

China's IP  
in foreign eyes

A study published by Elsevier, a scientific publisher, and Nikkei, a Japanese news business, on January 6th found that China published more high-impact research papers than America did in 23 out of 30 hot research fields with clear technological applications. Chinese science is a nimble giant, capable of piling in on any new field of promise with enormous, often centrally encouraged, force. (*Can China become a scientific superpower? The Economist*)

1月6日,科学出版商爱思唯尔联合日本经济新闻公布的一项研究发现,在30个具有明确技术应用前景的热点研究领域,中国有23个领域发表的高影响力研究论文数量多于美国。中国科学像一个灵活的巨人,能够集中大力气在任何有一个有前途的科学研究领域里集中开展科研。(中国能成为一个科学超级大国吗?《经济学人》)

## Comment:

In recent years, Chinese government has vigorously implemented the innovation-driven development strategy and national intellectual property strategy. Inspired by the policy, with mounting technological outputs of Chinese universities, scientific research institutes and enterprises, China's competitiveness in global technological competition is also growing.

## 点评

近年来,中国政府大力实施创新驱动发展战略与国家知识产权战略。政策鼓励下,中国高校、科研院所、企业的科技成果产出不断增多,中国在国际上的科技竞争力也正不断增强。



Apple Inc.'s biggest competitor in China isn't Xiaomi Corp. or Huawei Technologies Co. It's Tencent Holdings Ltd. Industry observers have known for a while that Tencent's WeChat, including its Mini Programs platform, has the potential to displace the App Store. Now the company seems set on building out the long tail, maximizing value beyond mainstream usage of its core products. (*In Tencent's Future, It Won't Be the Humans Who Chat, Bloomberg*)

苹果在中国市场最大的竞争对手不是小米或华为,而是腾讯。产业观察者们已经发现腾讯旗下产品微信及其小程序平台出现了取代苹果应用商店的趋势。现在,腾讯似乎正试图延长微信的长尾,使这款核心价值产品价值最大化。(腾讯的未来不止于社交聊天,彭博社)

## Comment:

Development prospects of tech companies often depend on their core technology. Tencent always insists on independent innovation and constantly improves intellectual property protection of its innovative achievements, and also constantly enriches its service and connotation and expands its business imagination.

## 点评

科技公司的发展前景往往取决于其拥有的核心技术实力。腾讯公司始终坚持自主创新,并不断完善对其创新成果的知识产权保护,不断丰富其服务功能和内涵,拓展商业想象力。(邹碧颖)

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

## Key Indicators of IP Make Steady Progress in 2018

中国国家知识产权局公布2018年主要工作统计数据——

## 主要指标稳中有进 综合实力持续增强

On January 10, China National Intellectual Property Administration (CNIPA) held a press conference and released statistics for the year 2018 on patents, trademarks, geographic indications (GI) and layout designs of integrated circuits.

In 2018, granted invention patents in China totaled 432,000, 346,000 of which were from domestic users. Huawei (3,369), Sinopec (2,849) and OPPO (2,345) ranked top three in terms of the number of granted invention patents in China. As of the end of 2018, the grants of invention patents in China amounted to 1.602 million. The number of invention patents owned by every 10,000 people reached 11.5. In 2018, CNIPA received 55,000 PCT applications, up 9.0%; 52,000 of which were from local users, up 9.3%. The pendency for high-value patent examination was shrunk by 10% with a 52-percent reduction in complaints against patent examination.

In 2018, the number of registered trademarks in China was 5.007 million, 4.797 million of which were filed here. As of the end of 2018, China housed 18.049 million valid registered trademarks with 1,724 trademarks

owned by every 10,000 market players. In 2018, there were 6,594 Madrid international trademark applications. As of the end of 2018, the valid Madrid international trademark applications from China were 31,000, up 23.5%. In 2018, the concluded trademark applications were 8.043 million and the average examination pendency for trademark registration was curtailed below 6 months. The time spent for hearing trademark rejection review cases was reduced within 7 months.

In 2018, there were 67 GI products under protection, 961 registered GI trademarks and 223 businesses certified to use GIs. In 2018, CNIPA received 4,431 registered applications of layout designs of integrated circuits, up 37.3%; 3,815 of which were certified, up 42.9%.

According to experts, in 2018, key indicators of IP in China made steady progress, confidence in China's IP protection from abroad were constantly strengthened and comprehensive strength of IP were reaching a new stage. Meanwhile, domestic companies further improved their status as key innovation force, Chinese companies continued to bolster patenting globally



and invention patent quality of China was on steady rise. (by Wu Ke)

本报讯(记者吴珂北京报道)1月10日,中国国家知识产权局在京召开新闻发布会,公布了2018年专利、商标、地理标志、集成电路布图设计的统计数据及有关情况。

此次公布的数据显示,2018年,中国共授权发明专利43.2万件,其中,国内发明专利授权34.6万件。2018年,中国发明专利授权量排名前3位的国内(不含港澳台)企业依次为:华为技

术有限公司(3369件)、中国石油化工股份有限公司(2849件)、广东欧珀移动通信有限公司(2345件)。截至2018年底,中国国内(不含港澳台)发明专利拥有量共计160.2万件,每万人口发明专利拥有量达到11.5件。2018年,中国国家知识产权局共受理PCT国际专利申请5.5万件,同比增长9.0%。其中,5.2万件来自国内,同比增长9.3%。高价值发明专利审查周期压减10%,专利审查有责投诉同期下降52%。

2018年,中国商标注册量500.7万件,其中,国内商标注册479.7万件。截至2018年底,中国国内有效商标注册量(不含国外在华注册和马德里注册)达到1804.9万件,每万户市场主体商标拥有量达到1724件。2018年,马德里商标国际注册申请量为6594件。截至2018年底,中国申请人马德里商标国际注册有效量为3.1万件,同比增长23.5%。2018年,共审结商标注册申请804.3万件,商标注册平均审查周期缩短至6个月以内。商标驳回案件审理时间压缩到7个月以内。

在地理标志和集成电路布图设计方面,2018年,批准保护地理标志产品67个,注册地理标志商标961件,核准使用地理标志产品专用标志企业223家。2018年,中国国家知识产权局共收到集成电路布图设计登记申请4431件,同比增长37.3%,集成电路布图设计发证3815件,同比增长42.9%。

有关专家表示,2018年,中国主要知识产权指标稳中有进,国际社会对中国知识产权保护的信心持续增强,知识产权综合实力再上新台阶。同时,中国国内企业创新主体地位进一步提升,中国企业海外知识产权布局意识不断加强,中国发明专利质量呈现稳中向好态势。



Comté is a French cheese made from cow's milk. It is the production of protected designation of origin. Through the EU-SINO pilot project of mutual recognition of geographical indication products, China has implemented the geographical indications products protection for Comté since May 2011.

Comté is mainly produced in the Franche-Comté traditional province of northeastern France, where the production of large-size cheese has a long his-

tory. Since the Eleventh century, farmers in the region have concentrated milk produced by their cattle to local cheese processing cooperatives for the production of Comté.

Comtéuses whole-fat fresh milk of local dairy breeds (Montbéliarde or Pie Rouge de l'Est), which are fed with local forage. It is featured cylindrical or drum-shaped, each between 50 to 70 cm in diameter, and around 8 to 13 cm in height, not less than 45% fat content and rich in phosphorus, calcium, potas-

Comté  
孔泰(奶酪)

sium and protein.

Traditional special production methods of Comté include heating, pressing and polishing. After adding chymosin to form a clot, the clot is heated to 53°C for at least 30 minutes. Then the cheese is pressed, salted or brined in brine. Fermentation maturity takes at least 120 days, during which cheese is regularly rolled and polished.

(Courtesy of the IP Protection Department of CNIPA)

孔泰(奶酪)是硬质牛乳奶酪,是

法国原产地名称保护产品。通过中欧“10+10”地理标志互认试点项目,自2011年5月开始,中国对孔泰(奶酪)实施地理标志产品保护。

孔泰(奶酪)主要产自法国东北部弗朗什-孔泰大区(Franche-Comté),该地区大尺寸奶酪的生产有着悠久的历史。自十一世纪以来,该地区的农民就开始将各自牛群产出的牛奶集中送到当地的奶酪加工合作社,用于生产孔泰(奶酪)。

孔泰(奶酪)是使用当地奶牛出产的全脂生牛乳制成,呈圆柱形或



鼓形,直径50厘米至70厘米,高8厘米至13厘米,脂肪含量不低于45%,富含磷、钙、钾和蛋白质。

孔泰(奶酪)采用传统生产方法进行加热、压制和打磨。加入凝乳酶形成凝乳块后,加热到53°C并保温至少30分钟,再进行压制,加干盐或放在盐水中腌制。发酵成熟期至少需120天,其间对奶酪进行定期翻动和表面打磨。

(中国国家知识产权局知识产权保护司供稿)

Dutch Firm VMI Gains Universal Nod in Invention Patent Dispute  
VMI 荷兰公司赢得轮胎成型鼓专利权纠纷案

Accusing Jiedong Shuangjun Rubber Machinery (renamed to Jieyang Shuangjun Rubber Machinery later) of infringing its ZL01806616.X patent, titled "tyre building drum provided with a turn-up device", VMI HOLLAND B.V. lodged a request to Guangdong Intellectual Property Office (GIPO), claiming that the accused party's products constitute all the technical features of Claim 1 and at least the supplementary technical features of the claims from 2 to 14.

After taking the case on June 23, 2014, GIPO performed on-scene investigation, two oral hearings and produced an on-scene comparison video prior to rendering its decision on April 8, 2015, holding that the technical solution of the accused products match all the technical features of Claim 1 of VMI's patent either literally or equivalently and ordering Shuangjun to cease the infringing act immediately. As Claim 1 owned the maximum protection scope, the GIPO decision did not treat and respond to VMI's arguments on Claims 2-14.

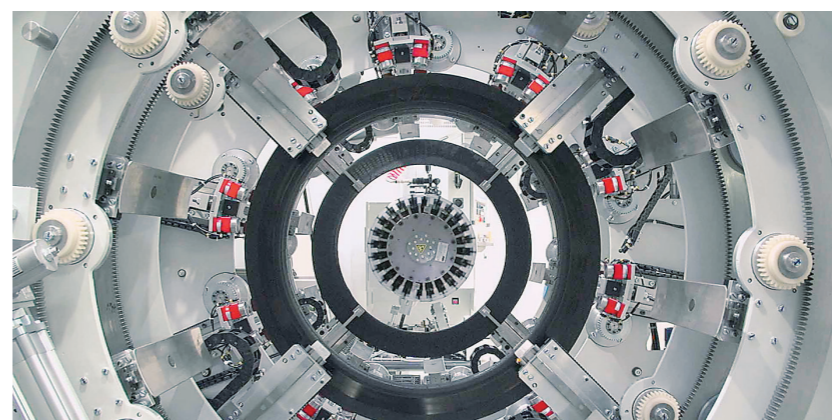
During this administrative adjudication, Shuangjun set up another war front by applying for invalidation of

the patent in question on July 8, 2014. On December 4, 2014, Patent Reexamination Board under the then-State Intellectual Property Office (SIPO) sustained the validity of the patent in its No.24507 decision. In view of the strength of the patent, GIPO determined its overall protection scope by considering Claim 1, the claim that has the maximum protection scope.

The disgruntled Shuangjun then brought GIPO's decision to court, but would suffer another loss at the decisive second instance which upheld the GIPO decision. In a final decision of a separate lawsuit about damages, Guangdong High People's Court, on December 23, 2016, imposed injunction and damages upon Shuangjun.

## Impact of the Case:

The case waded through intellectual property office adjudication and ensuing litigation of the first and second instance, invalidation and its ensuing litigation, litigation on damages of first and second instance, well characterizing the complexity of technical and legal issues of patent infringement disputes and to some extent the strength of proactive ac-



tions of patent administrative enforcement. Some basic principles of civil law and administrative law were employed during the trial of the administrative litigation, which would cast a long shadow on future patent law enforcement and administrative lawsuit.

请求人VMI荷兰公司(简称VMI公司)认为被请求人广东省揭东县双骏橡胶机械有限公司(后更名为揭阳市双骏橡胶机械有限公司,下称揭阳双骏公司)实施了侵犯其“具有翻边装置的轮胎成型鼓”(专利号:ZL01806616.X)的发明专利权的行为,向广东省知识产权局请求处理,其请求书主张“涉案专利产品完全具有专利权利要求1的全

部技术特征,还至少具有其专利权利要求2-14的附加技术特征”。

广东省知识产权局于2014年6月23日立案后,经过现场勘验、两次口头审理等程序,并制作了现场比对录像,于2015年4月8日作出行政处理决定书,认定被控侵权产品技术方案具有与请求人专利权利要求1记载的全部技术特征相同或等同的技术特征,责令揭阳双骏公司立即停止侵权行为。由于专利权利要求1的保护范围最大,行政处理决定书未对权利要求2-14进行处理和回应。

此外,在本案处理期间,本案被请求人于2014年7月8日申请涉案专利无效。2014年12月4日,中国国家知识

产权局专利复审委员会第24507号无效宣告请求审查决定书维持涉案专利权有效。鉴于涉案专利权较为稳定,广东省知识产权局根据保护范围最大的专利权利要求1确定了专利保护范围。

本行政决定作出后,被请求人提起行政诉讼,经一、二审,二审终审撤销一审判决,驳回揭阳双骏公司的诉讼请求,维持了原行政处理决定。同时,民事诉讼方面,广东省高级人民法院于2016年12月23日作出民事判决,维持了一审民事判决,责令揭阳双骏公司立即停止侵权行为并赔偿相关费用。

## 典型意义

本案经历了行政处理程序及其行政诉讼一审、二审,无效程序及其行政诉讼,民事诉讼一审、二审等多个处理程序,充分反映了专利侵权纠纷案件涉及技术和法律问题的复杂性,体现了专利行政执法主动作为的优势。在法律适用上本案在行政诉讼中综合运用了民法和行政法基本原则,对于专利行政执法及其行政诉讼有重要借鉴和参考意义。

