

Patent judicial interpretation invites comments

最高法就专利法司法解释公开征求意见

The Supreme People's Court announced the Judicial Interpretation (JI) on Some Issues Regarding Application of Laws of Patent Infringement Cases (for comment version) on June 18, inviting the public to offer their comments. The JI provides for scope of patent protection, determination of patent infringement and defense.

include the technical solution through which the patent overcomes the defect or insufficiency of the prior art. Article 9 provides for the scope of protection of design patent: Court shall determine the scope of protection of design patent as in Article 59 (2) of the Patent Law by looking at design identical or similar to the design patented products or similar products.

针对发明与实用新型专利权的保护范围,《征求意见稿》第二条规定,人民法院应当以本领域普通技术人员阅读说明书及附图等所理解的权利要求的内容确定发明或者实用新型专利权的保护范围。同时规定,专利权的保护范围应当符合专利的发明目的,不应包括专利所要克服的现有技术的缺陷或者不足的技术方案。《征求意见稿》第九条规定了外观设计专利权的保护范围:人民法院应当按照与外观设计专利产品相同或者相近类别产品上的与授权外观设计相同或者相似的外观设计,确定专利法第五十九条第二款规定的“外观设计专利权的保护范围”。

据了解,社会各界人士在7月10日前,可以采取书面寄送或者在网上发表意见的方式,对司法解释稿提出具体的修改建议。(魏小毛)



NUMBERS

57 The Seventh China Cross-Strait Trade Fair, co-sponsored by 16 organizations including SIPO was concluded on June 20 in Fuzhou. During the three day gathering, over 50 events including Cross-Strait IPR Forum was held. Some 57 patented technologies were on display.

57项 6月20日,由中国国家知识产权局等16个单位共同主办的第七届中国·海峡项目成果交易会在福州落幕。为期3天的交易会期间,主办方举办了“海峡两岸知识产权论坛”等50多场活动,展出专利技术57项。

10 million Oil Crops Institute of China Academy of Agricultural Sciences sold 10-year production right and marketing right of its new rape variety to Hubei Seed Group at 10 million yuan.

1000万元 日前,中国农科院油料作物研究所选育的“中油519”油菜新品种的生产权和经营权,以1000万元卖给湖北省种子集团,使用年限为10年。

20 Twenty self-reliant-IPR-laden 1.5 MW wind generator developed by China Creative Wind Energy Company connects with the grid and is working, marking China's own 1.5 MW products formally in mass operation.

20台 华创风能有限公司研制的20台拥有自主知识产权的1.5兆瓦级风电机组实现并网发电。这标志着中国拥有自主知识产权的1.5兆瓦级风电机组正式进入规模化运行阶段。

10 Nanchang State High Tech Industry Cluster Model Base became operational recently, adding the total in the country to 10.

10个 近日,南昌国家高新技术产业集群标准化示范基地正式揭牌。至此,中国已有10个高新技术产业标准化示范区、中国首个高新技术产业集群标准化示范基地。

8.94 million Yunnan awards 212 technology projects of 2008. Some outstanding R & D workers garnered 8.94 million yuan.

894万元 2008年云南省科学技术奖励大会在昆明举行,共有212个项目获奖。一批工作在科研、生产一线的科技人员获得总额894万元的奖金。

160 In the first training course for IP engineers, 160 trainees from all over Jiangsu finished their five-week full time study and graduated.

160名 近日,江苏省首批知识产权工程师培训班圆满结束,160名来自全省各地的学员经过为期5周的脱产系统培训学习,顺利结业。

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In regard to the scope of protection for invention and utility model patents, Article 2 of the JI provides, court shall determine the scope of protection of an invention or utility model patent based on the understanding of description and drawing (s) by a person skilled in the art. In parallel, the scope shall be consistent with the objective of the invention and shall not

The public is invited to submit their comments via mail or online as of July 10. (by Wei Xiaomao)

本报讯 6月18日,最高人民法院正式公布了《关于审理侵犯专利权纠纷案件适用法律若干问题的解释(征求意见稿)》(以下简称《征求意见稿》),向社会各界广泛征求意见。《征求意见稿》对专利权的保护范围、专利权侵权判定以及



TangKa, a transliteration of a Tibetan word, refers to a kind of painting scroll mounted on dyed brocade. Depicting history, politics, culture and social life of Tibet. Jiachama Village, Tongren County, Huangnan Tibet Autonomous Prefecture in Qinghai is known for painting TangKa. As shown is Master Geng Deng Luo Sang and his works.

唐卡是藏族文化中一种独具特色的绘画艺术形式,题材内容涉及藏族的历史、政治、文化和生活等诸多领域。青海省黄南藏族自治州同仁县加查玛村以绘制唐卡而著称,是省级民间文化示范村。图为画师更登洛桑和他的唐卡作品。 本报记者 王文扬 摄影报道

Patent protection partners determined

中国确定首批专利保护重点联系基地

SIPO locks with 10 organizations as the first group of patent protection partners, 1 judicial authority, 7 R & D centers and 2 legal services. These partners will consult IP administrations on patent enforcement, participate in research and discussion of difficult cases and diffuse information and experience on promoting innovative development through patent protection.

ular on Near-Term Enforcement Tasks of IP Administrations. In the next stage, SIPO will commence selection of the second group of such partners while monitoring and analyze the operation of the first group to enable them to serve patent enforcement effectively. (by Wang Zhichao)

本报讯 日前,中国国家知识产权局确定10个单位为第一批全国专利保护重点联系基地。其中,1家司法机构,7家研究、开发机构,2家

法律服务机构。第一批重点联系基地单位将向知识产权局系统提供有关专利执法的咨询意见和有关信息,参与重要执法问题和疑难案件的研讨论证,积极传播通过专利保护促进创新发展的信息与经验。

据了解,今年4月,国家知识产权局印发了《关于近期知识产权局系统执法工作安排的通知》。下一阶段,国家知识产权局将开展第二批全国专利保护重点联系基地申请的审批工作。(王志超)

2009 patent bar exam registration opens

今年中国专利代理人资格考试开始报名

Patent attorney prospects may register for this year's exam from June 22 to July 17. From December 5 to 6, the exam will take place in 15 cities including Beijing, Shenyang, Shanghai, Nanjing, Hefei, Fuzhou, Jinan, Zhengzhou and Wuhan.

ter one. If an examinee has one of the two scores above the qualifying score, that score will remain effective for the next three years. He or she only needs pass the other subject in the next two years. If failing to pass within the time limit, he or she may start all over. (by Wang Han)

本报讯 2009年中国专利代理人资格考试报名工作已于6月22日开始,截止日期为7月17日。考试将于12月5日至6日在北京、沈阳、上海、南京、合肥、福州、济南、郑州、武

汉等15个考点城市同时进行。

据悉,本次考试科目由专利法律知识、相关法律知识和专利代理实务3部分组成,采用专利法律知识和相关法律知识总分和确定一个合格分数线,专利代理实务单独确定一个合格分数线。应试人员如果只有一部分成绩合格,则成绩合格的记录自当年起3年内有效。应试人员需在接下来的两年内对不合格的部分进行补考,如果没能在两年内通过该部分的考试,则再次参加该考试时将重新计算合格成绩记录周期。(王翰)

EXPRESS

Lacoste bites Wenzhou shoemaker

法国鳄鱼诉宝尔康商标侵权

Six years after its settlement over a trademark dispute with Hong Kong Crocodile, French designer Lacoste launches another offensive. The company recently brought a trademark infringement case to Beijing No.2 Intermediate People's Court, alleging infringement of Beijing Pufeng Lianhua Supermarket and Wenzhou Baokang Shoe Company.

trial. (by Zhao Lihui)

本报讯 继6年前法国鳄鱼和香港鳄鱼的商标之争握手言和后,国际知名的鳄鱼品牌又起纷争。近日,拥有法国鳄鱼品牌的拉科斯特股份有限公司诉北京卜蜂莲花连锁超市有限公司、温州市宝尔康鞋业有限公司侵犯商标专用权纠纷一案,已被北京市第二中级人民法院立案受理。

据悉,2008年11月,拉科斯特公司发现北京卜蜂莲花连锁超市有限公司销售标有与其“鳄鱼”注册商标相近似的商标的皮鞋,制造商为温州市宝尔康鞋业有限公司。拉科斯特公司认为,两被告的行为已构成侵权,请求法院判令其支付赔偿金300,000 yuan in damages from the Court.

据悉,2008年11月,拉科斯特公司发现北京卜蜂莲花连锁超市有限公司销售标有与其“鳄鱼”注册商标相近似的商标的皮鞋,制造商为温州市宝尔康鞋业有限公司。拉科斯特公司认为,两被告的行为已构成侵权,请求法院判令其支付赔偿金30万元。

Baokang contends that it uses the trademark with the authorization from Hong Kong Crocodile. The trademark is neither identical nor similar. No infringement is established. It sought rejection of the plaintiff's claim by the court. The case is pending for further

温州市宝尔康鞋业有限公司辩称,其使用的商标是香港鳄鱼公司授权的商标,与原告的商标既不相同也不近似,不侵犯原告的商标专用权,请求法院驳回原告的诉讼请求。

目前,本案正在进一步审理中。(赵立辉)

IP CHINA'S IP MANUAL

Cooperation Agreement on Assisting and Fostering Export-Oriented Key Cultural Companies and Projects

《关于扶持培育文化出口重点企业、重点项目的合作协议》

Ministry of Culture reached an agreement with the Export-Import Bank of China (Exim Bank) to provide no less than a 20-billion-yuan credit line to cultural industries in the next five years to promote exports of their products, develop cultural products with self-reliant IPRs and brands.

al property trade.

The qualifying companies and projects include: projects producing world-class high tech cultural products with self-reliant IPRs, brands and unique ethnic feature; import projects that are combined with high tech findings and cultural industry, upgrading production and services; service projects that facilitate export and import trade, cultur-

日前,文化部与中国进出口银行签订了《关于扶持培育文化出口重点企业、重点项目的合作协议》。根据协议,在今后5年的合作期内,中国进出口银行计划向文化企业提供不低于人民币200亿元或等值外汇信贷资金,扶持政府鼓励发展的文化出口重点企业和重点项目,开发拥有自主知识产权、原创品牌的高科技文化产品。

根据协议,具备申报资格的文化出口重点企业和重点项目主要包括:开发具有国际先进水平、自主知识产权、原创品牌和民族特色的高科技文化产品的投资项目;推进高新技术成果与文化产业结合,提高文化产品生产和文化服务手段的进口项目;有关文化产品进出口交易、文化产权交易的文化企业和服务项目等。