Coca-Cola issued the administrative lawsuit to the court. Recently, Beijing First Intermediate People's Court made the judgment for the first instance, revoking the review TRAB's decision of questioned trademark registration.

In August, 2003, Zhang applied the No. 3675199 trademark registration for the canned fruit, canned mushrooms and milk drinks according to the 29th category trademark. Coca-Cola offered the objection application to the Trademark Office of SAIC, but was denied. Then Coca-Cola applied for review to TRAB.

According to TRAB, the questioned trademark is entitled to milk drinks (milk as the main component), while the referred trademark is entitled to juice drinks (beverage), and both drinks are similar goods. Both trademarks being used on the similar goods could lead to the confusion of consumers, and caused the similar trademarks of similar goods. TRAB revoked the registration of questioned trademark on milk drinks while approved that of trademark on other goods.

Coca-Cola refused the ruling of TRAB and then issued the administrative lawsuit to the court. During the lawsuit, Coca-Cola indicated, the referred trademark had been cer-

tain well-known for many years through years of conduct propaganda and utilization especially within the 32ed category trademark. And the questioned trademark was similar to all goods except the milk drinks (milk as the main component). Thus, it was necessary to conduct the cross-category trademark protection on the referred trademark, namely, the questioned trademark should not be approved.

The court indicated, the conduct propaganda and report of Coca-Cola was evidential enough for the certain prominence of the referred trademark before the questioned trademark registration. The goods of questioned trademark and that of referred trademark were similar goods with similar function, marketing path and consumers. Finally, the court made the judgment revoking the TRAB ruling on the questioned trademark “Ice Dew” and urged renewed ruling on it.

(by Bai Ou)

本报讯 由可口可乐公司出品的矿物质饮用水品牌“冰露”,于2010年正式投入市场。而因广东省自然人张某在水果罐头、蘑菇罐头、牛奶饮料等商品上申请“冰露”商标引发了可口可乐公司的异议。在该商标被中国国家工商行政管理总局商标评审委员会(下称商评委)裁定予以核准注册后,可口可乐公司向法院提起行政诉讼。日前,北京市第一中级人民法院就该商标异议复审行政纠纷案作出一审判决,撤销了对被异议商标予以核准注册的复审裁定。

据了解,2003年8月,广东省佛山市自然人张某提出第3675199号“冰露”商标(下称被异议商标)的注册申请,指定使用在第29类水果罐头、蘑菇罐头、牛奶饮料等商品上。法定期限内,可口可乐公司向中国国家工商行政管理总局商标局提出异议申请,但未获支持,随后可口可乐公司向商评委提出复

审申请。商评委认为,被异议商标指定使用的牛奶饮料(以牛奶为主的)商品与引证商标核定使用的果汁饮料(饮料)等商品属于类似商品,两商标在上述商品上并存易使消费者对商品来源产生混淆误认,构成类似商品上的近似商标。据此,商评委裁定被异议商标在牛奶饮料(以牛奶为主的)复审商品上不予核准注册,在其余复审商品上予以核准注册。

可口可乐公司不服商评委裁定,随后向北京市第一中级人民法院提起行政诉讼。在审理中,可口可乐公司表示,引证商标经过多年宣传和利用,在被异议商标申请日前已驰名程度,成为第32类无酒精饮料、水(饮料)、矿泉水商品上的驰名商标,被异议商标在除牛奶饮料(以牛奶为主的)商品以外的其他商品上申请注册,与引证商标构成了关联商品上的近似商标,对引证商标应予跨类保护,被异议商标不应予以核准注册。

经审理,法院认为,可口可乐公司的宣传报道等证据足以证明引证商标在被异议商标申请日前在瓶装饮用水商品上具有一定的知名度。被异议商标指定使用的商品与引证商标核定使用的商品均属被他人普遍食用的饮料和食品,且一般摆放在超市同一区域或相近区域,上述商品在功能用途、销售渠道、消费群体等方面基本相同。综上,法院作出撤销“冰露”商标的异议复审裁定,并要求商评委对被异议商标重新作出裁定。(白鸥)



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