

China's IP
in foreign eyes



Global smartphone sales are still growing, but the market's star performer in the last three months wasn't Apple or even Samsung. It was China's Xiaomi. The young electronics firm captured a remarkable 5% global market share in the last three months, according to new figures from Strategy Analytics, shipping 15.1 million smartphones in the quarter. (China's Xiaomi Becomes World's 5th Largest Smartphone Maker, by Forbes)

全球智能手机销量一直在增长,但过去3个月的全手机销量明星,既不是苹果也不是三星,而是来自中国的小米。这家年轻的电子公司,在过去3个月中占据了5%的全球市场份额,其智能手机出货量达1510万部。(“中国小米成为世界第五大智能手机制造商”,福布斯)

Comment:

This is the first time Xiaomi has risen to 5th place in its share of global shipments, which is extraordinary considering the company is just four years old. It also means Xiaomi overtook Samsung and became China's top-selling smartphone brand in the second quarter. Xiaomi is not far from its next big step to exploit outside of China.

点评:

作为一家“年仅4岁”的公司,这是很了不起的成绩。这也意味着小米首次超越三星成为今年第二季度中国市场最畅销的智能手机品牌。小米距离其海外拓展的下一步发展已箭在弦上。

The major economies of Western Europe, the United States and Japan have dominated innovation. Today, they have been joined by large emerging economies, spearheaded by China. Today, the U.S., China, Japan and Europe account for 80% of the more than \$1.6 trillion invested in R&D across the world. Due to growth differentials, China is positioned to bypass Europe before the end of the 2010s, whereas the U.S. could fall behind China by the early 2020s. (The "Asianization" of Innovation, by Economist)

欧洲、美国以及日本一直以来主导着全球创新。如今,这个队伍有了中国的加入而逐渐正在壮大。目前,美国、中国、日本和欧洲的研发投资之和已占据了全球总额1.6万亿美元总额的80%。(“创新的‘亚洲化’”,经济观测)

Comment:

We can measure innovation by output indicators, such as patents, that tell us about past success, and input indicators, such as R&D spending, which reflect the willingness to invest into the future. In both cases, global innovation is under rapid transformation, showing that China's innovation capabilities are closing up with advanced economies.

点评:

我们可以通过专利等产出指标来衡量创新,也可以用研发投入等投入指标来衡量创新。在这两种情况下,全球创新都正在发生迅速的转变,中国的创新能力与发达国家的差距也正在逐步缩小。

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

SAIC requires Microsoft not to obstruct anti-monopoly investigation

中国工商总局:微软不得以任何方式阻碍案件调查

On August 4th, the State Administration for Industry and Commerce of China (SAIC) interrogated Mary Snapp, Global Vice President of Microsoft and coworkers for anti-monopoly investigation. On August 7th, SAIC published an announcement on its website, saying that it has organized administrative personnel of Beijing, Liaoning, Fujian and Hubei province to conduct a sudden anti-monopoly investigation against the remaining branches of Microsoft and Microsoft's financial outsourcing manager Accenture (Dalian) co., LTD. The investigation is still in progress as of now. SAIC informed that Microsoft should strictly obey Chinese law and should not obstruct the investigation to ensure the objectivity and fairness. Microsoft promised to cooperate the investigation of SAIC.

On July 28th, SAIC organized nearly 100 administrative personnels of Beijing, Shanghai, Guangdong, Sichuan, Fujian, Hubei, Jiangsu, Chongqing and Hebei province to have a sudden anti-monopoly investigation against 4 branches of Microsoft in Mainland China, which were Microsoft (China) co., LTD, and filiales in Shanghai, Guangzhou, and Chengdu. SAIC said that the reason was certain companies accused Microsoft had monopolistic behavior. They



claimed that Microsoft suspected to violate China's Anti-monopoly Law for not fully disclosing the information of Windows operating system and Office software causing compatibility, tying and verification problems.

There are some experts analyzed that, the reason for Microsoft investigated is some companies reported Microsoft suspected to violate China's Anti-monopoly Law for not fully disclosing the related information, causing compatibility, tying and verification problems. Not fully disclosing the information of Windows operating system and Office software made related companies faced compatibility issues in software development,

which is "refusing to trade". And Internet Explorer web browser sold bundling with Windows operating system is "tie-in sale".

According to the China's Anti-monopoly Law, it is not illegal for an enterprise got market dominant position by legal method. However, it is illegal if it is deemed as "abuse" and disrupts the market competitive regulation. Article 17 of the Anti-monopoly Law lists the actions of "abuse of market dominant position", including "Refusing to trade with a trading party without any justifiable cause" and "Implementing tie-in sales or imposing other unreasonable trading conditions at the time of trading without

any justifiable cause". Besides, Article 47 rules that where an undertaking, in violation of the provisions of this Law, abuses its dominant market position, the authority for enforcement of the Anti-monopoly Law shall instruct it to discontinue such violation, confiscate its unlawful gains and, in addition, impose on it a fine of not less than 1% but not more than 10% of its sales achieved in the previous year. (by Zhang Haizhi)

本报记者 张海志

8月4日,中国国家工商行政管理总局专案组对微软全球副总裁玛丽·斯奈普一行进行反垄断调查询问。8月7日,中国国家工商总局在官网发布公告,已经组织由北京、辽宁、福建、湖北等4省市工商执法人员对微软(中国)有限公司尚未完成检查的部门和人员,以及承担微软公司财务外包的埃森哲信息技术(大连)有限公司同时进行突击检查。目前,检查还在进行中。中国国家工商总局正告微软公司要严格遵守中国法律,不得以任何方式干扰、阻碍案件调查,保证案件调查的客观公正。微软公司也承诺遵守中国法律,全面配合中国国家工商总局的调查工作。

7月28日,中国国家工商总局组织由北京、上海、广东、四川、福建、湖北、江苏、重庆、河北等9省市近百名工商执法人员对微软公司在中国大陆的4个经营场所,即微软(中国)有

限公司以及上海、广州、成都的分公司同时进行反垄断突击检查。调查起因是中国国家工商总局根据企业举报反映的微软公司存在对其Windows操作系统和Office办公软件相关信息没有完全公开造成的兼容性、搭售、文件验证等问题,涉嫌违反中国反垄断法。

有业内专家分析,微软遭遇反垄断调查的原因是有企业举报微软公司存在未充分公开信息、搭售等涉嫌构成反垄断法所规定之“滥用市场支配地位”的行为。即有企业举报微软公司未充分公开其Windows操作系统和Office办公软件的相关信息,造成其他经营者开发软件的兼容性问题,涉嫌“拒绝交易”;有企业举报微软公司在销售Windows操作系统时捆绑销售其IE网络浏览器,涉嫌“搭售”。

根据中国反垄断法的规定,经营者通过合法经营获得市场支配地位本身并不违法,但是如果经营者被认定“滥用”该支配地位,破坏了市场竞争秩序,则构成违法。反垄断法第十七条列举了构成“滥用市场支配地位”的行为,其中包括“没有正当理由,拒绝与交易相对人进行交易”与“没有正当理由搭售商品,或者在交易时附加其他不合理的交易条件”等。同时,反垄断法第四十七条规定,经营者违反反垄断法规定,滥用市场支配地位的,由反垄断执法机构责令停止违法行为,没收违法所得,并处上一年度销售额1%以上10%以下的罚款。

Tesla settles with opponent in trademark competition

“特斯拉”中国商标争夺战和解收场

Recently, the case between Tesla and Zhan Baosheng was settled under the mediation of Beijing No.3 Intermediate People's Court.

Early in September 6th, 2006, Zhan, a Guangdong businessman, applied for registration of No. 5588947 trademark "TESLA", and was approved on June 28th, 2009, certified on commodities of Class 12, automobiles and so on. Zhan also used "TESLA" and "T", during production and sales. So came the disputes.

In March 2013, Tesla filed an application to Trademark Office under State Administration for Industry and Commerce (SAIC), to revoke No. 5588947 trademark "TESLA" for it has ceased to be used for 3 consecutive years. In April 2013, Tesla filed a dismiss application to Trademark Review and Adjudication Board of SAIC.

On September 3rd, Tesla filed 2 suits to Beijing No.3 Intermediate People's Court against Zhan, respec-

tively claiming copyright infringement and unfair competition. Tesla claimed that, it had copyright of "TESLA" and "T" trademarks "TESLA" and "特斯拉" belonged to Tesla; Zhan and his entrust manufacturer using the marks above on products, website, Weibo and newspapers infringed Tesla's copyright and constituted an unfair competition. Tesla required Zhan to stop infringement and to publish apologize. Besides, compensate for the economic losses of 1.1 million and 3.1 million Yuan was demanded.

On June 30, 2014, Zhan filed a trademark infringement suit against Tesla and Tesla Sales (Beijing) co., LTD to Beijing No.3 Intermediate People's Court. Zhan claimed that Tesla and Tesla Sales (Beijing) co., LTD infringed No. 5588947 trademark "TESLA" by selling "TESLA" electric automobile, and required to stop the sale of "TESLA" electric automobile; to close the electric automobile



exhibition halls, service centers and supercharger stations; to stop the advertising and a compensate for the economic losses of 23.94 million Yuan.

The Court communicated with the two parties, tried to make them mediate with each other. Finally, the two parties reached an accommodation. Zhan waive the trademark right of "TESLA" and "T" while Tesla gave up the compensation. (by Zhu Wenming)

本报讯 近日,备受关注的特斯拉公司诉占某等侵犯著作权、不正当竞争案,占某诉特斯拉公司侵犯商标

权案在北京市第三中级人民法院主持下,双方当事人达成和解。

早在2006年9月6日,广东商人占某已经在12类汽车等商品上申请注册第5588947号“TESLA”商标,并于2009年6月28日获准注册。占某还在其商品的生产销售过程中,使用了“TESLA”“T”等标识,双方纠纷因此产生。

2013年3月,特斯拉公司针对第5588947号“TESLA”商标向中国国家工商行政管理总局商标局提出连续3年停止使用撤销申请;2013年4月,特斯拉公司针对该商标向中国国家工商行政管理总局商标评审委员会提出争议申请,请求撤销该商标。

2013年9月3日,特斯拉公司针对占某向北京市三中院提起两起诉讼,分别主张占某侵犯著作权和构成不正当竞争。特斯拉公司主张,其对“TESLA”“T”享有著作权,“TESLA”和“特斯拉”是其字号,占某及其委托生产商在其商品、网站、微博、报纸上使用上述作品和字号,侵犯其著作权,并构成擅自使用他人字号的不正当竞争行为,故请求法院判

令占某等人停止侵权,刊登声明消除影响,并因侵犯著作权和不正当竞争分别赔偿经济损失110万元和310万元。

2014年6月30日,占某针对特斯拉公司、拓速乐汽车销售(北京)有限公司向北京市三中院提起侵犯商标权诉讼,主张特斯拉公司及其销售商拓速乐公司销售“TESLA”牌电动汽车侵害其第5588947号“TESLA”注册商标专用权,请求法院判决特斯拉公司及拓速乐公司立即停止销售“TESLA”牌电动汽车,关闭展厅、服务中心、超级充电站,停止有关宣传行为,赔礼道歉并赔偿经济损失2394万元。

北京三中院受理上述案件后,积极与双方当事人沟通,向当事人释法析理,最终使双方握手言和,占某放弃使用“TESLA”“T”等有关标识,特斯拉公司放弃向占某赔偿损失主张。(祝文明)



NUMBERS

3,617

Shanghai examination site registration validation work of 2014 National Patent Agent Qualification Examination is finished. There are 3,617 examinees registering in Shanghai site, with a year-on-year growth of 32.3%.

3617人

2014年中国专利代理人资格考试上海考点报名验证工作已结束。今年,上海考点通过报名验证的考生

人数共3617人,同比增长32.3%。

38

There are 78 academician experts workstation in Beijing as of now, among which 38 are patent experimental and demonstrate enterprises, 48.7% of the total. 20 of them are patent demonstrate enterprises and 18 of them are patent experimental enterprises.

38家

截至目前,北京市院士专家工作站已累计达78个,其中,有38家为北京市专利试点示范企业,占建站企业总数的48.7%,包括专利示范企业20

家,专利试点企业18家。

78

Recently, the 21th Beijing International Book Fair was held. There were 78 countries and districts taking part in the fair. 2,162 businesses took part in the fair, over half of which were overseas.

78个

日前,在北京举办的第21届北京国际图书博览会参展国家和地区为78个,参展商超过2162家。其中,海外参展商数量过半。

60%

Over 180,000 patents were ap-

plied by small and medium-sized enterprises in 2013 in Zhejiang Province, 60% of the total. 125,800 patents were authorized, with a more than 60% average growth by three consecutive years.

60%

中小企业比较集中的浙江省,2013年全省中小企业专利申请量超过18万件,占比60%,专利授权12.58万件,连续3年平均增幅超过60%。

41.18 million

According to the Custom of Nan-ning, Guangxi province, from 2009 to 2013, the Custom investigated and

confiscated 750 batches of infringing goods, totally 1.96 million units, valuing 41.18 million Yuan.

4118万元

据广西南宁海关数据显示,从2009年至2013年,该海关共查处并没收侵权货物750批次,货物数量196万件,涉案价值4118万元人民币。

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