

China's IP in foreign eyes



More grassroots courts in China will be allowed to hear patent lawsuits starting Monday, as the country looks to tackle the increasing number of intellectual property (IP) dispute. The new stipulation will make patent ruling more efficient and reduce the cost for the public to file such cases, so it will aid in the protection of IP rights in the long run. According to statistics, Chinese courts at all level received 87,419 first-instance IP civil cases in 2012, representing a year-on-year increase of 45.99 percent. (China enables more grassroots courts to settle IP disputes, by ZDNet)

面对日益增多的知识产权纠纷案件,中国下决心去解决,更多基层法院将被允许审理专利诉讼案件。这一新规定将使专利的裁决更加高效,降低专利诉讼成本,从而有助于从长远角度保护知识产权。据有关报告显示,2012年,中国地方各级人民法院共新收知识产权民事一审案件 8.7419 万件,较去年同期增长 45.99%。(《中国允许更多基层法院审理知识产权案件》,至顶端)

Comment:

To meet the increasing number of patent disputes in recent years, it is time to allow more judges from grassroots courts to get involved in hearing patent cases and shoulder part of the workload, as experts say. This is also part of the Chinese government's efforts to tackle rising IP disputes in the country.

点评:

正如业界专家所言,随着中国专利纠纷的日益增多,让更多基层法院的法官加入专利案件的审理工作中已迫在眉睫。事实上,这也是中国政府为解决知识产权纠纷所做的又一努力。

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

IP Brief

Beijing

Beijing IP Office recently signed an agreement on advancing IPR gathering project with Beijing Haidian district government. According to the agreement, the Haidian government will increase support to IPR service industry and build Haidian district into a national core-zone of innovation.

北京

近日,北京市知识产权局与海淀区人民政府在京签署《北京市知识产权局与海淀区人民政府联合推进知识产权“聚核工程”框架协议》。根据协议,北京市海淀区将通过建设知识产权服务业一条街等工作,全面提升核心区知识产权综合运用水平,率先将海淀打造成首都建设全国创新中心的核心区,创新驱动发展的示范区。

Creativity: the next generation 第13个世界知识产权日到来——今年主题为“创造力:下一代”

“Predicting the future is an uncertain endeavor at best, but that doesn't keep us from trying. And with ever greater access to information, instant communication, our predictions are becoming more frequent, more outrageous, and more accurate.” On the 13th World IP Day, World Intellectual Property Organization (WIPO)'s focus is on “Creativity: the next generation”.

The increasingly important role played by creativity in promoting social and development is described in this way. “We know, for example, that cars will soon drive themselves. That our sight and speech—eventually our brains—will interact more directly with, and effectively control, our computers, which will in turn become much smaller and be worn on—or inside—our bodies. This will all have a profound effect on how we live—how we think, how we work, how we learn, heal, enjoy,” the article said.

“What used to be science fiction is now fact. But what's next? What is the future beyond the future? What disruptive technology is now just an idea bouncing around a young engineer's mind? Who will create the next online sensation that again changes how we talk to each other? What new music will emerge from a garage somewhere to rock the world's dance floors or unnerve the academy? Who are tomorrow's great artists and innovators? How are they working; how do they create? And how will they get their creations to market in a world where the game changes, al-

most daily? The future? Ask the next generation,” the article pointed out.

In 2000, a proposal of designating World IP Day submitted by China and Algeria was passed in the Assembly of WIPO Member States, which decided to designate April 26 as the annual World IP Day from 2001 onwards. China launches its annual national IPR publicity week every year through a series of nationwide activities promoted by SIPO, etc. (by Liu Peng)

本报讯 “预言未来,无异于在黑暗中摸索,但这不能阻止我们去尝试。而且随着资讯越来越触手可及,即时通讯越来越方便,我们的预言会越来越来多,越来越匪夷所思,但也越来越准确。”4月26日,是第13个世界知识产权日,世界知识产权组织已在其官方网站上公布今年世界知识产权日的主题为“创造力:下一代”。

在该主题文中这样写道,创造力对于社会发展所起到的重要作用。文章表示,我们知道不久后汽车就会自动驾驶,我们的视觉和声音——直到我们的大脑——会与计算机进行更直接的交互,实现更有效的控制。而计算机将变得越来越小,可以穿戴在身上,甚至植入身体。这一切都将对我们的生活产生深远影响——我们怎样思考,怎样工作,怎样学习,治病,娱乐等。

文章表示,过去的科幻变成了如今的现实。但下面要发生什么?未来之后的未来是什么样子?某位年轻工程师脑中现在还不成熟的创意,能否成为新的颠覆性技术?谁会再一次轰动网络,用新发明改变我们的交流方式?从哪个角落会诞生新的音乐,响彻各地的舞厅,让学院派坐立不安?谁是明天的伟大艺术家和创新家?他们怎样工作,怎样创作?他们又怎样



让自己的发明创造走进日新月异的未来?问问下一代吧。

据了解,1999年,中国和阿尔及利亚在世界知识产权组织成员国大会上共同提出了关于建立“世界知识产权日”的提案。2000年,WIPO第35届成员大会系列会议讨论后,

决定从2001年起,将每年的4月26日定为世界知识产权日。在中国,每年世界知识产权日期间,中国国家知识产权局等有关部门和地方都会在全国范围内开展“保护知识产权宣传周”等一系列宣传教育活动。(柳 鹏)

Link 相关链接

Previous years' themes: 历年世界知识产权日主题:

2012: Visionary Innovators 2012年:“天才创新家”

2011: Designing the Future 2011年:“设计未来”

2010: Innovation—Linking the World 2010年:“创新——将全世界联系在一起”

2009: Promoting Green Innovation as the Key to a Secure Future 2009年:“绿色创新”

2008: Celebrating Innovation and Respecting IP 2008年:“尊重知识产权和赞美创新”

2007: The Link between IP and Creativity 2007年:“鼓励创造”

2006: IP—It Starts with an Idea 2006年:“知识产权——始于构思”

2005: Think, Imagine, Create 2005年:“思考、想象、创造”

2004: The Importance of IP for Economic, Social and Cultural Development 2004年:“鼓励创造”

2003: Making IP Your Business 2003年:“知识产权与我们息息相关”

2002: Encouraging Creativity 2002年:“鼓励创新”

2001: Creating the Future Today 2001年:“今天创造未来”

CARTIER triumphs in first-instance trademark dispute “卡地亚”敲碎“梦克拉”美梦



Beijing Mengkela Technology Co., Ltd (Mengkela) and Yihaodian, one of China's largest online supermarkets run by Shanghai Yishiduo E-Commerce Co., Ltd (Yishiduo) were sued by CARTIER International (CARTIER) for infringing its registered trademarks. Shanghai Pudong District People's Court rendered a judgment that the two defendants should cease infringement and pay damage of 130,978 yuan.

The Paris-based CARTIER has been the brand leader in luxury jewelry and watch manufacture since built in 1847. Yihaodian is the first Chinese online store run by an E-commerce website called Yishiduo. On May 27, 2011, Mengkela acquired the registration of “梦克拉”, certified to be used on Class 14, clock and watch.

CARTIER discovered in August 2011, the Yihaodian, without its authorization, used some descriptions like “Cartier classic crown diamond ring” on the product introduction of Mengkela jewelry on the website. CARTIER then required some notaries to preserve the evidence. CARTIER maintained

that Yishiduo and Mengkela highlighted “Cartier” and “卡地亚” on Yihaodian to harvest inequitable interests, which constituted the trademark infringement.

However, Yishiduo claimed that Mengkela was a shop run by independent vendor on the Yihaodian website and Yishiduo was just a web service provider which did not participate in any act of infringement. Mengkela also held that it did not infringe CARTIER's trademark rights on the ground that the descriptions of “Cartier classic crown diamond ring” marked on the product introduction was not used as a trademark and Mengkela owned its registered trademark of “梦克拉”.

The court took the view that although Mengkela owned its trademark tagged on the product in order to identify its source, Mengkela advertised itself as “Cartier” and “卡地亚” on the product information in the process of the manufacturing and sales. Mengkela also took advantage of the CARTIER's reputation on purpose to gain visibility. The logo function of CARTIER may significantly decrease. Such acts run counter to the principles of good faith and led to infringement of the CARTIER's trademark.

So ordered. (by Zhang Di)

本报讯 近日,北京梦克拉科技有限公司(下称梦克拉公司)及电子商务网站“一号店”的经营者上海益实多电子商务有限公司(下称益实多公司)被“卡地亚”“Cartier”商标的持有人卡地亚国际有限公司(下称卡地亚公司)告上了被告席,这一切正是因为在“一号店”上所售产品的描述中加入了带有“卡地亚款式”字样的描述性语句。近日,上海市浦东新区人民法院对该案作出了停止侵权并赔偿13.0978万元的一审判决。

据了解,来自法国的知名奢侈首饰品牌“卡地亚(Cartier)”创立于1847年。历经百年发展,其早已成为奢侈品市场中的佼佼者。本案被告益实多公司经营的电子商务网站“一号店”是国内首家网上超市。另一被告梦克拉公司于2011年5月27日受让取得“梦克拉”注册商标,核定使用在第14类的珠宝(首饰)、宝石等商品上。

2011年8月,卡地亚公司发现“一号店”上所销售的“梦克拉”相关首饰在产品介绍上标有“Cartier款百年经典皇冠钻戒”等宣传词语,卡地亚公司遂委托相关人员对该购买过程进行公证。

益实多公司辩称,梦克拉公司在其经营的“1号店”网站上开设店铺销售商品系自主经营。益实多公司仅属于网络服务提供商,未实施或参与任何销售涉案商品的行为。梦克拉公司辩称,其在涉案商品的介绍中使用“Cartier款百年经典皇冠钻戒”等字样,不属于中国商标法意义上的商标使用,且梦克拉公司使用的是自己的“梦克拉”注册商标,故不构成商标侵权。

上海浦东法院经审理认为,被告梦克拉公司在生产、销售的同一种商品的名称、宣传语等商品信息内容上使用与原告商标相同的“Cartier”“卡地亚”字样,虽然一并标明了“梦克拉”等用以标识涉案商品来源的信息,不易使相关公众对涉案商品来源与原告商品产生混淆或者误认。但由于原告商标具有较高知名度、较好市场声誉,梦克拉公司在主观上具有刻意借助原告品牌吸引消费者以达到宣传、提升自己商品知名度的目的和故意,在客观上减弱了原告商标的显著性,降低了原告商标的标识作用,损害了卡地亚公司的合法权益,已经构成对原告注册商标专用权的侵害。

据此,上海浦东法院作出上述判决。(张 婷)

Table with 2 columns: English translation (英文翻译) and Translator (茹 果), Practice Editor (孟逸君), and Meng Yijun.