

China's IP
in foreign eyes

Alibaba, along with Yunfeng Financial, an investment group backed by Alibaba founder Jack Ma, have entered into an agreement to invest approximately \$700 million in NetEase Cloud Music as part of its latest funding round. Founded in 2013, NetEase Cloud Music boasts over 800 million registered users. The streaming service partnered with Alibaba's own service, Xiami, last year in an effort to share their content libraries. "Alibaba also looks forward to becoming a partner in the future development of NetEase Cloud Music and exploring innovative collaboration in the digital entertainment space," added Daniel Zhang, CEO of Alibaba Group. (Alibaba to Acquire Minority Stake in NetEase Cloud Music Streaming Service, Billboard)

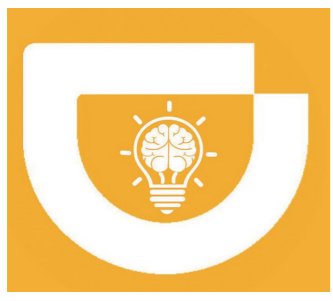
日前,网易云音乐获阿里巴巴、云锋基金等共计7亿美元融资。成立于2013年的网易云音乐宣称拥有注册用户超8亿。去年,网易云音乐就与阿里巴巴旗下虾米音乐合作共享内容库。阿里巴巴集团首席执行官张勇表示,阿里巴巴期待在未来成为网易云音乐的合作伙伴,在数字娱乐方面探索更多创新合作。(阿里领投网易云音乐7亿美元融资,公告牌)

Comment:

In recent years, music streaming services have been gaining more users through copyrights. Alibaba's collaboration with NetEase Cloud Music this time will create more benefits by sharing copyrights.

点评

近年来,各大音乐流媒体平台通过获取音乐版权来吸引更多用户。此次阿里巴巴与网易云音乐的联姻,将促进双方通过共享音乐版权获得更多收益。



Didi Chuxing ("DiDi"), the leading multi-modal transportation platform, today launched DiDi Engine, a Digital Innovators Initiative aiming to train young technology talents, build R&D capacities and develop "AI for Social Good" projects in DiDi's expanding international markets. Didi Engine is rolling out from Latin America and will feature joint labs and research programs with research institutions, technology fellowships and internship programs for young innovators, and app & software development projects. In phase one, the initiative also includes a joint lab in Santiago between DiDi and the University of Chile on AI and engineering research. (DiDi Chuxing Launches Global Digital Innovators Initiative, Yahoo)

日前,滴滴出行正式宣布启动滴滴全球数字创新赋能计划。该计划旨在为滴滴公司的全球市场扩张培育年轻技术人才,加强研发能力并发展人工智能普惠项目。滴滴数字创新赋能计划正由拉丁美洲向其他国家和地区推广,例如,与各地区科研院所建立联合实验室、创新人才实习项目以及应用程序与软件开发项目等。该计划第一期包括巴西青年科技营和滴滴-智利大学智慧交通联合实验室。(滴滴启动全球数字青年创新计划,雅虎)

Comment:

DiDi has built up strong technical power through independent innovation in the ultra-competitive market. The launch of DiDi Engine will enable the company to develop global market through innovative advantages.

点评

在激烈的市场竞争中,滴滴依靠自主创新形成了强劲的技术实力。滴滴全球数字创新赋能计划将是滴滴发挥创新优势拓宽全球市场的重要举措。(熊花平)

China rolls out new measures to regulate applications for trademark registration

中国规范商标申请注册行为再出实招

In recent years, China has seen sustainable growth in the number of applications for trademark registration. However, a small number of applicants' acts in hoarding a bulk of trademarks not for the purpose of use jeopardize the legitimate business needs of market players in applying for trademark registration. Recently, the State Administration for Market Regulation of China promulgated the *Rules on Regulating the Applications for Trademark Registration (Draft Inviting Comments)*, providing concrete measures for curbing such malicious applications.

On April 23, 2019, the 10th meeting of the Standing Committee of the 13th National People's Congress adopted the decision on amending the Trademark Law, focusing on the revision of several articles on regulating malicious applications, hoarding of registrations and enhancing the punishment for violations of trademark exclusive rights. Article 4 of the revised Trademark Law provides that the malicious applications for trademark registration shall be rejected if they are not driven by actual needs in obtaining the exclusive rights of trademark and not for the purpose of use.

In order to supplement the revision of the Trademark Law, China's top market watchdog drew up this *Draft Inviting Comments* and refined the operational aspects of the revised contents of the Trademark Law. The Draft,

which consists of seventeen articles, reaffirms the principle of good faith and the orientation of applying for trademark registration on the premise of the willingness established by the Trademark Law and provides for the types of actions and legal consequences of the malicious applications for trademark registration not intended for use and identifies the factors for evaluating what is not intended for use by trademark registration authority and lists specific sanctions.

"The Draft proposes that the IP administration authority shall actively guide applicants to apply for trademark registrations in accordance with the law and trademark agencies to engage in representation services according to law, and regulate the use of registered trademarks in business production and operation; industry organizations for trademark agency shall improve self-regulation and self-discipline of the industry, publish and take disciplinary actions against members who violate the industry's self-regulation, and promptly announce disciplinary actions to the public," said Tang Xueli, director of the IP Department of Beijing Yingke Law Firm. "The Draft also encourages the public to capitalize on those available mechanisms such as revocation of trademarks not in use for three years and invalidation of registered trademarks, keep a close eye on the true intention of use of trademarks, instilling the notion of registering only with a re-

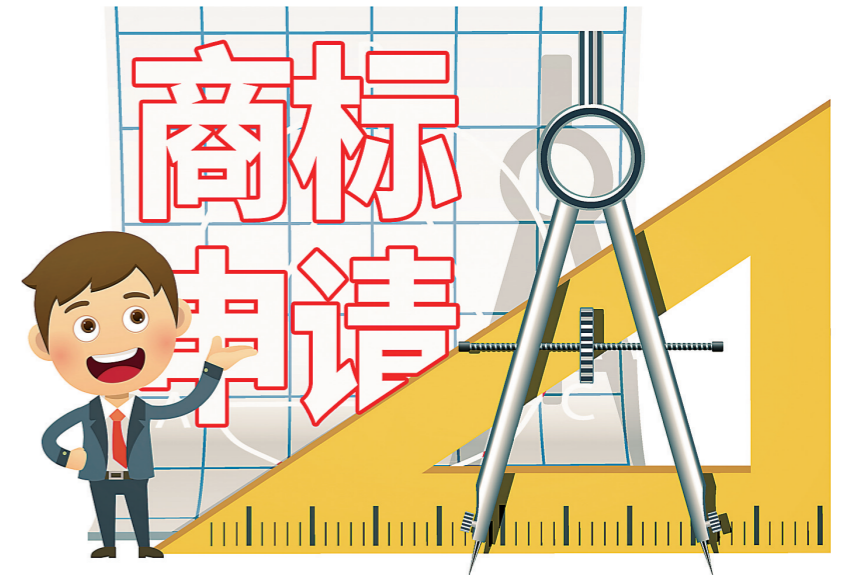
al desire for use."

"With an aim to optimize the business environment and uphold market order, the Draft facilitates IP authorities' involvement, pushes the forefront against such not-for-use applications forward, stresses reliance on both governmental guidance and inherent market power, and joins force of both supervision and guidance, seeks the solution under the current legal framework for being difficult to enforce under ambiguous legal basis, and eventually establishes a long-term scheme in combating hoarding of trademarks and malicious applications," Tang added.

(by Wang Guohao)

近年来,中国的商标注册申请量持续增长。然而,少数申请人不以使用为目的大量囤积商标,阻碍了有正常经营需求的市场主体申请注册商标。针对这一现象,日前,中国国家市场监督管理总局公布《关于规范商标申请注册行为的若干规定(征求意见稿)》(下称征求意见稿),明确了规制不以使用为目的的恶意商标注册申请行为的具体措施。

2019年4月23日,第十三届全国人民代表大会常务委员会第十次会议通过关于修改商标法的决定,围绕规制恶意申请、囤积注册等行为和加大对侵犯商标专用权行为惩罚力度两方面对商标法个别条款进行了修改。修改后的商标法第四条规定,申请商标注册应以使用为目的,具有取得商标专用权的实际需要,不以使用为目的的恶意商标注册申请应当予以驳回。为配合此次商标法修改,国家市



场监督管理局研究起草了征求意见稿,对商标法修改内容进行操作层面的细化。征求意见稿共有17条,重申了商标法确立的诚信原则和以使用意愿为前提申请商标注册的导向,规定了不以使用为目的的恶意商标注册申请的行为类型及法律后果,明确了商标注册部门在判断不以使用为目的的恶意商标注册申请行为时考量的因素,提出了具体的规制措施。

"征求意见稿提出知识产权管理部门应当积极引导申请人依法申请商标注册,商标代理机构依法从事代理业务,规范生产经营活动中使用注册商标的行为;商标代理行业组织应当完善行业自律规范,加强行业自律,对违反行业自律规范的会员实行惩戒,

并及时向社会公布。"北京市盈科律师事务所知识产权部主任汤学丽表示,"征求意见稿呼吁社会公众充分利用三年不使用商标撤销、注册商标无效宣告等制度,关注注册商标使用意图,强化市场主体对实际使用需要的商品和服务申请商标注册的良好导向。"

"征求意见稿从优化营商环境、维护市场秩序角度出发,有助于充分发挥知识产权主管部门职能,将遏制不以使用为目的的商标注册申请行为的关口前移,强调政府导向与市场驱动并重,监管与引导相结合,在现有法律框架下着力解决实践中法律依据不明确等问题,形成严厉打击商标囤积注册、恶意申请的长效机制。"汤学丽表示。(王国浩)

Yangchenghu Crab
阳澄湖大闸蟹

Yangchenghu Crabs grow in Yangcheng Lake area in Suzhou, Jiangsu Province. The crabs here are big and meaty. They have blue-grey shell, golden-yellow haired feet, big and strong claws. Their roe is golden red and the marble-like fatty meat is tender and white, which tastes sweet and exactly fresh.

Yangcheng Lake is located in a humid subtropical monsoon climate zone, featuring distinct seasons and abundant rainfall. The ecological char-

acteristics are conducive to the Chinese mitten crab's growth patterns, such as their migrating against the currents in the Yangtze River and then growing in the lake. And the fine quality of the crab is also attributed to the favorable water quality of Yangcheng Lake. In particular, the rich content of calcium and magnesium ions contributes to the formation of the crab's thin and tough shell. Besides, the lake features a flat and hard bottom, stable water level, abundant water supply, and

diverse food resources. Due to the long-term effect of such ideal ecological environment, the Yangchenghu Crabs have formed unique appearance and flavor.

Indulging in the scenery of the Yangcheng Lake and the crab delicacy, one can fully understand why the locals say, "it is a shame if one has eyes but never sees the scenery of Yangcheng Lake; one's stomach would never be satisfied if he/she never tastes the Yangchenghu Crabs."

(Courtesy of the IP Protection Department of CNIPA)

阳澄湖大闸蟹产自江苏省苏州市阳澄湖水域,蟹体肥壮,青背白肚,黄金爪,双螯强健。橘红色的蟹黄、白玉似的脂膏、细嫩的蟹肉,食之口感微甜,极为鲜美。

阳澄湖处于亚热带湿润季风气候区。这里四季分明,雨量充沛,适合长江中华绒螯蟹的生殖洄游、溯江入湖、生长育肥等生活习性,保证了阳澄湖大闸蟹的优良品质。阳澄湖的水质非常适合大闸蟹生长,丰富的



钙、镁离子尤其有利于阳澄湖大闸蟹形成壳薄且坚韧的特征。此外,阳澄湖拥有平坦质硬的湖底、稳定的水位、充沛的水源、丰富多样的饵料资源。上述自然因素的长期综合影响,孕育了阳澄湖大闸蟹的独特品质。

阳澄湖美景,大闸蟹美食,应了那句话:"未识阳澄愧对目,不食螃蟹辜负腹。" (中国国家知识产权局知识产权保护司供稿)

Bayer awarded injunction, RMB 1.31 million in syringe patent case

注射器发明专利被侵权,拜耳获赔131万

Bayer Health Care Company sued Shenzhen Ante High-Tech Industrial Company, Beijing Bangshengdel Trading Company for invention patent infringement. Recently, Beijing High People's Court made a final judgment on the case, ordering Ante to immediately stop manufacturing, offering to sell, selling the alleged infringing products and to destroy the drawings and molds for the manufacture of the alleged infringing products and indemnify 1.31 million yuan in damages and reasonable costs and ordering Bangshengdel to immediately cease selling the alleged infringing products.

Bayer is the patent right holder of "front-loading medical injectors and syringes, syringe interfaces, syringe adaptors and syringe plungers for their use" (Patent Number: ZL00817905.0). The company found the products called "one-time use of high-pressure contrast syringes and accessories" (alleged infringing products) produced by Ante and sold by Bangshengdel fell within the scope of the claimed patent



right at issue and filed a lawsuit with Beijing IP Court, requesting the Court to order Bangshengdel to stop selling the alleged infringing products; Ante to cease manufacturing and offering to sell and selling alleged infringing products, to destroy the drawings and molds used in the making of the alleged infringing products and all the infringing products and to indemnify 1.63 million yuan in damages.

After hearing, the Court found that the alleged infringing products fell within the protection scope of the pat-

ent claims 1-9 and 12-14. In addition, the acts of Ante in manufacturing, offering to sell and selling the alleged infringing products and the acts of Bangshengdel in selling the alleged infringing products infringed on Bayer's invention patent. In this connection, Beijing IP Court made the above-mentioned first-instance judgment favoring Bayer.

Both Bayer and Bangshengdel accepted the first-instance judgment. The disgruntled Ante refused to call it a day and appealed to Beijing High People's Court, claiming that alleged infringing products lack relevant technical features of the patent claims 1-3 and 5, and the protection scope of claim 1 is not clear, so those products doesn't fall within the protection scope of the patent right involved. Beijing High rejected the appeal and upheld the trial Court's decision then. (by Zheng Siliang)

近日,北京市高级人民法院(下称北京高院)就拜耳医药保健有限责任公司(下称拜耳公司)诉深圳市安特高科实业有限公司(下称安特公司)、北

京邦盛德商有限公司(下称邦盛德公司)侵犯其发明专利权一案作出终审判决,判令安特公司立即停止制造、许诺销售、销售被控侵权产品,销毁制造被控侵权产品的图纸和模具,并赔偿拜耳公司经济损失及合理开支共计131万余元,邦盛德公司立即停止销售被控侵权产品。

拜耳公司为"前端装载式医用注射器以及供其使用的注射器、注射器接口、注射器接合器和注射器柱塞"(专利号:ZL00817905.0)的权利人,其发现安特公司生产、邦盛德公司销售的产品"一次性使用高压造影注射器及附件"(下称被控侵权产品)落入涉案专利权利要求保护范围,遂诉至北京知识产权法院,请求法院判令安特公司停止制造、许诺销售、销售被控侵权产品,邦盛德公司停止销售被控侵权产品;安特公司销毁制造被控侵权产品所使用的图纸、模具以及全部库存的被控侵权产品;安特公司赔偿其经济损失及合理开支163万余元。

经审理,法院认定被控侵权产品落入涉案专利权利要求1-9、12-14保护范围。此外,安特公司制造、许诺销售、销售了被控侵权产品,邦盛德

公司实施了销售行为,均侵犯了拜耳公司的发明专利权。综上,北京知识产权法院作出一审判决,判令安特公司立即停止制造、许诺销售、销售被控侵权产品,销毁制造被控侵权产品的图纸和模具,并赔偿拜耳公司经济损失及合理开支131万余元,邦盛德公司立即停止销售被控侵权产品。

拜耳公司、邦盛德公司均表示服从一审判决。安特公司不服北京知识产权法院判决,上诉至北京高院,称被控侵权产品缺少涉案专利权利要求1-3、5的相关技术特征,且权利要求1的保护范围不清楚,故被控侵权产品未落入涉案专利的保护范围。最终,北京高院驳回上诉,维持原判。(郑新亮)



英文翻译	孙芳华
Translator	Sun Fanghua
编辑	邹碧颖
Editor	Zou Biying