

China's IP
in foreign eyes

In recent years, China-Japan co-production have drive cross-border cooperation to unprecedented levels in the film sector. Major players from both countries are also looking for ways to tap into the Japanese industry's expertise to capitalize on the Chinese audience's growing appetite for domestic animation. Japan's Toei Animation and powerhouse Chinese studio Bona Film Group are currently at work on the big-budget animated co-production China-Japan co-production, The Monkey Prince and Legend of the Demon Cat, could be considered a modest success case for the two industries. (Tokyo Content Market: Japan-China Film Industry Collaboration Rapidly on the Rise, by Hollywood Reporter)

近年来,中日双方的电影业合作提升到前所未有的高度。两国的主要影视公司在想方设法利用日方的专业技能,从中国观众对国产动画片的日益喜爱中获利。例如,双方合作的《猴王子》《妖猫传》被视为取得成功的案例。(中日电影合作迅速增多,好莱坞报道者)

Comment:

In recent years, more and more Chinese film companies have begun to deploy overseas markets. Attach importance to the protection of copyright and other IPRs, which is conducive to the long-term and healthy development of China's film industry and shine on the world stage.

点评

近年来,越来越多的中国电影公司开始部署海外市场,并非常重视版权等知识产权保护,这有助于中国电影产业长远健康发展,在世界舞台上大放异彩。



Recently, The country's three state-run telecom operators launched 5G services for the next generation wireless technology, including China Mobile (CHL), China Telecom (CHA) and China Unicom (CHU) are all offering 5G plans, giving Chinese internet users access to the ultra fast service. 5G commercial services are now available in 50 cities, including Beijing, Shanghai, Guangzhou and Shenzhen. In Shanghai, nearly 12,000 5G base stations have been activated to support 5G coverage across the city's key outdoor areas. (China just switched on the world's largest 5G network, by CNN)

近日,中国三大国有电信运营商为下一代无线技术推出了服务,包括中国移动、中国电信和中国联通都能够使用超高速网络服务。目前,中国5G商业服务已经在北京、上海、广州和深圳等50个城市开通。在上海,已经激活了将近1.2万个5G基站,以支持整个城市主要室外区域的5G覆盖。(中国启用全球最大的5G网络服务,美国有线电视新闻网)

Comment:

In the era of 5G, technological exchanges and cooperation among countries as well as market-oriented transactions are increasingly frequent. Only by accelerating 5G network coverage and technology popularization, intensifying research and development, and mastering independent intellectual property rights, can we sail far in the era of 5G.

点评

5G时代,各国技术交流与合作以及市场化交易日益频繁。加快5G网络覆盖和技术普及,加大研发力度,掌握自主知识产权,才能在5G时代乘风破浪远航。(刘娜)

China unveils guidelines to promote preservation and innovative development of traditional Chinese medicine

中国促进中医药传承创新发展



"Strengthen IP protection and utilization in the traditional Chinese medicine (TCM) industry, improve the management system that gives TCM research institutions and personnel greater autonomy and establish a mechanism for the guarantee of the transformation of IP protection and scientific and technological achievements." Recently, the Central Committee of the Communist Party of China and the State Council released the Guidelines on Promoting the Preservation and Innovative Development of TCM, pointing the direction of innovation and development of Chinese medicine in the new era. "The promulgation of the Guidelines is of great significance to reinforce IP protection and utilization in the TCM industry. As proposed in the guidelines, giving the research institutions and personnel more power to manage their scientific and technological achievements will further stimulate their motivation in R&D in the TCM industry and bring out a number of major scientific and technological achievements," said Song Xiaoting, professor of Shanghai International IP College of Tongji University and director of the Key Research Office for Legal Protection of Traditional Medicine of National Administration of TCM in an interview with the China IP News.

In recent years, China has introduced a series of laws, regulations, and policies to boost IP protection of TCM in all areas. In December 2016, the Traditional Chinese Medicine Law of the People's Republic of China was issued to list a variety of methods of IP protection of TCM such as applying geographical indication (GI) protection on TCM products, establishing a TCM traditional knowledge protection database, protection list and protection system by the state, giving the holders of TCM traditional knowledge the rights to inherit and use the knowledge held by them and the rights such as consent and benefit sharing on other people's access to and use of TCM traditional knowledge, exercising special protection on the TCM prescription composition and production process that are legally recognized as state secrets.

"The TCM itself is a great scientific and technological achievement," Song said that the Chinese government has always attached importance to and supported the development of TCM. In 2011 the State Administration of Traditional Chinese Medicine and the then State Intellectual Property Office of China jointly issued "Guidelines to Promote IP work of Traditional Chinese Medicine"; in 2016, the TCM Law was released and right now the Guidelines

were issued, improving the level of IP protection in the TCM industry to a record high. However, much work related to policy research has to be done on how to effectively give full play to its unique strength in the field of TCM and transform it into the advantages in IP.

Song suggested that in a bid to implement the "strengthening IP protection and utilization in the TCM industry" in the Guidelines, while encouraging technological innovation and product innovation, corresponding measures should also be taken to strengthen the market protection of traditional knowledge and traditional skills and stick to and promote some mechanisms that have proven effective in practice. (by Sun Di)

本报记者 孙迪

"加强中医药产业知识产权保护 and 运用。健全赋予中医药科研机构 and 人员更大自主权的管理制度,建立知识产权和科技成果转化权益保障机制。"近日,《中共中央国务院关于促进中医药传承创新发展的意见》(下称《意见》)发布,为中医药发展"把脉""开方",更为新时代传承创新发展中医药事业指明方向。"《意见》的出台对于中医药行业的知识产权保护与运用工作非常重要。其中提出了要进一步健全中医药科研机构

和人员对科技成果的自主管理权,这必将进一步激发科技工作者对中医药的研究开发,促进产生一批重大科技成果。"同济大学上海国际知识产权学院教授、国家中医药管理局传统医药法律保护重点研究室主任宋晓亭在接受本报记者采访时表示。

近年来,中国出台了一系列法律法规、政策措施,全方位、多角度对中医药知识产权予以保护。2016年12月,《中华人民共和国中医药法》(下称《中医药法》)发布,列出多种中医药知识产权保护方式,包括鼓励采取地理标志产品保护等措施保护地道中药材;国家建立中医药传统知识保护数据库、保护名录和保护制度;中医药传统知识持有人对其持有的中医药传统知识享有传承使用的权利,对他人获取、利用其持有的中医药传统知识享有知情同意和利益分享等权利;国家对经依法认定属于国家秘密

的传统中药处方组成和生产工艺实行特殊保护等。

"中医药本身是一个伟大的科技成果。"宋晓亭表示,中国政府历来重视和支持中医药事业发展,从2011年中国国家中医药管理局与中国国家知识产权局共同颁发《关于加强中医药知识产权工作的指导意见》,到中医药法出台,再到此次《意见》的发布,更是把中医药知识产权保护和运用提到了历史最高水平,但如何有效利用我国在中医药领域的各种优势,并将其转化为我国在知识产权方面的优势,还需要进一步加强政策研究。

宋晓亭建议,要落实《意见》中"加强中医药产业知识产权保护和运用"的部署,在鼓励企业技术创新和产品创新的同时,也要采取相应的措施加强对传统知识、传统技艺的市场保护,对在实践中证明行之有效的机制予以坚持和推广。



Guanxi pomelo is grown in Pinghe County of Zhangzhou City, Fujian Province. It has been cultivated for more than 500 years. During the Qianlong reign of the Qing Dynasty, Guanxi pomelo was listed as a tribute to the court. Pinghe County has plentiful water sources, such as Guanxi river. Plentiful sunshine and sandy loam common in the area make the place suitable for the growth of

pomelo. Guanxi pomelo features golden-orange-colored peel, crisp and juicy pulp, moderate sweet and sour flavor, with every 100ml of juice containing 9.17-11.60g sugar, 0.734-1.011g acid, 48.93-51.98mg Vitamin C. Guanxi pomelo is helpful to eliminate phlegm, moisten lung, digest food and reduce fever. Since the implementation of the pro-

Guanxi Pomelo
琯溪蜜柚

tection of geographical indication products, through continuously strengthening the supervision of product quality characteristics, the domestic market share and export volume of Guanxi pomelo have occupied the first place in the same kind of products in China. The export areas cover EU countries, Russia, Canada, and so forth. (Courtesy of the IP Protection Department of CNIPA)

琯溪蜜柚产于福建省漳州市平和县,距今已有500多年栽培历史,清朝乾隆年间被列为朝廷贡品。平和县域内琯溪等河流水源充足,光照充分,土壤多为沙质土壤,适宜蜜柚的种植。琯溪蜜柚皮色橙黄,果肉脆嫩多汁,酸甜适度,每100毫升果汁含糖9.17克至11.60克,含酸0.734克至1.011克,含维生素C48.93毫克至51.98毫克,具有祛痰润肺、消食降火的功效。



实施地理标志产品保护以来,当地政府通过不断加强琯溪蜜柚产品质量特色的监管,国内市场份额和出口量均占中国同类产品首位,出口地区覆盖欧盟多国和俄罗斯、加拿大等国家。(中国国家知识产权局知识产权保护司供稿)

Jaguar wins 7-year trademark battle in China
捷豹成功在华捍卫商标权

Jaguar, the world-renowned car brand of Britain's Jaguar Land Rover (JLR), was entangled in a fierce fight over the Jaguar trademark's registration and use on beer and other commodities with a Hunan-based company. After seven years, the dispute ended on a triumphant note for JLR. Beijing High People's Court rejected the appeal of Hunan Jaguar Brewing Technology Company (Hunan Jaguar) and ruled that No. 9573951 trademark "Jaguar" (trademark in dispute) was registered by other improper means, upholding the ruling of invalidating the trademark in dispute by the Trademark Review and Adjudication Board (TRAB) of the former Administration for Industry and Commerce (SAIC) of China.

The trademark in dispute, originally filed by Absolute Bull (Germany) Brewing Company in 2011 to the Trademark Office of the former SAIC for registration and would be approved for registration on Class 32 goods such as beer and water (beverages) in 2012. In 2014, Absolute Bull filed an application for the transfer of the trademark in dispute to the former Trademark Of-

fice. On April 6, 2015, the trademark in dispute was approved to be transferred to Hunan Jaguar Company. Shortly after the application for the transfer of the trademark filed by Absolute Bull, JLR lodged an invalidation request to the TRAB against the trademark in dispute.

On March 28, 2015, the TRAB invalidated the trademark in dispute. Hunan Jaguar did not buy the decision and subsequently brought the case to Beijing IP Court.

The Beijing IP Court ruled that Absolute Bull's trademark was obtained by other improper means. Accordingly, the court rejected the complaint of Hunan-based Jaguar Company in its first-instance judgment.

The Hunan-based company was disgruntled with the trial court's judgment and appealed to Beijing High People's Court.

Beijing High held that the appellant applied for the registration of trademark in dispute with an intention of plagiarizing and imitating others' trademark. The act not only damaged the legitimate rights and interests of others,

but also corrupted the normal order of trademark registration administration which is detrimental to fair competition. The transfer of the trademark in dispute to Hunan Jaguar by the appellant is also suspected of evading legal recourse. The trademark in dispute is subject to other improper means of obtaining registration. In parallel, Hunan Jaguar lacks sufficient factual basis to prove the trademark in dispute has enjoyed certain popularity after extensive use and even if the trademark is actually used, the registration is obtained by improper means and such use lacks legal right basis. In this connection, the Court held that the reason for the appeal of Hunan Jaguar Company could not be established and affirmed the original judgment. (by Wang Guohao)

本报记者 王国浩

英国捷豹路虎有限公司(下称捷豹路虎公司)旗下全球知名汽车品牌"捷豹(Jaguar)",与湖南一家企业围绕注册使用在啤酒等商品上的一件"捷豹"商标展开了激烈的权属争夺。历时7年后,这一纠纷有了新进展。近

日,北京市高级人民法院判决驳回湖南捷豹酿造科技有限公司(下称湖南捷豹公司)上诉,认定第9573951号"捷豹"商标(下称诉争商标)系以其他不正当手段取得注册,原中国国家工商行政管理总局商标评审委员会(下称原商评委)对诉争商标予以无效宣告的裁定最终得以维持。

据了解,诉争商标由绝对牛(德国)酿酒有限公司(下称绝对牛公司)于2011年向原国家工商行政管理总局商标局(下称原商标局)提出注册申请,2012年被核准注册使用在啤酒、水(饮料)等第32类商品上。2014年,绝对牛公司向原商标局提出诉争商标的转让申请。经原商标局核准,诉争商标于2015年4月6日转让予湖南捷豹公司。在绝对牛公司提出诉争商标的转让申请后不久,捷豹路虎公司针对诉争商标向原商评委提出无效宣告请求。

原商评委于2015年3月28日作出对诉争商标予以无效宣告的裁定。湖南捷豹公司不服原商评委所作裁定,随后向北京知识产权法院提起行政诉讼。北京知识产权法院作出一审判决,驳回湖南捷豹公司的诉讼请求。湖南捷豹公司不服一审判决,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,绝对牛公司申请注册诉争商标的行为明显具有抄袭、摹仿他人商标的故意,其行为不仅损害了他人合法权益,亦扰乱了正常的商标注册管理秩序,并有损于公平竞争的市场秩序,而绝对牛公司将诉争商标转让给湖南捷豹公司的行为亦有逃避法律追究的嫌疑,诉争商标存在以其他不正当手段取得注册的情形。同时,湖南捷豹公司关于诉争商标经过使用具有一定知名度的主张缺乏充分的事实依据,而且即便诉争商标存在实际使用行为,因其注册系通过不正当手段取得,此种使用亦欠缺合法的权利基础。综上,法院认为湖南捷豹公司的上诉理由不能成立,据此判决驳回湖南捷豹公司上诉,维持一审判决。



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