

CHINA **REPORT** INTELLECTUAL PROPERTY

2012年3月28日 March 28, 2012

星期三出版 Published on Wednesday

中文主编:吴 辉 Chinese Editor-in-Chief: Wu Hui

英文审校:崔卫国 English Reviser: Cui Weiguo

China's IP in foreign eyes

ccording to Science magazine's Science Insider website, Chinese state spending on science and technology is set to increase by more than 12 per cent to nearly 230 billion yuan in 2012. The budget of the National Natural Science Foundation of China, the country's main competitive funding agency, was doubled between 2009 and 2011. Similar figures were recorded, showing that China's share of physics papers produced globally rose from 8.2 per cent in 2001 to 18.6 per cent in 2010. (China continues pouring cash into basic science, by www.timeshighereducation.co.uk)

据《科学杂志》科学内部人士网 站消息,2012年中国的国家科技支出 预计将超过 12%, 增至近 2300 亿元 人民币。而中国国家自然科学基金的

预算在 2009 年至 2011 年间翻了一 番。类似的数字记录表明,中国物理 学论文的全球份额从 2001 年的 8.2% 上升至 2010 年的 18.6%。("中国继续 注资基础科学",英国高端时代教育 网站)

Comment:

China is increasing science and technology investment, making it easier for scientists to pursue research and success. This is another evidence of the fact that China is trying the best to enhance its innovation level. While China's rise is inevitable, a boost to its research budget can be a great news for scientists worldwide.

中国不断加大科技投入,为科学 家从事研究并取得成功创造条件。这 是中国尽一切努力增强其创新水平 的又一体现。在中国崛起同时,其科 研投入的增加对全世界的科学家而 言都是一个好消息。



he Chinese government has helped Microsoft Corp.'s business in China by improving intellectual property protection, the company's top China executive Simon Leung said recently. Meanwhile, Microsoft's personal-computer-software business, long set back by rampant piracy, has improved in China, Mr. Leung said. He credited a campaign against piracy led by China's Ministry of Commerce, and said an increasing number of state-owned enterprises are using licensed software. (Microsoft Gives Beijing Mixed Reviews, by The Wall Street Journal)

中国政府加强知识产权保护有 助于微软公司发展在华业务,微软公 司大中华区总裁梁念坚日前表示。与 此同时,微软公司长期受盗版困扰的 个人电脑软件业务也在中国有所改 善。梁先生高度评价了中国打击盗版 的活动,并表示越来越多的中国国有

企业正在使用正版软件。("微软公司 综合评价北京",华尔街日报)

We see Microsoft Corp.'s business growing consistently for the past three years in a very healthy way. That might be the reason why the chief executive complains that China is hurting the company with regulations preventing the official launch of the Xbox 360 game console, but at the same time credits that China has helped Microsoft Corp. in terms of intellectual property protection.

点评:

微软公司在中国的业务在过去 3年中一直以非常健康的方式持续 增长着。这在很大程度上正是受益于 中国知识产权保护的日益进步。

(by Correspondent Wang Weiwei from Canada)

(本报通讯员汪玮玮发自加拿大)

Seagull flies through Omega ambush at Baselworld

国产手表品牌走出国门参展,却遭遇国际大品牌商标侵权指控,奋力抗辩终获胜——

"欧米茄"未能阻挡"海鸥"展翅

n March 8, the 2012 Basel Watch and Jewelry show opened in the northern Swiss town, which housed the most advanced watch technologies and luxury brands in the world. Tianjin Seagull Watch Industry Company, with every intention to make its name in the global stage, never expected walking into an infringement ambush. With the goliath Omega in its way, Seagull responded with determination and

Fight back is the only choice against groundless accusation

The Basel Watch and Jewelry Show is the biggest of its kind in the world. On March 9, Omega filed a complaint to the IP board of the Show, claiming that Seagull used the word "CO-AXIAL" in its promotional materials and allegedly infringed a trademark of Omega. When lawyers of the IP board and heads of Omega came to the stand of Seagull at the end of the show that day, lawyers of Seagull handed over Seagull's signboard after communication with the IP board and got related evidences and materials ready for response.

Facing the sudden allegation, Seagull felt innocent. "By citing the English translation of '同轴的' from the encyclopedia and English-Chinese Dictionary as co-axial, Seagull defended that co-axial was used as an adjective to describe the watch, rather than a trademark, and our trademark is 海鸥 ",said Geng Lijun, the IP director of Seagull told reporter.

On the morning of March 10, the IP board announced its decision, ruling the signboard used by Seagull didn't infringe the trademark of Omega.

This is another victory for Seagull in the exhibition after A new lesson for Chinese watch

Seagull watch is no stranger to Chinese people. The first home-made watch Seagull was born in 1955. "We always pay great attention to innovation. After several years' efforts, 90% of our products are IPR-laden products", Geng Lijun told reporter. The constantly improvement of Chinese watch technology has caught attention of some international famous watch makers. "It made them uneasy, since we made breakthrough in some cutting-edge technologies in such short time, which resulted in wild punches heading our way", said Geng.

As to this allegation, Geng said that it is a big lesion for Seagull. "Some domestic companies, including Seagull, usually put their eyes on the product name when filing trademark registration application. They felt that if the trademark was registered, it could prevent trademark dispute from happening. Some international famous watch makers, however, also filed trademark registration for core technologies and product attributes on top of their product names, which is surely a new lesson for Chinese companies", said Geng.

(by Zhang Di) 本报记者 张娣

3月8日,2012年瑞士巴塞尔 国际钟表珠宝展在瑞士北部城市巴 塞尔开幕。在这场展会上,汇集了世 界上最先进的手表技术和最顶尖的 手表品牌。来自中国的天津海鸥手 表业有限公司(下称海鸥公司)原本 是想通过到国外参展, 让海鸥品牌 走向世界,没想到却在这里遭遇了 一场侵权指控, 且诉海鸥公司侵权 的是世界顶级手表品牌——瑞士斯 沃琪集团旗下"欧米茄"。海鸥公司 进行了有理有据的反驳, 最终抗辩



无端遭指控 抗辩终获胜

巴塞尔国际钟表珠宝展是世界 规模最大的钟表展,3月9日,即此 次展会开幕的第二天,瑞士斯沃琪集 团旗下欧米茄公司向巴塞尔国际钟 表珠宝展组委会知识产权委员会投 诉,称海鸥表在对同轴陀飞轮的描述 中使用英文"CO-AXIAL"一词,构 成对欧米茄公司申请的两件注册商 标 " Ω OMEGA CO -AXIAL"和 "CO-AXIAL 3"的侵权。

对于突如其来的指控,海鸥公司 深感无辜。"英文'CO-AXIAL'是作为 描述"同轴的"产品技术及陀飞轮机芯 结构的修饰性形容词,是对产品的描 述,指控我们在产品描述中使用这个 词构成商标侵权,我们断然不能接受, 因为我们只在描述产品时用到了这个 词语,并没有在商标中使用,我们的商 标是'海鸥'。"海鸥公司负责知识产权 相关工作的耿力军在接受中国知识产 权报记者采访时表示。

3月10日上午,巴塞尔国际钟表 珠宝展组委会知识产权委员会宣布, "海鸥"表在该展会上使用的标识牌 未对欧米茄公司相关注册商标构成 任何侵害,驳回欧米茄公司的投诉。

这是继 2011 年之后,海鸥公司 在巴塞尔国际钟表珠宝展上的又一

次维权胜利。

维权辟蹊径"海鸥"欲高飞

提到"海鸥"表,人们不会陌生。 1955年,中国第一只国产手表便诞 生在这里。"'海鸥'向来注重产品的 创新。近几年,通过研发团队的不断 努力, 自主知识产权产品达到90% 以上。"据耿力军称,"中国品牌手表 技术的不断创新和改进, 已经引起 了一些国际品牌企业的注意,他们 看到我们在很短的时间内攻破了手 表的最新技术,感到对自己的品牌 构成了威胁, 所以展开一些'莫须

谈到此次"海鸥"在巴塞尔国际 钟表珠宝展上面对国际大品牌的侵 权指控,耿力军说:"这件事情从另一 方面讲,也给我们上了宝贵的一课。 她表示,目前,包括海鸥公司在内的 一些国产品牌企业在申请注册商标 时,都将目光和重点放在产品名称 上,认为将产品的名称进行了商标注 册,就万无一失,不会遭遇侵权纠纷。 但通过这件事情, 让海鸥公司看到, 一些国际上的知名大品牌,除了进行 了产品名称的商标注册之外,还将一 些产品特征的名称也进行了商标注 册,这对于国内企业来说,无疑上了 新的一课,带来更多启示。

WRL's enforcing right attracts public attention

中国国家版权局表示苹果应用商店存在盗版侵权嫌疑——

作家维权联盟维权受关注

he high-profile infringement case between the Writers Rights League (WRL) and Apple has new progress. On March 16, the National Copyright Administration of China (NCAC) announced that the Apple's App store is suspected of infringing rights of the Chinese writers and offered its support to them.

Meanwhile, another collecting society, China Written Works Copyright Society (CWWCS) has launched a hotline dedicated to take complaints against Apple from writ-

Apple refuses to comment

"As an IPR-laden company, Apple understands the importance of IPR protection. Apple will give timely and appropriate response when receiving such complaint", said Ms. Huang Apple China's PR executive in her message to media outlets.

Xiao Xiao

"They say the matter is now in the hands of their US headquarters, and no one from China can say anything. They tell us to wait patiently for calls from lawyers sent by the company", said WRL representative Bei Zhicheng. "Apple must remove infringing content for free download and avoid such action to develop", said Bei. WRL claims they have not yet received direct response from Apple.

"The court has taken the case, and we are waiting for the court hearing, which is expected in the second half of this year", said Wang Guohua, an attorney representing WRL in this case.

When approached by CIP News, Apple attorney said she is not in the position to reveal anything without the authorization from the company. Further questions shall be addressed to Apple HQ.

WRL wins support

"As much as our knowledge is, the App Store does appear to include doubtful pirated content. But

the final call has to be made following protocol", said a NCAC principal.

CWWCS said that it is gathering evidence right now and enforce its right with government support in due time. Writers and publishers may send their complaints through two hotlines, email and its Sina Weibo account.

"Enforcing right in a class action save writers money and trouble in gathering evidence. More writers and publishers may share enforcement outcomes through such efficient action", said Zhang Hongbo, deputy director general of CWWCS.

Back to the WRL case, 22 writers join forces to chase down Apple for infringing their 95 works. "WRL has filed another lawsuit against Apple to Beijing No.2 Intermediate People's Court in February, seeking over 11 million yuan in damages", said Bei Zhicheng.

(by Jiang Xu/Dou Xinying) 本报记者 姜 旭 窦新颖

备受关注的作家维权联盟(下称

联盟)维权事件有了新进展。3月 16日,中国国家版权局相关负责人 表示,苹果应用商店存在盗版侵权嫌 疑,支持作家维权行为。中国文字著 作权协会(下称文著协)也同时公布 了"受理作家投诉苹果热线电话"。

苹果未予正面回应

针对联盟维权事件,苹果中国公 司媒体公关负责人黄女士在向媒体 发出的邮件表示,"作为一个拥有知 识产权的公司,理解保护知识产权的 重要性。当接到投诉时,会给予及时 和恰当的回应。"

"苹果中国给我们的答复是,这 件事情现在已经完全由苹果美国总 部处理,中国区没有任何人可以就此 事发表看法和进行处理。让我们耐心 等待美国总部派来的律师,相关的人 会跟我们联系。"联盟代表贝志城在 接受中国知识产权报记者采访时表 示,联盟的诉求就是要求苹果公司将 免费下载的涉嫌侵权软件下架,并且 避免此类事件的继续发生。但记者了 解到,他们还没有得到苹果公司方面

"法院已经受理,并且已经立案, 正在等待法院安排开庭审理,预计开 庭时间可能会在今年下半年。"据联



盟代理律师王国华介绍。

记者在联系到苹果公司代理律 师时,她表示:"在没有获得苹果公司 授权下,我们不便对任何人透露,具 体问题请联系苹果公司。

联盟获得多方支持

国家版权局相关负责人日前表 示,根据目前掌握的情况,苹果应用 商店确实存在盗版侵权嫌疑,但尚需

相关部门确认后才能做出最终判断。 文著协方面称,文著协正在进行 调查取证工作,将在政府主管部门的 支持下,在适当时候向苹果公司展开 维权行动。广大作家和出版社可以通

过公布的两个热线电话、邮箱及文著 协新浪微博进行投诉。

文著协常务副总干事张洪波在 接受中国知识产权报记者采访时表 示,通过集体管理组织维权,作家零 成本投诉,由集体管理组织进行统一 调查取证,可以降低作家个人的维权 成本,提高维权效率,让更多的作家 和出版社分享维权成果。

目前联盟已经召集了22位作 家, 共有 95 部作品涉嫌被苹果应用 商店侵权。据贝志城介绍, 联盟在 2月份已向北京市第二中级人民法 院追加对苹果公司诉讼, 索赔金额 1100 余万元。

社址:北京市海淀区蓟门桥西土城路 6 号 邮编:100088 电邮:cipnews@vip.sina.com 记者部:82803956 编辑部:82803936 办公室:82803009 发行部:82034385 广告部:82034358 印刷:解放军报印刷厂