

China's IP
in foreign eyes

China, the world's largest mobile market by subscriber and network size, is determined to become the world leader in 5G wireless technologies. 5G networks are expected to be about 100 times faster than current wireless networks. They promise movie downloads in the blink of an eye and an explosion of new mobile services. (*How China Aims to Win the 5G Race, Fortune*)

中国是手机用户最多、网络规模最大的国家。其决心在5G无线技术领域成为世界翘楚,5G网络的传输速率有望比当前无线网络的速度快百倍。只需一眨眼的功夫就可以下载一部电影,还可以提供许多新的手机服务。(《中国如何赢得5G技术竞争的胜利》,《财富》杂志)

Comment

It is difficult to separate the achievements China has made in telecommunications from its emphasis on patent portfolio. How to win the competition in 5G wireless markets? It is crucial to constantly strengthen R&D and improve the standard of patent portfolio.

点评

中国在无线通信技术领域取得的成就离不开其对专利布局的重视。如何在5G市场竞争中始终保持领先地位?继续加强研发并不断完善专利布局是关键。



Internet search company Baidu has become the first Chinese group to join a US-led consortium established to devise safeguards for the development of artificial intelligence. The Partnership on AI, the brainchild of a handful of big US tech companies, was set up two years ago after the potential harm caused by artificial intelligence became a subject of widespread concern. These cover the impact of AI on jobs and the economy; the potential safety risks it poses; and ways of making sure the technology is fair, transparent and accountable. (*Baidu joins US-led AI consortium as inaugural Chinese member, Financial Times*)

互联网搜索引擎公司百度加入由美国牵头成立的人工智能联盟,成为其首家中国会员。该联盟由多家美国科技公司于两年前设立,致力于促进人工智能技术发展,防范人工智能带来的潜在危害。其研究主要包括人工智能对就业与经济的影响、潜在的安全问题以及保障技术合理、透明、稳定使用的方法。(《百度成为人工智能联盟首家中国会员》,《金融时报》)

Comment

The widespread development of AI warns us that it is necessary to pay attention to the potential impact of technology on society. Baidu's participation in the consortium represents the sense of responsibility of Chinese enterprises to contribute creative technologies to the society.

点评

人工智能技术的不断进步及其应用的不断推广提醒着我们,在创新的同时,也需要重视科学技术的社会效应。百度加入人工智能联盟的举动,彰显了中国企业致力于以创新技术造福社会的责任意识。(熊花平)

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China Strives to Crack Down on Malicious Hoarding of Trademarks

中国着力打击恶意囤积商标行为

In recent years, China has seen sustainable growth in trademark registration applications. However, a small number of applicants were found to register trademarks beyond the normal business needs, hoarding a number of trademarks not for the purpose of use, which hinders market entities with normal business needs from applying for registered trademarks, and transfers the hoarded trademarks to the users at a high price for seeking illegitimate benefits. Cai Qiongyan, director of the Comprehensive Division of the Trademark Review and Adjudication Board (TRAB) of the China National Intellectual Property Administration (CNIPA), pointed out that malicious hoarding of trademarks is a key target of trademark administrative authorities.

"When the Trademark Office (TMO) examines trademark registrations, it will severely crack down on malicious hoarding of trademarks which clearly disrupt the order of trademark registration and undermine public interests," said Fan Yali, deputy director of Division of Trademark Examination Administration of the TMO of CNIPA. She added that the TMO would combat hoarding of trademarks in the substantive examination process by adjusting examination procedures and adding information prompting functions.

Guangzhou 4399 Information Technology Co., Ltd. applied for more than 9,000 trademarks, 210 of which were



opposed by different rights holders and the TMO handled 39 trademarks in question; Shanghai Wuyue Information Technology Co., Ltd. filed more than 500 trademark applications, 77 of which were opposed by different rights holders, and the TMO dealt with the 13 trademarks in question and etc. In the above cases, the TMO rejected the registration of a bunch of trademarks filed by the person challenged according to the relevant provisions of the Trademark Law.

In recent years, the TMO and the TRAB have made continuous efforts to strengthen the intelligent analysis of data by analyzing and classifying the acts of squatting with bad faith and of hoarding trademark resources as well as acts of frequently squatting some well-known trademarks or damaging legitimate rights and interests of trade-

mark right holders and to grasp the motive of the applicant to apply for a registered trademark as a reference to the subjective malicious judgment of the latter case, and handled a batch of maliciously hoarding trademark cases.

"We must make full use of existing legal means, resolutely curb malicious trademark squatting and effectively regulate the order of trademark registration." Tao Kaiyuan, vice president of the Supreme People's Court, also noted at this year's National Court of Intellectual Property Trial Work Conference that the People's Court should curb malicious hoarding behavior of trademark registration based on the spirit of the intent of real use of trademark registration.

According to China's existing legal legislations, examination models and standards, there are certain limitations

in discovering and combating malicious hoarding in the substantive examination of trademark registration. Li Mingde, director of the Intellectual Property Center of the Chinese Academy of Social Sciences, suggested that when applying for trademark registration under the Chinese Trademark Law, the applicant should submit evidence that the relevant trademark has been used or will be used and make a series of statements. The examination of trademark registration should refer to the business scope recorded in the business license of the applicant. (by Wang Guohao)

本报记者 王国浩

近年来,随着商标品牌战略的深入实施及商标注册便利化改革的不断推进,中国的商标注册申请量持续增长,连续多年位居世界首位。然而,少数申请人的商标注册行为明显超出正常经营需要,不以使用为目的的大量囤积商标,阻碍有正常经营需求的市场主体申请注册商标,并将囤积的商标高价转让给使用人以获取不正当利益。中国国家知识产权局商标评审委员会综合处处长蔡琼艳指出,恶意囤积商标行为是商标行政机关注重点打击的目标。

“商标局进行商标注册审查时,对于明显扰乱商标注册秩序、破坏公共利益、损害消费者权益、妨碍社会公共利益等行为的恶意囤积商标行为,在审查阶段将予以严厉打击。”据中国国家知识产权局商标局商标审查管理处处长范亚利介绍,商标局将打击恶意囤积商标行为的关口前移,通过调整审查程序、增加信息提示功能等方式,在实

质审查程序中打击恶意囤积行为。

广州四三九九信息科技有限公司申请9000余件商标,其中被不同权利人提出异议210件,商标局对其被异议的39件商标一并处理;上海梧樾信息科技有限公司申请注册500余件商标,其中被不同权利人提出异议77件,商标局对其被异议的13件商标一并处理……上述案件中,商标局依据商标法有关规定作出对被异议人的多件商标不予注册的决定。

近年来,商标局、商标评审委员会不断加强对于数据的智慧化分析,对于没有真实使用意图大量抢注、囤积商标资源的行为及频繁抢注他人已在先具有一定知名度商标或其他合法权益的行为进行分析、归类,及时掌握申请人申请注册商标的动机,并作为对在后案件行为主观恶意判断的参考,集中处理了一批恶意囤积商标案件。

“要充分利用现有法律手段,坚决遏制恶意抢注商标行为,有效规范商标注册秩序。”最高人民法院副院长陶凯元在今年全国法院知识产权审判工作会议上也指出,人民法院根据商标法应有真实使用意图的精神,着力遏制恶意囤积行为。

根据中国现有法律规定,审查模式及审查标准,在商标注册实质审查环节发现和打击恶意囤积行为具有一定的局限性。中国社会科学院知识产权中心主任李明德建议,在中国商标法中规定申请人提交商标注册申请时,应当提交相关商标已经使用或将要使用的证据并作出系列声明,在审查商标注册申请时应当参照申请人营业执照记载的经营范围加以审查。

单词看地标



Emperor Qianlong of the Qing Dynasty loved drinking Longjing tea. He had composed poems for Longjing tea several times, which have been praised as Longjing tea culture.

The tealeaves are characterized by its flat and straight shape, uniform size and texture. The soup color is tender green and bright, with lasting fragrance, fresh and mellow flavor.

West Lake, Qiantang and Yuezhou are the Longjing tea producing regions in the mountains and hills, located in Hangzhou City and Shaoxing City of Zhejiang Province. Warm rainy weather

Longjing Tea 龙井茶

er and humid air in the areas make it suitable for the growth of tea trees.

Since the implementation of the protection of geographical indication products, Longjing tea has well defined the scope of protection and planting and production standards which help to ensure the characteristic quality of products. These measures have greatly promoted inheriting and carrying forward

the traditional skills. (Courtesy of the IP Protection Department of CNIPA)

清乾隆皇帝钟爱龙井茶,曾数次为龙井茶题诗,成为龙井茶文化之佳话。龙井茶外形扁平挺直、光滑匀齐,汤色嫩绿明亮,香气清香持久,滋味鲜醇甘爽。

龙井茶有西湖、钱塘和越州三个产区,位于浙江省杭州市及绍兴市。



产区地处山地丘陵间,温暖多雨,空气湿润,适于茶树的生长。

实施地理标志产品保护以来,通过明确保护范围和种植、生产标准,保证龙井茶的特色品质,很好地继承和发展了传统技艺。

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ZWILLING's Trademark Dodges TRAB Revocation

双立人商标纠纷二审改判

The famous British tea brand "TWININGS" and the famous German tool brand "ZWILLING" have been entangled in a seven-year trademark dispute in China over the No. 7801674 "TWININGS" trademark (hereinafter referred to as the trademark in question).

Recently, Beijing High People's Court made a final judgment, holding that the Britain-based R. Tening Co., Ltd. (Tening) did no damage the public interest or clearly violated the mandatory provisions of laws and regulations. Therefore, the Trademark Review and Adjudication Board (TRAB) shall reexamine the application for registration of the trademark in question.

In November 2009, Tening's affiliated company, Shanghai Yinglian Food & Beverage Co., Ltd., applied for the registration of the trademark in question, requesting certified to be used on Class 8 commodities such as tableware. In December 2010, the trademark in question was preliminarily approved and published. In March 2011, Zwilling J.A.Henckels Aktiengesellschaft (Zwilling) filed an opposition

application to the Trademark Office (TMO) with regard to the trademark in question, arguing that the trademark in question and the "TWIN" series of trademarks (reference marks) with its prior confirmation constituted similar marks used on the same or similar goods. In December 2011, the trademark in question was transferred to Tening upon the approval of the TMO.

After examination, the TMO approved the registration of the trademark in question in July 2012. In August of the same year, Zwilling filed a review application to the TRAB. In December 2013, the TRAB made a reexamination decision holding that the co-existence of the trademark in question and the reference trademarks would easily make consumers become confused on the source of the goods. Accordingly, the TRAB rejected the registration of the trademark in question.

Tening later brought the case to the Beijing No. 1 Intermediate People's Court, but its claim was rejected by the Court in the first instance ruling. Tening then appealed to the Beijing High People's Court for last resort.

During the second instance trial, Tening submitted to the Court a consent form issued by Zwilling, which stated that the two parties had reached a coexistence agreement between the "TWININGS" and "TWIN" and "TWIN" trademarks on a global scale. Zwilling expressly agreed to the registration and use of the trademark in question on its designated tableware and hand-operated hand tools (referred to as review goods).

After hearing, The Court held that the trademark in question and the reference trademark constituted similar trademarks used on the same or similar goods, but the trademark owner Zwilling clearly permitted the registration of the trademark in question on the review commodities. And considering that there is still a certain difference between the trademark in question and the reference trademarks, the Court overruled the first-instance judgment and the reexamination decision of the TRAB, and ordered the TRAB to make a new decision.

(by Wang Guohao)

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"TWININGS"商标(下称被异议商标),英国知名茶叶品牌"TWININGS(川宁)"与德国知名刀具品牌"ZWILLING(双立人)"在华展开了一场历时7年的商标纠纷。

日前,北京市高级人民法院作出终审判决,认为英国R.忒宁有限公司(下称忒宁)并不存在损害公共利益或明显违反法律、法规强制性规定的情况,商标评审委员会(下称商评委)应当就被异议商标的注册申请重新进行审查。

据了解,2009年11月,忒宁的关联企业上海英联食品饮料有限公司提出被异议商标的注册申请,指定使用在餐具等第8类商品上。2010年12月,被异议商标通过初步审定并公告。2011年3月,德国双立人亨克斯股份(下称双立人)针对被异议商标向商标局提出异议申请,主张被异议商标与其在先确权的"TWIN"系列商标(下称引证商标)构成使用在同一种或类似商品上的近似商标。

经审查,商标局于2012年7月作出对被异议商标予以核准注册的裁定。双立人于同年8月向商评委提出复审申请。2013年12月,商评委作出复审裁定认为,被异议商标与引证商

标并存使用易使消费者对商品来源产生混淆。据此,商评委裁定对被异议商标不予核准注册。

忒宁随后向北京市第一中级人民法院提起诉讼,但其诉讼请求被驳回,忒宁继而向北京市高级人民法院提起上诉。

二审期间,忒宁向法院补充提交了双立人向其出具的同意书,其中载明双方已经达成"TWININGS"与"TWIN"及"TWIN"商标在全球范围内的共存协议,双立人明确同意被异议商标在其指定使用的餐具、手工操作的手工具商品(下称复审商品)上的注册和使用。

经审理,北京市高级人民法院认为,虽然被异议商标与引证商标构成使用在同一种或类似商品上的近似商标,但是因为引证商标权利人双立人明确同意被异议商标在复审商品上的注册申请,同时考虑到被异议商标与引证商标尚存在一定区别,因此终审撤销一审判决及商评委所作复审裁定,判令商评委重新作出裁定。

(王国浩)

