

China's IP
in foreign eyes

China's first big-screen adventures in outer-space will soon be landing on Netflix. The global streaming giant has picked up U.S. and international online rights to *The Wandering Earth*, the hit sci-fi blockbuster that has earned \$610 million at Chinese cinemas since the start of February. "Netflix is committed to providing entertainment lovers with access to a wide variety of global content. With its high-quality production and storytelling, we believe that *The Wandering Earth* will be loved by sci-fi fans around the world," added Jerry Zhang, manager of content acquisition at Netflix. (*Netflix Acquires Chinese Sci-Fi Blockbuster 'The Wandering Earth', the Hollywood Reporter*)

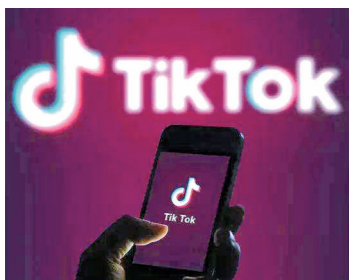
中国首部外太空冒险电影很快将在奈飞上线。这家全球性流媒体巨头已买下《流浪地球》在美国以及全球的线上版权。自上映以来,热门科幻片《流浪地球》已在中国获得6.1亿美元票房。“奈飞致力于为电影爱好者提供来自全球的多元内容,我们相信《流浪地球》高质量的制作与叙事方式会吸引全世界的科幻迷。”奈飞内容采购经理张杰瑞表示。(奈飞获得中国科幻大片《流浪地球》版权,好莱坞报道者)

Comment:

The film "Wandering Earth" was successfully adapted into a sci-fi film hit at the box office and exported overseas. Besides the efforts of the creators, the success also benefited from the maturity of China's copyright trading market and the improvement of China's IP protection climate.

点评

电影《流浪地球》由小说成功改编科幻电影,收获理想票房并出口海外。电影的成功除与创作者的努力密不可分,也得益于中国版权交易市场的日渐成熟,以及中国知识产权保护环境的日益完善。



TikTok has just crossed the 1 billion mark for worldwide installs on the App Store and Google Play, according to data from Sensor Tower. The 1 billion download figure is also only part of the story, as it does not include the number of downloads the app has received on Android in China, according to Sensor Tower, which also reported that TikTok was the No. 1 non-game app in the U.S. in January. (*TikTok better positions itself as a Facebook rival, USA Today*)

相关数据显示,不久前,视频社交软件抖音在苹果应用商店与谷歌应用商店的全球下载量超过了10亿次。而10亿的下下载数字仅仅是抖音故事的一部分,还不包括其中安卓端的下载量。据了解,今年1月,抖音在美国的非游戏类软件中排名第一。(抖音将自己视为脸书的竞争对手,今日美国)

Comment:

Through the exploration of teenagers' aesthetic taste, TikTok creates a new way of video social interaction and is widely recognized. In recent years, TikTok has continuously strengthened copyright protection to ensure that its content does not flow out for the one side and attract more users into TikTok for the other side, which is also an important reason for TikTok's success in overseas market.

点评

通过对青少年审美趣味的独到探索,抖音创新出一种新的视频社交方式并广泛受欢迎。近年来,抖音不断加强版权保护,确保平台内容不外流,让更多用户聚集在抖音,这也是抖音在海外大获成功的重要原因。

(邹碧颖)

Revised Patent Agency Regulations Come into Effect
修订后的《专利代理条例》正式实施

The outgoing Patent Agency Regulations (referred to Regulations) had been in play for 28 years. On January 1, the newly revised Regulations took over. The revision follows the requirements of the "delegating power and optimizing services" reform and the need to improve the business environment, stimulate market vitality and social creativity and improves the patent agency system based on the changes in the patent agency business.

"In 2008, the requirements for founding a patent agency in China were relatively rigid and the procedures were rather cumbersome," Chen Hao, a veteran patent agent and general manager of Zhengzhou Ruixin Intellectual Property Agency, recalled that there was an experienced and capable patent attorney in his firm, who was forced out of the agency's boardroom because of the Regulations' 65-years-old-bar for partners or shareholders. This time the Regulations makes changes in partners, shareholders, patent agent qualifications and years of practice, and relaxes the restrictions on organizational form of patent agencies.

In addition, the revised Regulations simplifies the examination and approval system for the establishment of patent agencies, replacing the original examination and approval for the estab-



lishment of patent agencies with the examination and approval for entering into patent agency business, cancelling the preliminary examination at the provincial level and reserving only the scrutiny by the patent administration department under the State Council.

There are still many contents in the revision of the Regulations that dedicate to improve the quality of patent agency work. "The outgoing Regulations lacked transparent management of public information of patent agencies," said Chen Hao, adding that with the continuous advancement of market-intervention-only operation of the patent agency business, some firms have

made exaggerated and false publicity in order to gain market recognition. But due to the lack of disclosure of public information of patent agencies, it is difficult to take on and curb these unscrupulous acts.

Accordingly, Article 23 of the revised Regulations adds the contents of information disclosure of patent agencies, providing that the patent administration department of the State Council and the departments in charge of patent work at the provincial level should publish the information of the practice of patent agencies and patent agents. According to Tao Xinliang, dean of School of IP, Dalian University of

Technology, the revised Regulations regulates information publicity and provides inquiry services for the public to optimize the patent agency industry and improve industry efficiency.

By the end of 2018, there were a total of 18,668 patent agents and 2,195 patent agencies. The patent agency industry has gained a good momentum. After the implementation of the revised Regulations, the patent administration departments of various places have been doing solid work preparing for its execution. (by Li Qian)

本报记者 李倩

距中国《专利代理条例》(下称《条例》)颁布实施已过去28年。3月1日,修订后的《条例》正式实施。此次修订适应“放管服”改革要求和优化营商环境、激发市场活力和社会创造力的需要,根据专利代理行业实际情况变化,完善了专利代理制度。

“2008年时,中国对专利代理机构设立的条件比较苛刻,手续比较繁琐。”资深专利代理师、郑州睿信知识产权代理有限公司总经理陈浩回忆,当时公司有一位经验丰富、执业能力很强的专利代理人,因为不符合当时中国规定的专利代理机构的合伙人或者股东年龄不超过65周岁,而无法成为公司股东。对此,修订后的《条例》对原来条例规定的合伙人、股东、具有专利代理资格证书和从业经验

的要求作了修改,放宽了专利代理机构的组织形式限制。

此外,修订后的《条例》简化了专利代理机构审批制度,将原来的设立专利代理机构审批改革为从事专利代理业务审批,取消了原有的省级初审环节,规定由国务院专利行政部门直接审批。

此次《条例》修订还有不少内容致力于促进专利代理质量提升。“原来的《条例》缺乏对专利代理机构公共信息的透明管理。”陈浩表示,随着专利代理行业市场化进程不断推进,一些机构为了获得市场认可,在机构宣传中出现了夸大、虚假等宣传,但因缺乏对专利代理机构的公共信息进行披露,难以对这种宣传予以打击和抑制。

对此,修订后的《条例》第23条中增加了专利代理机构信息公开的内容,规定国务院专利行政部门和地方省级管理专利工作的部门应当发布代理专利机构和专利代理师的执业相关情况。在大连理工大学知识产权学院院长陶鑫良看来,修订后的《条例》重点规范了公共信息的发布,并为公众提供查询服务,藉以优化专利代理行业的服务,提升行业效率。

截至2018年底,中国共有执业专利代理师1.8668万人,专利代理机构达到2195家,专利代理行业总体上呈现出良好发展态势。修订后的《条例》颁布后,各地专利管理部门正有序落实相关工作。

Prosciutto di Parma

帕尔玛火腿



Prosciutto di Parma is an air-dried raw ham produced in the defined geographical area in the Parma Province of Italy. It is identified by a heat-affixed mark reproducing the image of a five-point crown on the pork rind. China has implemented the geographical indications products protection for Prosciutto di Parma since September 2012.

Prosciutto di Parma is normally 8-10 kg, may be sold as whole, boneless, in pieces or in slices and packaged ap-

propriately. Prosciutto di Parma is characterized as pink to red color when cut, interspersed with pure white fat. It is delicate and sweet-tasting, not very salty with a typical fragrant aroma.

The characteristics of Prosciutto di Parma are closely linked to natural environmental conditions and cultural factors. On one hand, Parma Province has unique climatic conditions. The sea air from Versilia dries Prosciutto di Parma and lends its exclusive sweet aroma into it. On the other hand, in the

central and northern Italy, the breeding of heavy pigs of the late slaughter continued from Etruscan times. There are specific technical requirements and strict monitoring systems for pig breeds, breeding methods and slaughter standards.

(Courtesy of the IP Protection Department of CNIPA)

帕尔玛火腿是产自意大利帕尔玛省特定区域的风干火腿,猪皮上加盖有五角皇冠形状的火印章。2012年9月起,中国对帕尔玛火腿实施地理

标志产品保护。

帕尔玛火腿重量一般为8至10公斤,可以整只或去骨出售,或者以火腿块、切片等不同形式包装出售。切片呈玫瑰色到红色,纯白色脂肪分布均匀,肉质细腻香甜、微咸、具有独特的香气。

帕尔玛火腿的独特品质主要取决于自然环境与人文因素。一方面,帕尔玛省具有得天独厚的气候条件。从维西利亚海吹来的海风,赋予了帕尔玛火腿特有的甜蜜香气。另一方面,意大利中北部地区对晚出栏



重型猪的饲养从伊特鲁利亚时代延续至今,针对猪品种、饲养方式和屠宰标准等内容都建立了特定的技术要求和严格的监控体系。

(中国国家知识产权局知识产权保护司供稿)

Beijing High: No Protection of Thermos Beyond Registered Class

膳魔师商标之争二审有果

Over the No. 6241095 (TILIR THERMO VOGUE trademark), the U.S.-based Thermos Company had a rift with Ningbo Kefeng Daily Necessities Manufacturing Company.

Kefeng Company filed the registration of the trademark in dispute to the Trademark Office (TMO) and would obtain the official approval to use the trademark on Class 21 goods such as temperature retention bottles and food insulation containers on February 14, 2010.

On December 4, 2015, Thermos launched an invalidation request against the trademark in dispute to the former Trademark Review and Adjudication Board (TRAB), claiming that its previously-registered No. 688940 "膳魔师" (note: Chinese translation of Thermos) trademark (the reference mark) on stainless pots, temperature retention bottles, hot water bottles constitutes a well-known trademark and the trademark in dispute is a copy and imitation of its well-known trademark. Kefeng Company maliciously has registered a bunch of trademarks with the word "THERMO" and obtained the registration of the trademark in dispute

by deception or other improper means.

After examination, the former TRAB believed that the evidence submitted by Thermos cannot prove that the reference trademark had been well-known before the date of registration of the trademark in dispute and these two marks are quite different in logo. The trademark in dispute did not copy and imitate the reference trademark. Kefeng didn't obtain the registration of the trademark in dispute by deception or other improper means. In this connection, the former TRAB upheld the registration of the trademark in dispute.

Thermos then brought the case to Beijing Intellectual Property Court. The IP Court held that there is a big difference between the trademark in dispute and "THERMOS" and words "膳魔师". Thermos has not submitted sufficient evidence to prove that Kefeng maliciously applied for the registration of the trademark in dispute and failed to prove that the reference trademark had been well-known. Therefore, the trademark in dispute does not con-



stitute imitation and translation of the reference trademark.

On November 28, 2017, the IP Court rejected the complaint of the Thermos in the first-instance judgment. The disgruntled Thermos then appealed to Beijing High People's Court. After hearing, Beijing High nodded with the trial court on the same ground, rejecting the appeal from Thermos and upholding the first-instance judgment. (by Wang Guohao)

本报记者 王国浩

围绕着第6241095号“TILIR THERMO VOGUE”商标(下称诉争商标),美国膳魔师有限责任公司(下

称膳魔师)与宁波可逢日用品制造有限公司(下称可逢)产生了一场纷争。

据了解,诉争商标由可逢向商标局提出注册申请,2010年2月14日被核准注册,核定使用在保温瓶、食物保温容器、饮用器皿等第21类商品上。

2015年12月4日,膳魔师针对诉争商标向原商标评审委员会(下称原商标评审委员会)提出无效宣告请求,主张其在先注册在不锈钢锅具、保温瓶、热水瓶商品上的第688940号“膳魔师”商标(下称引证商标)构成驰名商标,诉争商标属于对其驰名商标的复制与摹仿,而且可逢注册多件带有“THERMO”字样的商标存在主观恶意,系以欺骗手段或者其他不正当手段取得诉争商标的注册。

经审查,原商标评审委员会认为膳魔师提交的证据无法证明引证商标在诉争商标申请注册日前已达到驰名程度,而且引证商标与诉争商标标识差异较大,诉争商标不构成对引证商标的复制与摹仿,可逢亦不存在以欺骗手段或者其他不正当手段取得诉争商标注册的情形。综上,原商标评审委员会对诉争商标予以维持。

膳魔师随后向北京知识产权法院提起行政诉讼。北京知识产权法院经审理认为,诉争商标与“THERMOS”及“膳魔师”文字存在较大差别,膳魔师没有提交充分证据证明可逢申请注册诉争商标具有主观恶意,亦未能证明引证商标已经达到了驰名程度,诉争商标不构成对引证商标的摹仿、翻译。

综上,北京知识产权法院于2017年11月28日一审判决驳回膳魔师的诉讼请求。膳魔师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经审理认为,膳魔师提交的证据不足以证明“THERMOS”标志作为未注册商标在诉争商标申请注册注册日前已构成驰名商标,而且诉争商标与“THERMOS”标志存在一定区别,未构成对该标志的复制、摹仿、翻译。法院判决驳回膳魔师上诉,维持一审判决。



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