

CHINA REPORT INTELLECTUAL PROPERTY

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China's IP in foreign eyes

audi 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. The facility in the Shanghai region will house a total of about 400 employees when it is completed in 2013. SABIC is strengthening its presence in the Asia by investing in two technology and innovation centers in China and India, both expected to be operational by 2013. (Saudi's SABIC plans \$100 mln China R&D centre. by Reuters)

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。该研发中心将于2013年在中国上海建成,可容纳约400名员工。沙特基础工业公司将通过在中国

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。("沙特基 础工业公司斥资 1 亿美元建立中国 研发中心",路透社)

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 - no wonder the giant company invests in China and said "China is very important to SABIC".

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,对全球顶级人才具有吸引力——难怪 SABIC 这个全球巨擎斥资中国并称其"非常重要"。



isco Systems Inc. Chief Executive John Chambers identified Huawei Technologies Co. as its toughest rival, statdoesn't always "play by the rules" in areas such as intellectual property protection. Huawei responded, "as a global information and communications technology leader with almost 50,000 patents filed world-wide, Huawei has a strong history of respect for the intellectual property rights of others, and the protection of our own." (Cisco CEO Sees China's Huawei as Toughest Rival, by The Wall Street Journal)

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)确定为其最难应付的对手,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"。华为公司对此回应称说:"作为在世界范围内拥有近5万件专利的全球信息和通信技术领导者,华为公司一贯尊重他人知识产权,同时保护自己知识产权。"("思科CEO:中国华为是最难应付的对手",华尔街日报)

Comment:

Cisco has extensive business dealings in China. From the fact we can tell why Mr. Chambers was so quick to separate any observations about Huawei, one of the most competitive Chinese companies, from any broader allegations about China related to protection of patents and copyrights. In fact, Huawei ranked the third position in the world in PCT filing in 2011, which is for all to see.

点评:

思科公司与中国有着广泛的业务往来。从这个事实中我们不难看出钱伯斯先生为何能够从诸多关于中国知识产权保护的评论和意见中,如此迅速地选取中国最具竞争力的企业之一华为公司给以特别对待。事实上,2011年度通过《专利合作条约》(PCT)途径提交的国际专利申请居世界第三的华为公司在知识产权领域的成绩是有目共睹的。

(by Correspondent Wang Weiwei from Canada)

(本报通讯员汪玮玮发自加拿大)

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

enzhou 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. The court ordered the defendants France-based CASTEL FRERES SAS CO.LTD (CASTEL FRERES) and its distributors in China to discontinue the use of the trademark of "卡斯特" (Chinese translation of CASTEL). CASTEL FRERES did not appeal to the high court instantly. Plaintiff Shanghai PANATI is holding the victory card for the moment.

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, certified to be used on Class 33, the good of fruit wine. After the Group restructuring in 2002, Li obtained the registration of trademark through assignment.

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 CAS-TEL 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 CAS-TEL 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 infringement 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

民法院作出一审判决,判令法国卡斯特兄弟股份有限公司(下称法国卡斯

ASTEL

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。据了解,法国卡斯 特没有当庭提出上诉。至此,这起中 国葡萄酒行业针对外国企业的知识 产权官司,以中国上海的"卡斯特"商 标持有人一审获胜而暂时告一段落。

特)及其中国经销商停止使用"卡斯

在采访中记者了解到,上世纪 90年代末期,李道之曾就职于温州 五金交电化工集团公司。1998年,该 化工集团向国家工商行政管理总局 商标局提交了"卡斯特"商标注册申 请,并于2000年获准在第33类果酒 等商品上使用"卡斯特"商标。 2002年,化工集团改制,经协商转 让,"卡斯特"商标转让给了李道之个

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。今年年 初,上海卡斯特又经中国和法国政府 有关部门批准,收购了法国波尔多地 区的 3 个酒庄,正式推出"卡斯特大 师"系列中高档葡萄酒。

资料显示,2005年,法国卡斯特兄弟股份有限公司注册成立。从2006年起,法国卡斯特开始在中国市场大量销售葡萄酒产品,产品标识上出现了如"法国卡斯特"、"卡斯特玛茜"、"卡斯特所属酒庄"等字样。

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

he 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 increaseing 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 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 compensatio 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 remu-

neration 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。

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个月后即强制人会(著作权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追续权,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. As of March 13, GAC had seized 1,164 batches of infringing goods with a total value of 87 million yuan.

责任编辑 向 利

Executive Editor Xiang Li

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. Additonally, 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 compay, 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 从一津巴布韦籍旅客行李中查获未 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查验时,发现鞋上标有平行等距的四条杠图形,与"adidas"在海关总署备案在册的三条杠图形近似。"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"CO-CO"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)

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