

CHINA REPORT INTELLECTUAL PROPERTY

2013年8月28日 August 28, 2013

星期三出版 Published on Wednesday 中文主编:吴 辉 Chinese Editor-in-Chief: Wu Hui

英文审校: 崔卫国 English Reviser: Cui Weiguo

英文审校:柳 鹏 English Reviser: Liu Peng

China's IP in foreign eyes

Shanghai court recently A issued China's first ban on trade secrets, which has been called a landmark ruling for intellectual property worldwide. Judge Liu Junhua ruled in favor of Lilly, the first intellectual property victory of its kind since the Chinese government enacted a revised Civil Procedure Law on Jan. 1. "Trade secrets as a kind of intellectual property rights were not properly protected under judicial practices for a long time," said Liu, and that the Civil Procedure Law has filled the gap in protection of trade secrets. (Chinese court hands down milestone IP ruling, by Inside Counsel)

上海法院最近发布了中国首个 商业秘密禁令,被认为是在全球知 识产权领域具有里程碑意义的裁 决。法院作出了有利于原告礼来公 司的裁决, 使其成为今年1月1日 修订后的中国民事诉讼法实施以 来,首例获支持的侵犯商业秘密诉 前禁令知识产权案例。"作为一种知 识产权, 商业秘密在很长一段时间 内一直没有得到司法实践的适当保 护,"主审该案法官表示,民事诉讼 法的修改填补了商业秘密保护的空 白。(《中国法院做出具有里程碑意 义的知识产权裁决》,内部咨询)

The rule made by Shanghai court indicates that China not only has a sound intellectual property protection system, but also is actively making efforts to implement it.

上海法院作出的这一裁定,表 明了中国不但具备完善的知识产权 保护制度和措施, 更是在知识产权 司法保护上积极付诸实施



Chinese meatpacker you ve never heard of is more innovative than South Korea's mighty Samsung? According to our (Forbes') latest ranking of the World's Most Innovative Companies, yes, it is. We more or less expected Web giants such as Baidu and Tencent to claim high spots, and they did. (The Ten Most Innovative Companies in Asia, by The Wall Street Journal)

一个曾经名不见经传的中国肉 类加工企业能够比韩国强大的三星 更具备创新精神吗?根据《福布斯》 最近公布的世界上最具创新力公司 排名,事实的确如此。同时,我们也 曾或多或少期望像百度和腾讯这样 的网络巨头能够创下新高, 而他们 确实也做到了。(《亚洲十大最具创 新力公司》,华尔街日报)

Comment:

The emergence of Henan Shuanghui becomes one of the big surprises from this year's Innovators List, which ranked No. 11. Baidu ranked No. 1 in Asian and No.6 in the world. Chinese companies are more and more innovative and create plenty of innovations. Imitation, the former bigger part of the China growth story, has becoming the past.

河南双汇以第十一位的世界排 名成为今年福布斯创新榜单的最大 意外;同时,中国最大的搜索引擎公 司百度更是一举跃居亚洲第一、世 界第六。中国企业正变得越来越具 备创新精神, 并产生了大量的创新 与知识产权。模仿,这个曾经的中国 企业发展历程中的一大主题, 如今 正在成为历史。

(by Correspondent Wang

Weiwei from Canada) (本报通讯员汪玮玮发自加拿大)

SIPO report: china owns 3 million domestic valid patents by 2012 报告显示:2012 年底中国有效专利达300 万件

ccording to the China Valid Patent Report 2012 issued by SIPO recently, domestic valid patents maintain rapid growth and the structure thereof are significantly optimized. Domestic patents' share of the total saw a year-on-year growth. As of the end of 2012. China owns cumulative 3 million domestic valid patents, representing 85.6% of the total, up 1.5% and 3.2% respectively than those in 2011 and the end of the Eleventh Five-Year Plan. Meanwhile, domestic invention patents amounted to 473,000, up 3.7%. The share of the total grows to 54.1%.

As revealed in the report, domestic enterprises and colleges and universities are the major innovators. Capacities of domestic enterprises to utilize and protect IPRs are continuously enhancing. As of the end of 2012, domestic enterprises own 1.812 million valid patents, representing 60% of the total for the first time. Meanwhile, a new record of valid inventions was hit by domestic colleges and universities; awareness to protect IPR was further strengthened. In 2012, 97,000 valid invention patents were owned by colleges and universities. The five most prolific universities are Zhejiang University, Tsinghua University, Shanghai Jiao Tong University, Harbin Institute of Technology and Beihang University.

According to the report, as of the end of 2012, the five most prolific provinces are Guangdong (79,000 valid inventions), Beijing (70,000), Jiangsu (45,000), Shanghai (40,000) and Zhejiang (36,000). Top five provinces in valid invention patents owned by per 10,000 population are Beijing (34.5), Shanghai (17.2), Guangdong (7.5), Tianjin (7.5) and Zhejiang (6.5). Fortunately, based on the advantages in patents, most of the provinces mentioned above facilitating regional industrial transformation and upgrading, promoting a steady and sustainable development in economic growth.

Despite fruitful achievements have been made in patents filings and granting in 2012, there are some problems worthy of attention. The invention patents which maintained over 10 years, are 5.5% from domestic and 26.1% are from abroad. Valid invention patents owned by foreign innovators amounted to 105,000, four times than those owned by domestic innovators. Efforts should be exerted to utilize patents owned by domes-

(by Liu Chang/Liu Lei) 本报讯 (通讯员刘 畅 刘 磊 北京报道)近日,中国国家知识产权 局发布了《2012年中国有效专利年 度报告》(下称《报告》)。《报告》显示, 近年来中国有效专利总量保持高速 增长,结构不断优化,国内有效专利 所占比例持续攀升。2012年底,国内 有效专利数量达 300 万件,所占比重 达到85.6%、较上年提高1.5个百分 点,比"十一五"末提升了 3.2 个百分 点。同时,国内发明专利拥有量所占 比重呈持续增长态势,2012年底,国 内有效发明专利达 47.3 万件, 较上 年提升 3.7 个百分点, 所占比例达到

《报告》显示,国内企业和高校的 创新主体地位进一步确立,增长势头 强劲。截至2012年底,国内企业拥有 有效专利 181.2 万件,占国内有效专 利量的比重首次超过六成。国内企业

专利拥有的主体地位进一步确立,充 分表明企业自主创新能力不断提升, 运用和保护知识产权的能力持续增 强。此外,国内高校发明专利拥有量 再创新高,知识产权保护意识也进一 步增强。2012年国内高校发明专利 拥有量达 9.7 万件,占总量的两成 多。浙江大学、清华大学、上海交通大 学、哈尔滨工业大学和北京航空航天 大学排名前五位。

《报告》显示,截至2012年底,国 内有效发明专利数量排名前五位的 地区分别是广东 (7.9 万件)、北京 (7.0万件)、江苏 (4.5万件)、上海 (4.0 万件)和浙江(3.6 万件);每万人 口发明专利拥有量排名前五位的地 区分别是北京 (34.5 件)、上海 (17.2 件)、广东 (7.5 件)、天津 (7.5件)和浙江(6.5件)。《报告》分析 指出,当前我国大部分发达地区将所 拥有的专利优势逐步转化为以自主 创新支撑区域经济发展的优势,有效 促进了区域产业结构转型升级和经 济平稳可持续发展。

有关人士表示,尽管 2012 年国 内有效专利结构不断优化,增速喜 人,但仍存在一定问题。《报告》显 示,有效发明专利中,国内维持时间

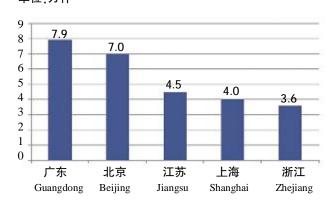
10年以上的仅有5.5%,而国外维持 时间 10 年以上的有 26.1%; 从数量 上来看,国外在华维持10年以上的 有效发明专利数量达到 10.5 万件,

是国内数量的近4倍,国内创新主 体专利市场化水平低的问题仍待解

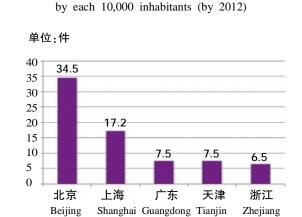
截至 2012 年底国内有效发明专利前 5 排名

top five provinces in rank of valid invention patent (by 2012)

单位:万件



截至 2012 年底每万人口发明专利拥有量前 5 排名 top five provinces in rank of invention patents owned

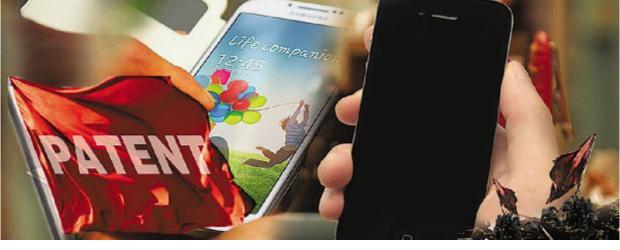


Apple win: Samsung banned from selling some phones in U.S. 专利大战硝烟再起 中企不可作壁上观

he U.S. International Trade Commission (ITC) on Auimport and sale of some Samsung Electronics Co. mobile devices after finding they infringed on two Apple Inc.'s patents. The rulings initiated an internet buzz in China. Inside watcher analyzes that the industry of smart terminals and smart phones witnesses a remarkable growth in recent years, Chinese companies should be more cautious and attach great importance to patent portfolio, even though American market is the main battle field between Apple and Samsung.

The import ban is subject to a 60-day veto period, where President Obama could select to veto the decision. If the Obama administration not to exercise the power of veto, the rulings will take effect after 60 days. The devices that are considered infringe these patents include the Galaxy S 4G, Fascinate, Captivate, Galaxy Tab, and Galaxy Tab 10.1, as well as a handful of other smart phones and tablets PC released in 2010 and 2011. Analyst says that even if the rulings take effect, it won't have a huge impact on Samsung's current and future market in America.

This patent dispute between the world's top two smart phone manufactures started in 2011 and it never ends up to now. In August 2012, The California jury found that Samsung infringed Six Apple Patents, imposed \$1.05 billion for penalty.



The Jury's decision draws worldwide attention. Analyst says that Samsung is now taking over Apple as the world No. 1 smart phone manufacturer. The former glory Apple is trying to re-build power in smart phone market by dismissing opponents with their patent portfolio. According to this analyst, the patent war between these two giants tells that IPR will be a crucial weapon in the global economic competition. New competition rules will be attached great importance when IPR plays the role.

Samsung and Apple share a joint 90% of profit in industry of smart terminals. The two giants' patent disputes sounded the alarm bell to Chinese companies. Latest statistics show that the seven most prolific smart manufacturers globally are Samsung, Apple, Lenovo, Coolpad, LG, Huawei and ZTE. Domestic mobile phone brands including Coolpad, Lenovo, Huawei and ZTE share 20% of global Smartphone market and sales in 2012 grew 108%.

According to Professor Li Shunde from the University of Chinese Academy of Sciences, Samsung and Apple have set a good example for using patent as a weapon in market competition, Chinese smart phone manufactures should summarize their shortcomings in patent portfolio, increasing patent license and focus on technology and product innovation, improve all-round service.

(by Wang Yu) 本报记者 王宇

自 2011 年起美国苹果公司 (下 称苹果)与韩国三星电子(下称三星) 在全球范围内掀起的专利大战近日 再燃硝烟。8月9日,美国国际贸易 委员会(ITC)裁定三星的电子移动 设备侵犯苹果公司两件专利,三星相 关产品将被禁止在美国销售。对此, 国内有关专家表示,虽然这场交锋的 争夺焦点在于美国市场,然而对于快 速成长的国内智能终端产业和销量 猛增的国产智能手机而言,决不可作 壁上观, 而应提前敲响专利警钟,以 技术创新冲破专利枷锁。

据国外媒体报道,目前,ITC已 将该判决呈交美国总统奥巴马审议, 后者将有60天的时间对此裁决进行 处理。如果奥巴马没有行使否决权, 那么该禁令将正式生效。不过也有分 析人士认为,由于这起纠纷已经历时 两年,被诉侵权的三星产品,包括 3款智能手机和 1款 Galaxy Tab 平 板电脑都已经是旧款。因此,即便禁 令生效,也不会对三星在美国的销售

事实上,苹果和三星之间的这场 专利纷争已经持续了很长时间,但目 前似乎仍没有停歇的趋势, 而是越发 加剧。尤其是 2012 年 8 月,美国圣何 塞联邦地方法院裁定三星侵犯苹果 6件专利,并开出了10.5亿美元的罚 单。业界分析称,在三星取代苹果成为 全球最大的智能手机厂商之后,苹果 正在显著加强依靠专利诉讼阻击竞争 对手扩张的力度。"三星与苹果的一系 列专利大战之所以如此重要, 在于它 成为当今全球经济竞争的一个缩影, 暗示了未来的经济竞争趋势, 当知识 产权的价值被重视并被放大的时候, 新的竞争规则就需要给予足够的重

视。"一位业内专家如此表示。 苹果与三星的专利诉讼,不仅是 占据全球智能终端行业九成以上利 润的两大巨头之间的利益争夺,也给 中国在该市场领域的竞争者敲响了 警钟。最新数据显示,2013年第2季 度全球智能手机市场销量前5名被 三星、苹果、联想、宇龙酷派、LG占 据,华为、中兴通讯分别排到第6位 和第7位。中国本土手机在过去一年 中销量飙升,比去年同期增长108%。 目前,宇龙酷派、联想、华为、中兴等 国产品牌已占到全球智能手机市场

"如果没在专利布局中分到一杯 羹的话,那么苹果和三星在专利大战 中的地位巩固之日,就是国内智能手 机厂商噩梦开始之时。"中国科学院 大学法律与知识产权系主任李顺德 在接受记者采访时表示,国内厂商应 该及早认识到自身在专利储备上存 在的不足,积极寻求以专利许可的方 式避免相关纠纷,以专注于技术创新 的设备、产品和服务,应对智能终端 领域愈演愈烈的专利大战。

(M-3/16/14/14/14/14/14/14/14/14/14/14/14/14/14/	
英文翻译	姜 旭
Translator	Jiang Xu
责任编辑	向 利
Executive Editor	Xiang Li

社址:北京市海淀区蓟门桥西土城路 6 号 邮编:100088 电邮:cipnews@vip.sina.com 编辑中心:82803936 采访中心:82803956 办公室:82803009 发行部:82034385 广告部:82034385