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China to Improve IP Protection via Big Data Technology

The State Intellectual Property Office (SIPO) recently announced that the government will use big data technology to keep a close eye on online infringements and provide "stringent protection" of patents.

According to the policy, authorities will use big data technology to locate infringement clues and inform concerned rights owners. If the authorities find a clue leading to patent infringement in a product in a sales channel, they will uncover its producer.

The policy encourages rights owners to explore notary services for evidence preservation. To ease the burden on rights owners, administrative agencies would conduct the investigation and collect evidence upon accepting a patent infringement complaint. Companies and people that reject the investigation will be included on the blacklist in a public credit reference system.

The authorities will also enhance cooperation with e-commerce portals on counterfeit and the discovery of clues about illegal businesses.

http://english.sipo.gov.cn/news/iprspecial/201612/t20161207_1305237.html

SIPO Will Push Forward Rapid Collaborative Protection of IP

The SIPO will conduct rapid collaborative protection of intellectual property in accumulation areas of advantaged industries in qualified regions. It will select outstanding candidates out of all applying regions to reply and to provide supervision, guidance and examination in the building and operation of the protection centers.

Relying on the IP protection centers of key industries, the collaborative protection will combine fast examination, fast identification of intellectual property rights and fast protection of IPR as well as build a linkage mechanism integrating identification of IPR through examination, administrative law enforcement, IPR safeguarding and aids, mediation and judicial cohesion.

Once the protection centers are established, cases of counterfeiting a patent in related industries in the local region and cases of infringement of industrial design will be concluded within 10 days. Cases of invention and utility model infringement will take up to one month.

http://english.sipo.gov.cn/news/official/201612/t20161209_1305599.html

Newly Passed Cyber Security Law Focused on Protecting Cyber Intellectual Property

The 12th National People's Congress of China recently passed Cyber Security Law, which would be a basic law in China's cyber field. The Law will be put into force on June 1st, 2017, and will be focused on personal information protection, cyber intellectual property protection, and anti- cyber fraud.

http://english.sipo.gov.cn/news/iprspecial/201611/t20161130_1304110.html

China Busts 108,000 Piracy, Counterfeit Cases in First Nine Months

Chinese law enforcement agencies handled 108,000 piracy and counterfeit cases in the first three quarters, the Ministry of Commerce (MOC) said.

Building on the latest progress, the country will launch more campaigns featuring strengthened international cooperation in 2017, it said in an online statement Friday.

Considering the challenges of cross-region and transnational cases, China still has a long way to go before it fully solves the problem of fake goods in high-street and online outlets, MOC said.

In a guideline issued on Nov 27, China vowed to improve its protection of intellectual property right, and promised to record any violations on the individual's credit records.

http://english.sipo.gov.cn/news/iprspecial/201612/t20161205_1304832.html

Beijing IP Court Hands Down Highest Ever Compensation Order

Beijing Intellectual Property Court, in a recent ruling, awarded damages of 50,000,000 RMB in favor of the patent right owner. This is the highest damage award of the court since it was founded in November 2014.

Being a manufacturer of USB keys used as electronic authentication devices in financial services, the plaintiff, Watchdata Co Ltd filed the lawsuit in February 2015 against peer manufacturer Hengbao Co Ltd. Watchdata accused Hengbao of developing and selling USB key products to "scores of banks across China" using its patent called "physic identification method and electronic device" without its authorization. It requested the defendant cease its infringement and asked for compensation of 49 million yuan, plus 1 million yuan in litigation costs.

The court ruled in favor of the plaintiff and decided to calculate the compensation by multiplying the sales volume of the infringing products by the reasonable profit of each patented product.

Investigations found the specific sales volume of the infringing products to 12 banks nationwide, which led to actual damages of about 48.1 million yuan. The court also confirmed that Hengbao had provided infringing products to another three banks, but was unable to acquire sales data from the banks or the company because Hengbao

refused to hand in related data. Based on common practices, the court presumed that the illegal profit from selling the devices to the three banks was at least 2 million yuan.

The court also supported the demand of the litigation cost, commonly known as attorney fees, considering the necessity of hiring agents, the difficulty of the case and the actual contribution of the lawyers. For the first time, the Beijing Intellectual Property Court recognized the above three factors as the principles to judge attorney fees.

http://english.sipo.gov.cn/news/iprspecial/201612/t20161215_1306487.html

YKK Wins Trademark Battle in China

The Japanese company YKK Joint-Stock has finally won the battle on the trademark “YKK” which lasted for ten years, according to the final judgment of the Supreme People Court of China.

In March 2004, Li Bo Company, specializing in manufacturing and distribution of automobile parts, applied to register the “YKK” trademark to Chinese Trademark Office (CTO). In January 2006, CTO publicized the “YKK” trademark after it was preliminary approved. Afterwards, YKK Joint- Stock filed a trademark opposition application to CTO.

On December 16, 2009, CTO made verdict ruling that although the YKK trademark of YKK Joint- Stock registered on “zipper” products has high reputation, the products on which trademarks certified to be used were

quite different in function and use. Therefore, CTO maintained the registration of YKK trademark as it would not cause confusion among the consumers about the origin of products.

Through the subsequent trademark opposition rehear and administrative proceedings, Trademark Review and Adjudication Board, Beijing No.1 Intermediate People’s Court and Beijing High People’s Court all affirmed the original verdict of the trademark registration, YKK Joint- Stock was not satisfied with the final judgment and appealed to the Supreme People’s Court of China for rehearing.

The Supreme Court reheard the case and held that it is difficult to judge if interior decorations of vehicles and zippers are similar or of the same category, however the evidences provided by YKK Joint-Stock showed that zippers can be used as vehicle’s interior decoration and zippers and vehicle’s interior decorations are the upstream and downstream products. As YKK is a fabricated word and is conspicuous and based on the facts that “YKK” trademark on zippers products already have high reputation and zippers and interior decorations of vehicles are the upstream and downstream products, they are confirmed to have high relevance. Therefore, based on the fact YKK trademark on zipper products is well-known, it can be protected for “interior decorations of vehicles”.

<http://english.sipo.gov.cn/news/ChinaIPNews/2016/201612/P020161209310080735896.pdf>

Tencent Wins the Domain Name joox.com against Brazil-based JOOX

Recently the WIPO Arbitration and Mediation Center made a decision on a dispute between the Brazil-based JOOX Company and the disputed domain holder Shenzhen Tencent Holdings Ltd.(Tencent), which denied JOOX's claim and Tencent could continuously hold the domain name joox.com in a legal manner.

JOOX, founded in 2010, provides users with services like making personalized cards and so on. The domain name joox.com is another company registered in 2001. In June 2014, JOOX failed to obtain the joox.com because of the price, and chose the joox.io as its website. Then the joox.com was bought by Tencent and used formally on November 9, 2014.

In September 2016, JOOX complained to the WIPO Arbitration and Mediation Center intending to struggle for the domain name joox.com with Tencent.

The reporter learnt from the interview that to have its complaint supported, JOOX shall satisfy the following three requirements stipulated in Uniform Domain- Name Dispute-Resolution Policy (UDRP) defined by the Internet Corporation for Assigned Names and Numbers (ICANN), namely, 1) The disputed domain name is identical or confusingly similar to the trademark or service mark on which the Complainant has rights; 2) The Respondent does not have legitimate

interests in the disputed domain name; and 3) The Respondent maliciously registers and uses the domain name.

The Complainant is required to provide proof that the above three requirements are satisfied simultaneously in the domain name dispute procedure.

In the domain name dispute procedure, the WIPO Arbitration and Mediation Center's expert group believed that JOOX failed to provide sufficient evidence that Tencent does not enjoy legitimate interests in the disputed domain name and that neither the original holder of the disputed domain name nor Tencent involves in malicious registration of domain names, and therefore the three requirements stipulated in UDRP weren't satisfied.

Accordingly, the WIPO Arbitration and Mediation Center dismissed JOOX' s complaint and claimed that Tencent could continuously hold the joox.com domain name in a legal manner.

<http://english.sipo.gov.cn/news/ChinaIPNews/2016/201612/P020161214314946580327.pdf>