

China's IP
in foreign eyes

Disney and Lucasfilm are going back to basics to try to build an audience for the *Star Wars* franchise in China. The House of Mouse and Skywalker has inked a first-of-its-kind distribution deal with Tencent's China Literature, the Middle Kingdom's largest e-books and online reading platform, to license and distribute 40 translated *Star Wars* novels for Chinese readers. The partnership, which was unveiled in Shanghai on Wednesday, also will entail the two companies working together to develop and publish the world's first authorized *Star Wars* online novel written by a Chinese author, according to a press release shared by Disney over the official *Star Wars* Weibo account. (*Disney Partners with Tencent Subsidiary to Build Chinese Fan Base for 'Star Wars'; The Hollywood Reporter*)

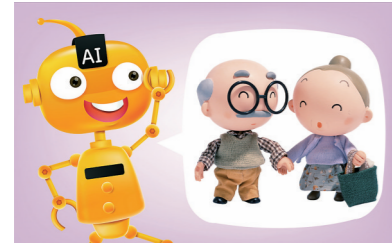
日前,迪士尼和卢卡斯影业与阅文集团就《星球大战》开启内容合作。此次合作是迪士尼将《星球大战》首次在中国授予正版中文小说数字阅读版权,《星球大战》系列40部中文网络小说将逐步上线阅文集团数字阅读平台。据迪士尼官方微博透露,《星球大战》网络小说将由中国作家执笔,两家公司将共同出版这部全球范围内首次授权的小说。(迪士尼与阅文集团合作在中国开发《星球大战》版权,好莱坞报道)

Comment:

As one of the world famous entertainment enterprises, Disney has been prudent in copyright cooperation. The partnership reflects Disney's confidence in China's copyright protection.

点评

作为在全球十分具有影响力的娱乐公司之一,迪士尼在版权合作方面一向十分谨慎。此次其与阅文集团合作,反映出迪士尼对中国版权保护的信任。



IQIYI, Inc. ("iQIYI" or the "Company"), an innovative market-leading online entertainment service in China, jointly with Galaxy Internet TV, recently unveiled the "AI Seniors Mode" (the "Mode") on the company's smart TV application QIYIGUO TV (the "APP"). Based on iQIYI's precise understanding of the users' TV watching behavior and content preferences, the Mode has been met with great acclaim since its launch and has served as an innovative solution that caters to the unique need of senior users. (*iQIYI Launches "AI Seniors Mode" on QIYIGUO TV, Further Improving Care for Elderly Users, PR Newswire*)

日前,爱奇艺与三星网络电视在爱奇艺应用程序奇异果上共同发布“人工智能老年人模式”。该模式基于爱奇艺对用户观影习惯以及内容偏好的掌握,自发布以来广受赞誉,并通过运用人工智能技术,创造性地迎合了老年用户的需求。(爱奇艺在奇异果上发布“人工智能老年人模式”,美通社)

Comment:

As China's leading smart TV application, QIYIGUO TV actively explores and upgrades its content and viewing experience through utilizing its rich content sources and advantages in technology innovation. The new mode will contribute to the steady increase of the users for the application.

点评

作为爱奇艺的智能电视应用,奇异果致力于通过丰富的内容资源以及技术创新优势为用户带来良好的观剧体验。此次发布的新模式也将为爱奇艺带来稳定的用户增长数量。

(熊花平)

New rules to sanction trademark filing irregularities in force from Dec. 1

《规范商标申请注册行为若干规定》将于12月1日起施行

At a recent press conference on easing market entry and improving climate for doing business, the State Administration for Market Regulation (SAMR) announced the enactment of the *Rules on Regulating Trademark Filing Acts*, which was released in the form of SAMR Decree No.17 and will be in force from December 1.

According to SAMR Vice Minister Qin Yizhi, while executing the *Trademark Law* and the *Rules*, SAMR and China National Intellectual Property Administration (CNIPA) will continuously advance the trademark filing facilitation reform, aggressively strike the illegal acts corrupting trademark administration order and strive to generate a market climate featuring fair competition and good faith.

The amendment of the *Trademark Law* was approved by the Standing Committee of the National People's Congress on April 23 and will become

law on November 1. The *Rules* is for better implementation of the *Law*. The 19 specific provisions in the *Rules* aim to regulate trademark filing acts from four aspects. First, set up a centralized provision on trademark filing and registration acts violating the principle of good faith that used to be peppered in multiple articles of the *Law* and the newly-added ones summed up from practice; provide specific guidelines for representation services of trademark firms; monitor during the whole filing procedure, sanction malicious trademark filing acts at every process and every stage of trademark examination and adjudication. Second, list the factors taken into consideration for examining malicious trademark filing acts and illegal representation acts; elevate operability and transparency of trademark examination. Third, aggressively sanction malicious trademark filing acts and illegal representation acts; set up a fine treble of illegal gains of the malicious

trademark applicant and no more than 30,000 yuan; set up a maximum 100,000 yuan fine on trademark firms aiding malicious trademark filing and suspension of services if offense is deemed aggravated. Fourth, streamline trademark filing routes and procedures and make the system easier to use for applicants; elevate administration services.

A principal of CNIPA's Treaty and Law Department affirmed CNIPA's always-unwavering determination in tackling the issue on malicious trademark registration. The newly-established concrete measures at examination and ensuing stages have shifted the work targeting malicious registration to early stages of examination and can effectively curb trademark squatting acts. In 2018, CNIPA opposed a total of 100,000 irregular trademark applications at examination and opposition stages, effectively upholding the regular trademark registration order.

(by Yang Liu)

本报讯(记者杨柳北京报道)日前,国家市场监督管理总局围绕“放宽市场准入,优化营商环境”的主题,召开新闻发布会。记者在会上了解到,《规范商标申请注册行为若干规定》(下称《若干规定》)已经以国家市场监督管理总局第17号令形式发布,将于今年12月1日起施行。

中国国家市场监督管理总局副局长秦宜智表示,中国国家市场监督管理总局和中国国家知识产权局将结合实施商标法和《若干规定》,持续推进商标注册便利化改革,严厉打击各种破坏商标管理秩序的违法行为,努力为市场主体营造公平竞争、诚实守信的市场环境。

据了解,今年4月23日,全国人大常委会审议通过了对商标法的修改决定,将于今年11月1日起正式施行。为落实好上位法规定,此次出台的《若干规定》共有19条,从四个方面对商标申请注册行为着力进行规范。一是将散见于商标法多个条款,以及在工作实践中梳理总结的对违背诚实信用原则的商标申请注册行为作了集中规定,

对商标代理机构提供代理服务予以明确规范。坚持全流程监管,明确在商标审查审理的各个流程、各个环节中依法打击恶意商标申请注册行为。二是列举对恶意申请商标注册进行审查时的考虑因素,增强审查商标注册行为的操作性和透明度。三是严厉惩治恶意商标申请注册行为和违法代理行为,对恶意商标申请人设置了处以违法所得三倍、最高不超过三万元的罚款,对帮助从事恶意申请的商标代理机构处以最高十万元的罚款,情节严重的停止其受理业务。四是进一步优化商标注册渠道和流程,为申请人提供更多便利,提升服务水平。

中国国家知识产权局条法司有关负责人表示,近年来,中国国家知识产权局一直高度重视商标恶意注册问题,在商标注册审查和审理阶段采取有效措施,将打击恶意注册关口前移,依法对商标恶意抢注行为进行规制。2018年,中国国家知识产权局在商标注册审查和异议环节,累计驳回非正常商标申请约10万件,有效维护了正常的商标注册秩序。



Green sand device, a provincial-level intangible cultural heritage in Yu County, Zhang Jiakou City, Hebei Province, has a history of more than 300 years. The device is made of the local rare clay by handwork with 13 processes and fired under the temperature of about 1600°C.

(photo by Sun Deshen)

河北省张家口市蔚县古老的青砂器制作是河北省非物质文化遗产,距今已有300多年的历史。其原材料为本地稀有的“坭子土”,手工制坯,全程13道工序,再以1600度左右的高温烧制而成。

通讯员 孙德深 摄影报道

Honda awarded injunction, damages for export-only infringing products

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Recently, the Supreme People's Court of China made a final judgment on a trademark dispute between Honda Motor Company and Chongqing Hengsheng Xintai Trade Company, Chongqing Hensim Group, ordering the defendants to immediately cease infringement of Honda trademarks and indemnify Honda 300,000 yuan in damages.

Honda, a Japanese multinational giant specializing in motorcycle production, obtained registration for trademarks No. 314940 HONDA, No. 1198975 H and its figure and No. 503699 HONDA and its figure in China, from the Trademark Office of the former State Administration for Industry and Commerce. In June 2016, China Customs in Ruili seized outbound motorcycles affixed with the trademark HONDAKIT, which were manufactured by Hensim Group with the authorization of Meihua Company and applied for export by Hensheng Xintai Company, a subsidiary of Hensim Group.

In September 2016, Honda asserted that the two companies had infringed its trademark right and filed the case to the Intermediate People's Court of Dehong Dai and Jingpo Autonomous Prefecture in Yunnan Province, seeking an injunction against the defendants and

three million yuan in damages. The defendants argued that they were authorized by Meihua to manufacture the products in question and to use the HONDAKIT trademark. No infringement was established.

The Court held that the two defendants used HONDAKIT and its figure on motorcycle hoods, engine covers and nameplates while protracting the size of the HONDA part, which led to infringement of the plaintiff's trademarks. Accordingly, the Court made its first-instance decision, ordering an injunction against the two defendants and 300,000 yuan in damages.

Hensim Group and Hengsheng Xintai company then appealed to Yunnan High People's Court in 2017 and requested the Court to revoke the first-instance judgment and deny Honda's claims. The two defendants argued that the products involved in the case were all planned for export to Myanmar and did not enter the Chinese market. No infringement was established.

After hearing, the appellate court held that the two defendants did not infringe the exclusive trademark right of Honda and revoked the first-instance decision.

The disgruntled Honda appealed to the Supreme People's Court.

The Court held that the products in



question belonged to original equipment manufacture (OEM) and were likely to circulate back to the Chinese market though bound for overseas markets. With the growth of the Chinese economy, an increasing number of Chinese consumers tend to travel abroad and may have access to these OEM products and be confused by their origin. In this connection, the first-instance ruling Court ascertained the facts clearly. The Court then revoked the second-instance decision and upheld the first-instance one in its final judgment, ordering the two defendants to cease infringement and indemnify Honda 300,000 yuan in damages.

(by Zheng Siliang)

本报记者 郑斯亮

近日,最高人民法院就本田技研工业株式会社(下称本田株式会社)与重庆恒胜鑫泰贸易有限公司(下称

恒胜鑫泰公司)、重庆恒胜集团有限公司(下称恒胜集团)商标权纠纷案,作出终审判决,判令二被告立即停止侵犯原告涉案商标专用权的行为,并赔偿原告经济损失30万元。

本田株式会社是日本一家专业生产摩托车等产品的大型跨国企业,经原国家工商行政管理总局商标局核准注册,取得第314940号、第1198975号、第503699号“HONDA”英文及图形系列商标专用权。2016年6月,中国瑞丽海关查获申报出口的一批摩托车,其商标标识为“HONDAKIT”,该批货物系由美华公司授权委托恒胜集团加工生产,恒胜鑫泰公司申报出口,且恒胜集团和恒胜鑫泰公司系总公司和子公司关系。

2016年9月,本田株式会社遂以两公司侵犯其商标专用权为由诉至云南省德宏傣族景颇族自治州中级人民法院,请求法院判令二被告停止侵权,并赔偿其经济损失300万元。二被告辩称,其系受美华公司授权生产涉案产品,且“HONDAKIT”商标获得了美华公司的授权,故不构成侵权。

法院经审理认为,二被告在与本田株式会社注册商标相同和类似的商品类别上使用“HONDAKIT”英文及图形商标,并且突出“HONDA”的文字部分,侵犯了原告的商标专用权,故判决二被告立即停止侵权,并赔偿原告经济损失30万元。

恒胜集团和恒胜鑫泰公司不服一审判决,于2017年上诉至云南省高级人民法院,请求撤销一审判决,驳回本田株式会社的全部诉讼请求。恒胜集团和恒胜鑫泰公司认为,涉案产品均全部出口至缅甸,不进入中国市场,故未侵权。

云南省高级人民法院经审理认为,两公司的行为未侵犯本田株式会社的商标专用权,故撤销一审判决。

本田株式会社不服二审判决,申请最高人民法院再审。

最高人民法院经审理认为,恒胜集团和恒胜鑫泰公司的行为属于涉外定牌加工,涉案产品虽出口至国外,但亦存在回流国内市场的可能。随着中国经济不断发展,中国消费者出国旅游人数众多,对“贴牌产品”存在接触和混淆的可能。一审法院事实认定清楚,故判决撤销二审判决,维持一审判决,判令二公司立即停止侵权并赔偿本田株式会社经济损失30万元。



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