

Xi Vows to Beef IPR Protection at Boao Forum 2018

习近平出席博鳌亚洲论坛2018年年会开幕式并发表主旨演讲

强调加强知识产权保护是完善产权保护制度最重要的内容,也是提高中国经济竞争力最大的激励

"We will strengthen protection of intellectual property rights (IPR).

This is the centerpiece of the system for improving property rights protection, and it would provide the biggest boost to the competitiveness of the Chinese economy. Stronger IPR protection is the requirement of foreign enterprises, and even more so of Chinese enterprises. This year, we are re-instituting the State Intellectual Property Office to strengthen the ranks of its officers, step up law enforcement, significantly raise the cost for offenders and fully unlock the deterrent effect of relevant laws. We encourage normal technological exchanges and cooperation between Chinese and foreign enterprises, and protect the lawful IPR owned by foreign enterprises in China. At the same time, we hope foreign governments will also improve protection of Chinese IPR," said Chinese President Xi Jinping in his speech at the opening of the Boao Forum for Asia Annual Conference 2018 held in Boao, Hainan Province on April 10.

Xi noted that what has happened proves that opening-up was key to China's economic growth over the past 40 years and in the same vein, high-quality development of China's economy in the future can only be achieved with

greater openness. He wishes to make it clear to all that China's door of opening-up will not be closed and will only open even wider! Opening-up is a strategic decision made by China based on its need for development as well as a concrete action taken by China to move economic globalization forward in a way that benefits people across the world.

Xi announced that China will adopt the following major measures to pursue further opening.

First, on services, financial services in particular, important announcement was made at the end of last year on measures to raise foreign equity caps in the banking, securities and insurance industries. China will ensure that these measures are materialized and at the same time make more moves toward further opening, including accelerating the opening-up of the insurance industry, easing restrictions on the establishment of foreign financial institutions in China and expanding their business scope, and opening up more areas of cooperation between Chinese and foreign financial markets. Going forward, China will ease as soon as possible foreign equity restrictions in these industries, automobiles in particular.

Second, China will create a more attractive investment environment. China will enhance alignment with international economic and trading rules, increase transparency, strengthen property rights protection, uphold the rule of law, encourage competition and oppose monopoly. In the first six months of this year, China will finish the revision of the negative list on foreign investment and implement across the board the management system based on pre-establishment national treatment and negative list.

Third, China will strengthen protection of intellectual property rights. This year, China is re-instituting the State Intellectual Property Office to strengthen the ranks of its officers, step up law enforcement, significantly raise the cost for offender. China protects the lawful IPR owned by foreign enterprises in China. At the same time, China hopes foreign governments will also improve protection of Chinese IPR.

Fourth, China will take the initiative to expand imports. China does not seek trade surplus; China has a genuine desire to increase imports and achieve greater balance of international payments under the current account. This year, China will significantly lower the import tariffs for automobiles

and reduce import tariffs for some other products. China will seek faster progress toward joining the WTO Government Procurement Agreement. China hopes developed countries will stop imposing restrictions on normal and reasonable trade of high-tech products and relax export controls on such trade with China. Friends from around the world are welcome to participate in the first China International Import Expo in Shanghai in November.

(by Xinhua)

本报综合新华社消息 4月10日

上午,博鳌亚洲论坛2018年年会在海南省博鳌开幕。中国国家主席习近平出席开幕式并发表题为《开放共创繁荣 创新引领未来》的主旨演讲,强调加强知识产权保护是完善产权保护制度最重要的内容,也是提高中国经济竞争力最大的激励。对此,外资企业有要求,中国企业更有要求。今年,中国将重新组建国家知识产权局,完善执法力量,加大执法力度,把违法成本显著提上去,把法律威慑作用充分发挥出来。中国鼓励中外企业开展正常技术交流合作,保护在华外资企业合法知识产权。同时,中国希望外国政府加强对中国知识产权的保护。

习近平指出,实践证明,过去40年中国经济发展是在开放条件下取得的,未来中国经济实现高质量发展也必须在更加开放条件下进行。中国开

放的大门不会关闭,只会越开越大。这是中国基于发展需要作出的战略抉择,也是在以实际行动推动经济全球化造福世界各国人民。

习近平宣布,中国决定在扩大开放方面采取一系列新的重大举措。

第一,大幅度放宽市场准入。确保放宽银行、证券、保险行业外资股比限制的重大措施落地,同时加大开放力度,加快保险行业开放进程,放宽外资金融机构设立限制,扩大外资金融机构在华业务范围,拓宽中外金融市场合作领域。尽快放宽汽车行业等制造业外资股比限制。

第二,创造更有吸引力的投资环境。加强同国际经贸规则对接,增强透明度,强化产权保护,坚持依法办事,鼓励竞争、反对垄断。今年上半年将完成修订外商投资负面清单工作,

全面落实准入前国民待遇加负面清单管理制度。

第三,加强知识产权保护。重新组建国家知识产权局,完善执法力量,加大执法力度,把违法成本显著提上去。保护在华外资企业合法知识产权,希望外国政府加强对中国知识产权的保护。

第四,主动扩大进口。中国不以追求贸易顺差为目标,真诚希望扩大进口,促进经常项目收支平衡。今年将相当幅度降低汽车进口关税,同时降低部分其他产品进口关税,加快加入世界贸易组织《政府采购协定》进程。希望发达国家对正常合理的高技术产品贸易停止人为设限,放宽对华高技术产品出口管制。欢迎各国朋友来华参加11月在上海举办的首届中国国际进口博览会。



China's IP in foreign eyes



As biotech has gone from strength to strength over the past four decades, China has been a backwater for the industry, tending to follow the west rather than pursuing its own innovations. The Chinese companies are determined to become leaders in this. These treatments have the potential to be highly disruptive to medicine and I think they view it as a unique opportunity as new contenders to spring to the forefront of the biotech industry. (Healthcare: Cancer breakthrough leads China's biotech boom, by Financial Times)

在过去40年里,生物技术变得越来越强大,中国在该领域一直是追随西方脚步,而非追求自主创新。但如今,中国企业正迅速成为生物技术领域的世界领军者。科学家们认为,中国在该领域拥有几项战略性优势,这是中国企业迈向生物技术行业前沿的独特机会。(癌症突破引领中国生物技术繁荣,金融时报)

Comment

In recent years, China's innovation power has been reflected by the booming of biotech in its market. IPR protection in turn serves a strong underpin for the upgrading of such technology.

点评

近年来,中国企业在生物技术领域的发展彰显了中国的创新实力,而知识产权保护为促使生物技术创新提供了有力保障。

(李倩)

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20th China Patent Award Selection Initiates

第二届中国专利奖评选工作启动

Recently, the 20th China Patent Award Selection co-organized by the State Intellectual Property Office and the World Intellectual Property Organization is under way. In a bid to encourage and cite those patentees and inventors who contribute significantly to technology (design) innova-

tion and socio-economic development, this event highlights the principle of high quality development and take the overall patent quality of each province as one of the core factors in geographical selecting China Patent Gold Award.

It is noted that the China Patent Silver Award and China Design Silver

Award were included in this event for the first time besides the existing China Patent Gold Award and China Design Gold Award. The patent gold and silver awards were selected from inventions and utility models with the total number of gold awards not exceeding 20 and silver not 60. The design gold

and silver awards were chosen from designs with gold items not surpassing 5 and silver not 15. (by Sun Di)

本报讯 近日,由中国国家知识产权局和世界知识产权组织举办的第二届中国专利奖启动评选。此届中国专利奖更加突出工作导向,强调要坚持高质量发展的原则,将各省(区、

SKECHERS Prevails in S Trademarks Battle

斯凯杰在华成功捍卫“S”系列注册商标

Recently, Fujian High People's Court rendered its final-instance decision on a trademark infringement and unfair competition case between SKECHERS U.S.A., and Spieth&Wensky Company/Quanzhou Bohai Shoes Company, revoking the decision made by Quanzhou Intermediate People's Court and ordering the two defendants to cease infringement and indemnify 3 million yuan to SKECHERS in damages.

In the early 1990s, SKECHERS registered a host of S trademarks. In 2007, SKECHERS appeared in Chinese market and Spieth&Wensky began its operation in 2015.

SKECHERS held that similarity was constituted as it found a dozen of Spieth&Wensky shops using the S trademark on its official website and products at the end of 2015, and some of shoes were similar with D'LITES of SKECHERS, which would cause confusion among the consumers.

Spieth&Wensky argued that it had obtained the right to use five trademarks including No.13306821 trademark after obtaining permission from Bohai Shoes. So it had the right to distribute the above products within Chi-

na and it had not violated the trademark right of others. In parallel, the trademark with authorization would not cause confusion among the public about the origin of product.

After hearing, Quanzhou Intermediate People's Court rejected the appeal of SKECHERS. The disgruntled SKECHERS then brought the case to Fujian High People's Court.

SKECHERS held that Spieth&Wensky had changed the color of trademark and highlighted the S character in practical using, which would confuse the public. In parallel, as a competitor, it was impossible for Spieth&Wensky and Bohai Shoes to be unaware of the fame of the S trademarks in shoes industry. So it was clear the infringement was done in bad faith.

Spieth&Wensky argued that SKECHERS had not obtained the exclusive right of using the S character. Bohai Shoes' No. 13306821 trademark had transferred to Spieth&Wensky. So trademark infringement was not constituted.

The Court held that the S series trademark had enjoyed popularity in China. The trademark infringement was constituted as the S symbol of Spi-

eth&Wensky was similar with SKECHERS, and it would cause confusion among the public.

The Court also held that the unfair competition was constituted as the famous D'LITES shoes of SKECHERS put into market earlier than Spieth&Wensky, whose shoes was also similar with that of SKECHERS.

In this connection, the Court made the above decision accordingly.

(by Li Qun)

本报记者 李群

近日,福建省高级人民法院就斯凯杰美国公司(下称斯凯杰)诉斯凯杰体育用品有限公司(下称斯凯杰)和泉州博海鞋业有限公司(下称博海鞋业)商标侵权及不正当竞争一案作出二审判决,撤销福建省泉州市中级人民法院所作的一审判决,判令斯凯杰体育用品有限公司立即停止侵权行为,并共同赔偿斯凯杰300万元经济损失。

据了解,上世纪90年代初,斯凯杰在中国申请注册了“S”系列商标。2007年,斯凯杰进入中国市场,而斯凯杰体育用品于2015年登记成立。

斯凯杰在一审中诉称,2015年底,该公司发现十几家斯凯杰奇门店,其店铺商品、官方网站等使用了



与斯凯杰“S”系列商标相近似的标识,某些鞋款也与斯凯杰商品的“D'LITES”鞋款类似,极易造成消费者产生混淆。

对此,斯凯杰奇辩称,经博海鞋业授权,斯凯杰奇获得了第13306821号等5件商标的使用权,有权在中国生产销售前述品牌产品,不存在侵犯他人商标权的行为;使用经合法授权的商标不会导致消费者对商品来源产生混淆,不存在不正当竞争。

经审理,一审法院判决驳回斯凯杰的诉讼请求。斯凯杰不服判决,向福建省高院提起上诉。

斯凯杰主张,斯凯杰奇在实际使用商标过程中变换了商标图形颜色,突出使用“S”文字,从而容易导致消费者产生混淆。与此同时,斯凯杰奇与博海鞋业作为斯凯杰的同行业竞争者,不可能不知道斯凯杰及其“S”系列注册商标在业内的知名度,充分表明了实施商标侵权的明显恶意。

市)专利总体质量状况作为影响中国专利金奖按地域选取的重要因素之一,鼓励和表彰为技术(设计)创新及经济社会发展做出贡献的专利人和发明人(设计人)。

值得注意的是,在往届设置中国专利金奖和中国外观设计金奖的基础上,第二十届中国专利奖评选首次设置中国专利银奖和中国外观设计银奖。其中,中国专利金奖和中国专利银奖从发明专利和实用新型专利中评选产生,中国专利金奖项目不超过20项,中国专利银奖项目不超过60项;中国外观设计金奖和中国外观设计银奖从外观设计专利中评选产生,中国外观设计金奖项目不超过5项,中国外观设计银奖项目不超过15项。(孙迪)

斯凯杰奇在二审中辩称,斯凯杰对“S”字母本身不享有专用权。博海鞋业的第13306821号“S”商标,现已转让给斯凯杰奇。斯凯杰奇不侵犯斯凯杰注册商标专用权。

二审法院经审理认为,“S”系列注册商标在我国已经具有较高知名度。斯凯杰奇所使用的“S”标识与斯凯杰的注册商标近似,容易导致消费者将其与斯凯杰的注册商标相混淆,其行为构成商标侵权。

二审法院还指出,斯凯杰的“D'LITES”鞋款是在先推出且具有一定知名度的特有装潢。斯凯杰奇生产的涉案鞋款与之近似,易使消费者产生混淆。因此斯凯杰奇的行为构成不正当竞争。

综上,二审法院作出上述判决。

