

China's IP  
in foreign eyes

China's push to go fully electric would give BYD a strong domestic foundation for its ultimate ambition to become a global brand. To that end, Wang hired the actor and climate champion Leonardo DiCaprio in 2017 as a brand ambassador and began exporting its vehicles to the U.S. BYD has inked deals to supply electric buses to Facebook Inc.'s sprawling headquarters in Menlo Park, Calif., the transit authority in Long Beach, Calif., and the campuses of Stanford University and the University of California at Los Angeles. (*The First Quieter Megacity, Thanks to Electric Vehicles*, by Bloomberg Businessweek)

中国大力发展电动汽车产业,为比亚迪在国内市场的发展奠定了坚实的基础,并推动其打造全球性品牌。2017年,王传福聘请了著名演员与环保人士莱昂纳多·迪卡普里奥作为比亚迪品牌大使,并开始向美国出口汽车。比亚迪将为加州门洛帕克市脸书总部、长滩岛转运中心、斯坦福大学和加利福尼亚大学洛杉矶分校等机构定制电动巴士。(电动车造福安静之城,彭博商业周刊)

## Comment:

At the forefront of metropolis-scale replacement of the combustion engine, BYD is using its strong and effective brand strategy to gain its international advantage. China's developing EV technology is BYD's foundation more than a goal.

## 点评:

作为新能源汽车产业的排头兵,比亚迪正以强有力的品牌战略进军国际市场。中国日益发展的新能源汽车技术并不是比亚迪的终极目标,而是其发展的基石。



Retailers' practice of offering new product designs annually also plays to Yiwu's advantage. This year's best-sellers are products in the millennial-friendly colors of pale pink and mint, says Ziru Christmas Crafts' Hong, and such changes require coordination among a tightly knit supply chain. Each pink mini tree with snowflakes and acorns requires three suppliers to adjust to her vision, she says. "It's not as easy as it looks to make a little tree like this. Every part is from a different factory." (*China's Christmas Village Isn't Worried About Trump's Trade War*, by Bloomberg Businessweek)

义乌的小商品市场每年都会推出新的产品,这正是其强于其他市场的优势。一位圣诞礼品店主说,今年最畅销的是苍白色和薄荷绿色的千禧年主题商品,这种变化要求整条供应链上下游紧密配合。她说,每一棵粉色的小圣诞树,包括上面的雪花和松果,都需要至少三家供应商改变他们的产品设计。“这不仅仅是一棵简单的小树,它的每一部分都来自不同的工厂。”(中国设计的圣诞礼物无惧贸易战,彭博商业周刊)

## Comment:

China has been changing its image of low-tech and low-end manufactures in artwork design. Yiwu's shifting toward higher-value manufacturing and design makes itself become a new innovation center.

## 点评:

在艺术品设计领域,中国正在摘掉低技术含量和低端制造的帽子。现在,朝着高附加值制造和设计转型的义乌,正在成为新的创新中心。(孙迪)

英文翻译 孙芳华  
Translator Sun Fanghua  
责任编辑 孙迪  
Executive Editor Sun Di

China Patent Week Highlights Patent Value and Quality  
第十二届中国专利周活动精彩纷呈

Starting from November 30, the 12th China Patent Week with the theme of "Cultivating High Value Patents, Promoting High-Quality Development" was held throughout the country in a bid to elevate the public's attention to IP quality and IP powerhouse build-up.

This year's patent week event, organized by the National Intellectual Property Administration of PRC (CNIPA), aimed to fully implement the spirits of the 19th CPC National Congress and the second and third plenary sessions of the 19th CPC Central Committee under the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, conscientiously implement all arrangements made by the Party Central Committee and the State Council for IP work, promote the effective integration of IPRs with innovative resources, financial capital and industrial development, and stimulate the innovation vitality of the whole society, thus comprehensively enhancing the IP utilization capabilities and comprehensive benefits of innovative entities.

A principal from CNIPA said that

the patent week this year concentrates on the theme of cultivating high value patents and promoting high-quality development, highlighting quality and efficiency, and actively publicizing patent quality improvement project, IP operation service systems, and IP financial services. The event focuses on the following three aspects: firstly, vigorously cultivate high value patents and enhance the core competitiveness of the industry, focusing on the in-depth implementation of the patent quality improvement project and the construction of the core technology patent pool; secondly, improve the operation system and promote the transfer and commercialization of patent technology, including strengthening the core functions of the national platform and consolidating foundations of various IP work; thirdly, develop IP finance and broaden the financing channels for market entities, with emphasis on strengthening IP pledge financing services and exploring new models of IP finance.

For this year's patent week, the website of the National Intellectual Property



Operation Public Service Platform is designated as the main online venue and the only one since there is no additional offline venue and opening ceremony. Focusing on the above-mentioned activities, local regions across the nation roll with their own creative minds by actively planning various types of activities such as project roadshows, investment transactions, experience exchanges, business matchmaking for commercialization of patented technologies, fully reflecting the regional characteristics, highlighting the actual effect of patent week activities.

(by Cui Jingsi/Jiang Haifei)

本报讯 为进一步提高知识产权质量效益,加快推进知识产权强国建设,11

促进知识产权与创新资源、金融资本、产业发展有效融合,激发全社会创新活力,全面提升创新主体知识产权运用能力和综合效益。

中国国家知识产权局有关负责人表示,今年专利周活动紧密围绕培育高价值专利、促进高质量发展的主题,突出质量效益导向,积极宣传推进专利质量提升工程、知识产权运营服务体系、知识产权金融服务等工作。重点围绕三个方面开展活动:一是大力培育高价值专利,提升产业核心竞争力,重点包括深入实施专利质量提升工程和构筑产业核心技术专利池;二是完善运营体系建设,推动专利技术转移转化,重点包括强化国家平台核心枢纽功能和夯实各项工作基础;三是发展知识产权金融,拓宽市场主体融资渠道,重点包括加强知识产权质押融资服务和探索知识产权金融新模式。

据了解,今年专利周活动以国家知识产权运营公共服务平台网站作为网络主会场,不另设实体主会场和开幕式。围绕上述活动重点,各地结合实际,创新活动形式,积极策划各类项目路演、投资交易、经验交流、互动对接、成果转化等活动,充分体现地区特色,凸显专利周活动实际效果。

(崔静思 姜海飞)



Jinxiang County is under the jurisdiction of Jining City of Shandong Province, and it is well known as the "home of the Chinese garlic". According to the county records, Jinxiang has a history of more than 2000 years in garlic cultivation since the early Eastern Han Dynasty. With a warm

temperate semi-humid and semi-arid monsoon continental climate, Jinxiang located in the alluvial flatlands by the Yellow River. High content of soil organic matter is suitable for garlic cultivation.

In the specific ecological environment of Jinxiang, after long-term natural selection and artificial cultivation, Jinxiang garlic features large size and white skin and is solid, flavorful, juicy and nutritious with more than 20 kinds of nutrients, including selenium, iron, potassium and others.

Jinxiang Garlic  
金乡大蒜

Since the implementation of the protection of geographical indication products, the garlic planting area in Jinxiang has reached 700,000 mu, with an average annual output of 800,000 tons. Through the EU-SINO pilot project of mutual recognition and mutual protection of 10+10 geographical indication products, Jinxiang garlic has been officially registered by the European Union. The export of Jinxiang garlic accounts for more than 70% of the total export of similar products in China. The products are exported to 168 coun-

tries and regions. Jinxiang garlic has gained the appreciation of consumers and high reputation in the market.

(Courtesy of the IP Protection Department of CNIPA)

金乡县隶属山东省济宁市,是中国著名的“大蒜之乡”。据县志记载,东汉初年金乡县开始种植大蒜,距今已有2000余年历史。金乡县属于暖温带半湿润、半干旱季风大陆性气候,位于黄河流域冲积平原,土壤有机质含量高,适合大蒜的种植。

在金乡县特定生态环境条件下,经过长期的自然选择和人工培育,金



乡大蒜不仅个大皮白,坚实饱满,汁鲜味浓,而且富含人体所需的硒、铁、钾等多种营养元素。

实施地理标志产品保护以来,金乡大蒜种植面积达70万亩,年均产量80万吨。通过中欧“10+10”地理标志互认互保试点项目,金乡大蒜获得欧盟正式保护注册,金乡大蒜出口占全国同类产品出口总量的70%以上,产品出口到168个国家和地区,深受消费者青睐,市场知名度高。(中国国家知识产权局知识产权保护司供稿)

Court Rejected Auchan Trademark Application of Trademark Agency  
欧尚成功在华维护商标权

Many shoppers are familiar with the France-based shop Auchan. What is little known is that this international retail giant has been entangled in a trademark dispute with a local trademark agency over the trademark "欧尚" (Note: official Chinese translation of Auchan).

The other protagonist, Caiyuan Trademark Agency, located in Tai'an and established on November 10, 2003, Shandong, is a bona fide firm representing clients in trademark matters. On June 17, 2011, Caiyuan filed for the registration of the trademark in question with the Trademark Office (TMO), requesting certified to be used on Class 29 goods including processed betel nut, soy milk (milk substitute), vegetable salad, jelly, processed melon seeds, dried edible fungi and tofu products. On May 20, 2012, the TMO preliminarily approved and published the trademark in question.

Within the statutory opposition period, Auchan lodged an opposition request to the TMO on August 20, 2012, claiming that the trademark in question and its previously registered trademark "欧尚" constituted similar trademarks and Caiyuan Office maliciously squatted its prior trademark which carries certain reputation, and infringing its namesake trade name.

After examination, the TMO made

an opposition ruling on October 22, 2013, holding that the reason for opposition proposed by Auchan is groundless and approved registration of the trademark in question. The disgruntled Auchan then sought review at the Trademark Review and Adjudication Board (TRAB) on November 15 of the year instant.

On January 30, 2015, the TRAB made a reexamination decision, holding that Caiyuan is a trademark agency, and the designated goods on which the trademark in question is used are beyond the scope of its trademark agency services, a clear violation of "the trademark agency shall not apply for registration of other trademarks except for trademark registration for its agency services", prescribed by Article 19(4) of the Trademark Law. In this connection, the TRAB rejected the registration of the trademark in question.

Caiyuan then filed a lawsuit to Beijing Intellectual Property Court, claiming that the clause is a newly-added provision in the current trademark law passed on August 30, 2013. According to the principle of non-retroactivity, this provision shall not bind the trademark in question.

After hearing, Beijing IP Court held that the trial of the relevant right to sue and the party qualification should be applied by the now-obsolete trademark

law after second amendment. The trial of the other issues in the case, however, should be tried by the current legislation, meaning that Caiyuan's act of registering trademark in its own name should be subject to the restrictions provided in Article 19, paragraph 4 of the current Trademark Law of China. As a trademark agency, Caiyuan did not abide by laws and administrative regulations, and did not maliciously squat other people's trademarks by taking advantage of the status of another party's trademark, a knowledge gained through the very line of work it engages in. Such act violated the trademark administration order of the nation while failing the principle of good faith and clearly violating the above-mentioned provision. The trademark in question shall not be approved for registration. On December 27, 2017, Beijing IP Court rejected Caiyuan's claim.

Caiyuan then appealed to Beijing High People's Court. The Court affirmed the original judgment.

(by Wang Guohao)

## 本报记者 王国浩

提及大型综合超市“欧尚(Auchan)”,很多人并不陌生。鲜为人知的是,围绕着“欧尚”二字,法国欧尚控股(下称欧尚控股)与山东省泰安财源商标事务所有限公司(下称财源商标事务所)在华展开了一场商标纷争。

财源商标事务所于2003年11月10日登记成立,系一家商标代理机构,经营范围为商标代理。2011年6月17日,财源商标所向商标局提出诉争商标的注册申请,主张诉争商标与其在先注册的“欧尚”商标构成近似商标,财源商标所向商标局提出诉争商标的注册申请,指定使用在加工过的槟榔、豆奶(牛奶替代品)、蔬菜色拉、果冻、加工过的瓜子、干食用菌、豆腐制品等第29类商品上。2012年5月20日,商标局对诉争商标予以初步审定并公告。

在诉争商标的法定异议期内,欧尚控股的前身欧尚集团于2012年8月20日针对诉争商标向商标局提出异议,主张诉争商标与其在先注册的“欧尚”商标构成近似商标,财源商标所向商标局提出诉争商标的注册申请,指定使用在加工过的槟榔、豆奶(牛奶替代品)、蔬菜色拉、果冻、加工过的瓜子、干食用菌、豆腐制品等第29类商品上。2012年5月20日,商标局对诉争商标予以初步审定并公告。

经审查,商标局于2013年10月22日作出异议裁定,认为欧尚集团所提异议理由不成立,裁定对诉争商标予以核准注册。欧尚集团不服商标局所作裁定,于同年11月15日向商评委申请复审。

2015年1月30日,商评委作出异议复审裁定,认为财源商标所系为商标代理机构,而诉争商标指定使用商品超出了其商标代理服务范围,违反商标法第十九条第四款规定的“商标代理机构除对其代理服务申请商标注册外,不得申请注册其他商标”。故商评委裁定对诉争商标不予核准注册。

财源商标所不服商评委所作复审裁定,随后向北京知识产权法院提起行政诉讼,主张该条款系2013年8月30日通过的现行商标法中新增规定,



根据“法不溯及既往”的基本法治原则,该项规定对诉争商标并无约束力。

北京知识产权法院经审理认为,该案相关诉权和主体资格问题的审理应适用第二次修正的商标法,该案其他问题的审理应适用我国现行商标法,即财源商标所向商标局提出诉争商标的注册申请,指定使用在加工过的槟榔、豆奶(牛奶替代品)、蔬菜色拉、果冻、加工过的瓜子、干食用菌、豆腐制品等第29类商品上,不但违背了起码的诚实信用原则,其投机取巧之举也显然违反了上述法律规定,诉争商标应不予核准注册。

2017年12月27日,北京知识产权法院一审判决驳回财源商标所的诉讼请求。财源商标所不服一审判决,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终审驳回上诉,维持一审判决。

