

China's IP in foreign eyes

A global survey of IT decision makers revealed that China is one of the four countries most ready to leverage Machine-to-Machine (M2M) technology to transform business and society.

一项针对IT决策者的全球性调查显示,中国是最有准备利用机器到机器(M2M)技术来改造商业和社会的四个国家之一。

Comment:

The fast pace of technology innovation in emerging countries like China is exciting to the West, not only from a business perspective, but also its positive impact on society.

点评:

无论是从商业角度来看,还是从对社会的积极影响角度看,技术创新在以中国为代表的新兴国家的飞速发展,都令西方社会备感兴奋。



Shuanghui International Holdings Ltd., the Chinese company that agreed to pay \$4.7 billion for Smithfield Foods Inc. (SFD), the world's biggest hog producer, said China needs food-safety technology from overseas.

中国的双汇国际控股有限公司,已同意以47亿美元收购全球最大的生猪生产商美国史密斯菲尔德食品公司(SFD)。

Comment:

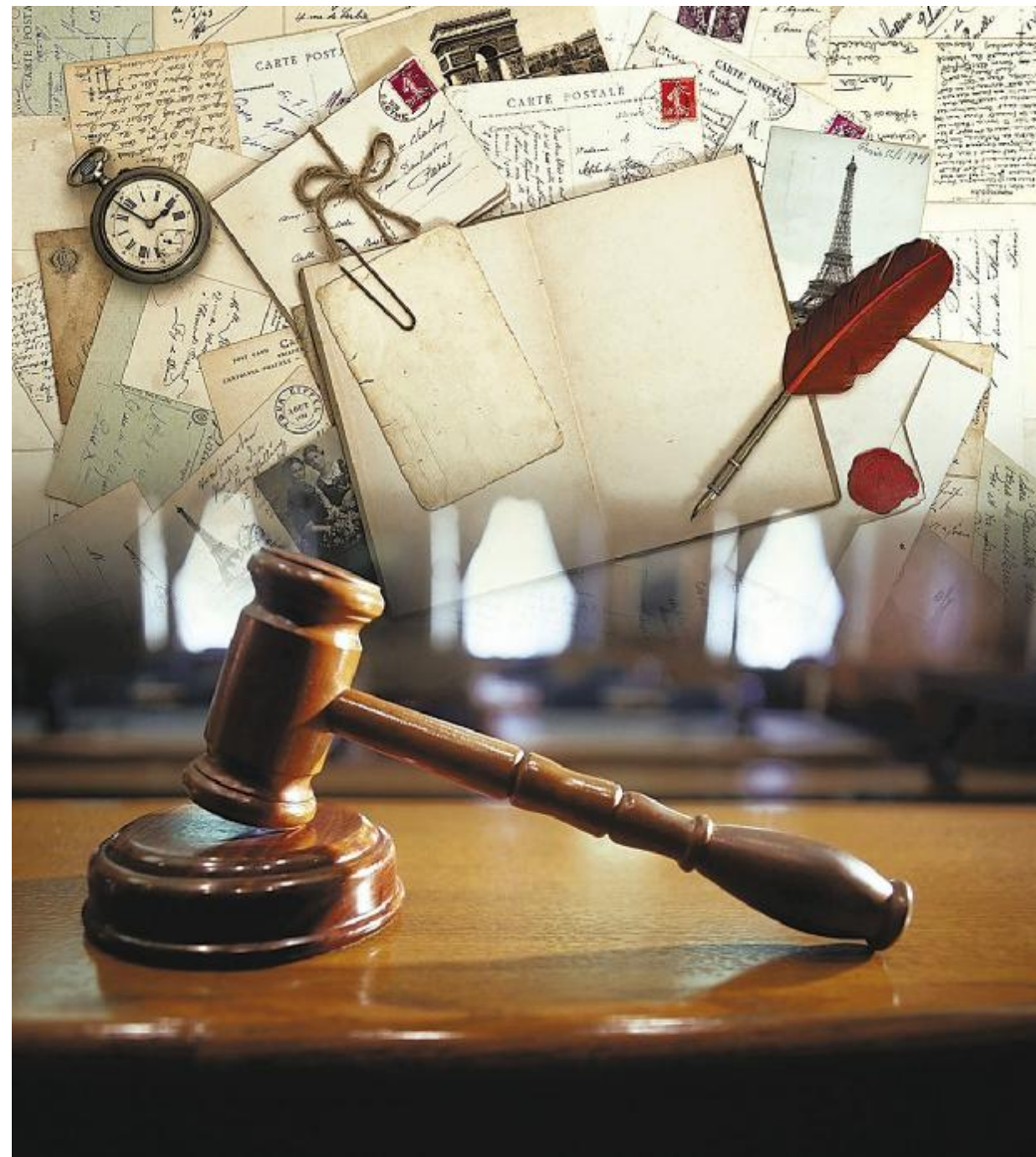
Attracted to Smithfield's strict food safety management, effective measures on environmental protection, advanced technology and well-known brands, Shuanghui is aiming to enhance domestic industry level.

点评:

被史密斯菲尔德公司严格的食品安全管理、有效的环保措施、先进的技术以及知名的品牌所吸引,双汇更多地着眼于提升国内同行业整体水平。

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

Literary couple's letters off auction amid protest 拍卖钱钟书书信手稿侵权吗?



The auction of Qian Zhongshu's personal letters took a new turn on June 6. The Beijing-based auction company Sungari announced a decision to stop public auction of Qian's personal letters on its website.

The controversial auction was announced by Sungari on its website and involved 66 of Qian's personal letters to Li Kwok-Keung, former editor-in-chief of Hong Kong's magazine Wide Angle in the 1980s, manuscripts in pen of Qian's collected works Ye Shi Ji, the original copy of Six Stories in the Cadre School and their late daughter Qian Yuan's letters.

How many types of right involved in letter auction?

Letters and manuscripts, as the channel for people to communicate thoughts and emotions, have been replaced by typing on computer and cell phone.

"Auctioning Qian's private letters may lead to infringement of the rights of property, authorship, privacy and reputation. Those composing the missives are their copyright owners, and auction groups should not make any copyright-related use of such missives without the consent of copyright owners," said Yu Cike, a senior official with the National Copyright Administration.

"While Yang does not own the letters - they belong to Li Kwok-keung, a long-time friend of the author in Hong Kong - she has the publishing rights for Qian's collected works. The violators who sold works without the consent of their copyright owners would infringe the rights of publishing, exhibition, privacy and reputation," You Yunting explained, a partner at Shanghai Dabang Law Firm.

Meanwhile, Yu Guofu, a lawyer specializing in copyrights at the Shengfeng Law Firm had

different opinion. Under China's laws, letters could be classified as personal property, and while Yang does not own the letters - they belong to the recipient Li Kwok-keung. The copyright should belong to the writer and the recipient enjoyed the real right of movables.

Whether auctioning letters and manuscript infringing publicizing right or not

Auctioning private letters may lead to infringement of many types of rights. What about the publicizing right? Tao Xinliang, Director of IP School of Shanghai University, took a view that auctioning letters and manuscript showed an intersection of real rights and authorship. Its ownership of property and exhibition would be transferred through auction.

"Under China's laws, the copyright of letter's content should belong to the writer and recipient

merely enjoyed the real right of movables. It is generally understood that real right was an absolute right and the owner could freely exercise their right. However, in the handwritten letters, most in calligraphy, included two aspects - the letter was both an object and the work carrier," said Dong Meigen, from East China University of Political Science and Law.

However, in Lu Zhiyong's opinion, the president of the International Auction Company of China, it should be considered that the writer had authorized the recipient to deal with the letter since the writer sent it without indicating the strictly forbid to the public. The recipient could deal with the letters without writer's permission.

How to avoid legal risk in auction

"Both client and auction agency ought to verify the copyright status of auction items and keep an eye on the auction of such handwritten letters especially whether it led to infringement of the rights of authorship, privacy and reputation or not," Tao stressed.

Auction house should not copy, publish and distribute people's private materials ahead of the sale which might cause the infringement of the copyright. However, it was not a violation of privacy that the letter holder displayed the letter in the pre-exhibition of the auction," Yu added.

(by Feng Fei)

本报记者 冯飞

6月6日,钱钟书书信手稿被拍卖一事有了最新进展,中贸圣佳国际拍卖有限公司(下称中贸圣佳)在其官网发布了《关于停止“也是集——钱钟书书信手稿”公开拍卖活动的决定》。

事情源于中贸圣佳国际拍卖有限公司日前在其官网上发布一则拍卖公告。公告称,该公司将举办一场钱钟书书信手稿专场拍卖会,集中拍卖钱钟书的66封书信和《也是集》手稿、杨绛的12封书信和《干校六记》手稿以及其女儿钱瑗的6封书信。据悉,这些信件主要是钱钟书一家于上世纪80年代与时任中国香港《广角镜》杂志社总编辑李国强的书信往来。

书信手稿拍卖 涉及作者哪些权利

书信手稿这种传统的传情达意的方式虽然逐渐被网络、手机所替代,但是,书信手稿,特别是名人的书信手稿作为私人物品在收藏界正受到热捧。那么,此次拍卖行为涉及

作者的哪些权利?

5月29日,中国国家版权局版权管理司有关负责人公开发表意见称:“钱钟书私人书信将被拍卖的行为可能涉及物权、著作权、隐私权、名誉权等多项权利。就著作权问题而言,书信作为文字作品,著作权属于作者,即写信人。拍卖活动的相关行为在对信件进行处分的时候,未经著作权人同意,不得对书信做著作权意义上的任何利用,否则涉嫌对著作权人合法权益的侵害。比如,将书信的全部或部分内容公之于众,就可能涉嫌侵犯著作权人的发表权。”

对此,上海大邦律师事务所合伙人游云庭表示,李国强是信件原件和书稿的合法持有者,拥有原件的物权,但信件、书稿内容的著作权应属于钱钟书及其家人拥有。若拍卖这些信件及书稿,至少涉及4项权利,即发表权、展览权、隐私权、名誉权。

北京市盛峰律师事务所主任于国富对此却有不一样的看法,他认为,书信属于动产的范畴,寄信人寄出书信后,动产即通过邮政系统交付给收信人。书信上所载内容则是受知识产权保护的。知识产权权利人、书信收信人分别各自独立行使著作权和动产物权。对于书信内容的发表、复制、发行,信息网络传播属于行使著作权的范畴,收信人无权代为行使;但是对于书信原件的拍卖,属于动产物权的转让。

书信手稿拍卖是否侵犯发表权

拍卖他人书信手稿有可能会侵犯作者的多项权利,但是否会侵犯作者的发表权?对此,上海大学知识产权学院院长陶鑫良认为,书信手稿的拍卖带来了物权与著作权的交集。书信手稿原件通过拍卖或者其他方式所转移的是其物权及其展览权,而其他的著作权人身权与财产权仍然归属著作权人享有。所以,如果拍卖的书信手稿尚未发表,并且拍卖过程包含有将从未发表的作品“公之于众”的事实,就会侵犯著作权人的发表权。

“就我国而言,信件内容的著作权属于写信人,收信人只取得信件这一物品的所有权。按一般理解,物权是绝对权,物权利人可以自由处分其物权。”华东政法大学知识产权学院办公室主任董美根表示,信件属于特殊情形,信件既是物,同时也是作品载体。

而在北京中拍国际拍卖有限公司董事长鲁智勇看来,作者若未在信件中注明不许公开或发表,将其信件寄出的同时,就已放任授权收信人任意处置其信件的权利。信件持有者无需得到写信人的同意即可处置这些信件。

如何规避拍卖中的法律风险

“在实际拍卖中,无论对于书信手稿拍卖的委托方还是拍卖机构,都应当对书信手稿这类特殊物品承担合理关注义务,对相应书信手稿进行拍卖是否损害作者以及相关人员的著作权、隐私权、名誉权,进行合理审查。”陶鑫良在接受中国知识产权报记者采访时表示。

“在拍卖过程中除了拍卖法规定的必要的预展活动之外,不要对相关的书信、手稿进行批量复制、公开和传播,否则,可能涉及对作者著作权的侵犯。而预展本身,则属于著作权法赋予作品原件所有人的权利,不在侵权之列,可以为拍卖目的而为之。”于国富表示。

Table with 2 columns: Role and Name. Includes Translator (Ru Guo), Executive Editor (Liu Peng).