

China's IP
in foreign eyes

The proposed underwater tunnel will be a part of the 77-kilometer Yong-Zhou Railway plan (from Ningbo to Zhoushan) to boost tourism and create a two-hour commute zone within Zhejiang Province. Yong-Zhou Railway will connect Ningbo East Station and Zhoushan Baiquan Station by high-speed trains that hit a maximum speed of 250 kilometers per hour. The new route, connecting to the existing vast high-speed rail network in China, will transport travelers from Hangzhou -- capital city of Zhejiang -- to Zhoushan in 80 minutes. (China Green Light first underwater high-speed railway, CNN)

拟建的海底隧道将是全长77公里的甬舟铁路(宁波至舟山)计划的一部分,旨在促进旅游业和在浙江省境内创建一个两小时通勤圈。从宁波东到舟山(白泉)站的甬舟铁路实现了海底最高时速250公里的高铁运行速度,乘客可在80分钟内从浙江省省会杭州到达舟山。(中国拟建首条水下高速铁路,美国有线电视新闻网)

Comment:

China's High-speed railway technology with independent intellectual property rights is breaking through the limitation of various geographical environments. As the representative of independent intellectual property rights, China's high-speed railway will not only improve the regional economy, but also offer convenience for Chinese residents.

点评

具有自主知识产权的中国高铁技术正在通过不断攻克技术难关,并突破各种地理环境的限制。以高铁技术为代表的自主知识产权不仅带动了国内区域经济的发展,也给百姓生活带来了实惠和便捷。



Recently, a consortium led by China's Anta Sports Products is closing in on a €5.6bn takeover of Finland's Amer Sports in what would be the largest outbound deal into Europe by a Chinese company this year. If successful, Anta, China's largest sports wear brand by revenue, would acquire Amer's portfolio, which includes Atomic skis, Salomon mountain sports gear, Louisville Slugger baseball bats and Wilson tennis rackets. (Anta Sports close to €5.6bn Amer deal, Financial Times)

近日,一个财团以56亿欧元收购芬兰Amer体育品牌的并购正接近尾声,这个财团由中国安踏体育用品有限公司牵头组成,这将是中国企业今年在欧洲最大规模的对外投资交易。如果交易成功,作为利润最高的中国运动服装品牌,安踏将获得Amer旗下的一系列品牌,其中包括阿托米克(Atomic)滑雪装备、萨洛蒙(Salomon)山地运动装备、Louisville Slugger棒球棒以及威尔逊(Wilson)网球拍。(安踏拟56亿欧元收购Amer体育品牌,金融时报)

Comment:

Chinese sports brand enterprises rely on independent innovation, actively promote brand upgrades, and further enhance the influence of Chinese national brands in the world, which lays a solid foundation for expanding international markets and implementing brand globalization.

点评

中国体育品牌依靠自主创新,积极推动品牌升级,并进一步提升中国民族品牌在全球的影响力,为其开拓国际市场,实行品牌全球化奠定坚实基础。(刘娜)

Sanctions Targeted Serious Breach of Trust in Patent Field

中国将对知识产权(专利)领域严重失信主体开展联合惩戒

Those devoid of credibility will be severely punished. Recently, 38 central government agencies including the National Development and Reform Commission jointly issued the Memorandum of Cooperation on Joint Punishment on Seriously Dishonest Parties in the IP (Patent) Field, providing that one or more measures of the 38 punishment measures shall be imposed upon those exercising serious breach of trust in the patent field. "These measures will serve an irreplaceable function on improving creation, utilization, protection and service level of IP and will further facilitate building a standard, market-oriented and internationally-friendly environment for creation, investment and business, vigorously motivating opening-up and increasing China's economic competitiveness," a principal from the China National Intellectual Property Administration (CNIPA) said.

"The memorandum thoroughly implements the decisions and arrangements of strengthening IP creation, protection, utilization and promoting the development of a social credit system made by the Central Party Committee and the State Council and will greatly enhance the effectiveness, linkage and

systematization of punishment. It is an important way to strengthen oversight during and after the event and improve the credit system for IP. It is also an important measure to improve IP system and the social governance ability in IP field." He introduced that joint punishment was composed of five measures including intensifying supervision, canceling the qualification of evaluation, not being permitted to enjoy the patent fee reduction and prioritized examination implemented by CNIPA, and 33 measures including limiting the eligibility of government funds, qualifications and consumption of high-end goods and services jointly carried out by various departments. The punishment will be inflicted upon those parties of serious breach of trust in the patent field including repeated patent infringements, failure to comply with court order, serious violation during representing clients, loaning patent agent qualification certificate, abnormal patent applications and producing falsifying documents.

Insiders believe that the memorandum manifests the country's confidence and determination to strictly protect IP. The severe punishments to the breach of trust in IP inspires innovators

to respect IP and will benefit the shaping of the climate of respecting and valuing IP, establishing the country's image in respecting IP and creating a sound business environment. The listed six serious breach of trust behaviors have been problems refusing to go in patent filed for an extended period of time. The joint punishment practice is a severe and precise blow to the problems including abnormal patent application and failure to comply with court order. (by Sun Di)

本报记者 孙迪

失信者将被严惩!近日,国家发展和改革委员会等38个部门联合印发了《关于对知识产权(专利)领域严重失信主体开展联合惩戒的合作备忘录》(下称《备忘录》),对知识产权(专利)领域严重失信行为主体将施以38项惩戒措施中的一项或多项。“这将对提升知识产权创造水平、运用能力、保护力度、服务质量发挥不可替代的重要作用,将进一步促进构建规范化、市场化、国际化的创新、投资和营商环境,有力促进扩大开放和中国经济竞争力提升。”中国国家知识产权局有关负责人表示。

“《备忘录》深入贯彻落实党中央、国务院有关强化知识产权创造、保护、运用以及推进社会信用体系建设的决策



部署,将大大增强惩戒的有效性、联动性、系统性,是强化事中事后监管、健全知识产权领域信用体系的重要手段,是完善知识产权制度、提升知识产权领域社会治理能力和治理水平的重要方面。”上述负责人介绍,联合惩戒措施包括由中国国家知识产权局实施的加大监管力度,取消有关评优资格、不予享受专利费用减缴和优先审查等5项措施,以及各有关部门单位联合实施的限制政府性资金支持、限制任职资格、限制高消费等33项各类措施。针对具有重复专利侵权行为、不依法执行行为、专利代理严重违法行为、专利代理人资格证书挂靠行为、非正常申请专利行为、提供虚假文件行为等知

识产权(专利)领域严重失信行为的主体实施者开展惩戒。

业内人士分析,38个部门和单位联合印发《备忘录》,彰显了中国严格保护知识产权的信心和决心。对知识产权严重失信行为的严厉惩戒,正是对尊重知识产权的创新主体的激励,这一举措进一步树立了中国尊重知识产权、营造良好营商环境的国际形象。对知识产权领域严重失信主体开展联合惩戒,将非常有利于在国内形成尊重和重视知识产权的社会氛围。6类严重失信行为正是中国专利领域的几种顽疾,此次开展联合惩戒可谓对非正常专利申请和执法难题的重拳精准出击。



Sangzhi County is under the jurisdiction of Zhangjiajie City of Hunan Province, with a long history of radish cultivation. According to the country records, the late Ming and early Qing Dynasty was the peak period of Sangzhi radish cultivation. Sangzhi County is located in the hinterland of Wuling Mountains, with high altitude,

abundant rainfall, deep soil, rich organic matter and slightly acidic soil, which provides unique conditions for Sangzhi radish growth.

Sangzhi radish features thin skin, juicy taste, white color as jade, crisp and sweet flavor, chewing without residue and rich in nutrition. It is regarded that long-term Sangzhi radish consumption can play a role in reducing blood lipids, softening blood vessels, stabilizing blood pressure. So it is known as "fresh ginseng grown in the mountains".

Sangzhi County is a poverty alleviation county designated by China Na-

Sangzhi Radish

桑植萝卜

tional Intellectual Property Administration. Through the implementation of the protection of geographical indication products, there are more than 3,900 households totaled 11,000 farmers engaged in Sangzhi radish cultivation in the protected area of 10 townships, towns and forest farms. Sangzhi radish has promoted the development of local characteristic economy and helped the local people get rid of poverty and become rich.

According to statistics, at present the planting area is about 18,000 mu, and the annual yield of fresh radish is about 72,000 tons, with an annual out-

put value of 130 million yuan. Sangzhi radish products sales cover Changsha, Wuhan, Guangzhou, Chongqing and other areas.

(Courtesy of the IP Protection Department of CNIPA and Hunan Intellectual Property Office)

桑植县隶属于湖南省张家界市,萝卜栽培历史悠久。据桑植县志记载:“明末清初,为萝卜栽培盛期”。桑植县地处武陵山脉腹地,海拔高,雨量充沛,土层深厚,富含有机质,土壤呈微酸性,为桑植萝卜生长提供了得天独厚条件。

桑植萝卜皮薄汁多,质白如玉,脆嫩可口,味甘不辣,嚼而无渣,营养丰



富,被誉为“高山深处的鲜人参”。桑植县是中国国家知识产权局定点扶贫县。通过实施地理标志产品保护,桑植萝卜保护地域范围覆盖10个乡镇、林场,从事桑植萝卜种植的农户约3900余户共1.1万人,引领当地特色经济发展,助力当地群众脱贫致富。

据统计,目前桑植萝卜种植面积约1.8万亩,年产鲜萝卜约7.2万吨,年产量达1.3亿元。产品销售覆盖长沙、武汉、广州、重庆及其他地区。

(中国国家知识产权局知识产权保护司、湖南省知识产权局供稿)

Court Recognizes Right of NBA Library, Dishes Unfair Competition Victory

NBA 品牌在华成功维权

NBA Properties, INC. and Shanghai-based Wapu brought a trademark infringement/unfair competition case to Guangzhou IP Court, alleging three companies, namely Lanfei based in Chengdu, Lingxian based in Qingdao and Changyue based in Guangzhou for infringing trademark and property rights shared by NBA character recognition library. On May 5, 2017, Guangzhou IP Court made its first-instance decision, confirming infringement acts of the three defendants and ordering injunction. The disgruntled three companies then appealed to Guangdong High People's Court. Recently, Guangdong High made its second-instance judgment, siding with the first instance.

NBA Properties claimed that it is the holder of intellectual property right, collective portrait right, intangible properties right for NBA, and enjoys civil rights for NBA character recognition library. Authorized by NBA Properties, Wapu had the right to use NBA logo and NBA character recognition library in NBA games for mobile phones. Lanfei and Lingxian is suspected of infringing collective portrait right

by using NBA recognition elements, constituting unfair competition; Changyue is suspected of joint infringement by providing convenience for the other two defendants and did not cease its act after receiving the warning letter.

Lanfei and Lingxian argued that NBA trademarks are not used in their game. The cartoons in the game are independently created by Lingxian, do not look like real NBA players and infringe NBA character recognition library. Changyue said that the game is not on the front page of its platform but just a hyperlink. Users may only download after searching a designated name.

After hearing, Guangzhou IP Court held that business interests through NBA recognition element commercialization are the fruits of its investment and operation for long time. The behavior of MCNBA using NBA recognition elements is commercial use of these elements, violating principle of good faith and universally-known business morals and damaging legal interests of the plaintiffs. Unfair competition is established.

On this ground, Guangzhou IP

court made the ruling that Lanfei and Lingxian should stop their unfair competition acts for using NBA recognition elements in MCNBA, indemnifying three million yuan in damages and Changyue 100,000 yuan.

All three defendants appeal to Guangdong High. Recently, Guangdong High heard the case and held that NBA collective portrait including NBA players portraits were commercialized rights. Two defendants used them as cartoons in their game without consent, which constitutes unfair competition. In this connection, Guangdong High affirmed the first instance decision.

(by Jiang Xu/Xiao Shengcheng)
因认为成都蓝飞互娱科技有限公司(下称蓝飞公司)、青岛零线互动网络科技有限公司(下称零线公司)以及广州畅悦网络科技有限公司(下称畅悦公司)涉嫌构成商标侵权,侵犯美国职业篮球联赛(下称NBA)特征识别库所享有的财产权益,构成不正当竞争,美商NBA产物股份有限公司(下称美商公司)、上海蛙扑网络技术有限公司(下称蛙扑公司)将上述公司起诉至广州知识产权法院。广州知识产权法院于2017年5月5日作出一审判决,认定三被告构成侵权,依法判令其

立即停止不正当竞争行为。三被告不服,向广东省高级人民法院(下称广东高院)提起上诉。近日,广东高院就该上诉案作出二审判决,维持一审判决。

美商公司诉称,美商公司为NBA知识产权、集体肖像权、无形财产权的持有方,对NBA特征识别库享有民事权益。基于美商公司的授权许可,蛙扑公司有权在手机NBA游戏中使用NBA标识、NBA特征识别库等。蓝飞公司、零线公司在萌卡篮球游戏中涉嫌使用多项NBA识别要素,涉嫌侵犯集体肖像权,构成不正当竞争行为;畅悦公司为二被告的上述行为提供便利,且收到警告函后未停止帮助行为,涉嫌构成共同侵权。

蓝飞公司、零线公司称,被告游戏未出现对NBA商标的使用;被告游戏中的卡通人物是被告零线公司完成的独创作品,与NBA球员真人并不相像,未侵犯原告的NBA特征识别库。畅悦公司称,被告游戏没有放在自己平台的首页,其只是提供被诉游戏的下载链接,用户需要搜索指定名称才能下载。

广州知识产权法院经审理认为,NBA识别元素商品化实现商业利益正是其长时间投入和经营的结果。萌卡篮球游戏使用NBA识别元素,属于对这些元素的商品化使用,违反了诚信原则和公认商业道德,损害了二

原告合法权益,构成对二原告的不正当竞争。

据此,广州知识产权法院判决被告蓝飞公司和零线公司应停止在萌卡篮球游戏使用NBA识别元素的不正当竞争行为,并赔偿二原告经济损失等300万元,畅悦公司对其中的10万元负连带赔偿责任。

三被告不服一审判决,向广东高院提起上诉。近日,广东高院对此案进行开庭审理。经审理,广东高院认为,包括NBA球星形象在内的NBA集体形象构成商品化权益,二被告擅自在游戏中将其进行卡通化使用,构成不正当竞争行为。综上,广东高院作出二审判决,维持了一审原判。

(姜旭 肖晟程)



英文翻译	王瑞
Translator	Wang Rui
英文翻译	熊花平
Translator	Xiong Huaping
责任编辑	李铎
Executive Editor	Li Duo