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**20**14年6月25日June 25, **20**14

星期三出版 Published on Wednesday 编:吴 辉 Editor-in-Chief: Wu Hui

副主编:柳鹏Deputy Editor-in-chief: Liu Peng

英文审校:崔卫国 English Reviser: Cui Weiguo

China's IP in foreign eyes



hinese President Xi Jinping recently delivered his speech on science and technology and gave fresh urgency to demands that China master and control the new technologies. "Only if core technologies are in our own hands can we truly hold the initiative in competition and development." Mr. Xi said. (Xi Urges Greater Innovation in "Core Technologies", by The New York Times)

中国国家主席习近平近日发表了一次关于科技创新的讲话,对中国掌控新技术的紧迫性提出了要求。他表示:"只有把核心技术掌握在自己手中,才能真正掌握竞争和发展的主动权。"("中国领导人敦促'核心技术'创新",纽约时报)

#### Comment:

China's policy of actively encouraging "the independent innovation" has been a long time. Over these years, China has tremendously invested in innovation. To seize the great opportunities in the new scientific-technological revolution and industrial transformation, China has shown its determination and efforts.

### 点评:

中国积极鼓励"自主创新"的政策可以追溯到几十年前。这些年来,中国在创新上进行了巨大的投入。为了抓住新科学技术革命和产业转型的巨大机遇,中国已显示出其决心和努力。



hina is now adding innovation to its portfolio.
There are now over 1,500
R&D centres set up in China by foreign companies. Chinese companies are also investing more and more in R&D. (China's Innovation Advantage, by Forbes)

中国如今正在以创新重新塑造 其整体形象。目前,外国公司在中国 建立了超过 1500 个研发中心。中国 的企业也在自主研发上投入了越来 越多的力量。("中国的创新优势", 稿布斯)

### Comment

Both foreign and Chinese companies are moving up the ladder in terms of the types of R&D that they conduct in China and the resultant innovations. They are shifting from simple process and product adaptations to product inventions and even knowledge creation. It's the time for more companies to up their games in inno-

#### vation in China. 点评:

无论是中国企业还是外国企业,都在其研发投入的类型和创新成果上向产业链的高端移动。他们从简单的产品生产转向产品发明甚至是知识创造。中国的创新游戏已经拉开序幕,越来越多的企业即将加入进来。

(by Correspondent Wang Weiwei

mCanada) (本报通讯员汪玮玮发自加拿大)

# Tesla opens the patent wall to the world 特斯拉:免费公开专利意欲何为?

n June 12th, US electric vehicle manufacturer Tesla published a blog under the title of "all our patent are belong to you", signed by Elon Musk, CEO of Tesla. With the opening of 2014 Brazilian World Cup, Tesla's unnormal activity of opening patent successful attracts everyone's attention to electric vehicle. The news spread rapidly all over the electric vehicle field as well as the intellectual property filed. What is the underlying cause for Tesla to act like that?

"At Tesla, however, we felt compelled to create patents out of concern that the big car companies would copy our technology and then use their massive manufacturing, sales and marketing power to overwhelm Tesla. We couldn't have been more wrong. The unfortunate reality is the opposite: electric car programs (or programs for any vehicle that doesn't burn hydrocarbons) at the major manufacturers are small to non-existent, constituting an average of far less than 1% of their total vehicle sales. Our true competition is not the small trickle of non-Tesla electric cars being produced, but rather the enormous flood of gasoline cars pouring out of the world's factories every day."Written in Musk's blog, "We believe that Tesla, other companies making electric cars, and the world would all benefit from a common, rapidly-evolving technology platform."

According to Professor Tao Xinliang, Dean of the Intellectual Property Institute of Shanghai University, Tesla's action means a lot. "Elon Must said and I quote, 'Tesla will not initiate patent lawsuits against anyone who, in good faith, wants to use our technology.' He, who obviously not a philanthropist, did this just to burn his boats. For Tesla, the only way to keep itself and the whole electric vehicle industry developing is to build a well operated charging stations network. A wall of patents would limit the creation of compelling electric vehicles and stifle the popularization of electric vehicles. Based on the rea sons above, we can see that Tesla's achievement of opening patents is to help building the charging stations network and enlarging the electric vehicle market, then lead to profit maximization."

"We believe that applying the open source philosophy to our patents will strengthen rather than diminish Tesla's position in this regard." Musk said so in his blog. Tao approved of the former, "Compared with keeping the patents of electric vehicle and battery as all their geese are swans, it is better to open the source and make development. Besides, as Tesla is tak-



ing the leading position in electric vehicle industry, it is hardly for others to avail of the opportunity to surpass Tesla. The whole industry's development will attract talents and of course Tesla will take the most advantages in this regard."

It is hard to make a final conclusion that whether Tesla will lead the world united to beat down the gasoline cars industry or not, but Elon Must did show the world a free method of electric vehicle companies' patent operation.

### 本报记者 王 璐 姜伯平

(by Wang Lu/Jiang Boping)

6月12日,美国电动车制造商特斯拉首席执行官埃伦·马斯克在特斯拉官网上发布了一封公开信,宣布将免费向全世界公开其所拥有的专利。在2014巴西世界杯开幕之际,特斯拉把业内的目光转移到了电动车

上。一石激起千层浪,此消息在电动车行业迅速传播。特斯拉一反常规的开放专利的模式,也引起了知识产权界的关注,特斯拉反其道而行之的背后到底意欲何为?

"我曾经担心大型汽车制造公司剽窃特斯拉的专利,并以其强大的实力打压特斯拉。但事实却恰恰相反,大型汽车制造公司的电动汽车项目规模极小,电动汽车销量占汽车总体销量的比例平均不到 1%。这就意味着我们真正的竞争对手是每天生产传统汽油车的企业。我们公开专利是希望为特斯拉和其他电动汽车制造商提供一个共同而快速发展的技术平台,以期推动全球电动车的发展。"埃伦·马斯克在其公开信里写到。他表示,通过专利的共享有时经

对于特斯拉此举的用意,中国上 海大学知识产权学院院长陶鑫良在 接受中国知识产权报记者采访时给

出了他的看法:"尽管埃伦·马斯克声 称对任何出于善意使用其技术的人 或公司,不会发起专利诉讼。但是,明 眼人不难看出,特斯拉此举既不是奉 献义举,也不是慈善行为,实乃迫不 得已的绝地出击或者夹缝求生。对特 斯拉来说,电动车的充电站网络体系 的建立与增强,是其企业与电动车产 业发展的生命线。然而仅靠特斯拉一 己之力'建桩织网',并非易事。如果 特斯拉再让自己的专利壁垒挡住竞 争企业发展电动车的道路及脚步,使 电动车难以大众化,那更无异是作茧 自缚, 特斯拉及其电动汽车要活下 去,要发展起来,当务之急就是培育 市场。所以特斯拉公开专利战略的最 终目标,就是藉以促建充电网站体 系,使特斯拉已位居龙头地位的电动 汽车市场突破'小众'瓶颈,走向大众 化,从而让企业利益最大化。'

"我们相信,开放专利非但不会削弱特斯拉,反而会加强特斯拉在电动车行业的地位。"埃伦·马斯克在公开信中表示。对此,陶鑫良表示赞同:"对特斯拉来说,与其固守电动车及其充电池方面的核心技术专利,倒不如公开专利而推动全局。另一方面,特斯拉在电动车技术领域方面处于领先地位,不会轻易让竞争对手后来居上的。而且,电动车行业的壮大,必将聚汇优秀人才,而从中最得益者,定然是特斯拉。"

特斯拉期望"全球联手"对抗传统汽车的终极目标是否能够实现,似乎还有一段很长的道路,但埃伦·马斯克在全球范围内公开专利的做法无疑为电动车行业开启了一个专利运营的免费模式。

### Adidas defenses the copyright of Brazuca

# 中国审理一起侵犯巴西世界杯用球图形作品著作权

iwu People's Court, Zhejiang Province lately concluded a copyright infringement case relevant to the official
football's design of 2014 FIFA
Brazil World Cup. The Court held
that the defendant should stop the
infringement immediately and make
a compensation for the economic
loss of 50,000 Yuan.

On Dec. 18th, 2013, a procurement Company in Yiwu delegated a Customs clearance agency to declare export some goods to the United Arab Emirates. Yiwu Customs found there were 50 footballs marked with "adidas" trademark and special designs.

On Feb. 24th, 2014, Adidas sued the procurement company for copyright infringement to Yiwu People's Court, asking for lease in-

fringement, a published apology and a compensation for the economic loss and reasonable expense of 200,000 Yuan.

Adidas claimed that it obtained the copyright of Brazuca, the official football of 2014 FIFA Brazil World Cup by assignment; Brazuca was published on the unveiling ceremony of the official football of 2014 FIFA Brazil World Cup in Rio de Janeiro, Brazil on Dec. 3rd, 2013; The 50 footballs of the defendant seemed the same to Brazuca, that was obviously an infringement.

The Court held that, there were 6 light colored crosses evenly distributed on the involved footballs, every 3 of them were encircled by a 3-color belt of orange, green and blue, and a navy triangle was on every cross of the belts;

the designer showed his independent expression, which qualified the originality element of China's Copyright Law; the involved footballs were substantial similarity to Brazuca. Based on the above facts, the defendant's export infringed copyright. So did the judgment.

copyright. So did the judgment.

Neither of the two parties appeals by the press day.

(by Xiang Li/Zhang Ting) 本报讯 日前,中国浙江省义乌 市人民法院审结一起侵犯 Brazuca 桑 巴荣耀——2014 巴西世界杯的官方 比赛用球图形作品著作权纠纷案件。 法院认定被告的行为侵犯了原告的 著作权,判令被告立即停止侵权,并 赔偿原告经济损失 5 万元人民币。

2013年12月18日,义乌一采购公司委托义乌市一报关代理有限公司向义乌海关申报出口塑料奖杯等货物至阿联酋。经海关查验,发现

有50个有特殊图案并标有"adidas" 商标标识的足球。

2014年2月24日,原告阿迪达斯有限公司以上述足球涉嫌侵犯其著作权为由将该义乌采购公司诉至义乌市人民法院,要求被告停止侵权,登报道歉并赔偿经济损失及合理支出20万元人民币。

阿迪达斯有限公司称,其通过转让方式获得 Brazuca 桑巴荣耀—2014 巴西世界杯的官方比赛用球的作品《球》的著作权。2013 年 12 月 3 日,该作品在巴西里约热内卢举行的2014 巴西世界杯官方比赛用球"桑巴荣耀"的揭幕活动公开发表。被告出口的被海关查验到的50个足球外观与该作品完全相同,涉嫌侵犯其著作权。

法院经审理认为,本案中的涉案 足球表面平均分布6个浅色十字形 图案,每3个十字边缘分别被橙、绿、蓝3种颜色色带包裹,色带交接处形 成藏青色三角图形。作者通过色彩选



属于中国者作权法上的美术作品。被告出口的足球与原告涉案作品进行比对,通过综合判断,除十字图形颜色不同外,表面的图案与原告涉案作品基本相同,差异细微,构成实质性相似。被告的出口行为属于著作权法意义上的发行行为,侵犯了原告的著作权,应停止侵权及赔偿损失。故作出上述一审判决。

截至目前,对此判决,双方均未 提起上诉。 (向 利 张 婷)



EXPRESS

### **NUMBERS**

409

Recently, WIPO published a research of Chinese residents' international patent application strategy. It is showed that the number of China's international patent application grows up rapidly between 2000 to 2005 with a average annual growth rate of 40%. The rate is still maintaining on a high level of 23% since 2005 so far.

40%

近日,世界知识产权组织发布了一份题为《中国居民国际专利申请战略研究》的报告。报告称,中国国际专利申请数量在 2000 年至 2005 年间

迅速增长,年均增长率达到 40%, 2005年至今仍维持在 23%的高位。

408,768

As the end of 2013, the number of agriculture patent applications of China reaches to 408,768, 284,443 of which are inventions. Most of the applications are from domestic. Nearly one third of the those are directly involved to technologies of seed breeding.

### 40.8768 万

截至 2013 年,中国公开的农业专利申请达 40.8768 万件,其中发明专利申请 28.4443 万件,国内专利申占据绝对优势,国内专利申请中近1/3 直接涉及到种子的培育等相关技术。

### 90,000

According to the data from the Supreme People's Court of China, the number of IP civil cases concluded by first trial courts has been increasing from above 30,000 to nearly 90,000.

9万

据中国最高法院数据显示, 2009 年至 2013 年,中国各级法院 审结的知识产权一审民事案件从 3 万多件增长到近 9 万件。

4,180

The Recruitment Program of Global Experts of China has been practicing for 5 years up to now. Many overseas talents were attracted to come or come back to Chi-

na to start their careers. 4,180 global experts came to China in these years, and made great achievements in science, education, industry development and other fields.

4180

中国海外高层次人才引进计划 实施5年多来,吸引着一批又一批海 外高层次人才回国或来华创新创业。 5年中,中国引进的4180余名海外 高层次人才,在科研、教育、产业创新 等各个领域发挥了积极作用。

#### 87.82%

In May 2014, the monthly rate of E-filing of China is 87.82%. There are 20 provinces, autonomous regions and municipalities have a rate over 85%. The

monthly rate of E-filing of Chinese patent agencies is 99.66%, 29 provinces, autonomous regions and municipalities have a rate over 98%

### 87.82%

2014年5月,中国月专利电子申请率为87.82%,其中20个省、区、市月电子申请率超过了85%。中国专利代理机构月专利电子申请率为99.66%,有29个省、区、市的专利代理机构电子申请率超过98%

英文翻译	孙迪
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责任编辑	王 璐
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