

China's IP  
in foreign eyes

Chinese smartphone maker Xiaomi Corp will invest more than 50 billion yuan (\$7.18 billion) in artificial intelligence and fifth generation Internet technologies over the next five years, as competition in the sector grows. Xiaomi Chief Executive Lei Jun made the announcement on Thursday. "We need to turn our continuous advantage we have in AIoT and intelligent life into absolute victory in intelligent full scene, and completely cement our king status in the smart area," said Lei. (Xiaomi to invest \$7 billion in 5G, AI and IoT over next 5 years, Reuters)

日前,中国智能手机制造商小米集团董事长雷军宣布,随着行业竞争的加剧,小米未来五年将投资500多亿元人民币(约合71.8亿美元)发展人工智能以及5G技术。他表示,小米需要把在智能物联网和智慧生活方面的持续优势转化成在智能全景方面的绝对优势,并且完全巩固其在智能领域的领先地位。小米未来五年将投资70亿美元发展5G、人工智能以及物联网技术。(路透社)

## Comment:

Xiaomi has been taking IP an important impetus for innovative development in the fierce market competition. The company's investment in 5G and AI represents its determination in original innovation.

## 点评

在激烈的市场竞争中,小米持续注重知识产权这一创新发展动力。其对5G、人工智能等的投入,正是小米从源头重视知识产权创造的体现。



iQIYI announced its 2020 strategy for the iQIYI Knowledge App on December 18th, 2019. Based on iQIYI's leading IP content works such as *The Golden Eyes*, iQIYI Knowledge has developed a series of IP-based courses aimed at fulfilling both the users' entertainment demands and educational demands. With the arrival of the 5G+AI era, iQIYI Knowledge will not only continue to cultivate IP-based courses, but also focus on the development of educational interactive and short-form videos. (iQIYI Announces its 2020 Strategy of the iQIYI Knowledge App, Focusing on Educational Videos and IP-based Content, PR Newswire)

日前,爱奇艺宣布2020年爱奇艺知识App运行策略。依托诸如《黄金瞳》等作品,爱奇艺知识已经开发了一系列版权课程内容,来满足用户对娱乐以及教育的双重需求。随着5G以及人工智能时代的到来,爱奇艺知识不仅将持续挖掘版权课程内容,也将致力于教育交互式视频以及短视频的开发。(爱奇艺知识将着力打造教育视频以及核心版权内容,美通社)

## Comment:

In recent years, iQIYI has constantly improved IP protection awareness and provided popular original and other forms of contents. Going forward, the company will continue to promote the development of the paid knowledge market.

## 点评

近年来,爱奇艺不断提升版权保护意识,为用户提供了众多受欢迎的原创内容及其他形式的内容。一系列的举措也将助力该公司继续推动付费知识市场的发展。

(熊花平)

英文翻译 柳鹏

Translator Liu Peng

编辑 熊花平

Editor Xiong Huaping

## Implementing Regulations of Foreign Investment Law in effect, heavier sanctions against IP violations

外商投资法实施条例施行

## 中国加大对知识产权侵权行为的惩处力度

With Chinese Premier Li Keqiang's signature inked on a State Council order, the *Implementing Regulations of the Foreign Investment Law of the People's Republic of China* came into force on January 1, 2020. The *Regulations* delivers heavier sanctions against IP violations, toughened IP law enforcement, a rapid, coordinated IP protection mechanism, diversified ways to settle IP disputes and impartial treatment of IPRs owned by foreign investors and foreign-invested enterprises. Where patents of foreign investors and foreign-invested enterprises are involved in standard setting activities, relevant rules on standards concerning patents shall prevail.

Foreign investors' capital contribution, profits, capital gains, assets disposal income, intellectual property license fees, legally obtained damages or compensation, liquidation proceeds, etc., may be freely remitted

from and to overseas in RMB or foreign exchange according to law. No organization and individual may illegally impose restrictions on currency type, amount and frequency of entry and exit.

Where it is necessary for a foreign investor and a foreign-invested enterprise to submit materials or information concerning trade secret, the competent authority shall limit the use of the information to the extent of executing its official duty, strictly compartmentalize the information, restrict the access of the personnel not on the need-to-know basis. Authorities shall make their internal policies and invoke effective measures to protect the trade secrets of foreign investors and foreign-invested enterprises during official use. When another authority has to be looped in on the information, the sensitive part shall be compartmentalized.

The 2nd session of the 13th National People's Congress passed the *For-*

*ign Investment Law* on March 15, 2019 and set its effective date on January 1, 2020. The *Law* provides that the State protects the intellectual property rights of foreign investors and foreign-invested enterprises, protects the legitimate rights and interests of intellectual property rights holders and related rights holders, and holds intellectual property rights infringers legally accountable in strict accordance with the law.

Once the said *Implementing Regulations* is in force, the *Implementing Regulations of the Law on Sino-Foreign Equity Joint Ventures*, the *Implementing Regulations of the Interim Provisions Concerning Contract Period of Sino-Foreign Equity Joint Ventures*, the *Implementing Regulations of the Law on Wholly Foreign-owned Enterprises*, and the *Implementing Regulations of the Law on Sino-Foreign Contractual Joint Ventures* shall be repealed simultaneously. (by Xinhua)

本报综合新华社消息 国务院总理李克强日前签署国务院令,公布《中华人民共和国外商投资法实施条例》(下称《实施条例》),自2020年1月1日起施行。《实施条例》提出,国家加大对知识产权侵权行为的惩处力度,持续强化知识产权执法,推动建立知识产权快速协同保护机制,健全知识产权纠纷多元化解决机制,平等保护外国投资者和外商投资企业的知识产权。标准制定中涉及外国投资者和外商投资企业专利的,应当按照标准涉及专利的有关管理规定办理。

此外,《实施条例》还规定,外国投资者在中国境内的出资、利润、资本收益、资产处置所得、取得的知识产权许可使用费、依法获得的补偿或者赔偿、清算所得等,可以依法以人民币或者外汇自由汇入、汇出,任何单位和个人不得违法对币种、数额以及汇入、汇出的频次等进行限制。

同时,《实施条例》指出,行政机关依法履行职责,确需外国投资者、外商投资企业提供涉及商业秘密的材料、信息的,应当限定在履行职

所必需的范围内,并严格控制知悉范围,与履行职责无关的人员不得接触有关材料、信息。行政机关应当建立健全内部管理制度,采取有效措施保护履行职责过程中知悉的外国投资者、外商投资企业的商业秘密;依法需要与其他行政机关共享信息的,应当对信息中含有的商业秘密进行保密处理,防止泄露。

据了解,2019年3月15日,十三届全国人大二次会议表决通过了《中华人民共和国外商投资法》(下称《外商投资法》),该法自2020年1月1日起施行。外商投资法明确提出,国家保护外国投资者和外商投资企业的知识产权,保护知识产权权利人和相关权利人的合法权益;对知识产权侵权行为,严格依法追究法律责任。

《实施条例》施行后,《中华人民共和国中外合资经营企业法实施条例》《中华人民共和国中外合作经营企业法实施条例》同时废止。

Huzhou Writing Brush  
湖笔

Scope of Huzhou Writing Brush protection is the areas under the jurisdiction of Huzhou City, Zhejiang Province. "Flowering brushes of Huzhou and Suzhou" is an accolade of Huzhou brushes from Guo Moruo. The Huzhou writing brushes can hold a full capacity of ink without dripping, while the hair is gathered without split ends, durable but not brittle.

"Sharp, neat, round, and strong" are the characteristics of Huzhou brushes. The tip of the brush is sharp but not split, conducive to various expression of strokes; the hair is straight and neat

with good ink capacity, when spread out, the top is even, and delivers the ink evenly. The tip of the brush is round and smooth so that it is easy to handle when writing; the hair is strong and secure yet flexible in writing. The brush is durable and retains its original shape when not in use. With two thousand years of history, Huzhou brush represents the highest achievement of Chinese brush production. From Qin to Tang dynasties, Xuanzhou of Anhui Province became the main brush production area in China. In the Southern Song Dynasty, more than 40 years of

battle between Song and Yuan dynasties in Jiangsu and Anhui regions gradually brought down Xuanzhou. The brush artisans fled southward and relocated in Huzhou, prompting the brush production in the neighboring town of Shanlian in Huzhou. Up till the Yuan Dynasty, Huzhou had seen constant improvement in brush production and finally replaced Xuanzhou in brush quality and reputation. The implementation of geographical indication product protection has boosted the development of Huzhou brush production and promoted the progress and development of

Chinese painting and calligraphy art. (Courtesy of the IP Protection Department of CNIPA)

湖笔产自浙江省湖州市。“湖上生花笔,姑苏发一枝。”这是郭沫若对湖笔的赞美之词。湖笔,饱蘸墨汁而不滴,抱拢不散不开叉,耐磨耐写不发脆。

“尖、齐、圆、健”。笔锋尖如锥状不开叉,利于点撇钩捺;笔毛垂直整齐,散开后顶端平齐无参差使吸墨饱满,吐墨均匀;笔头浑圆匀称,不凹不凸,使书写圆转如意;笔毛健挺,不脱不败,书写时收放自如,富有弹性,收笔后笔头恢复锥状如初,且毛笔经久



耐用。湖笔拥有两千多年历史。自秦至唐,安徽的宣州成为全国的毛笔主产地,所产毛笔称为“宣笔”。南宋建朝后,宋、元在江淮之间40多年的征战,使宣城逐渐凋敝,笔工走避江南,徙居湖州,就使邻近的湖州善制笔业有了良好的发展环境。到了元代,湖笔工艺不断优化,终于取代了宣笔的地位,声名鹊起。实施地理标志产品保护以后,湖笔发展更加兴盛,促进了我国书画艺术的进步和发展。

(中国知识产权局知识产权保护司供稿)

## Hollywood giant MGM awarded injunction, damages in TM infringement case

## 米高梅在华成功捍卫商标权

Metro-Goldwyn-Mayer (MGM) was one of the eight largest and most profitable Hollywood studios in the U.S. in the early 20th century. Its subsidiaries MGM Studios and MGM Lion Company found that Shenzhen MGM Film Company, without any authorization, not only changed its trade name to 米高梅 (Note: official Chinese translation of MGM) and authorized multiple third parties across China to open the so-called MGM cinemas affixed with the 米高梅, MGM and relevant lion trademarks, but also registered and used relevant domain names, which infringed MGM's trademarks and performed unfair competition. The two plaintiffs then filed two separate cases to Shanghai Pudong New Area People's Court.

Recently, the Court made its first-instance judgments on the two cases, ordering Shenzhen MGM to cease infringing MGM's trademarks, publish a statement and remove ill effects and indemnify 3 million yuan in damages and reasonable costs for right enforcement (first case); and cease the act of unfair competition, transfer relevant domain names to the plaintiffs, change its trade name without using the words 米高梅 and indemnify 3 million yuan in damages and reasonable costs (second case). As of publication, the ruling is in effect.

MGM Studios was the holding com-



pany of MGM Lion. MGM Lion had the exclusive trademarks rights of No.1147898 米高梅, No.5144810 MGM and No.879825 米高梅 figures in China.

The plaintiffs in the two cases respectively asserted that the act of the defendant infringed their trademarks and performed unfair competition. Shenzhen MGM argued that 米高梅 and MGM as trade names were not exclusively used by the two plaintiffs and the same and similar trade names existed both in China and in the U.S. The company regularly used the full name on marked places for promotion, bringing no confusion to the public and consequently no unfair competition. In addition, the defendant and the plaintiffs are not in the competing lines of businesses, making them non-competitors and consequently no unfair competition.

The Court held that the trade names 米高梅, METRO-GOLDWYN-MAYER and MGM were well-known after long-time use and extensive publicity by MGM and the two plaintiffs. The defendant, without any authorization and association with the plaintiffs, authorized others to open MGM cinemas with the trade name 米高梅 and the trademarks METRO-GOLDWYN-MAYER and METRO-GOLDWYN-MAYER, and registered and used domain names mgmchn.cn and mgmchn.com, causing confusion for the public and constituting unfair competition. Meanwhile, MGM had the exclusive trademark rights of 米高梅 and MGM. Shenzhen MGM used the same registered trademarks on the same services and obviously used the trade name 米高梅, causing confusion for the public and constituting trademark infringement.

ment. In the connection, the Court made the above judgments.

(by Sun Fanghua/Chen Weifeng)

本报记者 孙芳华

通讯员 陈卫锋

米高梅集团是上世纪初美国好莱坞八大电影公司之一。其旗下企业米高梅电影公司、米高梅公司发现,深圳市米高梅影业有限公司(下称深圳米高梅公司)等在未经授权的情况下,不仅将企业字号变更为“米高梅”,以“米高梅”“MGM”以及相关狮子标识于中国各地授权第三方开办米高梅影院,而且注册、使用相关域名,涉嫌构成商标侵权和不正当竞争,分两案将其诉至上海市浦东新区人民法院(下称上海浦东法院)。

近日,上海浦东法院对上述两案一审公开宣判,判令深圳米高梅公司等立即停止商标侵权行为,公开声明、消除影响,赔偿原告经济损失及维权合理开支300万元;停止实施不正当竞争行为,将相关域名转移至原告名下由原告注册使用,变更企业名称且不得在变更后的企业名称中使用“米高梅”字样,赔偿原告经济损失及维权合理开支共计300万元。目前,两案判决均已生效。

据了解,米高梅电影公司是米高梅公司的母公司。米高梅公司在中国拥有第1147898号“米高梅”、第5144810号“MGM”、第879825号图形等注册商标专用权。

两原告在两起诉讼中分别认为,被告的相关行为构成商标侵权和不

正当竞争。庭审中,深圳米高梅公司辩称,“米高梅”“MGM”字号不属于两原告独有,经检索,在中国和美国均有其他相同和近似的企业名称存在。其在宣传的显著位置规范使用企业名称的全称,不存在误导公众的情形,故不构成不正当竞争。而且,被告业务与两原告业务不存在竞争,不会构成不正当竞争。

上海浦东法院经审理认为,“米高梅”字号、“METRO-GOLDWYN-MAYER”英文字样以及“MGM”英文企业名称简称经过米高梅集团及两原告长时间的持续使用和广泛宣传,为相关公众所知悉,属于有一定影响的企业名称。被告在没有任何授权及关联关系的情况下使用“米高梅”字号及“METRO-GOLDWYN-MAYER”“METRO-GOLDWYN-MAYER”标识,并注册、使用mgmchn.cn、mgmchn.com域名,足以引人误认为其与米高梅集团及两原告间存在特定联系,产生混淆,构成不正当竞争。同时,在米高梅公司享有“米高梅”“MGM”等注册商标专用权的情况下,深圳米高梅集团在同一种服务上使用与原告注册商标相同的商标,且将“米高梅”作为企业字号在相同服务上突出使用,容易使相关公众产生误认,属于侵犯注册商标专用权的行为。据此,上海浦东法院作出前述判决。

