

CHINA REPORT INTELLECTUAL PROPERTY

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Chinese PV companies face uncertainties amid EU anti-dumping investigation

中国光伏产业靠什么来拯救?

ust several months after the United States initiated anti-dumping and countervailing investigations against China's solar panels industry, Europe, the largest buyer of Chinese solar products started another round of a trade war with Chinese manufacturers. On 6 September, the European Commission (EC) announced to launch an anti-dumping investigation in China' s photovoltaic (PV) batteries.

Shi Dinghuan, chairman of the Chinese Renewable Energy Institute worries that if the anti-dumping case is verified, a large number of Chinese PV companies will face the risk of bankruptcy, while the whole industry, as well as economy and the society will be seriously affect-

Disaster or not, industry insiders however suggest that what Chinese PV companies do next is to enhance innovation, transform production to research and development, complete the transition from China made to China create.

Worries and risks

The photovoltaic industry, once considered as a thriving industry, has undergone economic winter in the past year. The news that the EU and US decided to launch the anti-dumping investigations against China's PV products have caused anxieties among the public about the future of China's PV industry.

Li Lei, researcher from China Energy Storage Alliance said numbers of small and medium-sized enterprises have started their PV business in China's mainland in recent years; however most of these companies are of small size with low technical level, innovation deficiency and less competitiveness. In an effort to expand oversea market, some of these companies adopted the low-price strategy, but they haven't noticed that the stronger-than-expected cost drop has caused anxiety among their counterparts and the Western countries have tightened policy support on the PV industry. All these factors have led to anti-dumping investigation into Chinese companies.

Statistics show that EU is now the biggest client of Chinese small and medium-sized PV enterprises, and nearly 60 percent of China's PV exports were shipped to the European market in 2011. Industry insiders worry that if the EU closes the gate, many of Chinese PV companies will face short capital supply, 60 percent

or more PV enterprises may go bankruptcy

Way out

"What the Chinese PV enterprises are experiencing mirrors the innovation deficiency of Chinese PV industry. Due to limited technology level, Chinese PV companies are unable to manufacture complete sets of PV equipments, which is the must-resolve problem Chinese PV manufactures face. " said Li Lei.

Statistics from SIPO show that PV industry in China covers three types of patents applications, of which, 60% are utility model, 26.66% are industrial design, the rest 13.33% are for inventions. To optimize the patent structure, Chinese PV companies should increase the technical strength.

"Now, Chinese PV industries should increase investment into research and development of complete plants, develop core technology with independent IPR. In the long run, Chinese enterprises should strengthen the patent cooperation and exchanges, conduct patent cross-licensing. Also, they should league together and seek legal resolutions actively." suggest Li Lei.

本报记者 李 群

刚刚经历美国反倾销反补贴调 查的中国光伏产业,近日再坠"冰 窟"。9月6日,欧盟委员会发布公 告,对中国光伏电池发起反倾销调 查。中国可再生能源学会理事长石定 寰表示,一旦倾销成立,影响将相当 大,国内很多企业面临的不仅是亏 损,更可能是"灭顶之灾"。

"灾难"是否会来袭,尚需观察。 但针对我国光伏产业的发展现状,业 界专家普遍认为,我国光伏产业应加 强自主创新能力,从生产向研发转 变,从制造向创造转变。

调查带来压力

在过去一年中,低迷不振的光伏 产业,被冠以"寒冬、暗夜、低谷"等字 眼。就在光伏产业头上"朝阳行业"光 环逐步褪色时,欧美针对中国光伏产 品的调查,再度引发了人们对中国光 伏产业前景的担忧。

"这次反倾销调查是国内光伏制 造业的成本下降速度远高于国外同

行业者的预期,加之欧洲光伏支持政 策缩紧,造成国内外同行业企业竞争 加剧引起的。而且,由于国内光伏产 业近几年增加了不少规模小、技术水 平低、创新能力不足、竞争力不强的 中小企业。一些企业在技术竞争方面 不具备优势,低价竞销成为其常规战 略,这容易给国外提起反倾销以口 实, 也是国外提起反倾销的一个诱 因。"中关村储能产业技术联盟储能 专业委员会研究员李雷说。

与此前美国对华"双反"调查不 同,由于欧洲是中国光伏组件的最大 出口地,去年中国光伏产品有60%输 往欧洲,欧洲市场对于中国光伏产业 的意义非比寻常。甚至有人预测称, 如果欧盟对中国光伏产品征收高额 的反倾销税,有可能导致六成左右的 中国光伏企业倒闭。

创新谋求发展

反省自身,欧盟对中国光伏组件 实施反倾销调查,也从另一个侧面反 映出中国光伏产业创新能力的不 足。"总的来说,由于技术水平的原 因,中国企业在成套光伏设备制造等 方面,目前还没有形成规模和竞争 力,这是影响中国光伏产业长远、健 康、可持续发展的一个障碍,必须引 起重视。"李雷说。

9月10日,记者在中国国家知 识产权局专利检索与服务系统中检 索发现,目前,中国与光伏有关的 3种专利申请中,实用新型专利申请 占比达 60%,外观设计专利申请占比 达 26.66%, 而发明专利申请占比仅为 13.33%。由此不难看出,我国光伏企 业的硬实力有待加强。

"要改变现状,我国的光伏企业 需加大在成套设备研发方面的投 入,形成拥有自主知识产权的核心 技术,避免受制于人。"李雷说,中 国企业要加强国内同行业企业之 间的专利合作和技术交流,进行专 利的交叉许可;要积极组织专利战 略联盟,以联盟为框架,团队协作, 阻挡国外企业的专利进攻,改变受 制于人的现状。只有这样,才能拯 救笼罩在反倾销调查阴影下的中



(EXPRESS

ZF Sachs holds off trademark registration by Zhejiang company

凭借在先使用权,"BOGE"消震器成功异议"BOGE"橡皮减震器——

德国"萨克斯"终审胜诉浙江"玉环"

he Beijing Supreme People's Court recently sealed a 11-year trademark dispute between German ZF Sachs AG and a Zhejiang-based rubber company named Yuhuan Boge, affirming the Zhejiang company's trademark squatting.

A third party Yuhuan Fangdi industrial machinery Co. Ltd. filed for trademark registration of No. 1692088 for BOGE in class 17. goods of rubber shock absorber and rubber shock absorbing buffers on October, 2001, the trademark then transferred to Yuhuan Boge in 2010. However, ZF Sachs challenged the trademark and sought rejection of reg-

During the first and second instance trial, the courts held that trademark in question used on the goods class, goods function and target customer is evidently similar with plaintiff's products, so similarity is constituted. Meanwhile, the courts found that the BOGE trademark has been registered by ZF Sachs earlier than Yuhuan Boge and has gained popularity among the consumers. Then the courts denied Yuhuan BOGE's re-

We will follow the development of the case.

(by Xie Huandong) 本报讯 日前,北京市高级人 民法院(下称北京高院)宣判,法院 终审认为浙江玉环博格橡胶有限公 司(下称玉环公司)申请注册在橡皮 减震器等商品上的"BOGE"商标,构 成以不正当手段抢注德国 ZF 萨克 斯股份公司(下称萨克斯公司)已经

使用并有影响的"BOGE"商标,据此 判决维持玉环公司的"BOGE"商标 不予核准注册。

据悉,此案纷争始于 2001 年 10 月,玉环方迪机械有限公司(下称 玉环方迪) 在国际分类表第 17 类橡 皮减震器、橡胶减震缓冲器等商品上 申请注册的第 1692088 号"BOGE"商 标经过初审并进入公告(此商标于 2010年被转至玉环公司名下),随后 遭萨克斯公司异议。

法院一审、二审同时认为,比对 两件涉案商标指定使用的商品,其在 功能、用途、销售对象等方面近似,因 此构成类似商品。依据相关证据,法 院同认为萨克斯公司使用在先,并有一 定知名度, 在两标识完全相同情况下, 玉环公司行为有违商标法第三十一条 相关规定,据此裁定驳回玉环公司诉

> 本报将继续关注该案进展。 (谢环东)





.S. companies have long accused the Chinese of stealing their intellectual property. But now some in China are pointing the finger back. The lawsuits being filed in Chinese courts are evidence of a growing awareness in this country that intellectual property can be a valuable tool - for protecting your ideas and for squeezing money out of other companies, too. Analysts say foreign

firms can expect to see many more lawsuits coming from China, turning the country into a new front in the global patent wars. So far in China, most patent infringement disputes have been between Chinese companies. But a few firms have been bold enough to take on foreign multinationals far greater in size. (Chinese firms put intellectual property lawsuits to work, by The Washington Post)

美国公司长期以来一直指责中 国侵犯其知识产权。但如今,一些 中国公司也懂得运用知识产权诉 讼。日前,在中国法院提起的诉讼 表明,中国企业越来越意识到知识 产权是一个保护独创性和创造利 润的有价值的竞争工具。分析人士 称,发生在中国的诉讼将大量增 多,中国将成为全球专利战的一个 新的战场。目前,中国大多数的专 利侵权纠纷发生在国内企业之间, 但也有一些大胆者敢于挑战规模 远大于自己的来自境外的跨国公 司。(《中国企业应用知识产权诉

讼》,华盛顿邮报)

Comment:

Patents are a key part of Chinese government's plan to make the economy less dependent on manufacturing and more driven by homegrown ingenuity. Along with more patents have come more litigation, intellectual property lawsuits have remarkably increased. However, we have to notice that the quality of the patents is more important and a good patent should reflect its value in its commercialization, not from lawsuits.

点评:

专利是中国政府减少制造业依 赖、以本土独创性推动经济发展计划 的关键部分。随着专利授权量的增 加,知识产权诉讼案件也明显随之增 加。然而,我们必须注意的是:在提升 专利数量的同时更要关注专利的质 量;一件好的专利在于其所蕴含的商 业化价值而不是引发诉讼。



hina's largest e-commerce website, Taobao Marketplace, has signed a pact with the Motion Picture Association (MPA), an affiliate of the Motion Picture Association of America, to curb the sale of counterfeit and copyright-infringing products on the platform. Under the agreement, Taobao Marketplace and the MPA will cooperate to identify and remove listings for counterfeit goods and those that infringe the copyrights of MPA member companies, both parties said. China's Taobao

Marketplace is the largest consumer-oriented e-commerce platform with a more than a 70 percent market share, according to analysts. (China's Taobao e -commerce site signs deal with U.S. film rep to curb piracy, by Chicago Tribune)

中国最大的电子商务网站——淘 宝网,已与美国电影协会签署了一项 协议,以遏制在该商务网站上出售假 冒和版权侵权产品。双方表示,根据 该协议,淘宝网将与美国电影协会通 力合作,以识别并删除假冒伪劣商品 及侵犯美国电影协会成员公司版权 商品列表。分析人士称,中国的淘宝 网是全球最大的直接面向消费者的 电子商务平台并拥有超过 70%的市 场份额。(《中国淘宝网签约美国电影 协会以打击盗版》,芝加哥论坛报)

China has the most number of Internet users in the world and its e-commerce sector is booming. Foreign governments and companies have for years urged China to take a stronger stand against intellectual property violations. However, in fact China has been struggled to crack down on the numerous factories and shops peddling the fake goods, and has yielded outstanding achievements in the action Chinese companies also have been doing so.

点评:

中国拥有全球最多的互联网用 户,其电子商务业也正蓬勃发展。中 国政府一直致力于打击侵犯知识产 权和假冒伪劣商品的行动,并取得了 显著成效。目前中国企业也积极投身 于其中。

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

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