

State Council: China to launch a new national campaign against IPR violations 中国将大力开展知识产权专项整治工作

According to the work agenda concerning the IPR protection and crackdown on the production and sale of counterfeit goods the General Office of the State Council released recently, China will launch a new national campaign to crack down on violations of intellectual property rights and to mete out stern punishment to the massive, repeatedly, malicious patent infringement and frauds.

quality commodities should impose tough measures on serious cases, step up efforts to crack down on infringement of IPR, establish the long-term mechanism, strengthen its bases construction and publicity guide and ensure the campaign efficiency. Concerted efforts will also be made to protect patent right under the special rectification campaigns. The related administration plans to take stern scrutiny over the production, distribution, guide the patent protection during the R&D process, punish severely patent-related in-

fringement especially involving public's livelihood, major projects and nation's interest, mete out stern punishment to the massive, repeatedly, malicious patent infringement and frauds, wage an intensive IPR enforcement inspection at national and international exhibitions, as well as major special markets. The agenda mentions campaigns to be carried out to ensure protection for trademark rights, copyrights, patent rights and online shopping sites, import and export of fake goods and GI products. The action will also focus

on the illegal activities of obtaining business secrets through illegal means, as well as efforts to tighten up law enforcement to crack down on violating commercial secrets, infringement of layout design of integrated circuit and using Olympic symbols illegally. (by Cui Jingsi) 本报讯 根据国务院办公厅近日印发的《2012年全国打击侵犯知识产权和制售假冒伪劣商品工作要点》(下称《工作要点》)的相关部署,我国今年将大力开展知识产权专项整治工作,其中在专利权保护专项整治方面,我国将严查查处群体侵权、反

复侵权、假冒专利及专利侵权行为。工作要点提出,2012年全国打击侵犯知识产权和制售假冒伪劣商品工作要坚持标本兼治,突出重点,围绕侵权假冒突出问题,大力开展专项整治,建立完善长效机制,加强基础设施建设,强化宣传引导,确保工作实效。在专项整治工作方面,工作要点特别提出,要开展专利权保护专项整治。要开展生产、流通环节的专利执法专项整治,科学指导研发环节的专利保护工作,加大对涉及民生、重大项目及涉外等领域专利侵权行为的打击力度。严查查处群体侵权、反复侵权、假冒专利及专利侵权行为。突

出展前排查、展中巡查、快速调处、跟踪整治等环节,做好重要展会的执法维权工作。加大对专业市场的执法与检查整治力度。同时,在商标权保护、版权保护、网络商品交易网站、进出口环节侵权假冒、地理标志保护等专项整治方面,工作要点也做出了相应部署。此外,我国今年还将以盗窃、利诱、胁迫等不正当手段获取商业秘密的违法行为为重点,依法加大打击侵犯商业秘密违法行为力度,并依法加大打击侵犯集成电路布图设计、奥林匹克标志等知识产权违法行为的力度。 (崔静思)



2012 United States-China Intellectual Property Adjudication Conference was held in Beijing on May 28. SIPO Commissioner Tian Lipu and United States Patent and Trademark Office (USPTO) Director David Kappos jointly attended the opening ceremony. During the discussions, Tian delivered a speech on the topic of the New Tendency of China Patent System. In the speech, he stressed

that despite both countries have the differences in stages of development and national conditions, the development and improvement of patent system might have some in common with protecting and promoting innovation which also provided the foundation for learning and studying for both countries. (by Zhang Zihong Chen Jianming) 5月28日,“2012年中美知识产权司法审判研讨会”在北京开幕。中

国国家知识产权局局长田力普、美国商务部副部长兼美国专利商标局局长大卫·卡波斯等出席开幕式并致辞。在知识产权审判宏观问题讨论环节中,田力普还作了题为《中国专利制度的最新发展》的报告。他在报告中指出,尽管中美两国发展阶段不同,具体国情迥异,但专利制度的发展与完善在体现保护创新、促进创新的根本宗旨方面,有许多共同之处,为相互借鉴与学习提供了基础。 (张子弘 陈建明 摄影报道)

SIPO issues the report on patent overall strength 全国地区专利综合实力排名首度发布

On May 23, SIPO IP Development and Research Center released its first ranking of nationwide patent overall strength 2011. According to the report, Guangdong takes the top, followed by Beijing and Jiangsu. The ranking list shows the patent overall strength of provinces, cities and autonomous regions in the mainland

of China and also compares their performance in five first class indicators in creation, application, protection, management and service of patent. The report, first of its kind, will be released in the National IPR Publicity Week every year in the future. (by Xiao Xiao) 本报讯 5月23日,中国国家知识产权局知识产权发展研究中心发布

2011年全国地区专利综合实力排名。专利综合实力排名显示,广东、北京、江苏位列三甲。此次发布的排名情况包括专利综合实力以及专利创造、运用、保护、管理与服务5个一级指标,此次全国地区专利综合实力排名是首度发布,今后每年将在全国知识产权宣传周期间定期发布。 (肖潇) 曹可欣 制图

Table with 2 columns: Region, Position. Ranking of patent overall strength. Guangdong 1, Beijing 2, Jiangsu 3, Shanghai 4, Sichuan 5, Shandong 6, Hunan 7, Tianjin 8, Fujian 9, Liaoning 10.

Table with 2 columns: Region, Position. Ranking of patent creation. Beijing 1, Shanghai 2, Guangdong 3, Tianjin 4, Shaanxi 5, Liaoning 6, Zhejiang 7, Jiangsu 8, Hunan 9, Hubei 10.

Table with 2 columns: Region, Position. Ranking of patent application. Guangdong 1, Beijing 2, Jiangsu 3, Zhejiang 4, Shandong 5, Shanghai 6, Fujian 7, Tianjin 8, Liaoning 9, Anhui 10.

Table with 2 columns: Region, Position. Ranking of patent protection. Guangdong 1, Hunan 2, Jiangsu 3, Beijing 4, Sichuan 5, Shandong 6, Xinjiang 7, Henan 8, Shanghai 9, Liaoning 10.

Table with 2 columns: Region, Position. Ranking of patent management. Jiangsu 1, Guangdong 2, Beijing 3, Shanghai 4, Tianjin 5, Sichuan 6, Shandong 7, Fujian 8, Hunan 9, Hubei 10.

Table with 2 columns: Region, Position. Ranking of patent service. Beijing 1, Shanghai 2, Guangdong 3, Jiangsu 4, Sichuan 5, Tianjin 6, Fujian 7, Shandong 8, Liaoning 9, Zhejiang 10.

Johnson & Johnson entangled in 120M yuan trademark trouble 佛山圣芳再战美国强生索赔 1.2 亿元

Despite the Supreme People's Court had sealed the over ten years legal battle between a Foshan-based company, the St-Flora (United) Co. Ltd and Johnson & Johnson company in October 2009, the case turned out to be just a beginning of a falling dominoes effect. St-Flora filed suit recently challenging Johnson & Johnson and Xi'an-Janssen Pharmaceutical Ltd (Janssen) and other four companies to Beijing Supreme People's Court for perjury-provoked property harm and demanding the defendants to pay 120 million yuan in damages. The case will be heard at the end of May this year.

imitation of "采乐" certified to be used on Class 5 which damaged to its lawful rights and interests. After Johnson & Johnson sought rejection for the 3rd time in 2002, according to the amended trademark law and the evidence Johnson & Johnson submitted, TRAB revoked the trademark of "采乐 CAILE" in June 2005 on the ground that the trademark of "采乐" was considered as a well-known trademark. St-Flora then brought the case to the court, after lost in the first and second instance, the disgruntled St-Flora appealed to the Supreme People's Court and gained the support. The Supreme People's Court held that the evidence Johnson & Johnson submitted at the third time failed to prove the cited trademark enjoyed high reputation and was familiar among Chinese customers before the trademark in question was registered. The court also upheld that there's great disparity between the two marks on materials, production and distribution channel and would not confuse the public.

The Supreme People's Court's decisions indicated that St-Flora hold the trademark legally throughout the whole fight. However, St-Flora had suffered severely from the impact of the wrong ruling. St-Flora filed suit challenging Johnson & Johnson and other five companies to the court for infringement of its property rights ordering the defendants to pay 120 million yuan in damages, making an apology on a national newspaper and pay all legal cost. The reporter noticed that the six defendants companies also including an intellectual property agency, an accounting firm and a market-research firm. The trial has already been delayed for two years. St-Flora explained that the subsidiary set up by Johnson & Johnson in China refused to sign upon court documents and Beijing Higher People's Court had to send the documents to the Johnson & Johnson's headquarters overseas. Our reporter contacted with Johnson & Johnson China, who severed their ties with this case and

directed us to Xi'an Janssen. We have yet heard a word from Janssen after contact. We will follow the developments of the case. (by Xie Huandong) 本报实习记者 谢环东 围绕着“采乐 CAILE”商标,佛山市圣芳(联合)有限公司(下称圣芳公司)与美国强生公司曾争斗 10 余年,尽管 2009 年 10 月最高人民法院已对“采乐 CAILE”商标案作出最终判决,但该案引发的“多米诺骨牌”效应依然在持续。近日,记者获悉,圣芳公司因为强生公司在此前“采乐 CAILE”商标案中提供“伪证”,致使其经济受损,遂以侵害财产为由,将强生公司、西安杨森制药有限公司(下称西安杨森公司)等 6 家企业诉至北京市高级人民法院,索赔 1.2 亿元,该案将于 5 月底开庭审理。据悉,圣芳公司与强生公司之间的争斗由来已久。双方分歧在于,强生公司认为圣芳公司持有的使用在第 3 类化妆品等商品上的第 1214187 号“采乐 CAILE”商标,对该公司注册使用在第 5 类人用局部抗菌剂等商品上的“采乐”商标构成复制和模仿,损害了强生公司合法权益。

据公开资料显示,1998 年 10 月,广东南海美思化妆品有限公司注册了上述“采乐 CAILE”商标。2002 年 6 月,此商标被转让给圣芳公司名下。2002 年,依据修改后的商标法,强生公司第 3 次向商评委提出撤销“采乐 CAILE”商标的争议申请。2005 年 6 月,商评委根据强生公司提供的证据材料认定其第 5 类商品上的“采乐”商标为驰名商标,并以此为依据裁定撤销圣芳公司在第 3 类洗发水等商品上使用的“采乐 CAILE”注册商标。圣芳公司遂提起行政诉讼,但在法院一审、二审中均败诉。圣芳公司不服,又向最高人民法院提起申诉并获支持。最高人民法院审理认为,强生公司第 3 次向商评委提交的证据,不足以证明引证商标在争议商标申请日之前已达到驰名程度。同时,最高人民法院认为涉案的两件商标核定使用商品在性质、生产和销售渠道等方面有着明确的区分,不足以引起相关消费者的混淆误认。最高人民法院的此份判决,表明圣芳公司使用的“采乐 CAILE”商标自始合法有效,但历经此番争斗,圣芳公司也有伤“元气”。该公司负责人称,在最高人民法院最终纠正错误裁



决之前,圣芳公司的企业声誉受到巨大影响,企业遭受重大损失。2010 年,圣芳公司又将强生公司等 6 家关联企业诉至法院,请求法院判令 6 家被告赔偿其经济损失 1.2 亿元,在全国性媒体上刊登致歉声明,承担相关诉讼费用等。记者注意到,圣芳公司此番起诉的 6 家企业,除强生公司及其参股公司外,还包括一家知识产权代理机构、一家会计师事务所、一家市场研究机构等。对于早在 2010 年的起诉,为何在今年 5 月末才能开庭审理,圣芳公司负责人称,因强生公司在国内的子公司拒绝签收法院送达的起诉状等文书,该案的所有法律文书由北京市高级人民法院采用涉外送达的方式递送给强生公司,为此该案拖延了两年之后才最终延至今今年 5 月开庭审理。随后,记者联系了强生(中国)有限公司(下称强生中国公司),该公司有关负责人称,该案与强生中国公司无关,系由西安杨森公司负责。随后,记者联系了西安杨森公司相关负责人,但未得到答复。对于此案进展,本报将继续予以关注。

责任编辑:肖潇 Executive Editor: Xiao Xiao 英文翻译:茹果 Translator: Ru Guo