

China's IP in foreign eyes



Global patent filings grew at their fastest pace in almost two decades in 2012, with China the driving force, the UN's intellectual property agency said recently. For the first time, residents of China accounted for the largest number of patents filed throughout the world, hitting a total of 560,681. (Global Patent Growth Hits 18-Year High: World Intellectual Property Organization, by The Economic Times)

世界知识产权组织近日发布消息称, 在中国的强大推动下, 2012年全球专利申请数量实现了近20年来最快速度的增长。中国在专利申请方面首次成为全球第一, 创下56.0681万件发明专利申请的记录。("世界知识产权组织: 全球专利增长18年来创新高", 经济时报)

Comments:

While two-thirds of the globe's patent filings were made in high-income countries, China's share of the total was almost 28 percent in 2012. As the track of economic performance, the number of patent applications shows the tremendous development of China economy.

点评:

全球专利申请数量的2/3通常来自高收入国家, 而中国在2012年的全球份额达到28%。与经济发展相吻合的专利申请, 充分反映了中国经济的快速发展。



America's long dominance in science and technology is fading slowly as spending on research and development stagnates in the U.S. and China and other Asian countries ramp up investments. That's the conclusion of a range of observers and stakeholders, from the National Science Board (NSB) to practicing engineers. (U.S. Global Tech Lead Seen Shrinking, China Rising, by Investor's Business Daily)

随着美国对研发投入有所停滞, 而中国和其他亚洲国家不断增长其研发投入, 美国对科学技术的长期主导地位正在慢慢削弱。这是美国国家科学委员会的观察员、股东以及执业工程师们的一致观点。("美国全球技术领导地位削弱, 中国崛起", 投资者商业日报)

Comments:

It is undeniable that Asia is one of the most important centers of technology growth for the next decade. However, the U.S. is seen to remain the top in tech innovation for the coming future. There's still a long way to catch up.

点评:

亚洲将成为未来10年中全球最重要的技术发展中心之一, 这早已是不争的事实。当然, 美国仍然被认为将在不远的未来继续引领世界科技创新。中国要迎头赶上, 还有很长的路要走。

Walt Disney prevails in a trademark dispute 美国迪士尼在华成功维权

Mickey Mouse, presented by Walt Disney, a globally recognized cartoon image, now recently suffered a trademark dispute.

A Fujian based children's products manufacturer BBMIQI filed for 百变米奇 (pronunciation like Mickey in Chinese) as registered trademark, certified to be used on Class 25. Walt Disney challenged BBMIQI's registration. The Trademark Review and Adjudication Board (TRAB) under the State Administration for Industry and Commerce revoked the trademark registrations for products on Class 25 except for baby clothes, swimwear. Walt Disney filed a suit under the court and

Beijing Higher People's Court upheld TRAB's decision.

The court held that the "米奇" in the trademark pronounces like Mickey in Chinese, to Chinese customers, 米奇 and Mickey are both synonyms of Mickey Mouse. The "百变" is just adjective describing "米奇", fails to make "百变米奇" distinctive from Mickey Mouse substantially. The two marks could easily cause confusion among the public and similarity has been constituted. The Beijing Higher People's Court made a final decision, upholding TRAB's decision.

(by Mao Ligu)

本报讯 卡通形象“米奇老鼠”, 又称米老鼠或米奇, 为全世界

小朋友所喜爱。中国福建省一家名为开心米奇(福建)儿童用品有限公司(下称开心米奇公司)的企业因在第25类商品上获准注册“百变米奇”商标, 遭到米奇主人——美国迪士尼企业公司提起的商标争议。中国国家工商行政管理总局商标评审委员会(下称商评委)就该争议案作出裁定, 对“百变米奇”商标在婴儿内衣、



游泳衣商品上的注册予以维持, 其余商品予以撤销后, 该案进入行政

诉讼阶段。日前, 该案尘埃落定, 北京市高级人民法院终审判决维持商评委作出的裁定。

北京市高级人民法院经审理认为, 争议商标为“百变米奇”文字商标, 其中的“米奇”与引证商标“MICKEY”发音近似, 对于中国相关公众而言, “米奇”与“米老鼠”“MICKEY MOUSE”均指代同一卡通形象。争议商标中的“百变”仅对“米奇”起到修饰作用, 不足以使争议商标的含义与“米老鼠”“MICKEY MOUSE”产生实质差异。当争议商标与引证商标使用在相同或者类似商品上时易使消费者造成混淆, 二者已经构成使用在相同或者类似商品上的近似商标。据此, 法院终审维持一审判决, 商评委的裁定获得维持。

(毛立国)

NUMBERS

30.7%

Invention patent filings represent 30.7% of the total in the third quarter this year in China, up 4.1%. This number for the first three quarters is 28.6%, up 2.7% and invention applications in 20 provinces have exceeded 30% of the total.

30.7%

据统计, 今年第三季度, 中国发明专利申请受理量占比为30.7%, 比去年同期增加4.1%; 前三季度为28.6%, 比去年同期增加2.7%。今年前三季度, 中国共有

20个省(市、区)发明专利申请比重超过30%。

24,221

Up to now, British enterprises have filed an accumulative of 24,221 inventions in China. In the past 10 months this year, British enterprises filed 1,500 applications in China.

2.4221 万件

截至目前, 英国企业在华累计提交了2.4221万件发明专利申请; 2013年1月至10月, 英国企业在华专利申请数量已达1500余件。

11

In the first 10 months this year, Hubei province has filed 7,222 inventions, up 25.9%, 2,703

patents have been granted. As of the end of October, Wuhan has owned 11,917 valid inventions; invention patents possessed by each 10,000 citizens exceeded 11.

11 件

今年前10个月, 湖北省武汉市提交发明专利申请达7222件, 同比增长25.9%, 发明专利授权量为2703件。截至2013年10月底, 武汉市有效发明专利拥有量达1.1917万件, 每万人口发明专利拥有量超过11件。

10,586

As of the end of September, Anhui province has owned 10,586 valid inventions. Invention patents possessed by each 10,000 citizens amounts to 1.77, up 53.9%.

1.0586 万件

截至2013年9月底, 安徽省拥有有效发明专利1.0586万件, 每万人口发明专利拥有量已达1.77件, 较2012年同期增长53.9%。

9,065

Statistics show that patent applications and granting in Zhengzhou Henan, have increased from 6,613 and 3,758 in 2009 to 16,254 and 9,065 in 2012, up 145.8% and 141.2% respectively. Invention application and granting increased by 126% and 166.7% during this period, the faster growth than average in China.

9065 件

近年来, 河南省郑州市专利数量

迅速增加, 专利申请量、授权量分别由2009年的6613件、3758件跃升到2012年的16254件和9065件, 分别增长145.8%和141.2%, 其中发明专利申请量、授权量分别增长126%和166.7%, 年均增速高于全国平均水平。

845

As of the November 2013, Yingli Group have filed 1,418 patent applications in fields of photovoltaic industry, 845 of them have been granted and 30% of the total are inventions.

845 件

近年来, 英利集团在光伏领域提交了大量专利申请。截至2013年11月, 英利集团共提交了1418件专利申请, 845件专利申请已经获得授权, 其中, 发明专利占30%。

Renault Scenic trademark registration denied 法国雷诺:“风景”在华注册商标遇挫

The France based Renault Group, a global recognized automobile manufacturer encountered a three-year trademark dispute, and end with a negative result.

In 2000, Renault's brought their featured brand, the Scenic, to the Chinese market and gained popularity among Chinese customers. Eleven years later, in 2011, Renault introduced the New Scenic and Grand Scenic to the Chinese customers. Again, they gained positive market response. However, Renault's application for register Scenic as a trademark in 2003, on products of cars, mini-sized motor vehicles, was denied by the Trademark Office (TMO) under the State Administration for Industry and Commerce (SAIC). Disgruntled Renault brought the case to the court and was rejected by Beijing Higher People's Court.

Renault's trademark dispute

In June 2003, Renault applied for register Scenic as a trademark, certified to be used on class 12, products of automobiles, motorcycles.

Beijing Foton Global challenged Renault's application on ground that they have filed for and been registered the trademark of Foton Scenic, Scenic Surf and Scenic Express on the same Class.

In August 2010, TMO ruled in favor of Foton, rejecting Renault's application for Scenic as trademark on products of motor vehicles for land, air, water run or rail use, automobiles, cyclecar, motors for land

vehicles and approving filings on motorcycles. Disgruntled Renault lodged an opposition against TMO's decision under the Trademark Review and Adjudication Board (TRAB) under SAIC.

TRAB held that the two marks were filed on the same Class and were both ordinary characters without special meaning and specific features, and similarity has been constituted. Meanwhile, Renault's evidences failed to prove their trademark has gained popularity earlier than Foton's filings. Renault's filings then have been rejected.

Renault then brought the case to Beijing No.1 Intermediate People's Court.

Foton prevails

At the first instance, the court held that Foton's three trademarks have consisted of Scenic character, which has been filed by Renault as a trademark on the same Class, the trademarks in question would cause confusions among the consumers, the trademarks are similar marks used in similar products. Renault's evidences failed to prove their Scenic trademark by their have gained great polarity after long-term use in market and be distinctive from Foton's three marks. The decision by TRAB was upheld.

Renault brought the case to the Beijing Higher People's Court. Renault alleged that their marks are used on products of commercial vehicles and Foton's are used on passenger cars, the marks are distinctive in functions, merchandising



locations, target customers, no similarity is constituted. Meanwhile, the trademark in question has been used for a long time in Chinese market and has fostered a market, the marks should coexist in the market.

The court held that Foton's three marks have consisted of Scenic, and Surf and Express have special meanings respectively, the public will be confused by these marks. In consideration of two companies' filings on the same Class, so similarity has been constituted and Renault's filings are rejected. (by Wang Guohao)

本报记者 王国浩

2000年, 法国雷诺股份公司(下称雷诺公司)向中国引进“风景”系列, 并成为其在中国市场的主销车型。2011年, 雷诺公司又先后向中国引进了“新风景”与“大风景”车型。然而, 当雷诺公司在中国提出汽车、小型机动车等商品上“风景”商标(下称被异议商标)的注册申请, 却与北汽福田“风景”不期而遇, 导致其“风景”汽车面临着无标困局。日前, 北京市

高级人民法院作出终审判决, 认定被异议商标与北汽福田汽车股份有限公司(下称北汽福田公司)在先核准注册的“风景”系列在先商标构成相同或类似商品上的近似商标, 在雷诺公司的注册申请最终未能核准。

“风景”商标遭遇困局

据了解, 2003年6月, 雷诺公司向中国国家工商行政管理总局商标局(下称商标局)提出“风景”文字商标的注册申请, 指定使用在第12类汽车、摩托车等商品上。

法定异议期内, 北汽福田公司引证其在先核准注册在第12类汽车、发动机(车用)等商品上的“福田风景”“风景冲浪”和“风景快运”商标提出异议。

2010年8月, 中国国家工商行政管理总局商标局裁定被异议商标不予核准, 在摩托车等其他商品上的注册申请予以核准。雷诺公司不服, 向中国国家工商行政管理总局商标局(下称商评委)申请复审。

商评委认为, 被异议商标指定使用的复审商品与引证商标核定使用的汽车、发动机(车用)等商品属于同一种或类似商品; 被异议商标与引证商标均为无其他构成要素的纯文字商标, 整体均以普通印刷字体形式表现, 且被异议商标完整包含于引证商标, 两者已构成使用在同一种或类似商品上的近似商标。同时, 在案证据不足以证明被异议商标经过其使用已获足以与引证商标相区别的知名度。据此, 商评委裁定被异议商标在复审商品上不予核准注册。

雷诺公司不服商评委裁定, 向北京市第一中级人民法院提起行政诉讼。

法院终审维持原判

在一审庭审过程中, 法院认为, 3件引证商标均完整包含被异议商标, 两者在构成要素、含义等方面均近似, 使用在相同或类似商品上易使相关公众对商品来源产生混淆误认; 在案证据不足以证明被异议商标经过长期使用, 建立了较高市场声誉, 并使相关公众在客观上已能将相关商业标识区别开来。据此, 法院一审判决维持商评委裁定。

雷诺公司不服一审判决, 向北京市高级人民法院提起上诉。其诉称, 引证商标主要使用在商用车上, 而被异议商标主要使用在乘用车上, 二者功能、用途、销售场所、消费对象不同, 相关公众的群体范围区别明显, 客观上降低了商标混淆的可能。同时, 雷诺公司表示, 被异议商标与引证商标构成要素不同且被异议商标在中国具有长期的使用历史, 已形成稳定的市场秩序, 应当允许其与引证商标共存。

对此, 法院审理认为, 被异议商标的构成要素分别被各引证商标所包含, 且“风景”“冲浪”“快运”均为具有固定含义的词汇, 相关公众容易将上述词汇作为相对独立的组成部分从引证商标整体中加以识别和记忆, 因此被异议商标与引证商标分别构成近似商标。此外, 被异议商标与引证商标是否会造成相关公众的混淆误认, 应以其指定使用的商品而非实际使用的商品为判断标准。综上, 法院认定被异议商标指定使用在复审商品上, 与3件引证商标分别构成使用在同一种或类似商品上的近似商标, 并据此判决维持一审判决及商评委裁定。

Table with 2 columns: Role and Name. Rows include: 英文翻译 (姜旭), Translator (Jiang Xu), 责任编辑 (柳鹏), Executive Editor (Liu Peng).