

Premier Li Keqiang: 'Punitive Damages to be Awarded' for Stronger IPR Protection

李克强在第十三届全国人民代表大会第一次会议所作政府工作报告中指出

强化知识产权保护 实行侵权惩罚性赔偿制度

The 13th National People's Congress opened its first session on March 5 at the Great Hall of People in Beijing. Premier Li Keqiang delivered a government's work report on behalf of the State Council. As for the "proposal for the work of government" in 2018, Li noted that moving faster to make China a country of innovators. The latest global revolution in science and technology and industrial transformation are trends we must be on board with. We will do more in implementing the innovation-driven development strategy, and keep on making the Chinese economy more innovative and competitive. We would strengthen the protection of intellectual property, and enforce a punitive compensation system for intellectual property rights infringements.

In the work over the past five years, Li pointed that with a commitment to innovation-driven development, and a focus on unlocking public creativity, we had achieved a remarkable improvement in our general capacity for making innovations and for seeing that innovation delivers. We had put into action the innovation-driven development strategy and worked to build a better ecosystem for innovation, giving shape to innovation involving multiple actors making across-the-board advances. Research institutes and universities now had greater say over their research; research projects and funding were better managed, and the way of managing rights and interests relating to scientific and technological advances had undergone reform. We had supported Beijing and Shanghai in building themselves into centers for scientific and technological innovation, and set up 14 new national innovation

demonstration zones, thus creating a number of regional innovation hubs. With enterprises as the main actors, we had boosted the development of a system for technological innovation. China had seen the emergence of a number of world-class innovative enterprises and new-type R&D institutions. We had launched and taken bold moves in the nationwide business startup and innovation initiative, adopted support policies designed to benefit all entrepreneurs and innovators, and improved the incubation system. China's market entities, all types included, now totaled over 98 million, an increase of more than 70 percent over the past five years. The number of in-force Chinese invention patents issued in China had tripled, and the volume of technology transactions had doubled. In the global race of scientific and technological innovation, China had shifted place, from following others to keeping pace and even leading the pack in more and more areas. Our country had become a globally recognized fertile ground for innovation and business ventures.

Li added, for government to deliver this year, we must act on Xi Jinping's economic thinking for new-era socialism with Chinese characteristics, continue following the general principle of pursuing progress while ensuring stability and regard stability and progress as being indivisible. Specifically, we will do the following: first, we will strongly promote high-quality development. Second, we will be bolder in reform and opening up. Third, we will ensure success in the three critical battles against potential risk, poverty, and pollution, battles that are important for decisively bringing to completion the building of a



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3月5日,第十三届全国人民代表大会第一次会议在人民大会堂开幕,代表们走向会场。

(photo by Xinhua)

新华社供图

moderately prosperous society in all respects.

Li stressed, we would deliver a solid performance in the nine areas of work in 2018: stepping up supply-side structural reform, moving faster to make China a country of innovators, deepening reforms in fundamental and key areas, fighting three critical battles, making strong moves in the rural revitalization strategy, making solid progress in the coordinated regional development strategy, actively increasing consumption and promoting effective investment, creating a new landscape in all-around opening up and doing more to ensure and improve people's wellbeing.

Li added, we would improve property rights systems and mechanisms for market-based allocation of the factors of production. The property rights

system was the cornerstone of the socialist market economy. We would improve the relevant laws and regulations to see that property rights were protected, contracts were honored, the market was unified, exchanges were equal, and competition was fair. All types of infringements on property rights would be rigorously dealt with in accordance with law, and all property rights dispute cases would be reviewed and settled in accordance with law. We would strengthen the protection of intellectual property, and enforce a punitive compensation system for intellectual property rights infringements. We would speed up reforms making the pricing of factors of production like technology and land increasingly market-based, deepen reform of the pricing mechanisms for resource products and public services,

break government monopolies, and protect against market monopolies. We would see that strong protection of property rights and fluid flows of the factors of production enable a great increase in market dynamism and public creativity. (by Xinhua)

本报综合新华社消息 3月5日,第十三届全国人民代表大会第一次会议在人民大会堂开幕。根据会议议程,李克强代表国务院向大会作政府工作报告。在报告中他指出,加快建设创新型国家,把握世界新一轮科技革命和产业变革大势,深入实施创新驱动发展战略,不断增强经济创新力和竞争力。强化知识产权保护,实行侵权惩罚性赔偿制度。

李克强表示,过去五年,中国坚持创新引领发展,着力激发社会创造力,整体创新能力和效率显著提高。实施创新驱动发展战略,优化创新生态,形成多主体协同、全方位推进的创新局

面。扩大科研机构和高校科研自主权,改进科研项目和经费管理,深化科技成果权益管理改革。支持北京、上海建设科技创新中心,新设14个国家自主创新示范区,带动形成一批区域创新高地。以企业为主体加强技术创新体系建设,涌现一批具有国际竞争力的创新型企业和新型研发机构。深入开展大众创业、万众创新,实施普惠性支持政策,完善孵化体系。各类市场主体达到9800多万户,五年增加70%以上。国内有效发明专利拥有量增加两倍,技术交易额翻了一番。中国科技创新由跟跑为主转向更多领域并跑、领跑,成为全球瞩目的创新创业热土。

李克强说,做好2018年工作,要认真贯彻习近平新时代中国特色社会主义思想,坚持稳中求进工作总基调,把稳和进作为一个整体来把握,注重以下几点:一是大力推动高质量发展;二是加大改革开放力度;三是抓好决胜全面建成小康社会三大攻坚战。

李克强说,2018年要扎实做好9项工作:一是深入推进供给侧结构性改革;二是加快建设创新型国家;三是深化基础性关键领域改革;四是坚决打好三大攻坚战;五是大力实施乡村振兴战略;六是扎实推进区域协调发展;七是积极扩大消费和促进有效投资;八是推动形成全面开放新格局;九是提高保障和改善民生水平。

李克强指出,完善产权制度和要素市场化配置机制。产权制度是社会主义市场经济的基石。要以保护产权、维护契约、统一市场、平等交换、公平竞争为基本导向,完善相关法律法规。对各种侵权行为要依法严肃处理,对产权纠纷案件要依法甄别纠正。强化知识产权保护,实行侵权惩罚性赔偿制度。加快技术、土地等要素价格市场化改革,深化资源类产品和公共服务价格改革,打破行政垄断,防止市场垄断。要用有力的产权保护,顺畅的要素流动,让市场活力和社会创造力竞相迸发。

China's IP in foreign eyes

Amazon and two other American titans are trying to shake up health care by experimenting with their own employees' coverage. In China, technology companies like Alibaba and Tencent have made health care a priority for years, and are using China as their laboratory. After testing online medical advice and drug tracking systems, they are now focused on a more advanced tool: artificial intelligence. (Amanon Wants to Disrupt Health Care in America. In China, Tech Giants Already Have, by The New York Times)

亚马逊和另外两家美国公司正在尝试扩大员工的医疗保险范围来改变现有的政策。而在中国,阿里巴巴、腾讯等公司一直重视发展医疗技术。在实验了在线医疗咨询和药物追踪系统后,它们现在专注一个更为先进的技术——人工智能。(中美科技巨头的“较量”:将人工智能运用于医保领域,纽约时报)

Comment

The artificial intelligence has not only facilitated the relevant industry, but also changed our life dramatically. In another words, that is the charm of innovation.

点评

以人工智能为代表的高科技不仅推动了相关产业的发展,而且改变了人们的生活,展现了创新的魅力。(柳鹏)

VICTORINOX's Challenge of Cross-Shield-Shaped Trademark Denied

“安莉威 Anywhere 及图”商标之争见分晓

Recently, Beijing High People's Court ended a trademark dispute between Switzerland-based VICTORINOX AG and Jinjueke Commercial and Trading Company from Baoji, Shaanxi Province, by sustaining the registration of No.6482420 trademark "安莉威 Anywhere" and figures (trademark in dispute) and rejecting VICTORINOX's claims.

Jinjueke filed the registration application for the trademark in dispute in December 2007, and obtained the official approval in March 2010. In 2014, VICTORINOX lodged an invalidation request to the Trademark Review and Adjudication Board (TRAB) under the State Administration for Industry and Commerce (SAIC) by citing its registered Trademark No.903585 "Cross Shield (figure)"(cited trademark 1) and No.3491225 "Cross Shield (figure)"(cited trademark 2).

VICTORINOX argued that the trademark in dispute was copying and imitating its cited well-known marks. Jinjueke got the registered trademark in dispute through fraudulent or other

illegal methods. The figure of the trademark in dispute was extremely similar with VICTORINOX's works of cross shield which had been enjoying high popularity and reputation, infringing the copyright of VICTORINOX. The similarity between the trademark in dispute and the Swiss national emblem was susceptible to ill effects.

After hearing, TRAB made a decision in August 2015 to sustain the trademark in dispute. The disgruntled VICTORINOX brought the case to Beijing IP court, but the court did not buy its argument either. VICTORINOX then appealed to Beijing High.

Beijing High held that the evidences provided by VICTORINOX failed to prove that Jinjueke adopt fraudulent method to obtain trademark registration, inflict damages upon public orders and interests, corrupt the trademark registration order. VICTORINOX was also believed having not done enough to prove that its cited trademark 2 had established well-known mark status in its certified class of rucksack, schoolbags, suitcases pri-

or to the registration date of the trademark in dispute.

In this connection, Beijing High made its final-instance judgment, upholding the first-instance ruling.

(by Wang Guohao)

本报记者 王国浩

近日,随着北京市高级人民法院终审判决的作出,瑞士维氏股份公司(VICTORINOX AG,下称维氏公司)与陕西省宝鸡市金爵克商贸有限公司(下称金爵克公司)的商标纠纷一案,维氏公司的主张最终未能得到法院支持,金爵克公司的第6482420号“安莉威 Anywhere及图”商标(下称诉争商标)得以维持注册。

据了解,诉争商标由金爵克公司于2007年12月提出注册申请,2010年3月获准注册。2014年,维氏公司引证其在先核准注册的第903585号“十字盾牌图形”商标(下称引证商标一)与第3491225号“十字盾牌图形”商标(下称引证商标二),针对诉争商标向国家工商行政管理总局商标评审委员会(下称商评委)提出无效宣告申请。

据了解,维氏公司向商评委主张,诉争商标是对维氏公司在先驰名



的引证商标一和引证商标二的复制和摹仿;金爵克公司申请注册诉争商标时采取了欺骗手段或者其他不正当手段;诉争商标图形部分与维氏公司享有较高知名度和美誉度的十字盾牌作品极为相似,侵犯了维氏公司的著作权;诉争商标与瑞士国徽近似,容易造成不良影响。

经审查,商评委于2015年8月作出无效宣告请求裁定,对诉争商标予以维持。维氏公司不服商评委所作裁定,随后向北京知识产权法院提起行政诉讼,但其主张未获得法院支持,维氏公司继而向北京市高级人民法院提起上诉。

北京市高级人民法院经审理认为,维氏公司提供的证据不足以证明金爵克公司申请注册诉争商标的行

为采用了欺骗手段,损害了公共秩序、公共利益,或者妨碍了商标注册管理秩序,亦不足以证明引证商标二于诉争商标申请日前在其核定使用的帆布背包、书包、旅行箱商品上已经达到了驰名程度。

综上,北京市高级人民法院终审判决驳回维氏公司上诉,维持一审判决。



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