

China's IP in foreign eyes



As China grows richer, life is growing harder for fakers. A recent study of China's luxury market by Bain, a consultancy, concludes that "demand for counterfeit products is decreasing fast."

随着中国日渐富裕,造假者的日子越来越不好过了。贝恩顾问公司关于中国奢侈品市场的一项研究显示,假冒伪劣产品的需求量正在迅速下降。

With the government putting over \$50 billion into clean energy R&D every year, China has become a global hub for energy innovation. China's twelfth five-year-plan, introduced in 2011, added goals for developing clean technology indigenously.

随着政府每年超过500亿美元的清洁能源研发投入,中国已成为全球能源创新中心。中国第12个“五年计划”增加了发展本土清洁能源技术的目标。

For clean energy enthusiasts, China has become the main event, as the country that uses more energy and emits more greenhouse gases than any other on earth. However, what is happening now in China is not the same old cautionary tale

国消费者与假冒说分手”(《经济学家》杂志) Comment: Not long ago, Chinese customers applauded the fakers for saving them money, now they scorn them. Fake goods in China are no longer popular.

曾经为了省钱买假名牌的时尚行为,如今却成了遭到蔑视的低级之举,假冒伪劣在中国已不再流行。富裕起来的中国消费者开始认识和认可品牌的真正价值,知识产权保护意识正在中国社会生根发芽。

点评:

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of dirty development. China is taking challenges in green technology, which has proved its commitment to, and ability in, energy innovation and sustainable development.

点评:

中国的能源使用和温室气体排放一直是能源和环保观察家关注的重点。但如今发生在中国的事情,已不再是一个陈旧的牺牲环境换取经济发展的警示故事。中国在绿色科技领域所接受的挑战,已证明了其致力于能源创新和可持续发展的决心和能力。

EXPRESS

Fengbaomafeng vs BMW Free rider falls off the horse

“丰宝马丰”算不算搭“宝马”便车

On December 2011, in its ruling over the trademark infringement and unfair competition case against Guangzhou Century Baochi Clothing Company, Beijing No.2 Intermediate People's Court granted injunctive relief and monetary relief of 500,000 yuan to the Germany-based BMW AG.

It represented another victory for BMW after litigation against Century Baoma Company.

Stumble

Shenzhen Century Baoma Clothing Company, the brand owner of Century Baoma, was registered in December 2004. The trademark of its main product is MBWL and figure under No.3249546, which was registered by a company with the name Germany Century Baoma Group.

For Century Baoma Company's action of alternating blue and white design of "MBWL" trademark which was quite similar to that of the "BMW" trademark. In addition, the trade name of Century Baoma Group contained the two characters for "Baoma", which constituted trademark infringement and unfair competition.

Both parties did not appeal. As the ruling took effect, Century Baoma changed its name to Fengbaomafeng.

It is worth mentioning that in 2009 the Trademark Review and Adjudication Board (TRAB) under the State Administration for Industry and Commerce also rendered a decision ordering that the trademark of "MBWL & Device" under No.

3249546 be cancelled from leather shoes, clothes and caps and but allowed it to be maintained in other goods, such as ties.

Repeat

The Century Baochi Company was established in November 2009, and expanded its market after obtaining the trademark of Fengbaomafeng and Figure under No. 4719183 from Centruy Baoma group in April 2010. In February 2011, Beijing No.2 Intermediate People's Court took the trademark infringement and unfair competition case between the two companies.

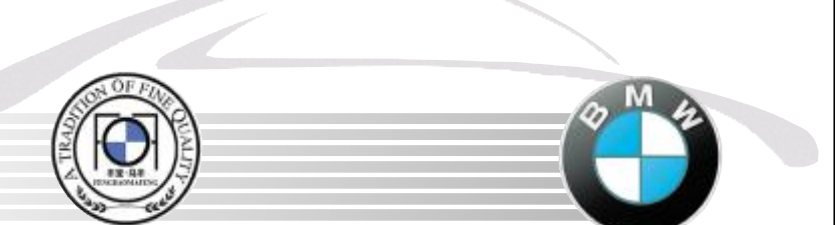
BMW held that it has obtained the priority right in automobile and clothes, and Century Baochi constituted trademark infringement on the ground of using the blue and white design of trademark similar to BMW trademark in clothes, clothing label, brochures and website. The Century Baochi denied the accusation by arguing that it has been licensed for using the trademark and character by Century Baoma Group.

The Court held that the blue and white design of Century Baochi trademark was quite similar with that of the "BMW" trademark, which could cause confusion among the public. In addition, Century Baochi company's action of using the characters Century Baoma Group in advertisement is likely to confuse and mislead consumers as to the sources of the goods. The above action constituted trademark infringement and unfair competition.

So the court granted injunctive relief and monetary relief of 500,000 yuan to BMW Group. It is learned that both the two sides filed an appeal recently. We would follow the developments of the case. (by Cui Wenyu)

本报记者 崔文字

2011年12月,“丰宝马丰”品牌运营商广州世纪宝驰服饰有限公司



公司(下称世纪宝驰公司),在一起民事诉讼中被北京市第二中级人民法院(下称北京二中院)一审判决构成对他人的商标侵权及不正当竞争。这起案件中的原告就是以“宝马”汽车而驰名世界的德国宝马股份有限公司(下称宝马公司)。

这是宝马公司继此前与“世纪宝马”的诉讼中获胜后,又一次取得了维权胜利。

马失前蹄

据公开资料显示,“世纪宝马”原运营商深圳世纪宝马服饰有限公司(以下简称世纪宝马公司)注册成立立于2004年12月,其主打产品商标为注册号为第3249546号的“MBWL及图”商标。该商标的所有权为一家名为德国世纪宝马集团有限公司(以下简称世纪宝马集团)的企业所有。

2008年8月,因认为“世纪宝马”商标原运营商世纪宝马公司擅自将其拥有的注册号为第3249546号的“MBWL及图”商标变形填色使用,使该标识与宝马公司图形商标近似,以及世纪宝马公司擅自使用带有“宝马”文字的企业字号等对其构成商标侵权及不正当竞争,宝马公司于2008年8月针对世纪宝马公司发起维权诉讼。2009年12月15日,湖南省高级人民法院就该案作出判决,世纪宝马公司商标侵权及不正当竞争行为成立。

该判决作出之后,原被告双方均未提出上诉。随着这一判决的生效,“世纪宝马”逐渐淡出市场。“丰宝马丰”则以后来者的身份出现在服装行业。

值得注意的是,在2009年该案进行审理期间,国家工商行政管理总局商标评审委员会亦就宝马公司于

2005年针对第3249546号“MBWL及图”提起的商标争议作出裁定,认为该商标与宝马公司在同类别商品上在先注册的图形商标构成近似商标,其在服装、皮鞋、帽等商品上的注册予以撤销,在领带商品上的注册予以维持。该争议裁定后历经行政诉讼后被终审维持。

重蹈覆辙

世纪宝驰公司成立于2009年11月,于2010年4月从世纪宝马集团获得第4719183号“丰宝马丰及图”商标的授权并开始进行市场拓展。面对后继而来的又一匹“马”,宝马公司意欲再次通过司法诉讼形式予以拦截。2011年2月,北京二中院受理了这起商标侵权及不正当竞争案件。

此番宝马公司仍将其在汽车用品和服饰商品上拥有在先权利的图形商标作为重要权利依据,并据此诉称世纪宝驰公司在其服装、服装吊牌、宣传图册及网站等处使用蓝白相间图形、“丰·马·丰”等标识对其该商标构成商标侵权。面对指控,世纪宝驰公司则辩称其使用上述标识及字号已获得世纪宝马集团授权,具有合法基础。

法院经审理认为,世纪宝驰公司使用蓝白相间图形与宝马公司图形注册商标构成近似商标,容易造成消费者混淆误认,世纪宝驰公司使用上述标识行为构成商标侵权。法院同时认为,世纪宝驰公司在相应产品及宣传中使用“世纪宝马集团”字号,容易导致相关公众混淆或误认,意在利用宝马公司商誉非法获利,其行为构成不正当竞争。

根据北京二中院一审判决结果,世纪宝驰公司应停止相应侵权及不正当竞争行为,并赔偿原告经济损失50万元。据悉,针对该一审判决,宝马公司及世纪宝驰公司均于日前提起了上诉。本报将继续对此案的进展予以关注。

China's first copyright evaluation center operational in Beijing 北京:全国首家版权专业评估中心成立

The first copyright evaluation center of its kind in China was operational at the National Copyright Exchange Base of Renmin University of China, representing China has experienced the transition from fundamental research to practice in copyright evaluation. The center provides an important approach for copyright trading, financing and dispute settlement.

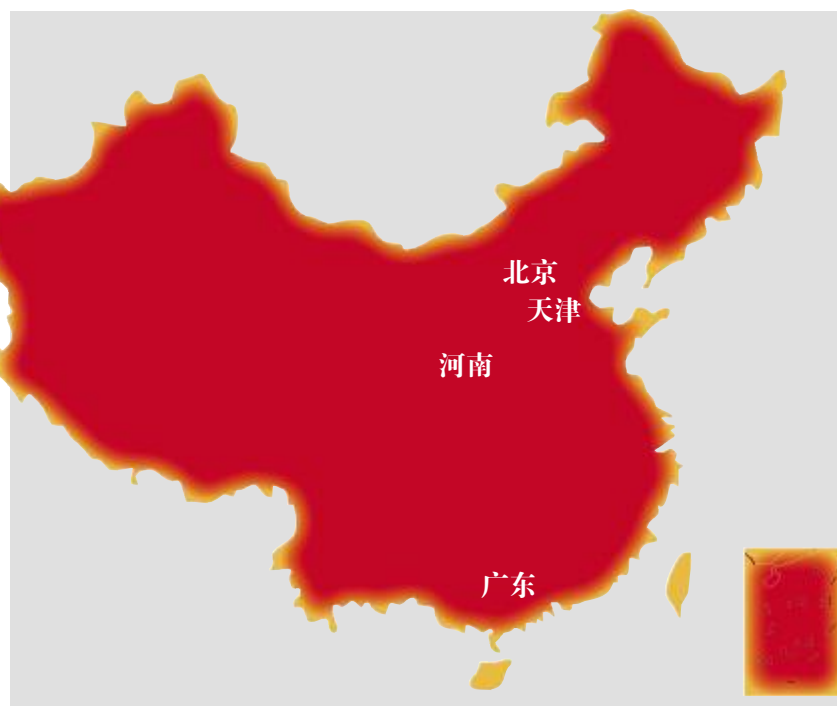
(by Liu Ren) 本报讯 1月6日,中国人民大学国家版权贸易基地成立中国首家专业版权评估中心,此举标志着我国

责任编辑: 向利 Executive Editor: Xiang Li

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Guangdong industry and commerce administration join forces with Customs in IPR cooperation 广东:工商和海关加强知识产权合作

Guangdong Administration for Industry and Commerce signed an agreement on strengthening IPR protection with Guangdong Customs, deciding to cooperate in six areas such as establishing IPR protection working and meeting system. Both sides decide to hold a meeting every six months to summarize and discuss working plan. (by Gu Qizhi/Zhang Jing)



本报讯 日前,广东省工商行政管理局与海关总署广东分署签订了《关于加强知识产权保护合作的协议》,决定在确立知识产权保护工作联系、会晤制度等6个方面开展通力

合作,形成知识产权保护合力。双方决定,省工商局和海关广东分署每半年会晤一次,总结相关情况,讨论合作计划。(顾奇志 张璟)

Tianjin strive to increase invention patents per 10,000 heads to 10+ 天津:力争2015年每万人拥有发明专利超10件

Tianjin recently formulated its 12th Five Year Plan for patent, setting lofty goals such as over 10 patents per 10,000 populations, at least 30% tech SMEs owning a patent and 10,000 companies involved in patenting. As of the end of the 11th Five-Year Plan, the number of invention patents per 10,000 heads stood at 5.1.

(by Cui Jingsi/Ning Weihong) 本报讯 日前,《天津市“十二五”专利工作规划》出台,规划设定了天津市专利工作的相关目标和指标,其中提出,到2015年,天津市每万人发明专利拥有量突破10件,拥有专利的科技型企业超过30%,有专利申请的企业数达到1万家。截至“十一五”末,天津市每万人发明专利拥有量已达5.1件。(崔静思 宁卫红)

Henan mediates 26 mass patent infringements 河南:成功调处26起群体性专利纠纷

In 2011 end, Henan IP Office, Henan Provincial Public Security Bureau and other two authorities cracked down on activities infringing designs in wood carving statues of Nanjie Village Crafts Company, Luohe City, Henan Province. Zhenzhou IP Office mediated 26 patent dispute cases relating to five private businesses in merely one month.

(by Li Jianwei/Ma Weidong/ Yue Xiuke) 本报讯 前不久,河南省知识产权局、省公安厅等4部门联合开展行动,集中查处了郑州市涉嫌侵犯漯河南街村工艺品有限公司木雕佛像外观设计专利权的产品。郑州市知识产权局仅用了1个月时间,就集中调解处理了这26起涉及5家商户的26起专利侵权纠纷。(李健伟 马卫东 岳修科)