

NUMBERS

5,100

2010 China International Patent Fair was held in Dalian from August 6 to 8. More than 5,100 innovation achievements from 1,600 enterprises exhibited at 1,000 booths on the fair.

5100 多项

8月6日至8日, 2010年中国国际专利技术与产品交易会在大连举办。本届交易会共设置了1000个国际标准展位, 云集了1600余家企业的5100多项自主创新成果。

26,702

Shandong filed 26,702 patent applications in the first half of 2010, up 13.91%, 4.38% higher than the average level of the country. It obtained 20,623 patents, up 36.04%, ranking the 4th in the country.

2.6702 万件

今年上半年, 山东省共提交专利申请2.6702万件, 同比增长13.91%, 增幅高于全国同期水平4.38%。国内专利授权2.0623万件, 同比增长36.04%, 授权量居全国第4位。

20

As of now, Zhejiang has mediated more than 20 patent dispute cases, 5 of which were related to foreign parties. It has been well received by parties and patent attorneys.

20 余起

截至目前, 浙江省已成功调解20余起专利纠纷案件, 其中涉外案件5起, 受到了当事人和代理人的好评。

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GAO report: US government fails to find basis of widely quoted figures on infringement and piracy

美国审计署报告表明

假冒盗版给美国经济造成巨大损失的数据缺乏依据

According to the article posted on the Arstechnica.com, three widely cited estimates of US industry losses due to intellectual property infringement are not accurate, according to a recent report released by the US government's own internal watchdog — the Government Accountability Office (GAO). The GAO then went on to slam three particular reports often linked to the government that the figures commonly cited were bogus and at least one was still being used officially.

Assertions that U.S. businesses lose 200-250 billion U.S. dollar to counterfeiting on an annual basis, 750,000 jobs, up to 250 billion U.S. dollar a year in revenue and 3 billion U.S. dollar in auto parts sales could be lost due to counterfeiting were made by Federal Bureau of Investigation (FBI), Customs and Border Protection (CBP) and Federal Trade Commission (FTC) respectively.

According to the GAO noted, a 2002 FBI press release said U.S. businesses lose 200 to 250 billion U.S. dollar to counterfeiting yearly, but that statement could not be corroborated because it had no record of source or methodology on how the estimate was generated.

A 2002 press release by CBP estimated U.S. businesses and industries lose 200 billion U.S. dollar a year in revenue and 750,000 jobs due to counterfeits. Yet these figures are of uncertain origin, have been discredited, and are no longer used by US customs, the report cited a CBP official saying. Another figure comes from the U.S. Motor and Equipment Manufacturers Association, which has estimated the U.S. auto parts industry, loses 3 billion U.S. dollar in sales annually due to counterfeit goods. It attributed the figure to the FTC. But FTC officials were reportedly unable to locate any record or source of the estimate in its reports or archives, and could not find anyone in the agency who recalls developing or using the estimate, the report said.

(By Xiang Li)

本报讯 近日, 美国 Arstechnica 网站刊登了一篇题为《美国政府承认大部分盗版损失缺乏依据》的新闻报道。报道指出, 美国审计署的报告批评了美国政府网站上经常链接的3份特别报告中的3个数据。它们被广泛引用证明假冒和盗版对美国造成的经济损失, 而且至少还有一个仍在被美国官方使用。美国审计署认为这些数据缺乏依据。

这3个数据分别是: “由于假冒,

美国商业界每年要损失2000亿至2500亿美元”, “由于知识产权侵权, 美国经济每年要损失75万个工作岗位, 2500亿美元”以及“美国汽车配件工业因假冒货物已损失了30亿美元的销售额”。数据的出处是美国联邦调查局(FBI)、美国海关与边境保护局(CBP)和联邦贸易委员会(FTC)。

美国审计署报告指出, 关于“由于假冒, 美国商业界每年要损失2000亿至2500亿美元”, 该数据源自一份2002年美国联邦调查局的新闻稿。但是美国审计署从美国联邦调查局官员得知, 他们没有数据来源的记录, 也没有计算这个数据的方法, 而且也无法再次验证。关于“由于商品货物的假冒, 美国商业界每年要损失2000亿美元的收入以及75万个工作岗位”, 该数据源自一份2002年美国海关与边境保护局的新闻稿。但是, 一位美国海关官员表示, 这些数据来源不详, 而且美国海关与边境保护局已不再使用这些数字。关于“美国汽车配件工业因假冒货物已损失了30亿美元的销售额”, 该数据由美国汽车和配件制造商协会发布, 据称源自联邦贸易委员会。但是, 当美国审计署向联邦贸易委员会的官员求证时, 该委员会却无法在报告或档案中找到任何关于这一数据的记录或来源文件, 这些官员也回忆不起来, 该委员会是否曾经研究或使用过这一数据。

(向利)



China's IPR experts have reservations about U.S. IPR trade policy

Recently the issue that U.S. government using bogus figures on piracy has caused wide public concern in China. Some IPR experts in China raised the query on the U.S. Intellectual Property policy which were supported by the figures cannot be substantiated. And the estimates served as evidence to illustrate the gravity of counterfeiting that often cited in intellectual property negotiations with other nations can not stand up in court any more.

Some widely cited estimates sourced to U.S. agencies cannot be substantiated

In October 2008, Congress passed the Prioritizing Resources and Organization for Intellectual Property Act (PRO-IP Act), to improve the effectiveness of U.S. government efforts on copyrights, patents and trademarks. The act also directed GAO to provide information on the quantification of the impacts of counterfeit and pirated goods. GAO took a close look at efforts to quantify the economic effects of counterfeit and pirated goods on consumer, industry, government and the U.S.'s economy, and examined all the data and consulting with numerous experts from government, industry and association, non-governmental organizations and academic institutions. After its year-long investigation, GAO released the report in April 2010. The three widely cited U.S. government estimates of economic losses resulting from counterfeiting cannot be substantiated or traced back to an

underlying data source or methodology, as the GAO indicated.

Expert Comments

Li Mingde, Director, IPR Center of China Academy of Social Sciences

The report of the GAO involves the role of IP in economy development and China's IP protection. The fundamental standpoint is that IP protection exerts a favorable role in economy development, and some trade partner's improper IP protection has affected the U.S. economy. The figures come from industry and relevant groups in the U.S., which sways relevant government agencies like FBI and Federal Trade Commission. The U.S. IP policies targeting China and other developing countries would then be made after the figures were submitted to the U.S. agencies and the congress. So in this sense, it is doubtful that the policy is correct when the figures is unsubstantiated.

Tao Xinliang, Dean, Intellectual Property Institute of Tongji University

According to GAO, the three figures were done by Stephen Siwek, who used assumptions to compensate for the lack of data on economic losses. The report forces us to think the followings: First, U.S. government agencies and its allies would no longer use the figures any more. Second, do not attempt to assert impact of piracy on the economy as a whole, just as the GAO said in the report, "despite significant efforts, it is difficult, if not impossible, to quantify the economy-wide impacts of counterfeit-

ing and piracy on the economy as a whole"; Third, government should systematically collect data and perform analysis on the impacts of counterfeiting and piracy on the nation economy.

Li Shunde, Director, Law and IPR Research Institute of China Academy of Sciences

The 3 figures found by GAO produced negative image of the U.S. government because they used to be important resources for policy making. Meanwhile, it is ironic that they were frequently used as a powerful weapon by the government to point finger at other countries in IP negotiations. On the other hand, GAO's action of releasing the report to the public also shows the accountability of the U.S. government, which would generate some pluses. In parallel, GAO made fulfilling its duty to investigate the date formulated by other agencies, which could help them correct their errors.

Private's measure of computing loss being questioned

GAO also sets its sight on several private industry reports, including Business Software Alliance (BSA) and Motion Picture Association of America (MPAA). "Some industries use assumptions including the assumption of a one-to-one rate of substitution and questions on how the results from the surveyed countries are extrapolated to non-surveyed countries", according to the report of GAO.

Expert Comments

Li Shunde:

Combating piracy, not just between China and the U.S. is an ever-lasting international focus. So is argument over the methods of calculating losses resulted from piracy. The assumption of a one-to-one rate of substitution exaggerated the losses from piracy. GAO is quite right to challenge the figures in the report.

Li Mingde:

According to a report of the U.S.'s International Intellectual Property Alliance (IIPA), China's piracy rate was in the high neighborhood between 86% and 90%, while a similar SIPO report (outsourced to Internet Laboratory) showed that merely stood at 40%. SIPO officials confronted IIPA with their calculating method and wished the Alliance make SIPO's method public as well. IIPA, however, took the ostrich approach instead and outright declined that request. Interestingly, IIPA, would drop its rate after the issuance of the SIPO figures. This definitely makes their credibility look questionable.

Tao Xinliang:

Software and audio-video piracy has been priorities of IP negotiations between China and the U.S. in recent years. Rampant piracy, counterfeiting and infringement do not happen only in China, but in many parts of the world. The negotiations between the two countries are much more than IP issues. They are about power struggle over interests and market. IP has become an important means of competition and weapons between the countries and their companies. It also has be-

come major resource and tool of many other countries and companies in the world. China's measures shall be: combat infringement, piracy and counterfeiting on the one hand, and crack down on monopoly, abuse and profiteering on the other hand.

The meaning of seeking true loss

The GAO concluded that "it is difficult, if not impossible, to quantify economy-wide impacts". Although GAO says that piracy and counterfeiting are truly real problems, it also points out just how much bad date is used to produce these studies. Actual dollar figures and job loss numbers should be handled with extreme care and a good bit of skepticism.

Expert Comment

Tao Xinliang:

The GAO "study of quantitative counterfeiting and pirated goods impact on the U.S. economy" may mean: on the one hand, it will promote balance, coordination and accuracy of the intellectual property system arrangement and policy design in the U.S.; on the other hand, U.S. diplomats may prefer not to advertise the above cooked data any more, leading to less IP power play and even false claims to other countries. Implementation of the Chinese national IP strategy and negotiations with the U.S. might accordingly be more comfortable for China.

Li Mingde:

It is fact that counterfeiting and piracy do exist in some countries, which would naturally impact the

U.S. economy, but the data issued by industry groups shall be taken very closer look in the future. China's strong IP protection is a contribution to the world economy, and the good IP protection environment attracts foreign companies come to China to set up plants and engaged in R&D, and they also have gained the great dividends from IP protection in China. Some industry groups, however, are quite reserved in providing this type of data, in contrast with their never-ending torrid efforts in bringing up data of piracy and counterfeiting. According to preliminary estimates, 90% to 95% of their Chinese market profits of some corporations are resulted from brands, copyrights and patents.

Li Shunde:

The GAO made the judgments depend on some study and data from relevant departments, so this conclusion still has some scientific basis. The U.S. government should reflect they could not judge the other countries' IP issues by some lack of underlying data in foreign IP negotiations. However, this does not mean the problem of piracy and counterfeiting is not serious. Countries in the world have an obligation in accordance with the provisions of international conventions on IP to strengthen IP protection, further sanction IP violations and promote economic development with the IP system. Today's post-financial-crisis world is in particular need of leveraging the IP system for economic development.

(See the Chinese edition on page 1, published on August 13)