

China's IP in foreign eyes

China, the world's biggest producer of rare earth metals, is likely to turn an importer of the vital industrial ingredients by as early as 2014 as it boosts consumption in domestic high-tech industries rather than just shipping raw material overseas. While the ministry said China still lagged in downstream technologies, export curbs are playing a role in the effort to catch up, encouraging foreign firms to bring technology to China in pursuit of cheaper rare earth. (China reshapes role in rare earths, could be importer by 2014, by Reuters)

由于国内高科技产业发展对工业原料需求量的大幅增加,中国,这个世界上最大的稀土生产国,很可能最早在2014年转变为该重要工业原料的进口国,而不再源源不断地向海外输送原材料。中国有关方面表示,中国目前仍处于技术相对落后的

产业链下游,但出口限制措施正在发挥作用,外国企业为追求廉价的稀土而将其先进技术带到中国,也促进了中国的技术进步。(《中国重塑稀土角色,有望在2014年成为进口国》,路透社)

Comment:

China supplies over 90 percent of the world's demand for rare earth metals. But the country now starts protecting this important resource, which is vital for manufacturing an array of high-tech products. It's not only because of the prosperity of the domestic high-tech industries but also because of the country's environment protection and sustainable development awareness.

点评:

稀土是生产一系列高科技产品的关键要素。中国供应着全球90%以上的稀土需求。如今,中国更加重视保护这一重要的战略资源,这既是因为中国高科技产业的繁荣,也源于环境保护和可持续发展意识的提升。



Bosideng is best known in China as a mid-market maker of warm jackets. But in Britain it will sell expensive dress shirts and trousers. It plans to trade on exclusivity by making no more than 50 pieces of any item. It may as well be a different brand. No items from Bosideng's nearly 11,000 shops on the Chinese mainland will be available in London, and Chinese consumers eager to get hold of the London label will have to make the trek to Britain. Even the logo is different. A shop in London is a way of signposting success. The hope is that visiting Chinese tourists will go back home and tell their friends about Bosideng's fancy London store. (Chinese brands in Britain, by The Economist)

在中国,波司登是羽绒服市场最出名的中端品牌。但在英国,它却销售着昂贵的衬衫和裤子,并计划每种商品生产不超过50件以增强其独特性。在中国大陆近1.1万个波司登零售店里的商品,从未在伦敦现身。渴望得到贴着伦敦标签的波司登产品的中国消费者不得不长途跋涉到英

国。不仅仅是产品标签,品牌标识也有所不同。波司登在伦敦开设的店铺成为其成功的一种象征:希望伦敦的中国游客回国后能告诉他们的朋友波司登在伦敦的风光。(《中国品牌在英国》,经济学家杂志)

Comment:

A large Chinese clothing retailer, Bosideng does not seem too keen on the "Made in China" label. Unlike what most Chinese companies do, Bosideng goes abroad but tries to attract Chinese customers. It believes if it has been accepted by the West, there is more incentive for people to buy it in China.

点评:

作为一家大型的中国服装零售商,波司登并不热衷于给自己贴上“中国制造”的标签。与大多数中国企业的做法不同,波司登走出国门却不是为了吸引更多的中国客户。它认为如果品牌能在西方被接受,便能在国内吸引更多的中国消费者。

(by Correspondent Wang Weiwei from Canada)

(本报通讯员汪玮玮发自加拿大)

Who owns SOTHEBY'S? “苏富比”商标到底属于谁?

Disgruntled with the ruling by the Trademark Review and Adjudication Board (TRAB) under the State Administration for Industry and Commerce (SAIC) over the trademark of “苏富比”, a British Sotheby's auction house (British Sotheby's) sought legal remedy for reversal at the Beijing No.1 Intermediate Court. The court heard the case recently. The eight-year grinding battle between British Sotheby's and Sichuan Sotheby's auction Co.,Ltd (Sichuan Sotheby's) drags into the judicial proceedings.

British Sotheby's and Sichuan Sotheby's have been entangled in a drawn-out legal battle for many years. Sichuan Sotheby's business scope registered at Sichuan AIC has been court-ordered auction, mortgaged asset auctions and intangible asset auction since December 5, 2003. Then Sichuan Sotheby's applied for trademark registration of “苏富比” with the Trade Mark Office under the SAIC, intended to be used on the service of auction and advertising agency on January 14, 2004. On September 30, 2005, the company obtained its auction license from the Sichuan Bureau of Commerce.

British Sotheby's sued Sichuan Sotheby's over unfair competition at Beijing No.2 Intermediate Court in July 2007 and claimed that the company was established in London in 1744. “SOTHEBY'S”, “苏富比” and “索斯比” were its official or commonly-used names. British Sotheby's and its affiliated companies had organized such events as charity auction and auction preview since 1988 and enjoyed high reputation in China. In the process of actual operation, Sichuan Sotheby's substantial use of “China Sotheby's Auction Group”, “Sichuan Sotheby's Auction Co.,Ltd”, “Sotheby's Company” in its promotional material, website, newspaper, advertisement and business card which constituted unfair competition.

On December 19, 2007, the court held that Sichuan Sotheby's behaviors of using and highlighting the “苏富比” names without British Sotheby's authorization which might cause confusion between British Sotheby's and Sichuan Sotheby's among the consumers constituted unfair competition. The disgruntled Sichuan Sotheby's brought the case to the Beijing Higher People's Court in August 2008. Beijing Higher People's Court confirmed that British Sotheby's trademark of “苏富比”

was an unregistered well-known trademark used on the service of auction and rendered its final judgment on the unfair competition of Sichuan Sotheby's.

Although Sichuan Sotheby's lost the unfair competition case, it still wrestles with British Sotheby's on the trademark right of “苏富比”. In March 2006, the British Sotheby's challenged the trademark during the publication period to TMO. In April 2010, TMO rejected the British Sotheby's challenge, and Sichuan Sotheby's registration of “苏富比” was approved.

Then British Sotheby's lodged a reexamination of trademark opposition to TRAB in May 2010. TRAB held that the translation of Sotheby's in Chinese was “索思比”, “索斯比” and British Sotheby's failed to prove that there was an exclusive corresponding between “SOTHEBY'S” and “苏富比”. Moreover, the disputed trademark “苏富比” was widely used by Sichuan Sotheby's with high reputation and developed strong links with Sichuan Sotheby's.

TRAB denied British Sotheby's claim and approved the trademark of “苏富比” registration on December 31, 2011. TMO issued the registration certificate to Sichuan Sotheby's in June 2012.

Disgruntled with the ruling by TRAB over the registration of “苏富比” trademark, British Sotheby's then brought TRAB to the Beijing No.1 Intermediate Court. British Sotheby's asserted relevant judgment made by a court had confirmed that “苏富比” trademark was an unregistered well-known trademark and they also submitted pertaining evidence to the TRAB. However, the TRAB did not examine its evidence without disclosing any reason on top of not deliberating its request for determining “苏富比” as a well-known mark. The British company argued the TRAB worked against proper protocol.

The case is pending for further hearing.

(by Yang Qiang)

近日,随着英国苏富比拍卖行(下称英国苏富比)一纸诉状将中国国家工商行政管理总局商标评审委员会(下称商评委)诉至北京市第一中级人民法院。耗时8年,引起业界广泛关注的英国苏富比与四川苏富比拍卖有限公司(下称四川苏富比)的“苏富比”商标权属纠纷正式进入行政诉讼阶段。

此前,英国苏富比与四川苏富比就一直交锋不断。据了解,成立于2003年12月5日的四川苏富比在中国工商行政部门登记的经营



范围司法机关强制执行的物品的拍卖、金融机构抵债资产的拍卖、无形资产的拍卖等。2004年1月14日,四川苏富比向中国国家工商行政管理总局商标局(下称中国商标局)提交“苏富比”商标注册申请,指定使用在拍卖、广告代理等服务上。2005年9月30日,该公司获得四川省商务厅核发的《拍卖经营批准证书》。

2007年7月,英国苏富比向北京市第二中级人民法院起诉四川苏富比对其构成不正当竞争。英国苏富比称,公司于1744年在伦敦成立,“SOTHEBY'S”是其字号,“苏富比”是其正式使用的中文字号。由于音译问题,也有中国媒体将该拍卖行字号称作“索斯比”。因此,“苏富比”和“索斯比”都应当是其正式或约定俗成的中文字号。自1988年起,该拍卖行及其关联公司在中国先后主持过慈善拍卖、举办拍卖会预展等活动,在中国享有非常高的知名度。在实际运营中,四川苏富比在其宣传材料、网站、报纸专版、广告和名片中大量使用“中国苏富比拍卖集团”、“四川苏富比拍卖有限公司”、“苏富比公司”等字样,对英国苏富比构成不正当竞争。

2007年12月19日,北京市第二中院审理认为,四川苏富比因突出使用了“苏富比”等标识,属于擅自使用他人知名企业名称的行为,易使人误认为被告四川苏富比与原告英国苏富比具有某种联系,因此构成不正当竞争。2008年3月10日,四川苏富比向北京市高级人民法院提出上诉。2008年8月,该案经北京市高级人民法院终审,再次对英国苏富比“苏富比”文字商标为拍卖服务类别上的未注册驰名商标的事实予以确认,四

川苏富比最终被认定构成不正当竞争。

虽然在不正当竞争案中四川苏富比被判败诉,但围绕“苏富比”商标权,双方仍然在进行角力。2006年3月,在四川苏富比的“苏富比”商标进入公告期后,英国苏富比向中国商标局提出异议申请。2010年4月,中国商标局认为英国苏富比的异议理由不成立,四川苏富比的“苏富比”商标准予核准注册。

2010年5月,英国苏富比向商评委申请异议复审。经审理,商评委认为,根据涉案证据,英国苏富比字号“SOTHEBY'S”对应的中文有“索思比”、“索斯比”等,其未能证明“SOTHEBY'S”已与“苏富比”形成唯一对应关系;其次,涉案“苏富比”商标经四川苏富比大量使用,已经具有知名度,并与该公司之间建立紧密联系。

2011年12月31日,商评委作出裁定,认为英国苏富比的复审理由不成立,准予四川苏富比申请的“苏富比”商标注册。2012年6月,中国商标局向四川苏富比核发了“苏富比”商标注册证书。

2012年3月,英国苏富比将商评委诉至北京市第一中级人民法院,认为相关法院判决已确认其“苏富比”商标为未注册的驰名商标,其在行政程序中提交大量证据对此予以证明,但商评委在未给予任何合理理由的情况下,对此不予审查,对其提出的认定其在先使用的“苏富比”商标为驰名商标的请求也未予审理,违背了商标评审规则的相关规定。

截至发稿时,该案尚在进一步审理中。本报将继续关注该案的进展。

(杨强)

Patent applications received and granted maintain rapid growth in half year 上半年中国专利申请受理量和授权量持续增长



According to the latest statistics, SIPO received a total of 857,000 patent applications in the first half of this year, up 26.8% year on year. Among the patent applications received, there were 258,000 inventions, up 18.3%; SIPO also granted a total of

530,000 patents, up 19.1%, among them, 107,000 were inventions, up 28.9%. Chinese patents received and granted maintain rapid growth in the first half of this year

Among the patent applications received, there were 316,000 utility models and 283,000 designs, up 29.0% and 32.9% respectively; There are 201,000 domestic inventions applications (77.9%) and 57,000 (22.1%) ones from abroad; among the domestic invention applications, 163,000 service applications contributes 81.1% and 38,000 non-service ones accounts for 18.9%. There were 530,000 granted

patent applications, 235,000 were utility models, up 26.3 and 188,000 were designs, up 6.8%; 70,000 invention patent granted to domestic users, representing 65.4% and 37,000 from abroad, representing 34.6%, in the 70,000 domestic patent granted, the 60,000 or 85.7% are services ones and 10,000 or 14.3% are non-service ones.

“Since IP Strategy was implemented, IP awareness among enterprises has been enhanced and the concept of seeking patent protection has been widely accepted by company managers. The growth of the patent applications received will

eventually bring the ever-rising patent granted. In the meantime, the guiding role of IP policies are enhanced. All the factors above contribute to the welcomed trend of rapid growth.” said an IPR expert.

(by Xiang Li)

本报讯 日前,记者从中国国家知识产权局获悉,今年上半年中国共受理3种专利申请85.7万件,同比增长26.8%,其中,发明专利申请25.8万件,同比增长18.3%;共授权3种专利53.0万件,同比增长19.1%。其中,发明专利授权10.7万件,与去年同期相比增长28.9%。上半年,中国专利申请受理量和授权量都实现了较快增长。

据介绍,在85.7万件3种专利

申请受理量中,实用新型专利申请31.6万件,同比增长29.0%;外观设计专利申请28.3万件,同比增长32.9%。在1月至6月受理的发明专利申请中,国内申请20.1万件,占发明专利申请总量的77.9%;国外申请5.7万件,占发明专利申请总量的22.1%。国内发明专利申请中,职务发明16.3万件,占81.1%;非职务发明3.8万件,占18.9%。

在53.0万件3种专利授权量中,实用新型专利授权23.5万件,同比增长26.3%;外观设计专利授权18.8万件,同比增长6.8%。在1月至6月授权的发明专利中,国内授权7.0万件,占总量的65.4%;国外授权3.7万件,占总量的34.6%。国内发明

专利授权中,职务发明授权6.0万件,占85.7%;非职务发明授权1.0万件,占14.3%。

对此,有关专家表示,由于中国大力实施国家知识产权战略,企业知识产权意识不断提升,大量的专利申请必然带来高授权量;同时国家知识产权政策的导向作用也越来越明显。种种内因外因结合,推动了中国专利申请量和授权量的持续增长。

(向利)

Table with 2 columns: Role and Name. Roles include 责任编辑 (曹可欣), Executive Editor (Cao Kexin), 英文翻译 (茹果), and Translator (Ru Guo).