

China's IP in foreign eyes

Last year 66,000 intellectual property rights cases went to litigation in China, up 38% over 2010. Protecting copyright and smashing piracy has been a prime concern for Hollywood as it tries to make its way in the booming Chinese market. Recently the Chinese government has opened the doors to more Hollywood products within the quota system for foreign movies, and said it would redouble efforts to crush the pirates. (China steps up anti-piracy fight: IPR cases in court up 38%, by www.chicagotribune.com)

统计显示,去年中国的知识产权诉讼共 6.6 万起,比 2010 年同比增长了 38%。保护版权和打击盗版一直是试图在前景广阔的中国市场谋求发展的美国好莱坞最为关心的问题。



Two new Chinese LCD screens in Beijing's imposing Great Hall of the People will replace screens made by a Japanese competitor, in a sign of resolve to supply the world with Chinese brands containing homegrown intellectual property. The government is encouraging its companies to move up the value chain and develop margin-producing brands, partly as a matter of national pride but also to shift the world's second-biggest economy away from gritty, low-profit manufacturing. (China gives its homegrown brands a boost, by Reuters)

近日在北京人民大会堂亮相的两款“中国制造”液晶显示屏将取代日本竞争者生产的产品,象征着中国企业正将其拥有自主知识产权的产品推向世界。中国政府正在鼓励企业提升其价值链和发展具有高附加值的品牌,其初衷部分源自于民族自豪感,但更重要的是力图将中国这个全球第二大经济体从低附加值的生产

最近,中国政府已在进口电影配额制度下对越来越多的好莱坞产品敞开了大门,并表示将加倍努力粉碎盗版。(“中国加强反盗版斗争:知识产权诉讼同比增长 38%”,芝加哥论坛网站)

Comment:

It has been recognized that beating the pirates was crucial to help the Chinese film industry. This year the courts across China will pay special attention to the arts and movies, because China is vigorously promoting the development of culture and intellectual property protection is one of the key factors.

点评:

消灭盗版是助力中国电影业发展的重要因素,这已成为社会的共识。目前,中国正在大力推动文化大发展大繁荣,知识产权在这其中起着至关重要的作用,中国将进一步加大知识产权保护力度。

制造向产业链高端转移。(“中国大力推动自主品牌”,路透社)

Comment:

China wants to market brands internationally, not just “Made in China” products, even though there aren't many Chinese brands that are globally known shouldn't necessarily suggest that Chinese companies don't know how to brand. But creating recognisable brands has not been easy. Some brands have started to get international recognition, but most need more work.

点评:

中国还没有众多具备全球知名度的品牌并不一定代表中国企业不知道如何进行品牌营销,中国品牌还是渴望走向世界,而不仅仅是埋头生产打着“中国制造”标签的产品。但打造国际知名品牌绝非易事,中国企业任重而道远。

(by Correspondent Wang Weiwei from Canada)
(本报通讯员汪玮发自加拿大)

China boasts sharpest growth in PCT applications
中国 PCT 国际专利申请增速连续 3 年世界居首



According to the latest statistics released by the World Intellectual Property Organization (WIPO) on March 6, growth rate of applications originated from China has dwarfed for three straight years since 2009. China filed a total of 16,406 PCT applications in 2011, up 33.4%, sharpest in the world. The next two sprinters were Russia (28%) and the United States (21%).

Compared with incremental growth in the traditional industrial countries, China and other East Asian countries and some emerging economies are still riding an unwavering momentum. Following its debut in top 10 in 2005, China made the 6th (6,089) in 2008, 5th (7,946) in 2009 and 4th in both 2010 (12,337) and 2011. The 16,404 in 2011 was alone 10 times more than 1,706 in 2004.

With increased capacity in innovation, PCT patenting by tech-savvy Chinese companies is in high gear. Chinese telecommunications equipment giant ZTE and its cross-town archrival Huawei have been global front runners for four years in a row. Since reigning PCT patenting with 1,737 in 2008, Huawei has never been out of top four. In 2011, ZTE snuck to the top with 2,826, ousting Japan's Panasonic (2,463) and Huawei (2,463). The rapid growth in PCT filings reflects fruition of government policies in inspiring innovation and venturing out, according to analysts.

The global total of PCT filings

in 2011 was 181,900, up 10.7%.

(by Zhao Jianguo)

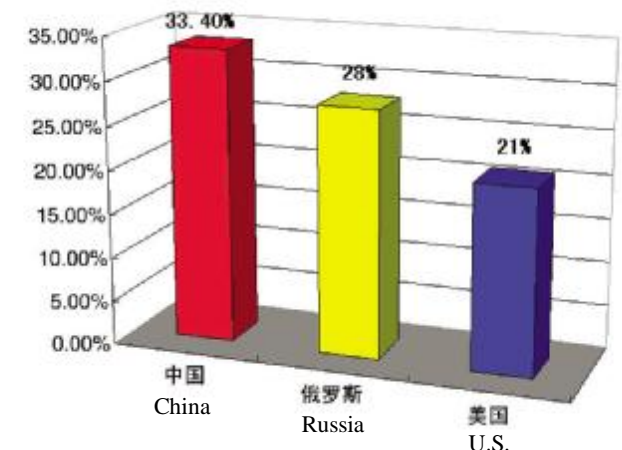
本报记者 赵建国

通过《专利合作条约》(PCT)途径提交的国际专利申请量,体现了区域或企业的创新能力、技术价值和市值。3月6日,来自世界知识产权组织(WIPO)的最新统计数据表明,中国提交的 PCT 国际专利申请量从 2009 年起,已连续 3 年增速位居世界首位。最新公布的数据显示,中国 2011 年国际专利申请量为 1.6406 万件,同比增长 33.4%,是全球增长最快的国家。增长率位居第二名的是俄罗斯,增长率为 28%,增长率位居第三名的是美国,增长率为 21%。

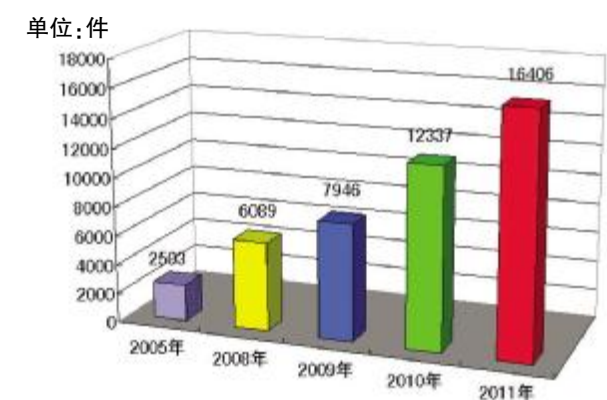
WIPO 的统计数据显示,在一些传统老牌工业国家的申请量增幅较小或略有下降的情况下,中国等一些东亚国家和新兴国家的申请量增长较快。2004 年,中国的 PCT 国际专利申请量为 1706 件,2011 年,中国的 PCT 国际专利申请量为 1.6406 万件,8 年间增长了近 10 倍。2005 年,中国以 2503 件 PCT 国际专利申请首次跻身世界前 10 名,2008 年以 6089 件跃居世界第 6 位,2009 年以 7946 件居世界第 5 位,2010 年以 1.2337 万件居世界第 4 位,2011 年保持了世界第 4 位的成绩。

近年来,随着中国企业自主创新能力的提升,PCT 国际专利申请量也在发生着令人瞩目的变化,尤其是华为技术有限公司(下称华为公司)和中兴通讯股份有限公司(下称中兴通讯)表现突出,近 4 年来跻身世界企业前列。2008 年,华为公司以 1737 件 PCT 国际专利申请首次跃居世界企业第一名,之后连年保持在前 4 名。而 2011 年,在企业提交的国际

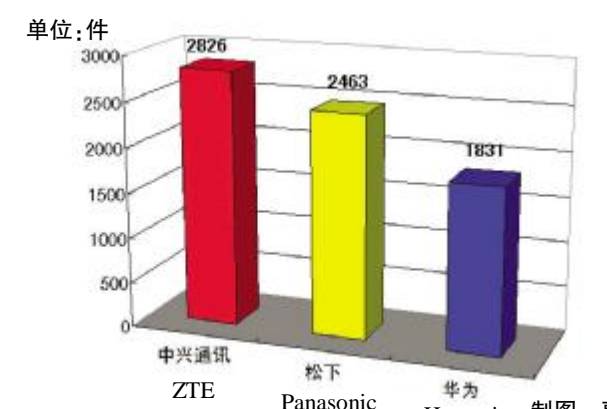
The top three countries in PCT application growth in 2011
2011 年 PCT 国际专利申请量增速前三强国家



The growth of China's PCT application
中国的 PCT 国际专利申请量增长情况



The top three companies in PCT application in 2011
2011 年 PCT 国际专利申请量前三强企业



专利申请中,中兴通讯以 2826 件首次位居世界第一;日本松下电器有限公司以 2463 件排名第二;华为公司以 1831 件排名第三位。有关专家认为,这体现了以中兴通讯、华为公司为代表的新一代中国创新型企业在国家知识产权战略和“走出去”战

略的指导下,正不断转变企业发展方式,着力提升自主创新能力,加大对外投资力度,扩大国际专利布局,在国际市场上开疆辟土所取得的成绩。来自 WIPO 的数据显示,2011 年全球提交的 PCT 国际专利申请量为 18.1900 万件,增幅达 10.7%。

Protecht, a model of standing its ground on foreign soil
通领科技:海外依法维权的典范

Speaking at the Symposium on IPR Aid for Local Enterprises, General Protecht Group Inc. (Protecht) President Chen Wusheng, said that Protecht had spent over 120 million yuan for the expensive legal cost during the seven-year vigorous patent defense. China should develop IPR dispute resolution mechanisms and enhance companies' awareness and capacity in coping with IPR issues in overseas markets, according to analysts.

Tough war

Protecht, the leading exporter of the electric leakage protection industry, has encountered a series of overseas patent litigations and “337 investigations” ever since its debut in the U.S. market in 2004, which obviously moved the cheese of local competitors who immediately pushed back.

After Protecht prevailed in the cases in 2005 and 2007, Leviton,

one of the leading electrical giants in the U.S., filed for “337 investigation” at the International Trade Commission (ITC) on September 3 2010, alleging infringement of its patent by Protecht and four other Chinese companies. ITC official formally took the case on October 5 of that year. Then on October 28, Protecht sued Leviton in New Mexico for breach of their July 2007 settlement agreement and sought damages. The court issued a preliminary injunction and ordered Leviton to withdraw its 337 case and the suspending case in the Northern District of California. Leviton then filed a reverse motion. On December 2, the court heard the case via teleconference and rejected Leviton's motion. Protecht tasted the fifth straight victory in overseas patent litigation.

Protecht also brought suits to court in China on July 16, 2008, alleged U.S.-based Pass & Seymour Inc. (P&S)'s factories in China infringing its patents. The defendant then brought actions before SIPO's

Patent Reexamination Board (PRB) on September 12, 2008 to invalidate the Protecht patents. PRB affirmed the validity of the patents. P&S then appealed to the Beijing No.1 Intermediate Court, which would sustain the first instance on June 15, 2011. The disgruntled P&S then appealed to Beijing High People's Court on June 30. We will follow the developments of the case.

Afterthought

“IPR has become a more important tool in market competition. You have IPRs, you have the core competitiveness.” Chen said, “enterprises should be aggressive in suit while strengthening their the capability of creation, application, protection and management of IPR.”

China should develop and improve IPR dispute resolution mechanisms. On the one hand, some authorities ought to strengthen support for the enterprises overseas and enhance Chinese businesses' awareness and capacity in coping with IPR is-

suues while operating in overseas markets. On the other hand, the interrelated industries or organizations should establish patent alliance, strengthen enterprises' capacity for self-generated R&D, ease their trade barriers together and sum up experience for local enterprises in doing business overseas in an effective way. (by Zhao Jianguo)

本报记者 赵建国

“7 年多来,通领科技集团有限公司(下称通领科技)在应对美国企业的专利诉讼纠纷中,费用超过 1.2 亿元。”3 月 11 日,在“知识产权保护与民族产业安全和创新——中国企业国内外维权案例剖析”研讨会上,通领科技董事长陈伍胜在接受中国知识产权报记者采访时,感叹企业海外维权之艰辛。有关专家学者认为,“走出去”的中国企业必须依法维护自身知识产权合法权益,有关维权机制亟待健全与完善。

历经艰辛的诉讼

通领科技是我国漏电安全保护产业出口美国市场的领军企业,

2004 年起以自主创新的专利产品打入美国市场,引发了美国同行业竞争对手的强烈抵制,遭遇多起专利侵权诉讼和美国“337 调查”等纠纷。

继通领科技 2005 年、2007 年连续在美国胜诉之后,2010 年 9 月 3 日,美国莱伏顿公司再次向美国国际贸易委员会(ITC)提出申诉,要求对通领科技等多家中国企业进行“337 调查”。美国国际贸易委员会于当年 10 月 5 日正式立案。当年 10 月 28 日,通领科技为了改变长期被诉的被动局面而采取“主动维权”的策略,以原告身份在美国新墨西哥州联邦法院起诉莱伏顿公司违反双方于 2007 年 11 月签订的和解协议的行为,并要求赔偿损失。2010 年 12 月 2 日,新墨西哥州联邦法院正式下达判决,要求莱伏顿公司撤销对通领科技的“337 调查”。2010 年 11 月,通领科技在美国取得了 6 年来第 5 场诉讼的胜利,创造了“五连胜”的辉煌。

在国内,通领科技也发起了法律诉讼。2008 年 7 月 16 日,通领科技起诉美国帕西姆在中国内地的代工企业侵犯自己的专利权。当年 9 月 12 日,被告向国家知识产权局专利

复审委员会(下称复审委)提出了通领科技涉案专利权无效宣告请求,复审委做出维持通领科技专利权有效的决定。2010 年 3 月 9 日,被告向北京市第一中级人民法院起诉复审委,通领科技作为第三人参加诉讼;2011 年 6 月 15 日,北京第一中级人民法院判决,维持复审委的裁定;2011 年 6 月 30 日,被告不服裁决,上诉至北京市高级人民法院。目前,此案仍在审理中。

值得思考的故事

“几年来与跨国公司的诉讼让我深刻认识到,知识产权已经成为市场竞争的重要工具和手段。”陈伍胜表示,对于诉讼,企业仍将积极应对,同时将继续提升自身知识产权的创造、运用、保护和管理能力。

“应进一步健全和完善支持企业海外维权的机制。”有关专家建议,一方面,有关部门应加大对“走出去”的中国企业的扶持力度,帮助企业提高应对外国诉讼的能力;另一方面,行业组织应发挥应有作用,组建专利联盟,推动企业增强自主研发能力,抱团出击破解贸易壁垒,积极探索民营企业海外维权的有效途径。

责任编辑:肖潇
Executive Editor: Xiao Xiao