

China's IP
in foreign eyes

China's Tencent Music Entertainment Group reported better-than-expected third-quarter revenue on Monday, as the music streaming company added more paying users. Tencent Music, which has a user base of more than 900 million, has been shifting more of its content behind a pay-wall since May. The company, controlled by Chinese tech giant Tencent Holdings Ltd, said paid users of its online music service jumped about 42% in the reported quarter. (Tencent Music's quarterly revenue beats on subscriber growth, Reuters)

日前,腾讯旗下的腾讯音乐娱乐集团发布的2019年第三季度财务报告不断显示,随着在线音乐付费用户的不增加,其整体营收呈大幅上升趋势。自5月份以来,拥有9亿用户基础的腾讯音乐不断向付费内容方向发展。该公司表示,第三季度在线音乐服务付费用户增长约42%。(腾讯音乐第三季度在线音乐服务订阅用户不断增长,路透社)

Comment:

In recent years, Tencent Music has been strengthening IP protection through paid content subscribing with the improving awareness of copyright protection. The reported third-quarter revenue is the result of Tencent's efforts in IP protection.

点评

近年来,随着国内版权保护意识的提升,腾讯音乐正尝试开拓付费业务来加强知识产权保护。此次公布的财报也正是腾讯致力于知识产权保护成果体现。



The Baidu ABC Cloud Group & Edge Security Team is the 11th organization to win the Superuser Award. Baidu ABC Cloud Group and Edge Security Team integrated Kata Containers into the platform for all of Baidu internal and external cloud services including edge applications. Their cloud products, including both VMs and bare metal servers, cover 11 regions in China with over 5,000 physical machines. Today, 17 important online businesses have been migrated to the Kata Containers platform thus far. (Baidu Wins Superuser Award with Massive-Scale Deployment of Open Infrastructure Technologies in Production, PRWeb)

日前,百度智能云团队在上海开源基础设施峰会上获得超级用户大奖。通过将开源基础设施技术Kata Containers进行集成,百度智能云能够在多个云计算场景下提供超高性能,并保障数据的安全性和算法的机密性。目前,包含虚拟机和裸机服务器的百度智能云产品以及5000多台物理机正在中国11个地区使用。目前,有17项重点网络业务已经转至Kata Containers平台。(百度获得开源基础设施峰会超级用户大奖,PRWeb)

Comment:

With the rapid development of cloud computing, Baidu has been focusing on technological innovation and valuing IP deployment. The winning of the Award is the recognition of its innovative achievements in the area.

点评

随着云计算的迅猛发展,百度智能云团队不断加强技术研发以及在领域的知识产权布局。此次获得超级用户大奖是对百度在该领域开展创新的认可。(沐阳)

Keynote speech by President Xi Jinping at Import Expo echoed warmly by IP practitioners

习近平主席在第二届进博会开幕式上的主旨演讲在知识产权领域引发热烈反响——

共同加强知识产权保护 推动更高水平对外开放

On November 5, a keynote speech delivered by Chinese President Xi Jinping at the opening ceremony of the second China International Import Expo (CIIE) in Shanghai drew passionate responses from practitioners across the field of intellectual property (IP), in which he highlighted that "to benefit mankind with the better use of knowledge, we need to tighten the protection of IP. The least desirable is for us to stifle the flow of knowledge, or to create or even widen the technology divide among us." and "With regard to IP protection, we will cultivate an environment appreciating the value of knowledge, improve the legal framework, step up law enforcement, and enhance protection through both civil and criminal justice systems."

"The speech was full of broad vision, insightful thought and profound meaning, pointing out the way to promote higher level of opening-up. The in-depth elaboration centering on working together to reinforce IP protection, improving relevant legal framework and intensifying law enforcement in particular showcases China's firm and clear resolve towards IP protection in strict accordance with the law, providing theoretical compliance and action guidelines for strengthening IP protection in the new era," said Shen Changyu, Commissioner of China National Intellectual Property Administration, adding that IP system nationwide will carefully convey, study and implement the spirit of Xi's speech at the Expo, formulate specific work program and put it into practice. It particularly needs to speed up efforts to improve law system of IP including patent law, enhance IP examination quality and efficiency, do a good job in guidance for

trademark and patent law enforcement and crack down upon IP infringement; intensify efforts to strengthen international cooperation in IP protection, promoting IP cooperation for countries along the Belt and Road in substance and depth, creating a better innovation and business environment, fostering all countries to carry out technical exchanges and cooperation based on market principles and rule of law and better serving China's high-level opening-up and high-quality economic development.

"The speech made by President Xi Jinping presents China's firm belief in further beefing up IP protection and optimizing business environment, thus strengthening our confidence in cooperation and investment ties with China. Qualcomm has been one of the foreign companies in obtaining the most invention patents in China and a witness, participant and beneficiary of China's constantly strengthened IP protection. We will work with our Chinese counterparts to enhance cooperation in innovation and sharing of innovation achievements and persist in business mode of 'invention-sharing-cooperation', promoting China to achieve high-quality development and industry prosperity," said Qualcomm's senior vice president Zhao Bin.

(by Sun Di/Wu Ke)

本报记者 孙迪 吴珂

11月5日上午,国家主席习近平出席第二届中国国际进口博览会(下称第二届进博会)开幕式并发表重要主旨演讲,强调“为了更好地运用知识的创造造福人类,我们应该共同加强知识产权保护,而不是搞知识封锁,制造甚至扩大科技鸿沟”“中国将营造尊重知识价值的环境,完善知识产权保护法律体系,大力强化相关执



法,增强知识产权民事和刑事司法保护力度”,在知识产权领域引发热烈反响。

中国国家知识产权局局长申长雨表示,习近平主席的重要主旨演讲视野宏阔、思想深邃、内涵丰富,为推动我国更高水平对外开放指明了前进的方向。特别是习近平主席围绕共同加强知识产权保护、完善知识产权保护法律体系、大力强化相关执法等作出深刻阐述,再一次向国际社会清晰阐明了中国依法严格保护知识产权的坚定立场和鲜明态度,为新时代加强知识产权保护提供了根本遵循

和行动指南。全国知识产权系统要认真传达学习贯彻习近平主席重要讲话精神,制定具体的工作方案,认真抓好贯彻落实。特别是要加快完善专利法等知识产权法律体系,提高知识产权审查质量和效率,做好商标、专利执法指导,依法严厉打击知识产权侵权行为;要更大力度加强知识产权保护国际合作,推进“一带一路”知识产权合作走深走实,创造更好的创新环境和营商环境,推动各国在市场化法治化原则基础上开展技术交流合作,更好服务国家高水平对外开放和经济高质

量发展。

高通公司全球高级副总裁赵斌认为:“习近平主席的主旨演讲,让我们看到了中国进一步加大知识产权保护力度、优化营商环境的坚定信念,更加坚定了我们进一步加大对华合作和投资的信心。高通公司已经成为在中国获得发明专利最多的外国企业之一,是中国不断强化知识产权保护的见证者、参与者和受益者。我们将同中国合作伙伴一道,加强创新合作和创新成果共享,坚持‘发明一分享一协作’的商业模式,助力中国实现高质量发展和产业繁荣。”

Rolls-Royce invokes well-known mark privileges to off similar marks

劳斯莱斯在华成功捍卫商标权

Recently, Beijing High People's Court wrapped up the trademark dispute between Rolls-Royce Motor Cars and Guangdong Konbom Technology & Industrial Company with its final-instance judgment, holding that some of Konbom Company's registered trademarks No.14355333 and No.14355334 保劳斯, No.14355335 and No.14355337 保莱斯, No.14355338 宝劳斯, No.14355339 and No.14355340 宝莱斯 (trademarks in dispute) and the well-known trademark No.4979295 劳斯莱斯 (the cited trademark) (Note: official Chinese translation of Rolls-Royce) constituted similarity on the same or similar goods and trademarks in dispute prejudiced the interests of Rolls-Royce as the owner of the well-known trademark. Therefore, the decision of upholding the trademarks in dispute made by the Trademark Review and Adjudication Board (TRAB) of the former State Administration for Industry and Commerce (SAIC) was revoked and it needed to make a *de novo* one.

Trademarks in dispute were filed for registration by Konbom in April 2014, and would be certified to be used on goods such as cars and car tyres in 2016.

Rolls-Royce lodged an invalidation request with the TRAB, alleging that the cited trademark had been well-known to the public before the filing date of the trademarks in dispute, en-

abling its establishment as well-known trademark. The trademarks in dispute constituted similarity on the same or similar goods with the cited trademark and may confuse the public, causing prejudice to the company's interests.

TRAB held that the evidence could prove the cited trademark enjoyed a high reputation before the filing date of the trademarks in dispute. Considering the differences in characters formation and pronunciation, the trademarks in dispute did not constitute reproduction and imitation of the cited trademark. In addition, goods such as the adhesives for tyres attached with the trademarks in dispute were different from the goods such as cars attached with the cited trademark in terms of the functions and usage. Registration and use of the trademarks in dispute had not confused the relevant public. Therefore, TRAB upheld the trademarks in dispute.

The disgruntled Rolls-Royce then brought the case to Beijing IP Court.

Beijing IP Court held that the trademarks in dispute approved to be used on goods such as car tyres constituted similarity on the same or similar goods with the cited trademark while used on car tyres. The interests of Rolls-Royce as the owner of the well-known trademark would be harmed though trademarks in dispute did not constitute similarity on the same or similar goods while used on adhesives for tyres. Ac-



cordingly, the IP Court rebuffed the decision made by the TRAB at the first instance and ordered it to make a new one.

TRAB then appealed to Beijing High People's Court. After hearing, Beijing High held that the IP Court ascertained the facts clearly and applied the law correctly and upheld the first-instance ruling accordingly.

(by Wang Guohao)

本报记者 王国浩

针对英国劳斯莱斯汽车有限公司

司(下称劳斯莱斯公司)与广东康绿宝科技实业有限公司(下称康绿宝公司)之间的商标纠纷,近日,北京市高级人民法院作出终审判决认为,康绿宝公司的第14355333号与第14355334号“保劳斯”商标、第14355335号与第14355336号“保莱斯”商标、第14355337号与第14355338号“宝劳斯”商标、第14355339号与第14355340号“宝莱斯”商标(下称诉争商标),或同劳斯莱斯公司在先驰名的第4979295号“劳斯莱斯”商标(下称引证商标)构成使用在同一种或类似商品上的近似商标,或致使作为驰名商标注册人的劳斯莱斯公司利益受到损害。至此,原国家工商行政管理总局商标评审委员会(下称原商评委)对诉争商标予以维持的裁定最终被撤销,并需重新作出裁定。

据了解,康绿宝公司于2014年4月提出诉争商标的注册申请,于2016年被核准注册使用在汽车、汽车轮胎等商品上。

劳斯莱斯公司向原商评委提出无效宣告请求,主张在诉争商标申请注册日前,引证商标已经达到被相关公众广泛知晓的程度,构成驰名商标;诉争商标与引证商标构成使用在同一种或类似商品上的近似商标,易误导公众,致使该公司利益受到损害。

原商评委作出裁定认为,在案证据可以证明引证商标于诉争商标申请注册日前在汽车等商品上具有较高知名度,但鉴于诉争商标与引证商标在文字构成、呼叫等方面存

在的差别,故诉争商标不构成对引证商标的复制、摹仿。加之诉争商标核定使用的轮胎粘合剂等商品与引证商标核定使用的汽车等商品在功能、用途等方面差别较大,故诉争商标的注册和使用不会引起相关公众的混淆。据此,原商评委裁定对诉争商标予以维持。

劳斯莱斯公司随后向北京知识产权法院提起行政诉讼。

经审理,北京知识产权法院认为,诉争商标核准注册使用在汽车轮胎等商品上,与引证商标构成使用在同一种或类似商品上的近似商标;诉争商标核准注册使用在轮胎粘合剂等商品上,与引证商标不构成使用在同一种或类似商品上的近似商标,但会使劳斯莱斯公司的驰名商标利益受到损害。据此,法院一审判决撤销原商评委所作裁定,并判令重新作出裁定。

原商评委不服一审判决,随后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认为一审判决认定事实清楚,适用法律正确,依法应予维持。



英文翻译 熊花平

Translator Xiong Huaping

编辑 熊花平

Editor Xiong Huaping