

CHINA **REPORT**

2012 年 1 月 11 日 January 11, **20**12

星期三出版 Published on Wednesday

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英文审校:崔卫国 English Reviser: Cui Weiquo INTELLECTUAL PROPERTY

China's IP in foreign eyes

ollowing China's accession to the WTO, China is in the process of revising its legal regime and updating a comprehensive set of laws and regulations aimed at protecting the intellectual property rights of domestic and foreign entities in China. (2011 Report to Congress On China's WTO Compliance, by United States Trade Representative)

随着中国加入世界贸易组织,中 国正处于努力修订其法律制度和更 新旨在保护国内外知识产权主体的 法律法规的全面进程中。("关于中国 执行 WTO 规则情况的 2011 年度国 会报告","美国贸易代表委员会"官 方网站)

The report, statutorily mandated by the U.S. Congress, highlights the status of China's ongoing work in areas such as intellectual property rights, industrial policy, agriculture, services and transparency. In IPR issues, the report recognizes China's improvement in intellectual property protection, and pays more attention to IPR enforcement. This remains a big challenge for China in the fu-

点评:

在知识产权问题上, 由美国国 会法定授权的这份报告在对中国知 识产权保护成果进行肯定的同时, 对中国知识产权执法格外关注—— 这或将成为中国未来面临的一项挑

hina's spending on R&D has increased steadily from about 0.6% of GDP in 1995 to about 1.6% in 2011. R&D as a percent of GDP has remained fairly stable over the past five years for the U.S. (2.7%), Japan (3.2%), and the total Organization for E conomic Cooperation and Development or OECD (2.2%). (2012 Global R&D Funding Forecast: China's R&D Momentum, by Advantage Business Media)

中国在研发方面的投入一直在稳 步增长,从1995年约占国内生产总值 的 0.6%上升为 2011 年的约 1.6%。同 时,美国、日本和世界经济合作与发展 组织的这一比例在过去5年内一直保 持稳定,分别为 2.7%、3.2%和 2.2%。(摘 自"2012年全球 R&D 投入预测:中国 冲力",《优势商业媒体》)

Compared to developed countries like the US and Japan, China's R&D as a percent of GDP remains small, but its rapid growth trend is impressive. The growth comes from the growing atmosphere of independent innovation in China; this growth re sults in an increase in intellectual property ownership. In the field of technological innovation, China is un dertaking an unprecedented effort.

与美、日等发达国家相比,中国在 研发方面的投入占国内生产总值的比 例虽尚存差距,但其高速增长的态势却 令人印象深刻。"增长"的源头,是中国自 主创新土壤的日渐肥沃;"增长"的结果, 是知识产权拥有量及其品质的提升。 (by Correspondent Wang Weiwei from Toronto, Canada)

(本报通讯员汪玮玮发自加拿大



EXPRESS

Unilever wins namesake trademark registration battle "丽仕"受制"力士"遭撤销



he case between Unilever and a natural person Ma Jihui has made new progress recently. Unilever told us that the Trademark Review and Adjudication Board (TRAB) under the State Administration for Industry and Commerce (SA-IC) revoked Ma's registration of No. 5210730 trademark "丽仕" recently.

Ma filed suit on August 2010, challenging Unilever and its distributors over infringement of his trademark "丽住" to the Guangzhou Baiyun District People's Court.

In 2006, Ma applied for registration of trademark for "丽仕", certified to be used on Class 3, the good of shampoo and obtained registration in 2009. He belived that Unilever used the disputed trademark "麗仕" on the same kind of products which infringed his trademark right.

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However, before Ma, the trademark holder of "丽仕", made his move, Unilever had lodged an opposition to the TRAB on the ground of similarity to its registered trademark of "力士" in April 2010.

Based on the evidences furnished by Unilever, TRAB held that the two trademarks were similar in appearance and pronunciation and used on the same products. In addition, "力士" had high reputation and the trademark of "丽仕" would easily cause confusion among consumers. So ordered.

(by Xie Huandong) 本报讯 联合利华公司与自然 人马继辉之间有关"丽仕"商标的博 弈 (本报曾于 2011 年 9 月 9 日第 5 版进行过相关报道) 又有最新进 展。日前,记者经当事人方面证实,商 评委已裁定撤销第 5210730 号"丽 仕"商标。

据介绍,2010年8月,马继辉以 侵犯其"丽仕"商标专用权为由,将联 合利华公司及其经销商诉至广东省 广州市白云区人民法院。

马继辉的权利依据系一件商标 注册分类第3类洗发液等商品上的 "丽仕"商标,该商标申请于 2006年, 于 2009 年 9 月确权。马继辉认为,联 合利华公司未经许可, 在其生产、销 售的同类商品上使用"麗仕"标识涉 嫌对其构成商标侵权。

而在联合利华公司在被推上被 告席之前,2010年4月,该公司亦凭 其在先注册的"力士"商标,对马继辉 所有的"丽仕"商标提出撤销争议申 请。联合利华公司认为"丽仕"与"力 士"构成在同类商品上的近似商标, 并且"丽仕"商标的注册构成对"麗

仕"商标的复制,损害了其公司利益。 近日,商评委就该案做出裁定认 为:依据联合利华公司提交的相关证 据,在"丽仕"商标申请之前,"力士" 商标已有一定知名度,并且"丽仕"和 "力士"商标文字呼叫相同,指定商品 相同或近似,"丽仕"商标的申请注册 容易引起相关消费者的混淆和误认。 据此,裁定撤销"丽仕"商标。

1.633 million patent applications received in 2011

2011年中国受理专利申请逾163万件

ccording to the latest statistics, SIPO received a total of 1.633 million applications in 2011, up 33.6% year on year. Among the patent applications received in 2011, there were 526,000 inventions, up 34.5%; 585,000 utility models and 522,000 designs. SIPO also granted a total of 961,000 patents, up 17.9%, among them, 172,000 were inventions, up 27.4%, 408,000 and 381,000 were utility models and designs, respective-

As of the end of 2011, China had housed cumulatively 2.74 million valid patents, up 23.6%. In terms of types of valid patents, there are 697,000 inventions (up 23.4%), 1.121 million utility models and 922,000 designs. Among the valid inventions, 351,000 were owned by domestic users, representing 50.4% of the total. China's mainland's invention patents per 10 thousand heads rose to 2.37.

What is noticeable is that in 2011, as a receiving office of the PCT, SIPO received 17,473 PCT applications, up 35.3%. With rapid growth of PCT filings, more Chinese companies are now eyeing on oversea markets and patenting abroad through strengthening their capabilities in independent innovation to improve core competitiveness in the international market competition, according to analysts.

"Chinese patents received and granted in 2011 maintain rapid growth. The structure of the three types of patent applications optimized All the promising trend benefited from implementing the National IP Strategy successfully, being highly concerned and vigorously supported from gov-

ernment, developing and announcing effective policy measures, providing reward for local organizations and individuals filing patents and IP awareness being enhanced. China overcame a handful of difficulties and negative impact of international financial crisis. China made palpable achievement in various lines of work which provided a good basis for patent filings ", according to Li Shunde, the director of Law and IP Institute of China Academy of Social Sciences. (by Xiao Xiao/ Li Fengxin/Tian Yu)

本报讯 163.3 万件! 2011 年,中 国受理的三种专利申请量定格在这 一数字上,同比增长33.6%。其中,发 明专利申请52.6万件,同比增长 34.5%, 实用新型专利申请 58.5 万件, 外观设计专利申请 52.2 万件;三种专 利授权量共96.1万件,同比增长 17.9%, 其中, 发明专利授权 17.2万 件,同比增长27.4%,实用新型专利授 权 40.8 万件, 外观设计专利授权 38.1万件。有关专家表示,中国知识 产权拥有量增长迅速,表明国家政策 激励和创新主体发力成为两大推力。

据中国国家知识产权局最新统 计数据显示,截至2011年年底,中国 有效专利共计 274.0 万件,同比增长 23.6%, 其中, 有效发明专利 69.7 万 件,同比增长23.4%,有效实用新型 专利 112.1 万件,有效外观设计专利 92.2 万件。在有效发明专利中,国内 拥有 35.1 万件,占总量的 50.4%。国 内(不含港澳台)每万人口发明专利 拥有量达到 2.37 件。

值得关注的是,2011年,中国受理 的通过《专利合作条约》(PCT)途径提 交的国际专利申请 1.7473 万件,同比 增长35.3%。有关专家认为,中国受理 的 PCT 国际专利申请增长迅速,位居 世界前列,这体现出在实施"走出去" 战略中,依靠自主知识产权提升核心 Patent applications of three kinds recieved by China from 2007 to 2011 2007 年至 2011 年中国受理的 3 种专利申请量



Invention Patent application recieved by China from 2007 to 2011



曹可欣 制图

竞争力已成为中国企业的共识。 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,2011年, 中国专利申请与授权量继续保持快 速增长的态势,三种专利申请结构更 加优化,尤其是发明专利申请增速明 显。这些喜人态势的出现,得益于中 国国家知识产权战略的深入实施;得

益于各级政府的大力支持,出台各种 政策措施,对于专利申请给予资助和 奖励;得益于中国企业知识产权意识 的提升与知识产权战略的实施。同 时,在国际金融危机持续动荡的形势 下,中国经济仍保持向上发展态势。 实现了稳步增长,这也为中国专利申 请量的增长打下了良好的基础。

(肖潇 李凤新 田屿)

China's examination pendency for trademark shortened to 10 months 中国商标申请审查周期缩至 10 个月

ince 2011, the Chinese Trademark Office has improved trademark examination efficiency and nowadays, examination period for trademark has been shortened to 10 months. Duration for processing disputes dropped below 18 months, according to a system-wide meeting of administrations for industry and commerce.

Back in 2008, the State Administration for Industry and Commerce

(SAIC) applied a series of measures to quicken trademark examination. By the end of the year 2010, the period was shortened to one year and the backlog problem was history. In 2011, SAIC also consummated trademark examination system and enhanced online application work.

It is informed that the examination period for trademark in the developed countries like the United States and Japan is around 10

(by Zhang Haizhi) 本报讯 日前,记者从在北京召 开的中国工商行政管理工作会议上 获悉,2011年以来,中国工商部门继 续提高商标审查效率,商标申请审查 周期进一步缩短至10个月,异议和 争议案件审理周期控制在18个月以

内,达到国际水平。 据了解,面对商标审查积压问 题,2008年,中国国家工商行政管 理总局商标局采取一系列措施加

快商标审查。到 2010 年底,中国商 标审查周期已缩短至1年之内,彻 底解决了国内外广泛关注的商标 审查积压问题。而 2011 年以来,中 国国家工商行政管理总局商标局 进一步采取措施提高商标审查效 率,除继续加快审查外,还着手建 立完善商标审查体系,做好网上商 标申请工作。

据悉,目前美国、日本等发达国 家的商标审查周期一般在10个月左

INUMBERS

2.37

As of the end of 2011, China housed 351,000 domestic invention patents, accounting for 50.4% of the total. China's mainland has 2.37 invention patents per ten thousand popu-

2.37 件

截至 2011 年底,中国拥有国内 发明专利35.1万件,占总有效量的 50.4%;国内(不含港澳台)每万人口 发明专利拥有量达到 2.37 件。

As of the first half of 2011, China had received a total of 1.364 millionpatent applications in the IT field.

136.4 万件

据统计,截至2011年上半年,在 信息技术领域提交的中国专利申请 总量达到 136.4 万件。

15,695

In 2011, Patent Reexamination Board under SIPO received 15,695 cases for reexamination and invalidation, 12,946 of which were for reexamination and 2,749 were for invali-

1.5695 万件

2011年,国家知识产权局专利 复审委员会共受理复审及无效案件 1.5695 万件, 其中复审案件有 1.2946 万件,无效案件受理量达到 2749件。

1.0749 million

As of the end of November 2011, Trademark Office under The State Administration for Industry and Commerce had examined 1.0749 million trademark registration applications and processed 30,400 trademark

107.49 万件

据统计,截至 2011 年 11 月 底,中国国家工商行政管理总局商 标局共审查商标注册申请 107.49 万件, 审理商标评审案件 3.04 万件。

From January to October of 2011s, Guangdong province obtained 104,815 patents, 14,841 of which are invention patents, up 4.28% and 29.41% respectively, retaining its top position in the nation.

10.4815 万件

据统计,2011年1月至10月, 广东省的专利授权量达 10.4815 万 件,同比增长4.28%;其中发明专利 授权量达 1.4841 万件,同比增长 29.41%,继续位居全国第一。

50%

From January to November of 2011, patent applications from Guangxi increased by 50%. Invention patent applications rose by 62%. The two growth rates dwarfed the nation average by 4% and 22% respectively.

据统计,2011年1月至11月, 广西专利申请总量同比增长50%,其 中发明专利申请同比增长62%,分别 高于全国平均水平 14 个和 22 个百 分点。

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 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