

China's IP in foreign eyes

A group of dynamic middle- and low-income countries - including China are outpacing their peers, but haven't broken into the top of the GII (Global Innovation Index) 2013 leader board.

虽然中国还未进入2013年全球创新指数(GII)领导者的行列,但在大步超越其同类竞争者。2013年全球创新指数囊括了全球142个经济体,采用了包括顶尖大学的质量、提供小额贷款的能力、风险资本交易等84个指标,对全球创新能力及其成效进行了全面衡量。

点评:

In terms of innovation, the gap between developed and developing economies still exists. However, while developed economies are dominant, China, as the representative of emerging economies is actively applying innovation policies.

点评:

在创新方面,发展中经济体与发达经济体的差距依然存在。但在发达经济体占据主导地位的同时,以中国为代表的经济体和发展中经济体正积极出台鼓励创新的政策。



Amazon.com, Inc. has been accused by Chinese authorities of selling counterfeit books through third-party sellers. China's National Copyright Administration said recently that 36 third party sellers are selling counterfeit books and are violating copyright laws, according to Sina Tech.

亚马逊公司因通过第三方平台销售盗版书被中国政府责令整改。据新浪科技报道,中国国家版权局日前表示,36个亚马逊网站第三方卖家销售了盗版书,违反了著作权法。

点评:

This action shows that Chinese authorities can follow strict rules regarding intellectual properties, and they can also instill a sense of confidence among local companies by conveying to them that the world's leading companies will not be given extra opportunities. It also reflects that the country is committed to enhancing standards in e-commerce.

点评:

中国政府的这一行动表明其可以遵循严格的知识产权规则,并让本土公司有理由相信,中国政府绝不会给予世界领先的公司“特殊”的竞争机遇。这也同时反映出中国政府正在致力于加强电子商务标准。

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

Shaanxi enterprises sued Rohm and Haas for 49 million yuan 陕西两家民企状告美企索赔4900万元

American Rohm and Haas Company (Rohm and Haas Company), the largest fine chemical company in the U.S. as well as one of the largest suppliers of acrylate products in the world, requested a temporary restraining order against the products from two Shaanxi private enterprises before its lawsuit in a patent infringement.

Domestic private enterprises: to break the monopoly

With cold storage, flowers from Yunnan can still bloom in the north after a month and apples from the north could still taste sweet after a year. All along, cold storage has been the main technique in vegetables and fruits preservation but it is quite expensive. In recent years, a new plant preservative—1-MCP was discovered.

Rohm and Haas Company is a multinational corporation specialized in the research, development as well as manufacture of fine chemicals and special materials. On June 30, 1999, its subsidiary company filed several patent applications on the technology of fruit and vegetable preservation in China, which were granted on March 29, 2006.

In 2006, Liang Xiqin, manager of the Shaanxi Lianqin Chemical Industry Co., Ltd (Lianqin XiQin company) and his son, manager of the Xianyang Xiqin Biotechnology Co., Ltd. (Xianyang XiQin company) invented a new technique to manufacture 1-MCP. Liang Xiqin and Yan Wei, Professor of Xi'an Jiaotong University, then filed an invention application on April, 2006, which was granted by the State Intellectual Property Office in July 2007.

The Rohm and Haas Company: files patent infringement case

During the research and patent pending of Lianqin XiQin company, Rohm and Haas Company has been in contact with it for the purpose of cooperation or acquisition, but was refused due to its harsh requirement. On October 10, 2008, Rohm and Haas Company filed a lawsuit against the two companies in the Xi'an Intermediate People's Court on the ground of invention patent infringement, and asked for compensa-



tion of 500,000 yuan and so on. It claims that the 1-MCP fruit and vegetable preservatives, which the two companies offered for sale, had constituted patent infringement, and requested a preliminary injunction against the products.

On September 27, 2008, the Xi'an Intermediate People's Court made a preliminary injunction against the two XiQin companies, banning Lianqin XiQin and Xianyang XiQin companies from selling products, which infringed the 1-MCP invention patents of Rohm and Haas Company.

Since then, Liang Xiqin as well as his two companies got into a hard time, whereas Rohm and Haas Company continued to dominate the Chinese market. According to its 2009 annual report, its sales in China reached one billion yuan.

However, in 2010, a dramatic change occurred in the case. On July 26, 2010, the Patent Reexamination Board of the State Intellectual Property Office first announced the Rohm and Haas Company's patents on 1-MCP partially invalid, and then all.

The two XiQin companies: to fight back

With the patents on 1-MCP announced invalid, the Rohm and Haas Company required the court to lift the ban on the two XiQin companies. Soon, the Xi'an Intermediate People's Court lifted the injunction which had lasted for 847 days.

On December 2011, the two XiQin companies sued the Rohm and Haas Company in the Xi'an Intermediate People's Court on the ground of the improper preliminary injunction and claimed for over 49 million yuan in compensation for its loss.

According to patent law, that patents declared invalid did not exist from the beginning the Xi'an Intermediate People's Court ruled that the preliminary injunction indeed caused losses to the two XiQin companies and ordered that the Rohm and Haas Company should compensate for the damage.

On February 25, 2013, Xi'an Intermediate People's Court rendered the first-instance judgment that the Rohm and Haas Company should compensate the two XiQin company for 4.5 million yuan in total. Dissatisfied, both parties made

an appeal respectively to Shaanxi High People's Court. The two XiQin companies argued that the amount was far less than 49 million yuan that they expected. The Rohm and Haas Company asked a revocation of the first-instance judgment.

On June 24, Shaanxi High People's Court heard the case. We will follow the development of the case. (by Zhu Wenming)

本报记者 祝文明

美国最大精细化工产品,同时也是世界上最大丙烯酸系列产品供货商之一的美国罗姆哈斯公司(下称罗姆哈斯公司),在一起诉陕西民企专利侵权的纠纷中申请诉前禁令,此后涉案专利权被宣告全部无效,罗姆哈斯公司也因此被陕西民企告上法庭,追索损害赔偿4900万元。日前,这起案件在陕西省高级人民法院二审开庭审理。

国内民企试图打破垄断

云南的鲜花,一个月后依然可以绽放在北方的客厅;北方的苹果,一年后依然酸甜可口……一直以来,果蔬保鲜多采用冷库贮藏方式,可是成本比较高。近年来,一种新型植物保鲜剂——1-甲基环丙烯(1-MCP)被发现了,这种保鲜剂能有效抑制果品、蔬菜、花卉衰老等现象,无毒无害。美国和欧洲发达国家认为,它是果蔬保鲜储运技术领域的一次革命。

罗姆哈斯公司是专门从事特殊材料与精细化学品研究、开发和制造的跨国公司,其下属阿格洛法士公司于1999年6月30日就其研发的果蔬保鲜技术在中国提交专利申请,2006年3月29日获权。此后,罗姆哈斯公司在中国推出了商标为“聪明鲜”的1-MCP果蔬保鲜剂产品,占据国内绝大部分市场份额。

2006年,陕西省礼泉县西秦化工实业有限公司(下称礼泉西秦公司)及咸阳西秦生物科技有限公司(下称咸阳西秦公司)负责人梁西秦父子发明了一种1-MCP新的制备方法。2006年4月,梁西秦联合西安交通大学教授延卫等人就“用于果蔬花卉保鲜的1-甲基环丙烯稳定包结物的制备”向中国国家知识产权局提交发明专利申请,并于2007年7月获权。据介绍,采用该方法制备出来的果蔬保鲜剂主要用于水果蔬菜花卉保鲜,具有成本低、易于保管等特点。这一技术,还获得陕西省科技二等奖,并进入陕西“1315”科技创新工程重大科技产业化项目,得到政府经费支持450万元。

罗姆哈斯提起侵权诉讼

在礼泉西秦公司1-MCP研发并申请专利期间,罗姆哈斯公司曾与两家西秦公司有过接触,希望能与之合作或者将之收购,但因条件苛刻被拒绝。

2008年10月10日,正当两家西秦公司准备工业化量产1-MCP

之时,罗姆哈斯公司以侵犯其1-MCP的发明专利权为由,向西安市中级人民法院提起诉讼,请求法院判令两家西秦公司不得许诺销售或销售1-MCP产品,并赔偿其经济损失50万元等。罗姆哈斯公司认为,两家西秦公司许诺销售的1-MCP果蔬保鲜剂产品,对其构成专利侵权。同时,罗姆哈斯公司还向西安中院提出诉前禁令申请。

2008年9月27日,西安中院同意对两家西秦公司执行诉前禁令的请求,裁定两公司不得许诺销售或销售涉嫌侵犯罗姆哈斯公司相关1-MCP发明专利权的产品。

从此,梁西秦连同他的两家西秦公司一起,陷入了困境。罗姆哈斯公司则继续独占中国市场,其2009年的年报显示,在中国销售收入已超过10亿元人民币。

然而,到了2010年,事件出现了戏剧性变化。7月26日,国家知识产权局专利复审委员会作出专利权无效审查决定,宣布阿格洛法士公司拥有的1-MCP专利权部分无效。之后,该专利又被宣告专利权全部无效。

奋起反击提出巨额索赔

在阿格洛法士公司相关1-MCP专利权被宣告无效后,罗姆哈斯公司于2011年1月14日向西安中院提出解除对两家西秦公司的诉前禁令。很快,西安中院解除了对两家西秦公司长达847天的诉前禁令。

2011年12月,两家西秦公司开始反击,向西安中院状告罗姆哈斯公司在之前提起的专利侵权案中不当申请诉前禁令,造成两家西秦公司1-MCP产品被禁止销售和许诺销售847天,请求法院判令罗姆哈斯公司赔偿损失4900余万元。

西安中院经审理认为,诉前禁令作出后,两家西秦公司不得许诺销售、销售争议产品是不争的事实,由此造成的损失不言而喻。罗姆哈斯公司在申请诉前禁令时虽有事实和法律依据,但中国专利法规定,宣告无效的专利权自始不存在,罗姆哈斯公司应当赔偿申请诉前禁令给两家西秦公司造成的损失。

2013年2月25日,西安中院就该起诉前禁令损害赔偿案作出一审判决,判令罗姆哈斯公司赔偿两家西秦公司共计450万元。

一审判决后,双方当事人均不服,分别向陕西高院提起上诉。两家西秦公司认为一审判决赔偿数额与诉求相去甚远,请求改判罗姆哈斯公司赔偿4900万元;罗姆哈斯公司则请求撤销原判,驳回两家西秦公司的赔偿请求。

6月24日,这起由专利侵权引发的损害赔偿案在陕西高院开庭审理,当庭未作出判决。本报将继续关注案件进展。

Link

相关链接

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1999年6月30日,美国罗姆哈斯公司下属的阿格洛法士公司于就其研发的果蔬保鲜技术在中国提交专利申请,2006年3月29日获权。

On October 10, 2008, Rohm and Haas Company filed a lawsuit against two companies in the Xi'an Intermediate People's Court on the ground of invention patent infringement.

2008年10月10日,美国罗姆哈斯公司以侵犯其1-MCP的发明专利权为由,将两家西秦公司诉至西安市中级人民法院。

On September 27, 2008, the Xi'an Intermediate People's Court

agree to make a preliminary injunction against the two XiQin companies, ruling that Lianqin XiQin and Xianyang XiQin companies could not sell products, which infringed the 1-MCP invention patents of Rohm and Haas Company.

2008年9月27日,西安中院同意罗姆哈斯对两家西秦公司的诉前禁令请求,裁定两公司不得许诺销售或销售涉嫌侵犯罗姆哈斯公司相关1-MCP发明专利权的产品。

In 2010, a dramatic change occurred in the case. On July 26, 2010, the Patent Reexamination Board of the State Intellectual Property Office announced the Rohm and Haas Company's patents on 1-MCP partially invalid.

2010年,事件出现了戏剧性变化。7月26日,中国国家知识产权局专利复审委员会作出决定,宣告阿格洛法士公司拥有的1-MCP专利权部分无效。

On December 2011, the two

XiQin companies began to fight back. They sued the Rohm and Haas Company in the Xi'an Intermediate People's Court on the ground of the improper preliminary injunction.

2011年12月,两家西秦公司向西安中院状告罗姆哈斯公司在之前提起的专利侵权案中不当申请诉前禁令。

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Table with 2 columns: Role and Name. Includes Translator Meng Yijun, Executive Editor Liu Peng.