[双语]周刊 中国知识产权报

CHINA REPORT
INTELLECTUAL PROPERTY

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China's IP in foreign eyes

The June CCST (California Council on Science and Technology) Council meeting focused on the impact of China's quest to become a global science, technology and innovation leader. "China has made some significant progress in its to become a world leader in science, technology and innovation within the next 10 to 20 years," said the dinner speaker Tai Ming Cheung. (CCST Council Meeting: Taking a Closer Look at China, by CCST)

6月的美国加利福尼亚州科学与技术委员会会议集中讨论了中国立志成为全球科技和创新领导者的目标，及其将对全球产生的影响。"目前,中国已经在科技和创新方面取得一些重大进展,十分有利于其在未来10至20年内成为世界科技和创新领袖。"会议的发言人泰明祥说。(《CCST:近距离看中国》,CCST网站)

Comment:

Since 1995, China has boosted its R&D expenditure from 0.6% of its GDP to 1.97% in 2012. Strategies such as building engineering key labs, supporting industrial technological innovation and investing in innovation might be the key to turn China's technology dream true.

点评:

自1995年以来,中国的研发支出迅速增加,从占国内生产总值的0.6%增加至2012年的1.97%。从建设工程重点实验室,到支持产业技术创新,再到不遗余力地投资创新,一系列措施有力地助推了中国创新梦的实现。

Nielsen Consulting Group's global survey of new product sentiment "Where in the World is Innovation?" study revealed that in 2012 emerging-market countries such China, and Brazil stepped up their innovation efforts and entered the list of top 10 innovative markets. Overall, emerging markets contributed 31% of the world's new product innovation in 2012, while innovation in developed markets dropped to 69%. (Emerging Countries Wearing Innovation Crown, by www.cspnet.com)

据尼尔森咨询集团一项关于新产品创新,名为"世界创新之地"的全球调查,2012年,中国、巴西等新兴市场国家已进入全球10大创新市场排名。总体而言,2012年,新兴市场为全球新产品创新做出了31%的贡献,而发达国家的市场创新比例则下降至69%。(《新兴国家带上创新桂冠》,美国CSP网站)

Comment:

In China, consumers are more eager to try new products than their counterparts in Europe or North America. Growing middle class, higher education level and developed technological infrastructure make China a huge innovational powerhouse with significant room to grow.

点评:

比起欧美市场的消费者,中国消费者更渴望不断尝试新产品。中国不断壮大的中产阶级、日益提升的教育水平和发达的技术基础设施,使中国拥有巨大的空间发展成为创新强国。

(by Correspondent Wang Weiwei from Canada)

(本报通讯员汪玮玮发自加拿大)

Science and technology make Shenzhou-10 different

神舟十号:圆梦九天再创辉煌

On June 11, Shenzhou-10 manned spacecraft was successfully launched, sending the first astronaut-teacher into space. On June 20, the female crew member Wang Yaping broadcasted a lecture to students on the earth about physics from a space laboratory 300km above the ground. Compared with previous manned spacecrafts, more matured space technologies have been used in Shenzhou-10.

"China's manned spaceflight program was officially approved in 1992. In the past 20 years, great breakthroughs have been made in the cutting-edge technologies, with more than 900 invention patents granted. After years of testing, China is now leading the transportation system in the manned spaceflight program globally, which is combined with the Shenzhou spacecraft and Long March-2F carrier rocket," according to a representative from the office of China's manned space program.

The Long March-2F carrier rocket is the one to launch the Shenzhou-9 manned spacecraft. Compared with last time, more than 10 inventions have been filed. Designed to launch manned Shenzhou spacecraft, the Long March 2F made its maiden flight in 1999, and since then, all launching missions have been successful.

It's worth noting that the process of the separation of escape tower from the rocket and so on, was broadcasted live on TV due to the high-speed TV survey system applied. The equipment was specially developed for the launching mission. The same types of equipment have also successfully accomplished all previous missions for the rocket launching Shenzhou spacecraft. Several patents have been filed and copyrights have been registered.

Also, China sent the color-leafed plants on aboard for further test for the first time. In the past 20 years, more than 1,000 types of plant seeds, test-tube plantlets, biological species have been aboard on the spacecraft and more than 100 species have been successfully spread in use.

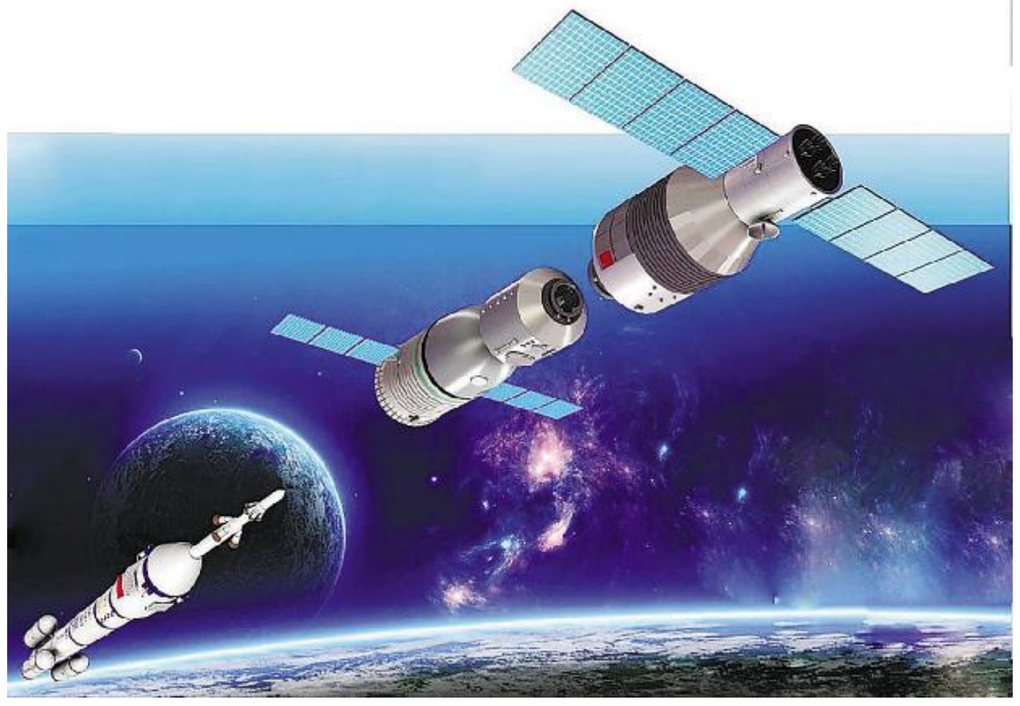
"The advance in space technology has made a contribution to the improvement of aviation industry and progress in related R&D. Up to now, more than 400 patents have been exploited and industrialized," says the above-mentioned person.

With 10 astronauts into space in a decade, China is speeding up the path of exploration and building a home in the space. "The module is considered the first step toward China operating a permanent space station around 2020. China is likely to launch a space station before 2016," said the above-mentioned person.

(by Zhao Jianguo)

本报记者 赵建国

6月20日，中国神舟十号航天员王亚平在太空授课,成为中国第一位"太空教师"。虽然在太空中已生活了10余天,但3名航天员精神饱满,给世界留下了深刻印象。在举世瞩目的关注中,神舟十号载人飞船从内到外,较以往的同系列飞船有了更多的技术改进,知识产权成为其遨游太空的"伴侣"和支撑。



"中国载人航天工程已经实施了20年，突破了相关的一系列关键技术,拥有发明专利900余件,提升了中国航天事业发展的整体实力。"中国载人航天工程办公室有关负责人表示,中国自主研发的由神舟飞船和长征二号F火箭组成的天地往返运输系统,技术已达国际先进水平。

据介绍,此次发射神舟十号的长征二号F运载火箭，从1999年发射神舟一号开始应用至今,十几年间已经承担过多次发射任务,发射成功率达100%,是名副其实的"功臣"。此次,它较一年前成功发射神舟九号载人飞船时,技术上又有了一些创新和改进,并新提交了十几件发明专利申请。

细心的人们注意到,与之前的飞船相比,神舟十号的逃逸塔分离等技术动作,都第一次呈现在电视直播的屏幕上,这是因为长征二号F运载火箭的外壁上首次安装了自主知识产权的图像测量系统,这改变了以往地面控制中心只能依靠数据掌握火箭飞行情况的局面,可以进行实时图像监测。一系列技术皆提交了专利申请,相应的电脑处理软件也进行了软件著作权登记。

由中国自主培育的植物新品种"彩叶苗木"，此次有幸搭乘神舟十号飞天，这是中国首次进行彩叶植物的航天育苗实验。近20年来,中国已利用返回式卫星和神舟飞船搭载了上千种作物种子、试管苗、生物菌种和生物材料,获得大量新品种,目前已有近百个品种成功推广应用。

"航天技术的进步，不仅提升了中国航天产业的整体能力,也带动了相关科学的研究与发展。"中国载人航天工程办公室有关负责人表示,近20年来，中国载人航天工程已经有400余件专利转化推广,形成了巨大的拉动和辐射效应。

神舟十号成功飞天,是神舟飞船的第10次发射，距离中国首次载人首飞太空恰好10年。这期间，共有10名中国航天员进入太空。按照中国载人航天"三步走"计划,中国将在2016年前研制并发射空间实验室,2020年前后建造空间站。"有自主知识产权的支撑,我们有信心期待中国航天事业再创辉煌。"一位航天专家表示。

Shanghai IC firm prevails in copyright case

上海海尔对阵美国微芯赢得关键胜利

The Shanghai High People's Court recently made its final decision in a copyright dispute involving integrated circuit, ruling in favor of Shanghai Haier Integrated Circuit Company, a Shanghai-based integrated circuit provider, denying all the requests from Microchip Technology, a microcontroller and analog semiconductor provider giant in USA, upholding the fist decision of the Shanghai No.1 Intermediate People's Court, concluding the six-year IPR disputes between the two companies.

Six-year IPR disputes

Shanghai Haier and Microchip Technology are both the micro controller unit (MCU) manufacturers, covering similar market and consumers. In 2007, Microchip Technology filed a copyright infringement case against Shanghai Haier, claiming the defendant infringed its microcode copyright in PIC16CXXX MCU products and copyright of MCU operation manuals, starting the six-year IPR conflicts. From then on, Microchip Technology challenged each patent Shanghai Haier was authorized. In 2009, Microchip Technology initiated 72 patent invalid requests and litigation, involving 23 patents. Meanwhile, Shanghai fighted back and challenged Microchip Technology's several patents.

When analyzing the two sides' disputes, insiders held that Shanghai Haier has broken the monopolization of Microchip Technology in chip technology, and has posed threat to the market potential in China.

Shanghai Haier prevails

The copyright disputes of PIC16CXXX MCU products and MCU operation manuals between the two sides are of special concern in their IPR disputes.

In the case mentioned above, Microchip Technology requested ceasing infringement, destroying infringing products, making an apology in public, also claiming 11.47 million yuan compensation for damages.

Shanghai Haier took the view that their products were totally different from those of Microchip Technology, and their chips didn't enjoy full compatibility with Microchip Technology's. Meanwhile, parameters and index were also different so no infringement constituted.

The court held that the current evidence failed to prove that Shanghai Haier verilog has copied Microchip Technology's C language, and also failed to demonstrate the two languages generated same code. Even if there was similar code, the evidence failed to prove that the code was generated by Microchip Technology's copyrighted program.

The court held that based on the 40 similarities Microchip Technology asserted, some of the descriptions were lack of originality and were not covered by copyright. The court held that due to the limited description features of the scientific writing, it's inevitable to produce similarity to some extent, and if the similarities were not totally identical, no copying was constituted.

Disgruntled Microchip Technology then appealed to the Shanghai High People's Court, which later made the decision above.

(by Zhu Wenming/Zhang Haizhi)

本报记者 祝文明 张海志

上海海尔集成电路有限公司(下称上海海尔公司)与美国微芯科技公司（下称美国微芯公司），都是从事MCU（单片微型计算机，简称单片机)生产的企业。所不同的是,美国微芯公司是全球单片机和模拟半导体巨头,而上海海尔公司是近年来发展迅速的中国本土MCU设计公司。从2007年开始，两家企业陷入知识产权纷争,从著作权到专利权,各种纠纷一直不断。近日,上海海尔公司在一起关键的著作权侵权诉讼中取得了最终胜利:上海市高级人民法院维持此前一审法院作出的判决,即美国微芯公司诉上海海尔公司芯片著作权侵权的指控不成立,驳回美国微芯公司的全部诉求。

你来我往纠纷不断

上海海尔公司与美国微芯公司的主导产品都是单片机，且功能近似,客户群更是大部分重叠。

2007年，美国微芯公司率先发起针对上海海尔公司的知识产权战,从起诉上海海尔公司侵犯其PIC16CXXX单片机内的微码、描述单片机使用及操作的数据手册著作权开始,此后不断针对上海海尔公司获得授权的专利提起专利权无效宣告请求。据了解,2009年,几乎是上海海尔公司每授权一件专利,美国微芯公司就提出一件专利权无效宣告请求。目前,美国微芯公司已先后对上海海尔公司的23件专利提出了72项专利权无效请求和诉讼。业内人士普遍认为,这是由于上海海尔公司打破了美国微芯公司长期以来在芯片领域的技术垄断,威胁了该公司在中国的市场利益和发展前景。

相应地,上海海尔公司进行了反击,对美国微芯公司的多件专利权提出无效宣告请求。

上海海尔赢得胜利

在上海海尔公司与美国微芯公司之间没完没了的知识产权纷争中,美国微芯公司最先提起的指控上海海尔公司侵犯其PIC16CXXX单片机内微码、描述单片机使用及操作的数据手册著作权案最受关注。

2007年,美国微芯公司向上海市第一中级人民法院起诉,称上海海尔公司侵犯其对微程序软件作品和数据手册及其指令集文字作品所享有的著作权,请求判令上海海尔立即停止侵权,销毁侵权产品,在指定媒体公开向其赔礼道歉并赔偿其经济损失800万元及合理费用347万余元。

上海海尔则辩称其没有侵犯美国微芯公司的相关著作权,认为被诉产品微码的助记服务和美国微芯公司的产品完全不一样,且其芯片并不完全兼容美国微芯公司的产品,数据手册的参数和指标也都不同,不存在侵权行为。

上海一中院经审理认为,根据现有证据,既不能证明上海海尔公司使用的Verilog硬件描述语言是对美国微芯公司C语言的复制，也不能证明两者经编译产生了相同的目标代码,又不能证明相同的代码(如果有的话)是除了通用指令之外的美国微芯公司独创的程序。据此,法院认定上海海尔公司并不构成对美国微芯公司计算机程序著作权的侵犯。

对于上海海尔公司是否侵犯美国微芯公司相关数据手册及指令集的著作权,上海一中院认为,从美国微芯公司所主张的40余处相似之处来看，其中有部分表达不具有独创性,不能获得著作权法的保护;尽管美国微芯公司指出了双方数据手册的40余处表达具有相似性，但是并没有完全相同之处。法院认为,科学类文字作品因受制于表达的有限性,出现某种程度的相似性是难以避免的。在有限表达的前提下,如果双方表达的相似程度并非完全相同,则不能认为是复制行为。

上海高院于近日作出终审判决,驳回美国微芯公司的诉讼请求,维持原判。

英文翻译 姜 旭
Translator Jiang Xu
实习编辑 孟逸君
Practice Editor Meng Yijun