

China's IP  
in foreign eyes

Recently, China's State Council convened a press conference to announce and explain 83 revisions to the annual Government Work Report. Among the revisions was a proposal to promote the development and construction of fueling stations for hydrogen fuel-cell cars. Fuel cells require onboard hydrogen tanks, which are both lighter and capable of holding far more energy than a battery. While it won't be easy, success will require overcoming significant technical and market hurdles. (China's hydrogen economy is coming, by Bloomberg News)

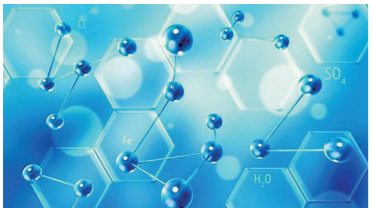
近日,中国国务院新闻办举行吹风会,就政府工作报告中83处修订进行了解读。其中“推动充电、加氢等设施建设”备受关注。氢燃料电池靠氢与氧发生化学反应产生电能,无需充电,只需车载储氢罐,重量更轻,也比蓄电池能储存更多的能量。发展氢燃料电池汽车不容易,需要进行技术攻关,打破市场瓶颈。(中国“氢经济”到来,彭博社)

## Comment:

In China, the hydrogen energy and fuel cell have been regarded as strategic emerging industries. Relevant enterprises, therefore, must seize the opportunity, grasp the core technology and strengthen the protection of IPRs to win the market opportunities.

## 点评

在中国,氢能和燃料电池技术已提高到战略性新兴产业的高度,相关企业要把握机遇,掌握氢燃料电池核心技术,加强知识产权保护,赢得发展先机。



Such large-scale scientific ventures have become common in China over the past decade, forming key elements of the government's plan to transform the country into a high-tech economy that can match, and eventually surpass, the world's leading scientific nations. According to data from the Web of Science, the number of papers on the topic more than tripled between 2006 and 2017, to around 40,000 in materials science. (Materials science is helping to transform China into a high-tech economy, by Nature)

过去十年,材料科学探索项目已在中国比比皆是,成为推动中国与世界一流科技强国相媲美并实现赶超的关键因素。美国科学网数据显示,2017年中国在该领域发表的论文达到约4万篇,是2006年的3倍多。(材料科学助力中国打造高科技强国,《自然》杂志)

## Comment:

Material science is an important factor to measure the development of science and technology and the power of the country. While publishing scientific research achievements in the field of material science, Chinese scientific researchers should actively promote IPRs' transformation and utilization and truly awaken the "sleeping IPRs".

## 点评

材料科学是衡量科技发展和国力强弱的重要因素。中国科研工作者在材料科学领域发表科研成果的同时,还要积极推动重大科技成果的知识产权转化运用,真正唤醒“沉睡的知识产权”。(李倩)

## National IP Publicity Week Highlights Stringent IP Protection

今年全国知识产权宣传周主题确定

## 严格知识产权保护 营造一流营商环境

The 2019 National IP Publicity Week will kick off from April 20th to 26th with the theme of "Providing Stringent IP Protection and Creating a First-Class Business Environment". Various departments and regions will organize a wide range of activities including launching ceremony, press release, publicity, consultation, and exhibitions to target different groups, such as innovators, government officials, youth and the public.

The publicity week will focus on five aspects. Firstly, publicize the various regions and departments to conscientiously study and implement Xi Jinping thought on socialism with Chinese characteristics for a new era, resolutely implement General Secretary Xi Jinping's important instructions on IP work, resolutely implement the major decision-making arrangements of the Party Central Committee and the State Council on IP and new progress, style, experience and achievements during the high-quality development of IP undertakings. Secondly, publicize the extraordi-



nary progress and achievements made during the process of IP undertakings since the founding of the People's Republic of China in the past 70 years, especially since the 18th National Congress of the Communist Party of China, and the progress and achievements of IP work in various places. Thirdly, publicize various departments and re-

gions to implement the important instructions of the General Secretary Xi Jinping on improving the quality and efficiency of IP examination, implement the requirements of "delegating power and optimizing services" reform of the State Council and measures and progress made in promoting undertakings to achieve stable and high-quality

development. Fourthly, publicize the policies and measures made by various departments and regions to strengthen IP creation, protection and utilization, explore and cover typical examples of providing stringent IP protection and promoting comprehensive IP utilization. Fifthly, publicize IP laws and regulations and basic IP-related knowledge, carry out various publicity and popularization activities, explore desirable publicity styles and disseminate IP culture with the core concept of "respecting knowledge, advocating innovation, and being law-abiding", advocate innovate culture and further enhance the awareness of IP among the public.

本报综合消息 以“严格知识产权保护 营造一流营商环境”为主题的2019年全国知识产权宣传周活动将于4月20日至26日举办。各地区各部门将面向创新主体、政府人员、青少年及社会公众等不同群体,通过举办启动仪式、新闻发布会、宣讲、咨询、展览等形式,广泛开展活动。

据了解,今年的宣传周活动将重

点围绕五方面内容。一是宣传各地区各部门认真学习贯彻习近平新时代中国特色社会主义思想,坚决贯彻习近平总书记关于知识产权工作的重要指示,坚决贯彻党中央、国务院有关知识产权的重大决策部署,切实推动知识产权事业高质量发展的新进展、新风貌、新经验、新成就。二是宣传新中国成立70年来,特别是党的十八大以来,中国知识产权事业发展壮大的不平凡历程和取得的成就,各地知识产权工作进展和成绩。三是宣传各地区各部门落实习近平总书记关于提高知识产权审查质量和审查效率的重要指示,落实国务院“放管服”改革部署要求,推动知识产权事业稳中求进、高质量发展的举措和成绩。四是宣传各地区各部门在强化知识产权创造、保护、运用方面的政策和举措,挖掘报道严格知识产权保护、促进知识产权综合运用等方面的典型案例。五是宣传知识产权法律法规和基础知识,广泛开展各具特色的宣传普及活动,探索公众喜闻乐见的宣传形式,传播以“尊重知识、崇尚创新、诚信守法”为核心的知识产权文化,大力倡导创新文化,进一步提升全社会知识产权意识。



## Pruneaux d' Agen mi-cuits

## 阿让李子干

The 'Pruneau d' Agen' is produced in a specific geographical area in France. It is a dried fruit from the Prune d'Ente family and made through several industrial processes, the most common being rehydration and stoning. China has granted GI protection for Pruneau d' Agen and Pruneau d' Agen mi-cuits since October 2011.

The Pruneau d' Agen is shaped like an egg, and is a dark-brown/black color, shiny, not sticky, soft-textured, with an uncaramelised middle somewhere

between brown-yellow and golden-yellow in color, and no mould or other fungus. Agen prunes should be whole and fleshy with a wrinkled, unbroken skin. Agen prunes are sold in packs of uniform size with a moisture content up to a maximum of 35% indicated on the packaging. Every 500 grams of agen prunes must contain fewer than 77 particules.

Growing of the Ente plum tree in the region dates back to the 12th century. The unique Mediterranean climate

and high-quality soil endow the Ente plum tree and Agen prunes with moderate sweet and sour quality. The plums are gathered at peak ripeness and are dried for 72 hours in special dehydration rooms after collection, until the residual moisture content is below 23%. The Pruneau d' Agen mi-cuit is obtained by stopping the drying process as soon as the moisture content is between 30 and 35%.

(Courtesy of the IP Protection Department of CNIPA)

阿让李子干是产自法国特定地域的李子果干,以“昂特李”鲜果为原料,经过复水化和去核处理等工序加工制成。2011年10月起中国对阿让李子干实施地理标志产品保护。

阿让李子干形如鸡蛋,呈暗褐色或黑色,有光泽,不粘手,质地柔软,其果肉颜色介于黄褐色和金黄色之间,该颜色系自然形成,而非通过焦糖上色形成。阿让李子干果形完整、肉质多、果皮有褶皱且完整,含水量不超过35%,每500克果实颗粒不超过77颗。



自十二世纪开始,保护区域开始种植昂特李树,独特的地中海气候条件和优质土壤,赋予昂特李果实及阿让李子干酸甜适中的独特品质。昂特李果实完全成熟后进行采摘,放置在脱水室内干燥72小时,直至含水量低于23%。“半熟型阿让李子干”生产技术规范要求当含水量降至30%到35%时即停止干燥。

(中国国家知识产权局知识产权保护司供稿)

## Japanese Firm Invalidates TM Squatted by TM Hoarder

## DHC在华打赢商标战

The three-year long trademark dispute over the trademark “蝶翠诗” between Japanese company DHC and Guangdong Yiming Pharmaceutical Co., Ltd. (Guangdong Yiming Company) finally came to an end. Beijing High People's Court recently rejected the appeal from Yiming, upholding the ruling of the Trademark Review and Adjudication Board (TRAB) invalidating the No. 6378545 trademark “蝶翠诗” (trademark in dispute). According to No. 1632 trademark notice issued by the Trademark Office (TMO), the registration of the trademark in dispute on all goods is declared invalid.

The registration of the trademark in dispute was filed by Yiming on November 14, 2007, and was approved for registration on August 7, 2015, certified to be used on Class 35 services including goods display, sample distribution, outdoor advertising and advertising communication after the trademark opposition and opposition review procedure. The trademark exclusive right is valid from July 7, 2010 to July 6, 2020. On September 24, 2015, DHC lodged an invalidation request against the trademark in dispute to the TRAB alleging that Yiming applied for the registration of the trademark in dispute in an improper way, an act of squatting international famous brands in bulk, would cause confusion between the

trademark in dispute and DHC among the general public.

According to the evidence submitted by DHC to the TMO at the trademark review stage, in addition to the “蝶翠诗” trademark, Guangdong Yiming Company also applied for over 100 applications for the registration of trademarks including “无比滴”“缇诗娜”“拉夫·劳伦”“兰芝 LANEIGE”“RALPH LAUREN”“婊真”“大弗水”。

Yiming argued that it is a credible company established according to law. The trademark in dispute is a prior trademark registered by Yiming according to law. The facts and reasons for invalidation declared by DHC are untrue. The act that DHC maliciously invalidated its trademark should be stopped.

After examination, the TRAB made a ruling on March 15, 2017 claiming that the trademark in dispute itself is not deceptive and will not cause the public to misidentify the characteristics or origin of the product, but the registration of the trademark in dispute clearly exceeds the normal production and operation needs of Yiming, violates the principle of honesty and good faith, and corrupts the regular order of trademark registration. This act has constituted the situation of obtaining trademark registration by other improper means in the provisions of the current Trademark Law of China. Accordingly, the trade-

mark in dispute was invalidated.

Yiming was evidently disgruntled with the ruling of the TRAB and subsequently brought the case to the Beijing IP Court. The IP Court held that Yiming applied for registration of over 100 trademarks on multiple goods or services including the trademarks in dispute and many other trademarks similar to other well-known trademarks. The act to copy and plagiarize other trademarks with certain reputation has corrupted the normal order of trademark registration management, violated the principle of public order and good customs which is detrimental to the market order of fair competition. The registration application of the trademark in dispute conforms to the situation "obtaining trademark registration by deception or other improper means" in the provisions of the current Trademark Law of China. In this connection, the court dismissed Yiming's complaint in its first-instance judgment.

Guangdong Yiming Company refused to call it a day and appealed to Beijing High. After hearing, Beijing High dismissed the appeal and upheld the original judgment.

(by Wang Guohao)

围绕着“蝶翠诗”三字,日本株式会社DHC(下称DHC)与广东伊茗药业有限公司(下称广东伊茗公司)三年多的商标纷争尘埃落定。北京市高级人民法院日前判决驳回广东伊茗公司

的上诉,原商标评审委员会(下称原商标评委)对第6378745号“蝶翠诗”商标(下称争议商标)予以无效宣告的裁定最终得以维持。根据商标局发布的第1632期商标公告显示,争议商标在全部商品上的注册已被宣告无效。

据了解,争议商标由广东伊茗公司于2007年11月14日提出注册申请,后经商标异议及异议复审程序于2015年8月7日被核准注册,核定使用在货物展出、样品散发、户外广告、广告传播等第35类服务上,商标专用权有效期至2020年7月6日。2015年9月24日,DHC针对争议商标向原商标评委提出无效宣告请求,主张广东伊茗公司申请注册争议商标系采取不正当手段批量抢注国际知名品牌,争议商标的注册使用将使公众将争议商标与DHC相混淆。

根据DHC在商标评审阶段向原商标评委提交的证据显示,除了“蝶翠诗”商标以外,广东伊茗公司还提交了“无比滴”“缇诗娜”“拉夫·劳伦”“兰芝LANEIGE”“RALPH LAUREN”“婊真”“大弗水”等百余件商标注册申请。

广东伊茗公司辩称,该公司系依法成立的诚信企业,争议商标为广东伊茗公司依法在先注册的商标,DHC提出的无效宣告事实和理由不真实,DHC存在恶意无效宣告行为,应予制止。

经审查,原商标评委于2017年3月15日作出裁定认为,争议商标本身不存在欺骗性以及使公众对产品的性质等特点或产地产生误认的情形,但广东伊茗公司申请注册争议商标的

行为明显超出了正常的生产经营需要,违反了诚实信用原则,扰乱了正常的商标注册秩序,其行为已构成我国现行商标法规定中的以其他不正当手段取得商标注册的情形。据此裁定对争议商标予以无效宣告。

广东伊茗公司不服原商标评委所作裁定,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,广东伊茗公司在多个商品或服务类别上申请注册了上百件商标,其中包括争议商标以及众多与他人知名商标相近似的商标,上述商标注册行为具有明显的复制、抄袭他人具有一定知名度商标的故意,扰乱了正常的商标注册管理秩序,违反了公序良俗原则,有损于公平竞争的市场秩序,争议商标的注册使用属于我国现行商标法规定中的“以欺骗手段或者其他不正当手段取得注册”的情形。据此,法院一审判决驳回广东伊茗公司的诉讼请求。

广东伊茗公司不服判决,向北京市高级人民法院提起上诉。经审理,北京市高级人民法院判决驳回上诉,维持原判。(王国浩)



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