



China's IP in foreign eyes

Innovation—the latest buzzword in China has been gaining traction from the Chinese government's desire to turn its economy into a technology powerhouse by 2020 and a global leader by 2049. The government recognizes that long-term prosperity comes not from merely manufacturing existing designs but from creating original intellectual property. Innovation in China does not correspond exactly to the Western model, which focuses on creating completely new inventions, such as the Internet or Apple's iPhone. These advances are helping lift Chinese tech companies such as Huawei and Lenovo into dominant global positions. (China's Quest to Create a Culture of Innovation, by The Atlantic)

创新——中国最新的流行语,已得到中国政府的充分重视。中国政府希望在2020年将中国打造成全球技术发电厂,并在2049年使中国成为全球技术创新的领跑者。他们认识到长期繁荣不能仅靠生产制造已有设

计,而是要创造自主知识产权。中国的创新与西方采用的模式大相径庭,它并不强调互联网或苹果手机那样的发明创造。这些进步正在助力华为、联想等中国高科技企业进入全球主流地位。(《中国愿望:创建创新文化》,大西洋新闻)

Comment:

Chinese companies are extremely efficient at creating new versions, often simpler, cheaper and more effective, of technologies and products shortly after they are invented and marketed elsewhere in the world. This not only comes from China's innovation strategy but also from the proper innovation model—concentrating on making incremental improvements to existing technologies.

点评:

如评论所言,在新技术和新产品在世界其他任何地方一经问世,中国公司便能极其高效地创造出更简单、更便宜、更有效的产品新版本。这不仅因为中国重视并采取以创新驱动发展的战略,但得益于中国采取了正确的改进现有技术实现增量发展的创新模式。



Chinese dairy firm Yili has moved into the realms of the U.S. TV product placement, in an effort to reach a growing number of China-based fans of American TV and film. In a recent episode of the popular American sitcom, The Big Bang Theory, a carton of Shuhua milk which is distributed by Yili is featured on a kitchen counter. However, the Shuhua appearance is not Yili's first attempt at infiltrating the U.S. product placement market. A carton of the milk product also featured in the recent Hollywood blockbuster Transformers: The Dark Side of the Moon. (Chinese dairy firm invests in the U.S. product placement to reach Chinese consumers, by www.dairyreporter.com)

中国乳制品企业内蒙古伊利实业集团股份有限公司(下称伊利集团)已跨入美国电视植入广告领域,以尽力触及数量越来越多中国的美国电视和电影爱好者。在这部名为《生活大爆炸》的美国最新流行情景喜剧中,来自伊利集团的舒化牛奶包装盒在厨房操作台上出现。然而,舒

化牛奶的此次露面并非伊利集团渗透美国植入广告市场的首次尝试。在好莱坞大片《变形金刚:月黑之时》中也有伊利集团舒化牛奶的身影。(《中国乳制品企业投资美国植入广告市场以吸引中国消费者》,乳业报导网)

Comment:

Statistics shows that the sales of Shuhua milk grew 12 percent year on year during the time the movie Transformers: The Dark Side of the Moon was released in China, and the brand reputation also rose by 15 to 17 percent. It's proved that Chinese dairy entrepreneurs have found a good way to promote their brands. But from the other perspective, Chinese TV and film brands should get a lesson learned from American counterparts.

点评:

统计显示,电影《变形金刚:月黑之时》在中国上映期间,舒化牛奶销售同比增长了12%,品牌美誉度也上涨了15%至17%。这一方面可以表明中国乳制品企业家们发现了一个有效的新方法来推广自主品牌,但从另一个角度来看,中国的电视和电影品牌也应从美国同行那里学到一课。

(by Correspondent Wang Weiwei from Canada)

(本报通讯员汪玮发自加拿大)

David Kappos: IPR protection, a contributor to economy growth in both countries 大卫·卡波斯:知识产权保护推动经济发展

David Kappos, Director of United States Patent and Trademark Office (USPTO), IBM's former vice president and assistant general counsel for intellectual property law who has more than 23 years' experiences in IPR, began pushing big reforms to the US patent law as soon as he came to the job. The deal was sealed when US President Obama signed America Invents Act on September 16, 2011. David Kappos delivered a keynote speech to China's IPR workers on May 29 to provide a detailed overview of this Patent Act which was being widely described as the most significant changes to the U.S. patent system in 175 years and strived to further promote the exchange of the two countries in IPR area.

"The new amended America Invents Act brings radical changes to the patent system that will help American enterprises and innovators turn a new invention into a business as quickly as possible, bring these inventions to market faster, create new businesses and new jobs." Kappos told the CIP News reporter.

Kappos's rich experience in IPR field helps him deeply realize that enterprises and innovators' thirst for IPR protection. "We should provide inventors the more active and effective IPR system to encourage innovation. The legislation represents the most significant and far-reaching reform of the U.S. patent system since it established. This much-needed reform just speeds up the process of IPR protection in the 21st century. We also invited comments for the amendment of the Acts from the enterprises in China and other countries and regions which was conducive not only to the companies in America but also to the enterprises in China and other countries." Kappos pointed out.

"China has taken a series of efficient measures to improve IPR system and create atmosphere favorable for IPR protection. With the efforts of the Chinese government, enterprises and general public made, China will make more enormous achievements in IPR work." he said.

"China's patent applications are in high gear and is at the lead-



ing place in the world. China has established examiners training base and patent examination assistance centers throughout the country which are not only improving examination capacity but also solving the backlog problem of patent applications. USPTO will borrow the methods and experience to set up satellite offices in the districts far from Washington D.C. The first satellite office will be established in Detroit, Michigan and opened in July this year. USPTO are also planning to employ more examiners and pushing the home office.

"IPR is changing constantly which has a close relationship with our life and present cross-major, cross-domain and cross-border characteristics. Standing at a crossroad of economic development and facing the new challenges and opportunities, both China and the U.S. should take efforts to encourage technology innovation and stimulate economic development." Kappos said. "When it comes to entry into American market, Kappos held that doing business in another country would require both Chinese and American enterprises to comply with local rules and regulations. Chinese enterprise should seek the advice of the U.S. legal experts and lawyers to avoid the risk of IPR litigation issues and develop IPR dispute resolution mechanisms and be aggressive in coping with IPR issues in overseas markets. It is clear that IPR protection will con-

tribute to the economy development of two countries and the whole world." (by Cao Kexin)

本报记者 曹可欣

美国专利商标局局长大卫·卡波斯,这位曾在IBM任副总裁兼知识产权总法律顾问助理,在知识产权领域拥有超过23年丰富经验的局长,一上任就对美国的专利法案进行了大刀阔斧的改革。2011年9月16日,美国总统奥巴马正式签署了新修改的《美国发明法案》。今年5月29日,卡波斯带着这份号称美国175年来变化最大的新法案热情洋溢地来到中国,为中国的知识产权工作者们进行详细的介绍,也力求将中美知识产权交流合作推向更深入。

"新修改的《美国发明法案》给美国的专利制度带来了一些根本性的变化。这些变化是希望让企业和发明家们可以更容易地把自己的创意变成促进经济增长的新产品,帮助他们将产品更好地投放市场,成立新的公司,提供更多的工作岗位。"当被问到《美国发明法案》修改初衷时,卡波斯对知识产权报记者说。

丰富的知识产权工作经验让卡波斯深切地认识到了企业和发明家们在知识产权方面的渴求;"21世纪的创新者们要求我们以更加积极、更加有效的知识产权制度跟上其发展步伐。"卡波斯表示,"此次新修改的法案是美国专利体系建立以来幅度最大、影响最为深远的一次变革。我认为,美国专利法修改的进步之一就在于其更好地适应了21世纪的保护实践。"卡波斯对记者说,"此次法案的修改,我们也咨询了中国等其他国家和地区企业的意见。可以说,法案的修改不仅有利于美国企业,也有利

于中国及其他外国企业。"

在谈到中国的知识产权保护工作,卡波斯表示,中国政府对知识产权采取的一系列积极措施有力地推动了知识产权制度进一步完善,全社会保护知识产权的氛围日益浓厚。在中国政府、企业与社会公众的共同努力下,中国的知识产权事业将取得更加令人惊喜的成就。

"近年来,中国的专利申请量大幅提高,在全世界名列前茅。在各地设立审查员培训基地和分中心,不仅大大提高了审查效率,也非常好地解决了专利申请积压问题。美国专利商标局也将借鉴此做法,在离华盛顿较远地区设立卫星局。第一个卫星局设在密歇根州的底特律市,2012年7月即将开始办公。此外,我们还将扩大审查员队伍,并推行居家办公的方式。"卡波斯说。

"目前,知识产权领域不断发生着变化。这些变化不仅与我们的生活息息相关,而且也呈现出跨专业、跨领域、跨国界的特点。中美两国都站在国家经济发展的十字路口上,面临着种种机遇与挑战。坚定地鼓励技术创新,努力刺激经济发展方面,两国都有许多重要工作要做。"对于中国企业进入美国市场,卡波斯表示,无论是中国企业还是美国企业,都应该了解当地的知识产权法律法规,中国企业可以寻求美国法律专家和律师的帮助,进一步获取专业的意见,做好充分的准备以避免相关诉讼。此外,一旦发生涉外知识产权纠纷,中国企业也应当积极应诉,捍卫自己的合法权益。

"有一点是很明确的,优质、高效的知识产权保护将为两国乃至世界经济增长写下精彩篇章。"卡波斯说。(图片由本报记者 蒋文杰 摄)

Intel awarded 400,000 yuan in trademark dispute "因特佳"搭"英特尔"便车一审被判赔40万元

The case lodged by Intel Corporation (Intel) challenging Shenzhen Inteljet Digital Technology Company (Inteljet) for infringement of its trademarks was heard by Shanghai No.2 Intermediate People's Court recently. The court entered a first-instance judgment ordering Inteljet to cease infringement and indemnify 400,000 yuan in damages.

Inteljet company was established in August 2003 and filed a trademark application for INTELJET on Class2 and 9 computer, printer, toner, cartridge and other goods. However Intel Corporation had obtained the trademark of "INTEL" on the same classes with priority right. Intel filed a law suit against Inteljet, seeking injunction against using the mark "Inteljet" on the products and indemnifying



500,000 yuan in damages.

The court held that it was almost the same in the products function and sales channel between the two marks and similarity is constituted. Moreover, the defendant's sale of goods affixed with this well-known trademark without the plaintiff's consent is intended to take a free ride of

the reputation of INTEL. Tao Jian, as the agent of Inteljet was specifically accused of infringing their trademarks on the ground of distributing counterfeit goods in market.

So ordered. (by Wen Hang)

本报讯 因认为深圳因特佳数码科技有限公司(下称因特佳公司)"INTELJET"品牌硒鼓、墨盒等打印耗材产品涉嫌侵犯其"INTEL"注册商标,日前,美国英特尔公司向上海市第二中级人民法院(下称上海市二中院)提起诉讼。近日,上海市二中院作出一审判决,被告因特佳公司及其代理商被判商标侵权行为成立,判令其停止侵权并赔偿原告经济损失40万元。

据了解,因特佳公司成立于2003年8月,2010年8月,该公司分别在商标注册国际分类第2和第9类上申请注册"INTELJET"商标,

商品涵盖计算机、打印机、硒鼓及墨盒等。而在相关类别中,英特尔公司此前早已申请注册了多件"INTEL"商标,并均获得确权。凭依其在先确权的相同类别"INTEL"注册商标,2011年,英特尔公司对因特佳公司方面提起商标侵权诉讼,索赔50万元。

法院经审理认为,因特佳公司使用的"INTELJET"标识与原告的"INTEL"商标构成相同或类似商品上的近似商标,且被告在明知原告为驰名商标的前提下使用与原告近似的标识,具有傍名牌的主观意图,应承担相应的民事责任。另外,法院亦认定被告之一的自然人陶健作为因特佳公司的代理商,其销售因特佳公司生产的侵权产品行为也侵犯了原告的商标专用权。

据此,上海市二中院做出上述一审判决。(温航)