

Chinese firm loses copyright lawsuit over Crayon Shin-chan

将他人作品注册为商标并使用,遭著作权人起诉后被认定侵权——

“蜡笔小新”的跨界之争

Yoshito Usui was a Japanese manga artist known for the popular manga Crayon Shin-chan. The lovely figure has become popular in China since publication debut in 1990s.

of its ownership. It signed an agreement with Yoshito Usui on April 1992 and achieved the exclusive copyright relating to Crayon Shin-chan from the creator.

Shin-chan and relevant graphics in its products and applied the copied works to the public through publication, which constituted replication and distribution in copyright law meaning.



Shanghai No.1 Intermediate People's Court recently ordered the Shanghai Company and other companies to stop infringing upon the copyright owned by Japan's Futabasha Publishers and to pay 300,000 yuan to Futabasha in damages.

Enjia defends the suit with trademark roots

(by Xie Huandong)

本报讯 日本漫画家臼井义人塑造的卡通人物“蜡笔小新”自上个世纪90年代出版发行以来,渐渐被国人所熟知。

Futabasha sues Enjia infringing copyright

The case started in 2004 when Futabasha found Enjia Company produced and distributed shoes printed with Crayon Shin-chan images and Crayon Shin-chan in traditional Chinese characters, and used the trademark on relevant website as well.

Enjia argued that the case is not a copyright dispute, but a right conflict between trademark and copyright. Enjia held that it legally used the No.1033450 and No.1033444 trademark, figure, and words that had been approved for registration and it had verified the trademark's authenticity before used.

近日,上海市第一中级人民法院(下称上海一中院)对双叶社诉恩嘉公司等侵犯著作权案作出一审判决。

法院判决认定恩嘉公司在其销售的相关产品上使用“蜡笔小新”相关作品,侵犯了双叶社的著作权,判令其停止侵权并赔偿原告经济损失30万元。

用了上述标识。双叶社认为恩嘉公司的行为构成对原告著作权的侵犯,给该公司造成难以弥补的巨大损失。

认同,该公司认为此案并非著作权纠纷,而是一起商标权与著作权的权利冲突纠纷。恩嘉公司称,其使用的“蜡笔小新”图形及文字,是经商标权利人授权合法使用的第1033450号“蜡笔小新”和第1033444号“蜡笔小新”注册商标。

2004年4月,上述商标被转至世福公司名下,随后世福公司又将其许可给恩嘉公司使用,授权使用期限至2007年6月。

上海一中院重申后认为,恩嘉公司在其销售的产品上使用了蜡笔小新卡通形象及关联书法作品,并通过出售的方式向公众提供了涉案作品的副本,构成实施著作权法意义上的复制、发行行为。

Futabasha presented evidence

The above two trademarks was filed by Chengyi Company in 1996 and registered in June 1997 in Class 35, goods including clothes and shoes. In April 2004, the two trademarks were transferred to Shifu Company, which later authorized to Enjia Company with license expired on June 2007.

双叶:凭著作权起诉

据悉,此案纷争始于2004年,双叶社发现恩嘉公司生产、销售带有“蜡笔小新”卡通图像及繁体“蜡笔小新”文字的童鞋,并在相关网站中使

双叶社提出此诉讼的依据是,该社在1992年4月同“蜡笔小新”创作者臼井义人签订了合同,独家受让取得“蜡笔小新”出版权以及出版权以外的著作权、著作权分支权与商品化的权力。

据了解,第1033450号“蜡笔小新”商标和第1033444号“蜡笔小新”商标的原商标申请人为诚益公司,申请注册于1996年,申请核定使用商品为第25类服装、鞋等。

恩嘉:借商标抗辩 对于双叶社指控,恩嘉公司并不



for R&D reform, which include promoting innovation-driven development, cultivating talented people, and expanding international cooperation.

法规以促进创新。(胡锦涛:中国研发需要更多创新),亚洲科学家



paings. In addition to government efforts, the country's internet service providers have also been making greater efforts to protect intellectual property rights in order to achieve sustainable and healthy development.

slackened its vigilance of intellectual property protection. The newly launched campaign that lasts for nearly four months is the 8th campaign against online piracy carried out by the Chinese government departments since 2005.

China's IP in foreign eyes

Top Chinese leaders have called for reforms to China's science and technology program that include innovation and integration with social and economic development.

中国高层领导人呼吁中国科技体制改革,包括社会和经济发展的创新与集成。据新华社报道,中国国家主席胡锦涛在近日举行的全国科技创新大会上提出了6项深化科技体制改革的意见。

Comment:

China has very good opportunities for development, but that does not necessarily mean it will develop from a big economy to a strong economy. Scientific innovation plays an important role here.

The government has launched a new campaign targeting rampant online piracy through enhanced supervision and inter-agency coordination, according to a Wednesday statement from the four ministry-level departments.

根据中国国家版权局、公安部、工信部、国家互联网信息办公室4部门近日发布的消息,中国政府已开展一项新行动,通过加强监管和机构间的协调,严厉打击猖獗的网络盗版。

点评:

在保护知识产权、打击侵权盗版方面,中国政府多年来从未有丝毫放松。此次行动为期近4个月,是中国政府自2005年以来开展的第八次网络侵权盗版专项治理行动。



Patent law amendment seeks advice 中国专利法修改征求意见会在京举行

Patent Law amendment conference for advice organized by SIPO opens in Beijing recently. Delegates from the Education, Science, Culture and Public Health Committee of the National People's Congress (NPC), the Legislative Affairs Committee of the

NPC Standing Committee, the Legislative Affairs Office of the State Council, local intellectual property offices, colleges and universities, enterprises, and patent agencies attend the conference.

encountered infringement dispute, but only 10% of them take measures to enforce their rights. Hence, patent right protection has become a weak link of the IP protection. To solve problems in practice and cooperatively carry out the Opinions on Further Campaign Against IP Infringement and Production and Distribution of Fake and Shoddy Products as well as establish a long-term mechanism of patent protection, SIPO starts the preparatory work of the Patent Law amendment from the end of 2011.

patent protection and intensifying law enforcement" as its aim. Participants attending the conference expressed their support of the aim and offered their advice on the draft amendment of the Patent Law from different perspectives.

(by Xiang Li/Zhang jingyuan) 本报讯 近日,中国国家知识产权局在京组织召开专利法修改征求意见会。

次专利法修改的针对性强,目标是“加强专利保护,加大执法力度”。会议上,与会人员对加强专利保护的目标表示了支持,并从不同角度对专利法修改草案征求意见稿的具体内容提出了意见。

据悉,专利法修改已被列入国务院2012年立法工作计划。中国国家知识产权局此前已召开过数次会议,形成了专利法修改草案(征求意见稿)及其说明,今后还将继续听取各方意见,确保提出科学、合理的专利法修改草案。(向利 张静元)

Table with 2 columns: Role and Name. Roles include 责任编辑, Executive Editor, 英文翻译, Translator. Names include 柳鹏, Liu Peng.