

China's IP  
in foreign eyes

5G commercial services are now available in 50 cities, including Beijing, Shanghai, Guangzhou and Shenzhen, according to Chinese state news agency Xinhua. In Shanghai, nearly 12,000 5G base stations have been activated to support 5G coverage across the city's key outdoor areas. China's commercial network is the biggest, according to Bernstein Research, giving the country more influence over the technology's global evolution. (China just launched the world's largest 5G network, CNN)

据中国国家通讯社新华社报道,目前中国已经实现在50个城市提供5G商业服务,包括北京、上海、广州和深圳。上海已经启用了将近1.2万个5G基站,以支持整个城市主要户外区域的5G网络覆盖。根据伯恩斯坦研究机构(Bernstein Research)的数据,中国的商业网络是最大的,这使得中国对该技术全球发展产生更大影响力。(中国近期启用全球最大的5G网络,美国有线电视新闻网)

## Comment:

China's efforts in intellectual property protection and favourable business environment have boosted Chinese enterprises' innovations in the field of 5G technology, and also allowed China to play an important role in global 5G technology progress.

## 点评

中国加强知识产权保护,营造良好营商环境,使得中国企业在5G技术领域的创新方兴未艾,也助力中国在全球5G技术发展方面扮演着重要角色。



Flora Tang, a research analyst at Counterpoint Market Monitor, said the world's biggest smartphone maker also lost out as local competition grew. Over the last few years, homegrown players such as Huawei, Oppo, Vivo and Xiaomi have become more popular, and they have grabbed market share from Samsung with their strong product portfolio, affordable prices, more localized services ecosystem and extensive sales channels, said Tang. (Samsung admits defeat in China's vast smartphone market, CNN)

对市场观察机构研究分析师弗洛拉·唐表示,随着当地竞争的加剧,这家全球最大的智能手机制造商(三星)也无能为力。弗洛拉·唐说,在过去的几年中,华为、欧珀、维沃和小米等中国本土手机厂商变得越来越受欢迎,他们凭借强大的产品组合、低廉的价格及更本地化的服务生态系统和广泛的销售渠道赢得了三星的市场份额。(三星承认在中国庞大的智能手机市场上落败,美国有线电视新闻网)

## Comment:

In recent years, Chinese smartphone manufacturers have focused on innovation and patent layout related to smartphones, which has led to a steadily increasing market share. China's strictly IP protection will also safeguard smartphones innovation in terms of technology, software, equipment, and service.

## 点评

近年来,中国智能手机制造商专注于智能手机相关的创新和专利布局,市场占有率节节攀升。而中国严格的知识产权保护也必将为智能手机在技术、软件、设备、服务等领域的创新提供保障。(李铎)

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IPRs in E-commerce better guarded in China  
中国电子商务领域知识产权保护成效显著

China sees remarkable progress in IP protection in E-commerce, according to the 2019 China Research Report on E-Commerce Intellectual Property Development, released on December 12. A joint production of China National Intellectual Property Administration (CNIPA) and Ministry of Commerce (MOC), the report is authored by CNIPA's IP Development and Research Center with support from CNIPA's IP Protection Department and MOC's Department of E-commerce and Informatization.

The report reviews IP protection and governance in China's e-commerce during the year, evaluates and summarizes practical experiences of IP protection in e-commerce from aspects such as IP protection data, governance challenges and results of mainstream e-commerce platforms and proposes a 'Four Rules' concept namely, ruled by law, ruled by platform's actions, ruled based on public consensus and ruled with wisdom. The report underlines that through great efforts in improving protection rules and system, establishing a multi-governance model and increasing investment in the R&D and application of anti-counterfeiting tech-

nologies, China has achieved notable results in IP protection in the field of e-commerce. The multi-governance model, which is the transformation direction as well as highlights of governance of E-commerce IP protection calls for more cooperation and exchanges among various parties to promote innovation and upgrade. In addition, in terms of government-enterprise cooperation, at present, 13 provinces (autonomous regions and municipalities) in the Yangtze River Delta and Pan-Pearl River Delta have established systems such as clue notification, evidence transfer, case co-examination, joint case handling and mutual recognition of inspection and evaluation results and relied on e-commerce platforms' online transaction big data to combat infringement and counterfeiting. E-commerce platforms work together with right holders to build a public review mechanism, achieve online dispute determination and improve the effectiveness of IP protection.

Han Xiucheng, director of the CNIPA, said that at present, e-commerce has become China's economic development model with great potential and international competitiveness. Along

with the increasingly prominent status and role of the contemporary national economy, a series of problems and challenges have emerged in E-commerce IP protection. This report for the first time summarizes the IP protection and development of China's e-commerce based on the 'Four Rules'. In the future, the report will continue to research on this subject and will be released regularly every year. (by Liu Na)

本报讯 12月12日,由中国国家知识产权局知识产权保护司、商务部电子商务和信息化司支持,中国国家知识产权局知识产权发展研究中心编制的《中国电子商务知识产权发展研究报告(2019)》在京发布。报告显示,中国电子商务领域知识产权保护成效显著。

据介绍,该报告对年度中国电子商务知识产权保护治理工作进行梳理,并从主流电商平台知识产权保护数据情况、治理困境和治理成效等方面全方位评估总结中国电商知识产权保护实践经验,并提出法治护航、平台自治、社会共识、智慧之治的“四治”理念。报告指出,通过在完善保护规则体系、构建多元共治的治理模式、加大打假防假技术研发和应用投入力度三个方面积极作为,中国电子商务领域知识产权保护取得显著成



效。其中,多元共治治理模式是电商知识产权保护治理的变革方向,也是治理亮点,应在此方面加强多方合作与对话,促进创新与升级。此外,在政企合作方面,目前,长三角和泛珠三角13省(区、市)已建立线索通报、证据移交、案件协查、联合办案以及检验鉴定结果互认等制度,并依托电商平台的数据网络交易大数据,共同打击侵权行为,为提升中国电子商务知识产权保护水平提供借鉴。今后,该报告还将继续进行研究,每年定期发布。

中国国家知识产权局知识产权

发展研究中心主任韩秀成表示,目前,电子商务成为中国极具潜力和国际竞争力的经济发展模式。在当代国民经济中的地位和作用日益突出的同时,电子商务在知识产权保护方面也涌现出一系列的问题和挑战。此次报告的编制是首次从法治护航、平台自治、社会共治和智慧之治等方面对中国电子商务知识产权保护发展进行总结,为促进中国电子商务知识产权高水平保护与高质量发展提供借鉴。今后,该报告还将继续进行研究,每年定期发布。

(刘娜)



Xuan Paper is China's unique handicraft. It was produced in Jingxian County which was under jurisdiction of Xuan Prefecture in ancient China, hence the name. This paper is soft-colored, fine-textured, moth resistant, with a high tensile strength, and remarkable longevity. When used in painting or calligraphy art, it has the capacity to support the ink or paint and faithfully exudes the spirit of the artistic conception in different shades of grey with marvelous aesthetic effect.

Xuan paper is a form of paper used in traditional Chinese painting and calligraphy, considered one of the Four

Treasure of the Study, and has 1500 years of history. In the fall of 1964, Mr. Guo Moruo remarked in the inscription he wrote for the Jingxian County Xuan Paper Factory, "Xuan paper is an artistic creation invented by the Chinese working people; Chinese calligraphy and painting have no way to express the wonderful aesthetic charms without it."

The production includes very complicated processes, mainly composed of four parts: material selection, pulping, ingredient proportioning, paper making, and in 108 processing steps:

Xuan Paper  
宣纸

boiling, bleaching, washing, pulping, dipping, sun drying, paper cutting and so on; all the processes are done by hands. Under the geographical indication protection program, the branding of Xuan paper has been much improved; the production techniques are preserved and promoted; the status of Jingxian County as the place of origin of the Xuan paper has been protected.

(Courtesy of the IP Protection Department of CNIPA)

宣纸是我国独特的手工艺品,产于安徽省泾县,古属宣州,因地名而称为宣纸,具有质地绵韧、光洁如玉、不蛀不腐、墨韵万变的品质特

色。用宣纸题字作画,墨韵清晰,骨气兼蓄,气势俊秀,浓而不浑,淡而不灰,其字其画,跃然纸上,神采飞扬,飞目生辉。

宣纸是中国传统的古典书画用纸,作为我国文房四宝中的珍品,迄今已有1500多年的历史。1964年秋,郭沫若先生为泾县宣纸厂题词赞誉:“宣纸是中国劳动人民所发明的艺术创造,中国的书法和绘画离了它便无从表达艺术的妙味。”

宣纸工艺十分繁杂,可分为选料、制浆、配料、制纸四大部分,共包括煮浆、漂白、洗涤、打浆、捞制、晒纸、剪纸等大小108道工序,全部工序均手工制作。宣纸在获得国家地理



标志产品保护后,品牌建设逐步成熟,宣传并弘扬了宣纸制作技艺,保护了泾县作为宣纸原产地的唯一性。(中国国家知识产权局知识产权保护司供稿)

Beijing IP Court rejects TM registration of 'PARIS BAGUETTE'  
“PARIS BAGUETTE”被法院一审认定不能维持注册

Recently, Beijing IP Court made a first-instance judgment on an administrative case for invalidation of the trademark 'PARIS BAGUETTE'. The court held that the registration of the trademark was subject to the absolute terms enjoining registration under the Chinese Trademark Law and rejected the decision of upholding registration of the trademark made by the then Trademark Review and Adjudication Board of the former State Administration for Industry and Commerce (TRAB), ordered it to make a new decision.

In 2004, the South Korean company Paris Croissant entered the Chinese market and opened the first 'PARIS BAGUETTE' bakery in Shanghai with the corresponding Chinese name "巴黎贝甜". Later on, the Korean company set up Esprit Foods Co., Ltd. (Esprit Foods) in China and awarded an exclusive license to Esprit Foods for the use of the trademarks "巴黎贝甜" and "PARIS BAGUETTE" and to manage and operate the trademarks.

In September 2007, Paris Croissant Co., Ltd. applied for the registration of the trademark 'PARIS BAGUETTE' in China and would eventually obtain registration on Class 30 goods including

bread in March 2015 after wading through post-rejection review and opposition proceedings.

However, Paris Croissant Co., Ltd. only owns the English trademark of 'PARIS BAGUETTE' in China, and the corresponding Chinese trademark "巴黎贝甜" has yet been approved for registration. In the meantime, 'PARIS BAGUETTE' has been under constant nullity attack since its registration by several companies including Beijing Bali Beitian (Note: Chinese name "巴黎贝甜"), only the first Chinese character different from "巴黎贝甜") Enterprise Management Co., Ltd. (Beijing Bali Beitian).

The then-TRAB found that the trademark in question is composed of the words 'PARIS BAGUETTE' and its figure. Although the words can be translated as 'French bread', the disputed trademark still has other elements which shows distinctiveness to some extent if viewed as whole; Taking into account that the trademark in question has been registered and used for many years and a relatively stable market complexion has been formed through publicity and use, the then-TRAB upheld the registration of the trademark.

The disgruntled Beijing Bali Beitian then brought the case to Beijing IP Court in August 2018, requesting the court to revoke the TRAB ruling.

Beijing IP Court held that the country of the trademark applicant is South Korea, not France. The dispute trademark is composed of English words 'PARIS' and 'BAGUETTE' and a figure similar to the iconic Eiffel Tower in Paris, France, among which 'PARIS' means Paris and 'BAGUETTE' means French bread or French-style baguette. The use of the trademark on the designated class of goods may easily cause the relevant public to mistakenly believe that the origin of the goods is related to Paris, France. The court also held that the trademark in question constituted a situation that was not allowed to be registered as a trademark under the Chinese Trademark Law.

In this connection, Beijing IP Court made its first-instance decision, revoking the TRAB decision in upholding the registration of 'PARIS BAGUETTE'.

As of now, the case is still open for appeal and we will follow its developments. (by Zhu Wenming)

近日,北京知识产权法院对“PARIS BAGUETTE”商标无效宣告行政案件作出一审判决,认定该商标的

注册行为适用中国商标法禁止使用的绝对条款,不能维持注册,撤销中国原国家工商行政管理总局商标评审委员会(下称原商标评审委员会)作出的维持该商标注册的裁定,并要求其重新作出裁定。

2004年,韩国株式会社巴黎克鲁瓦桑进入中国市场,在上海开设了第一家“PARIS BAGUETTE”面包店,对应的中文名称为“巴黎贝甜”。其后,该株式会社在中国成立了艾丝碧西食品有限公司(下称艾丝碧西公司),并授权艾丝碧西公司独占使用“巴黎贝甜”“PARIS BAGUETTE”商标,并对其统一管理和运营。

2007年9月,株式会社巴黎克鲁瓦桑在华申请注册“PARIS BAGUETTE”商标,后经驳回复审、异议程序于2015年3月获准注册,核定使用在第30类面包等商品上。

然而,株式会社巴黎克鲁瓦桑在中国只拥有“PARIS BAGUETTE”英文商标,对应的中文商标“巴黎贝甜”却一直未能获准注册,并且,“PARIS BAGUETTE”核准注册后还被包括北京巴黎贝甜企业管理有限公司(下称巴黎贝甜公司)等多家企业提出无效宣告请求。

原商标评审委员会经审理认为,该争议商标由文字“PARIS BAGUETTE”及图形组成,虽然整体可译为“法国面包”,但争议商标尚有其

他要素组成,整体具有一定的显著性;且考虑到争议商标已注册和使用多年,通过宣传使用已形成相对稳定的市场格局,裁定该商标予以维持注册。

巴黎贝甜公司不服该裁定,于2018年8月向北京知识产权法院提起行政诉讼,请求法院判决撤销原商标评审委员会所作裁定。北京知识产权法院经审理认为,诉争商标申请人所属国家为韩国,并非法国。而诉争商标由英文“PARIS”“BAGUETTE”及与法国巴黎标志性建筑物埃菲尔铁塔较为相似的图形组成,其中“PARIS”含义为巴黎,“BAGUETTE”含义为法国面包、法式长棍面包。该商标使用在核定商品上容易使相关公众误认为商品产地与法国巴黎有关,进而对商品产地产生误认。法院还认为,诉争商标属于中国商标法规定的不得作为商标的情形。

据此,北京知识产权法院于近日作出一审判决,撤销原商标评审委员会所作的维持“PARIS BAGUETTE”注册的裁定。

目前,该案正在上诉期内,本报将继续关注案件的进展。

(祝文明)

