

China's IP in foreign eyes

China is already the world leader in solar manufacturing and could lead shortly in wind turbines, in volume terms. But producers also aim to lead these sectors, winning the technology race to produce the highest value products, and not just make more stuff more cheaply.

中国已是世界领先的太阳能制造国,而且有可能很快在风能上也领先。但制造商们已不满足于以低成本制造更多产品,而是希望在行业技术竞争、高附加值产品生产方面也能够领先。

It's already a well-known fact that China is not only dominating in the manufacturing of solar technology, but also advancing in innovation (though so far Western companies are still ahead). This might be why the US realizes that it's time to update their policy, which is to focus on funding what they are good at innovation, rather than tariff protection.

点评:

尽管在目前看来西方企业仍然在技术创新上保持领先,但众所周知的是,中国不仅主导着太阳能生产制造,也正在技术创新上大步前进。也许这就是为什么美国人需要改变其政策,即更多地关注创新,而非关税保护。

Imports of Chinese auto parts have been surging into the United States at an annual growth rate of 28 percent over the past seven years. If China is successful in implementing its latest five-year economic plan that targets a 35 percent annual growth rate in auto parts production, the United States auto trade deficit with China could top \$100 billion by 2020 - a conservative estimate.

在过去7年,中国汽车零部件以28%的年均增长率迅速进入美国。如果中国成功实施最新的5年经济发展规划,即实现汽车零部件生产35%的年均增长目标,那么,保守估计,到2020年美国汽车业对华贸易赤字或将突破1000亿美元。

Comment:

The U.S. feels uneasy about the rapid increase in the importation of Chinese auto parts, and it claims that China undertakes "unfair trade". This accusation reflects the growth of China's manufacturing industry. For Chinese enterprises, the fundamental way to refute this groundless accusation and avoid the "unfair trade" fiction, is to continue adding technological value to its products, enhancing brand awareness, and improving the overall level of the industry.

点评:

美国对中国汽车零部件出口大幅增加感到不安,并声称将对中国采取“不公平”贸易调查。“指责”的背后,是中国制造业的壮大。但对中国企业而言,反驳无理指责、避免贸易摩擦的根本办法,是继续提高产品技术含量,强化自主品牌意识,依靠自主知识产权打造产业核心竞争力,进一步提升产业的整体水平。

(本报通讯员汪玮玮发自加拿大多伦多)



Why Silk Street trapped in astronomical infringement suit?

“秀水”缘何遭遇天价侵权诉讼?

Customers patronizing the Silk Street Market may still be struck by its imposing banner "Safeguard IPR", they have no idea the market is right in the middle of a series of trademark infringement disputes.

Silk Street Market is sued again

On February 7, Beijing No.2 Intermediate People's Court accepted an infringement case concerning 56 trademarks filed by five foreign luxury goods manufacturers including Louis Vuitton, Chanel, Burberry, Gucci and Prada. Joining the market at the defense table are Beijing Xin Ya Sheng Hong Real Estate Development Company and some 10 shops in the market. The five designer brands seek 28 million yuan in damages.

The five plaintiffs based their lawsuit on the notarized counterfeit goods respectively bought in the market from 2008 to 2010. The 10 shops were specifically accused of infringing their trademarks on the ground of distributing counterfeit goods in the market.

Both sides give their story

The five right holders assert, as the manager of the market, the Silk Street Market Company has the right and duty to oversee the business activities within the premises, which it apparently failed to oblige on top of facilitating the infringement activities of the shops. The landlord, Beijing Xin Ya Sheng Hong Company is accused of condoning the sale of counterfeit goods. Both of them shall assume indirect liability for their intentional act.

"The dispute between five right holders asserts and Silk Street Market has been existing since 2005. For the 56 suits, each plaintiff seek 500,000 yuan in damages for each suit", said Luo Zhengzhong, the agent of above five manufactures. For the detail of the case, however, she refused to disclose citing she was not authorized.

"Since the operation of the new Silk Street Market in 2005, it has been proactively sweeping away trademark infringement and taking measures to safeguard the interests of brand owner by establishing IPR protection fund, providing free-of-charge International Consumption Ticket for brand owners, and trying to filing a '1+5' IPR protection cooperation mode to brand owners like the above 5 manufactures, so in no sense it provides convenience for trademark infringement", said Zhang Yongping, the president of Silk Street Market.

Prior to the lawsuit, the five manufactures sent several warning letters to the market through their attorneys and informed on the existence of trademark infringement activities between 2008 and 2010. The

market then launched surprise raids on the shops in question and found nothing as in the warning letter. The market then responded and requested substantial evidences from the plaintiffs, who never replied, also according to Zhang Yongping.

Age-old disputes

Actually, the Silk Street Market is no stranger in such case. Since 2005, the market has made several trips to the defense stand.

In September 2005, the five foreign luxury-brand manufacturers Louis Vuitton, Chanel, Burberry, Gucci and Prada brought Silk Street Market Company to the court. It was the first time that the market was accused of infringement since its operation in 1985. In April 2006, Beijing High Court rendered its final decision and order Silk Street Market and several shops in the market to indemnify 100,000 in damages.

From April to August 2008, the above 5 manufacturers filed a series of 24 suits against the market and several shops for distributing goods counterfeiting their brands, and requested the court to order the two defendants to assume joint liability. On December 2, 2008, under the auspices of Beijing No.2 People's Court, the five manufactures concluded a reconciliation agreement with the Silk Street Market, including such terms like urging Silk Street Market Company to perform its management and supervision responsibilities.

Establishing long-term IPR protection mechanism

"As this case shows us, we could see that Silk Street Market is an influential market in China and abroad, and intensify IPR protection is of great significance to safeguard its fame and image. On the other hand, it also suggests a need for building a long-term IPR protection mechanism", said Li Shunde, the director of Law and IP Institute of China Academy of Sciences.

On the one hand, the Silk Street Market has been making great efforts to protect IPRs for years, including establishing IPR protection fund, giving international consumption ticket, shutting down suspected stalls for selling counterfeits. On the other hand, the problem of infringement did exist, which can not be solved by launching IP enforcement campaign once or twice, it need a long-term and unremitting efforts. From 2010 to 2011, China launched a special campaign on cracking down IP infringement and selling and distributing counterfeit goods, and it delivers. So Silk Street Market must do more and take measures to translate IPR protection into its daily business operation. Only in this way



can Silk Street Market pass the tests and advance. (by Yang Qiang/Xiao Xiao)

本报记者 杨强 肖潇

北京秀水市场所悬挂的“捍卫知识产权”宣传标语尽管依然醒目,但其却正身陷一轮大规模的商标侵权诉讼中。

再陷诉讼泥潭

2月7日,记者获悉,北京市第二中级人民法院于日前受理了由路易威登马利蒂公司、古乔古希股份公司、香奈儿股份有限公司、勃贝雷有限公司、普拉达有限公司等5家公司提起的56件商标侵权诉讼,被告有秀水市场、北京新雅盛房地产开发有限公司以及秀水市场的10余家商户。据悉,5大品牌权利人共计索赔人民币2800万元。

双方各执一词

5大品牌权利人认为,秀水市场作为市场管理者,有权利和义务对市场内商户的经营行为进行管理,但其并未充分尽到其应承担的经营管理责任和监督责任,为其商户的侵权行为提供了便利条件,应承担连带责任。而作为秀水市场经营场所房屋所有者的新雅盛公司,则被诉纵容涉案侵权行为,与秀水市场在主观上具有共同侵权故意,亦应承担连带责任。

据上述5家公司的共同委托代理人罗正红律师介绍,5大品牌与秀水市场间关于商标侵权的纠纷自2005年以来一直存在,此次的56件诉讼案,各原告索赔金额均为每件50万元,而对于涉案具体情形,罗正红以“未得到客户授权”为由,未予回应。

就上述案件,秀水市场董事长张永平在接受中国知识产权报记者采访时表示,2005年新成立的秀水市场成立以来,一直在积极主动地肃清市场内的商标侵权行为,并曾采取过成立知识产权保护专项基金、免费为权利人提供秀水市场“国际消费券”以及试图与上述5大品牌为代表的品牌权利人提交“1+5”知识产权保护合作模式等方式维护品牌权利人利益,因此不可能存在“为侵权行为提供便利”的行为。

曾于2008年至2010年期间,多次委托代理人向秀水市场发出警告函,告知其市场内存在侵犯原告商标专用权的行为。秀水市场收到信函后,对所涉商户及市场进行了突击检查,却并未发现警告函中反映的问题。秀水市场据此回函,并希望对方能够提供相关证据材料,但最终未收到任何回应。

纠纷由来已久

实际上,秀水并不是第一次面临这样的诉讼,自2005年起,秀水便屡遭侵权诉讼,并数次站在法庭的被告席上。

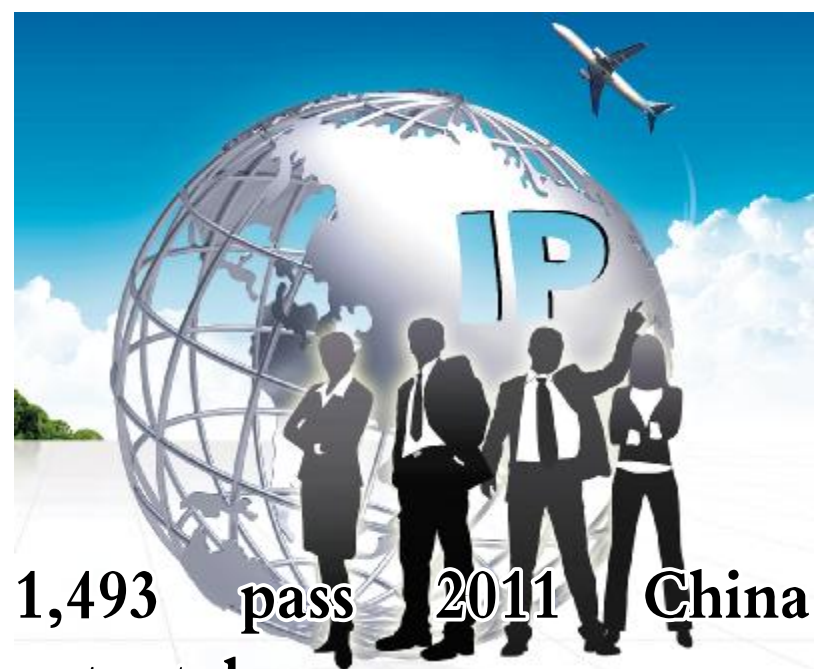
2005年9月,路易威登马利蒂公司、古乔古希股份公司、勃贝雷有限公司、普拉达有限公司和香奈儿股份有限公司5家外国著名奢侈品制造商将秀水街公司告上法庭,这是秀水市场自1985年开办以来第一次因销售仿冒品被指控侵权。2006年4月,该案经北京市高院终审,秀水市场及其商户共同赔偿5家原告10万元。

2008年4月至8月期间,上述5家公司与秀水市场因其部分商户重复销售侵犯其商标权的商品而再次发生纠纷,并分别向北京市第二中级人民法院提出合计24起诉讼,5家公司请求判令秀水市场及其商户共同承担侵权责任。2008年12月2日,5家公司与秀水市场在北京市第二中级人民法院的主持下签订《和解协议书》,其中内容有“通过该协议督促秀水街公司履行其经营管理责任和监督责任”。

建立长效机制

中国科学院研究生院法律与知识产权系主任李顺德在接受中国知识产权报记者采访时表示,透过这个案件,可以看出,一方面秀水市场在国内外影响较大,加强知识产权保护,对维护秀水市场的商誉信誉及整体形象具有重要意义;另一方面也表明建立完善知识产权保护长效机制势在必行。

李顺德表示,多年来,秀水市场在知识产权保护方面确实做出了巨大的努力,包括建立知识产权保护专项基金、推出知识产权保护“国际消费券”、清退涉嫌侵权等;但另一方面,问题确实存在,这些问题不是一次两次打假行动就可以解决的,还需要有长期的、坚持不懈的努力。2010年至2011年,我国开展了打击侵犯知识产权与制售假冒伪劣商品专项行动,取得了显著的成效。在发展的过程中,秀水市场应该付出更多努力,采取更多措施,把各项知识产权保护工作常态化,唯有此才能经受考验并且获得更大的发展空间。



1,493 pass 2011 China patent bar exam

1493人通过2011年中国专利代理人资格考试

On February 6, 1493 examiners passed the 2011 China patent bar exam, up 9%. According to relevant regulation, some 188 Taiwan residents took the exam for the first time and 17 residents passed the exam, sources from SIPO said.

It is the 13th exam organized by SIPO and the third one after SIPO unveiling its program for reforming the exam. Some 13,854 patent attorney prospects registered for the exam, up 16.9%. In parallel, the number of exam centers increased from 15 in 2011 to 18, which is another record.

Through the exam, China further standardized the patent bar qualification approval and facilitates the flourishing of patent bar. As of the end of 2011, 12,291 had obtained patent attorney qualification, 7,220 of which earned their certi-

cate for actual practice in the 869 patent firms. (by Zhao Jianguo)

本报讯 2月6日,记者从中国国家知识产权局获悉,2011年中国专利代理人资格考试合格分数线已经确定,此次全国共有1493人通过考试,同比增加9%。根据有关规定,有188名中国台湾地区居民首次参加了2011年全国专利代理人资格考试,通过考试人数17人。

据介绍,此次考试是国家知识产权局举办的第13次全国专利代理人资格考试,也是国家知识产权局公布全国专利代理人资格考试改革方案后举办的第3次考试,获准报考的全国考生有1.3854万人,同比增长16.9%,为历年来最多。同时,2011年全国专利代理人资格考试考点从去年的15个增加到18个,考点数量为历年最多。

据悉,中国通过实施专利代理人资格全国统一考试制度,进一步规范了专利代理执业资质审批工作,促进了专利代理人队伍蓬勃发展。截至2011年底,全国共有1.2291万人获得专利代理人资质,其中7220人领取专利代理执业证,审批设立专利代理机构869家。(赵建国)

责任编辑:肖潇 Executive Editor: Xiao Xiao