

China's IP in foreign eyes

Saudi Basic Industries Corp (SABIC), the world's largest chemical producer by market value, said it was planning to invest \$100 million to build a technology research and development centre in China.

世界最大的化学品生产商沙特基础工业公司(SABIC)表示,该公司计划投资1亿美元在中国兴建技术研发中心。



Cisco Systems Inc. Chief Executive John Chambers identified Huawei Technologies Co. as its toughest rival, stating that the Chinese company doesn't always "play by the rules" in areas such as intellectual property protection.

思科系统公司首席执行官约翰·钱伯斯把华为技术有限公司(下称华为公司)确定为最难应付的对手,并称这家中国公司在知识产权保护等领域并不总是遵守“游戏规则”。

和印度投资兴建技术研发中心加强其在亚洲的投入。这两个研发中心均预计在2013年投入运营。

Comment:

Moderating economic expansion this year that is viewed as a harbinger of relatively sustainable longer term growth; being part of an overall market in Asia and SABIC's fastest-growing sales region; being attractive to top global talent...

点评:

中国今年经济稳中求进,预示着中国经济将保持相对可持续的长远性增长。中国作为沙特基础工业公司亚洲整体市场的重要组成部分以及增长最快的销售区域,对全球顶尖人才具有吸引力。

France CASTEL FRERES Was Sentenced to 33.73 million yuan compensation 法国卡斯特一审被判赔3373万元

Wenzhou Intermediate People's Court entered into the first-instance judgment on an infringing trademark dispute, awarding an injunction and 33.73 million yuan in damages recently.

In the late 1990s, a man named Li Daozhi worked at Wenzhou Hardware And Electric Material Chemical Corporation. The Corporation applied "卡斯特" for trademark registration in 1998 and obtained the registration in 2000.

Li then established PANATI wine and Shanghai CASTEL WINE CO.,LTD. After development of another ten years, PANATI became the biggest agent of Mediterranean

and Spanish produces in China which had high reputation in the market. In the early of this year, approval by the Chinese and France authorities, CASTEL acquired three vineyards, rolled out CASTEL high-end wines and started to export.

However, according to the documents, French company CASTEL FRERES was set up in 2005. CASTEL FRERES began to sell a large number of wines in China market, using the trademark of "法国卡斯特", "卡斯特玛茜", "卡斯特所属酒庄" on the bottle label of its wine products.

Li then filed a suit against CASTEL FRERES for infringement, seeking 200 million yuan in damages.

The court held that CASTEL FRERES took advantage of the卡斯特's reputation to sell its products in China. Then the court entered the first-instance judgment ordering CASTEL FRERES and its local distributors to cease producing and distributing infringing products and pay 33.73 million yuan in damages.

(by Cui Jingsi) 本报记者 崔静思

4月10日,浙江省温州市中级人民



院,“卡斯特”商标转让给了李道之个人。

此后,李道之创办了班提酒业,又在此基础上组建了专业品牌运营企业上海卡斯特酒业有限公司(下称上海卡斯特)。历经10余年的发展,班提酒业如今已成为地中海区域西班牙法定产区在中国的最大代理商,其推出的卡斯特系列葡萄酒在国内外市场具有一定的知名度。

资料显示,2005年,法国卡斯特兄弟股份有限公司(下称法国卡斯特)及其中国经销商停止使用“卡斯特”商标,并赔偿上海班提酒业公司(下称班提酒业)和商标权人李道之人民币3373万元。

2009年10月,李道之在温州中院起诉法国卡斯特及其中国代理商侵犯其商标专用权,案件涉及金额超过2亿元。

法院审理认为,法国卡斯特对“卡斯特”商标在中国的合法存在一直是明知的,但是其依然与中国深圳的企业签订销售合同,将产品销售往中国。因此,依照相关法律法规,判决法国卡斯特及其中国经销商立即停止侵害原告注册商标专用权行为,赔偿原告经济损失共计3373万元人民币。

New Copyright Law invites comments 中国著作权法修改草案公开征求意见

The National Copyright Administration (NCA) is inviting comments for the draft amendment of the Copyright Law from the public at its website from March 31 onward. The draft clearly provides a series of rules such as introducing extension of power forces management of Non-member of Copyright Collective Management Organization (CCMO), newly adding a provision of the copyright restrictions, defining the mechanism of payment and legal remedies in the process of implementation of the legal license and increasing the maximum level of compensation for copyright infringement.

The draft stipulates guidelines for the management system of extension of power forces. Moreover, the draft newly adding a provision of the copyright restrictions and the obligation of submitting the

record, prompt payment to CCMO and informing the source in the process of implementation of the legal license.

Article 72 also increased the compensation standard for copyright infringement to 1 million yuan from the original 500,000 yuan limit and regulated any person deliberately infringing the copyright more than twice should be liable to pay the compensation 1 to 3 times of the amount of illegal income.

The newly released draft amendment to the Copyright Law has provoked great controversy among famous local songwriters as it allows sound recordings to be used by others without the owner's permission. According to the Article 46 and 48, three months after a recording is released it can be used by non-copyright owners as long as they apply with NCA, pay remuneration to the owners via the Music Copyright Society of China, and clearly state the copyright owner.

At the symposium held by the Images Copyright Society of China, the delegates express their appreciation for the extension of power forces of images copyright protection. (by Liu Ren)

本报讯 近日,中国国家版权局网站发布公告,就《中华人民共和国著作权法》(修改草案)开始公开向社会征求意见。修改草案规定著作权集体管理组织对于非会员开展延伸性集体管理,并增设“权利的限制”一章,明确了法定许可制定实施过程中的付酬机制和法律救济机制,提高了法定赔偿的上限标准。

修改草案原则性规定了延伸性集体管理制度。同时,修改草案将原先散落在各章节中的法定许可内容集中起来单独设置“权利的限制”一章。修改草案还增加了关于法定许可

必须事先备案,及时通过著作权集体管理组织付酬和指明来源等义务的规定。

对于法定赔偿标准,修改草案第七十二条规定将法定赔偿金额上限由现行著作权法中的50万元提高至100万元,并规定对于两次以上故意侵犯著作权或者相关权益的,应当根据权利人的实际损失或侵权人的违法所得或者通常权利交易费用的1倍至3倍确定赔偿数额。

草案引起社会各界的广泛热议。音乐界代表对草案第四十六条和四十八条关于“制作录音制品的法定许可”提出异议,认为此条款将使音乐人在发表作品3个月后即强制入会(著作权集体管理组织),他人只要向集体管理组织支付报酬就可使用其作品,将导致音乐著作权人对个人作品无处置权。在摄影著作权协会举行的著作权法修改草案讨论会上,与会代表对于此次修法新增连续权,延长摄影作品著作权保护期等规定表示赞赏。(刘仁)

GGAC beefs up IPR protection in key ports 中国海关在重点口岸开展专项整治行动

In an effort to actively promote the construction of permanent mechanism for IPR protection, maintain the order in foreign trade activities and protect the rights and interests of the consumers, the General Administration of Customs (GAC) launched a one-year special campaign to fight against IPR infringement in key ports and key transport channels.

Customs across the nation have made remarkable achievements in seizing infringing goods since the campaign was launched. Hangzhou Customs in Zhejiang seized 70 undeclared watches from a Zimbabwean traveler. After verification by the right holders, the goods were identified as counterfeits. In a postal package, they seized 3,000 trademarks infringing RIVERS. Additionally, they seized 12,000 pens violating the Hero trademarks. Yiwu Customs in Zhejiang also achieved great success in this campaign, they seized nine batches of goods infringing Chinese well-known brands such as Diamond, Exploit at the

petty commodities freight channels. Xiameng Customs in Fujian seized 11,136 pairs of soccer shoes with the four-stripe trademarks similar with triple-stripes registered by Adidas Company. Evaluated by the right holder adidas, the goods were identified as counterfeits and then detained by the Customs.

When inspecting the hand bags declared for export by a Zhongshan-based company, the Gongbei Customs in Guangdong discovered that the COCO trademarks on 6,349 hand bags were suspected of infringement to the COCO marks registered by the France-based Chanel Company. Evaluated by Chanel, the

goods were identified as counterfeits. (By Wei Xiaomao)

本报讯 记者从中国海关总署获悉,今年以来,中国海关正在积极推进知识产权保护长效机制建设,在重点口岸和重点运输渠道开展为期1年的专项整治行动,以维护进出口贸易秩序、保护消费者的健康和安全。截至3月13日,共查获进出口侵权货物1164批,价值人民币8700余万元。

据悉,今年以来各地海关相继查获了多批侵权货物。近日,杭州海关从天津巴布书籍旅行行李中查获未申报手表70支,主要涉及卡西欧、雷达等国际品牌,经查该批手表全部涉嫌侵权。此外,杭州海关在1件邮包中查获涉嫌侵权“RIVERS”品牌的商



标3000个。杭州海关还查获涉嫌侵犯“英雄”商标钢笔1.2万支。今年以来,义乌海关在小商品货运渠道共查获涉嫌侵权“钻石”钳子、“开拓”五金等多个品种的知名国内品牌货物9批次,约4.8万余件。

厦门海关日前对瑞安市某进出口贸易有限公司申报出口的1.1136万双足球鞋进行检查时,发现鞋上标有平行等距的四条杠图形,与“adidas”在海关总署备案在案的三条杠图形近似。“adidas”商标权利人向

厦门海关来函确认,该批鞋子系侵权商品,并申请知识产权海关保护。目前,海关正在对该案件进行后续处理。

近日,中山市某服饰有限公司向拱北海关申报一批出口的手提袋。海关查验发现,该批货物有6349个手提袋有“COCO”品牌商标标识,涉嫌侵犯法国香奈儿股份有限公司“COCO”商标专用权。经拱北海关确认,上述货物侵犯其知识产权。(魏小毛)

责任编辑: 向利 Executive Editor: Xiang Li