

China's IP
in foreign eyes

It has been a pattern for decades that China uses models of Western and international legal and regulatory frameworks and content to establish its own protocols. During all of the years, now decades, China itself has been quietly building its capability to not only protect IP in China, but to "build a court and patent system that is pro-innovator." China is the new IP superpower," said LexisNexis experts. (*China Is Taking Patents Seriously, The World Should Take Notice, The Diplomat*)

几十年来,中国借鉴西方与国际上的知识产权法律法规框架及内容体系,不断完善本国知识产权规则。改革开放以来,中国一直在努力提升本国的知识产权保护能力,不仅要保护在中国的知识产权,还要建立起有利于创新者的司法体系和专利制度。“中国是新的知识产权超级大国,”律商联讯公司的专家说。(世界应当注意,中国在认真对待专利,外交学者)

Comment:

The Chinese government has always adhered to the equal protection of IPRs of innovators at home and abroad. With the continuous improvement of China's IP laws system and the level of IP protection, more domestic and foreign innovators will benefit from IP.

点评

中国政府始终坚持同等保护国内外创新主体的知识产权。伴随中国知识产权保护体系的不断完善,知识产权保护水平的不断提升,将有更多国内外创新主体从知识产权中获益。



PlayerUnknown's Battlegrounds Mobile, the popular game by Chinese internet giant Tencent Holdings, recorded a threefold increase in revenue in March compared to the same time last year to become the highest-grossing mobile game worldwide.

PUBG Mobile and its Chinese mainland version Peacekeeper Elite raked in a combined US \$232 million of sales in March, topping the global mobile games chart by revenue as many people turned to online entertainment amid the global health crisis, according to data from app analytics firm Sensor Tower. (*Tencent's PUBG Mobile was the world's highest-grossing game in March amid coronavirus crisis, south china morning post*)

今年2月,中国互联网公司腾讯推出的吃鸡类游戏获得的收入较去年同期增长了三倍,该游戏已经成为全世界收入增长最快的手机游戏。根据手机软件分析公司“传感塔”发布的数据,今年3月,手游《绝地求生》和中国大陆版《和平精英》的销售收入总计达2.32亿美元。全球新冠肺炎疫情蔓延让许多人将娱乐生活转移到线上,与此同时,腾讯的游戏也占据了全球手游收入排行榜第一的位置。(疫情期间,腾讯的吃鸡游戏在3月成为了全世界收入增长最快的游戏,南华早报)

Comment:

In recent years, game revenues has increasingly become an important source of revenues for Tencent. Tencent's mobile game has won the popularity of game players at home and abroad, which is inseparable from Tencent's lasting technological innovation and perfect copyright operation.

点评

近年来,游戏收入日益成为腾讯公司的重要收入来源。腾讯的手机游戏获得海内外游戏玩家的热捧,离不开腾讯公司持久的科技创新与完善的版权运营工作。(邹碧颖)

China becomes world's top filer of international patents in 2019

2019年中国PCT国际专利申请量跃至世界第一

The World Intellectual Property Organization (WIPO) recently released the statistics of international applications filed in 2019 via the international patent system (Patent Cooperation Treaty - PCT), the international trademark system (Madrid System) and the international design system (Hague System) during a press conference in Geneva, Switzerland. With 58,990 applications filed in 2019 via WIPO's PCT System, China overtook the U.S. (57,840), as the top filer of the PCT System.

"The innovative technology for which patent applications were filed via the PCT System is having a profound impact on global economic development and has become a significant sign of a country's comprehensive competitiveness. It is more important than ever to give full respect to the law of market economy and the international IP system, strengthen independent innovation as well as openness and cooperation with a global view in the process of economic globalization," said Shan Xiaoguang, Dean of Shanghai International IP Law School of Tongji University.

According to WIPO, all IP-related figures hit a new high in 2019. International patent applications (265,800) filed via the PCT System grew by 5.2% over the last year, with China (58,990) pacing all countries, followed by the U.S. (57,840), Japan (52,660), Germany (19,353) and the Republic of Korea (19,085).

In 2019, Chinese enterprises and universities dominate the show. Of the top 10 corporate applicants, four were from China. Huawei Technologies, with 4,411 published PCT applications, was the top filer in 2019, and the

other three companies ranking fifth, sixth and eighth respectively were Guang Dong Oppo Mobile Telecommunications (1,927), BOE Technology Group (1,864) and Ping An Technology (Shenzhen) Company (1,691).

Tiantian, a principal of Ping An Group's IP team, introduced that in recent years, the company has been gradually building up its international patent landscape in multiple tech fields including facial recognition, smart reading, blockchain, AI composition and smart environmental protection. To the end of 2019, the company had filed a total of 3,680 PCT applications, 1,165 of which were filed overseas, covering 13 countries and regions. "Building your patent landscape overseas is not only a prerequisite for Chinese companies venturing out in the global market, but also a foothold for them to stay there," Tian said.

Among higher learning institutions, four universities from China joined the top. Tsinghua University ranked second with 265 published PCT applications in 2019, Shenzhen University (247) ranked third, South China University of Technology (164) fifth and Dalian University of Technology (141) seventh.

"To file applications via PCT System is of significance for universities to promote IP quality and international application of scientific research achievements. At present, Tsinghua University has further improved IP quality, highlighted IP transformation and application, selected technical fields with disciplinary advantages, outstanding scientific research achievements and broad market prospects as the focus of patent layout, and constantly enhanced IP protection in key

areas including new material, high-end equipment, AI and life and health," said Jin Xianqin, Dean of Technology Transfer Office at Tsinghua University.

"The experience of China's efforts to build an IP power and obey the law of global market tells us that sound IP protection environment will inject new impetus into China's reform and opening-up and its high-quality economic development," said Shan Xiaoguang.

(by Li Duo)

本报记者 李铎

近日,世界知识产权组织在瑞士日内瓦举行发布会,公布了2019年专利、商标和工业品外观设计国际注册数据。数据显示,2019年,中国通过世界知识产权组织《专利合作条约》(PCT)途径提交了5.899万件专利申请,超过美国(5.784万件)跃升至第一位,成为提交国际专利申请量最多的国家。

“由PCT国际专利申请所保护的颠覆性创新技术,正深刻影响全球各个国家的发展,是一个国家综合竞争力提升的重要标志。在经济全球化过程中,充分尊重市场经济的规律和国际知识产权制度,以全球化的视野加强自主创新,加大开放合作的力度,比以往任何时候都更为重要。”同济大学上海国际知识产权学院院长单晓光表示。

数据显示,2019年全球各项知识产权数据再创新高。2019年,全球通过PCT途径提交的国际专利申请量为26.58万件,增长率为5.2%。其中,PCT国际专利申请量排名前五位的国家为:中国(5.899万件)、美国(5.784万件)、日本(5.266万件)、德国(1.9353万件)和韩国(1.9085万件)。

按照PCT国际专利申请分类,中国企业和高校的表现十分抢眼。2019年,中国华为技术有限公司以4411件PCT国际专利申请排名第一,中国广东欧珀移动通信有限公司



(1927件)位列第五,京东方科技集团股份有限公司(1864件)和平安科技(深圳)有限公司(1691件)分别位列第六、第八。排名前十的企业申请人中包括4家中国企业。

平安集团知识产权团队负责人田甜介绍,近年来,平安集团先后在人脸识别、智能读片、区块链、AI作曲、智能环保等领域开展PCT国际专利的全球布局。截至2019年底,集团累计提交PCT国际专利申请3680件,在境外国家和地区提交专利申请累计1165件,覆盖13个国家和地区。“积极进行海外知识产权布局,是中国企业成功实现‘走出去’的先决条件,也是中国企业在全球市场上站稳脚跟的根本。”田甜说。

数据还显示,在高校方面,清华大学(265件)PCT国际专利申请量位列第二,深圳大学(247件)位列第三,

华南理工大学(164件)位列第五,大连理工大学(141件)位列第七。全球排名前十的高校中,有4所来自中国。“PCT国际专利申请对于提升高校知识产权质量、支撑高校科研成果国际应用具有重要意义。当前,清华大学进一步提升知识产权质量,突出转化应用导向,并选择具有学科优势、科研成果突出、市场前景广阔的技术领域作为专利布局的重点,在材料、高端装备、人工智能、生命健康等重点领域持续加强知识产权保护工作。”清华大学技术转移研究院院长金献勤表示。

“中国努力建设世界知识产权强国的经验和遵守全球化市场规则的经历告诉我们,良好的知识产权保护环境将为中国进一步扩大改革开放和实现经济高质量发展注入新的动力。”单晓光表示。

Beijing High supports American firm's prior copyright claim

北京高院认定“awc”商标损害美企著作权

Surrounding the No. 13511300 "awc" trademark (trademark in dispute), Beijing High People's Court made a final judgment recently.

The trademark in dispute was filed for registration by Shanghai Youbo Environmental Technology Company on November 8, 2013, and would be approved to be used on Class 1 goods including water purifying chemicals in January 2015.

In November 2015, American Water Chemicals Inc. or AWC in the abbreviated form filed an invalidation request to the former Trademark Review and Adjudication Board (TRAB), asserting that the word "awc" belongs to the prior copyrighted art work of AWC. The trademark in dispute was the imitation of its work, damaging the company's prior copyright. The word "awc" was used previously by AWC and was famous and influential as trademark and trade name. The registration of the trademark in dispute constituted the act of squatting well-known trademark and trade name in bad faith.

Youbo argued that the evidence AWC provided failed to prove that it owned the prior copyright of "awc". AWC did not submitted evidence to prove its trademark "awc" was previously used and well-known and it cannot prove Youbo registered the trademark in dispute in bad faith.

The former TRAB held that the evidence cannot prove "awc" as trade-



mark and trade name has been used on the goods similar with which the trademark in dispute was approved to be used on and enjoyed high reputation before the date of the registration of the trademark in dispute. The word "awc" was only a common combination of English letters and was not unique, belonging hardly to the work protected by China's Copyright Law. So the former TRAB made a decision to uphold the trademark in dispute in April 2016.

The disgruntled AWC then brought the case to Beijing IP Court.

Beijing IP Court held that the word "awc" was unique and was a copyrighted work. The registration of the trademark in dispute damaged the prior copyright of AWC. The relevant evidence can neither prove the trademark in dispute was identical or similar with AWC's trade name nor prove the word "awc" had been used by AWC as its

trade name in China and was well-known when used on the goods which the trademark in dispute was approved to be used on before the registration of the trademark in dispute. Therefore, the Court made its first-instance judgment, revoking the former TRAB's decision.

China National Intellectual Property Administration (CNIPA), which inherited the former TRAB's functions, then appealed to Beijing High People's Court, claiming that "awc" does not belong to the work protected by China copyright law and the trademark in dispute does not damage the prior copyright of AWC.

Beijing High People's Court held that AWC's trademark "awc" was unique and was a copyrighted work. The registration of the trademark in dispute damaged AWC's prior copyright. In the connection, the Court declined the request of CNIPA and up-

held the trial Court judgment.

(by Wang Jing)

日前,围绕第13511300号“awc”商标(下称诉争商标)的无效宣告纠纷告一段落,北京市高级人民法院作出了终审判决。

诉争商标由上海优昂环境技术有限公司(下称优昂公司)于2013年11月8日提交注册申请,2015年1月被核准注册使用在水净化化学品等第1类商品上。

2015年8月,美国水化工有限公司(下称水化工公司)针对诉争商标向原国家工商行政管理总局商标评审委员会(下称原商评委)提出无效宣告请求,主张“awc”是该公司在先拥有著作权的美术作品,诉争商标系对其作品的复制,损害了其在先著作权;“awc”是水化工公司在先使用并具有一定知名度和影响力的商标和商号,诉争商标的注册构成对其知名商号和商标的抢注;优昂公司具有明显恶意。

优昂公司向原商评委答辩称,水化工公司的证据无法证明其拥有在先著作权,也未提交证据证明其商标在先使用并具有一定影响力,且无法证明优昂公司具有主观恶意。

经审理,原商评委认为,水化工公司的证据不足以证明在诉争商标申请注册日前,“awc”作为其商标和商号在与诉争商标核定使用商品类似的商品上使用并具有一定影响力;“awc”仅为普通英文字母组合,不具有独创性,不属于中国著作权法所保护的作品。综上,原商评委于2016年4月对诉争商标作出予以维持的裁定。

水化工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诉讼。

北京知识产权法院经审理认为,“awc”具有一定独创性,构成作品,诉争商标的申请注册损害了水化工公司的在先著作权。但相关证据无法证明诉争商标“awc”与水化工公司的商号等同或近似,也未证明水化工公司此前已在中国将“awc”作为商号使用并在诉争商标核定使用的商品上取得一定知名度,因而诉争商标未损害水化工公司的在先商号权。综上,法院一审判决撤销原商评委所作裁定。

中国国家知识产权局(行使原商评委的相关职责)不服一审判决,向北京市高级人民法院提起上诉称,“awc”不属于中国著作权法所保护的作品,诉争商标未损害水化工公司的在先著作权。

北京市高级人民法院经审理认为,水化工公司主张的“awc”标志具有一定的独创性,构成作品,诉争商标的申请注册损害了水化工公司的在先著作权。综上,法院终审驳回国家知识产权局上诉,维持一审判决。(王晶)



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