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CHINA IPR NEWS

1. "Rules Concerning Recording of Patent Rights Pledge (draft)" solicits opinions

According to Legal Daily, "Rules Concerning Recording of Patent Rights Pledge (draft)" was recently publicized to solicit opinions from the public. This draft is amended on the basis of "Temporary Rules Concerning Recording of Patent Rights Pledge Contracts", a Regulation promulgated and went into effect in 1996. Insiders pointed out, if the "Rules Concerning Recording of Patent Rights Pledge" could come out smoothly, the inherent values of patent rights pledge in enterprises' financing and efficient exploitation of patent right could be achieved indeed. Those high-tech SMEs without thick fixed assets but holding their own patent rights could expect a spring of financing.

Source:http://ip.people.com.cn/GB/11714132.html

2. Sony & Canon sued patent infringement by three Chinese patentees

On June 12, 2010 Zhou Xuening , a research staff of Zhengzhou Kaida Electronic Co. Ltd. allied Dongtao and Xueping of Shenzhen Research Institution of Zhongshan University to sue Sony and Canon alleging they both have infringed their four invention patents claiming respectively 500,000 RMB damages for each patent. Currently the case has been accepted by Shenzhen Intermediate People's Court and is now at its preliminary trial stage.

The patentees said the four patents involved are: a CMOS Chip with internally installed soft and hard system and its method of production; an integrated video signs exchange apparatus and method; an embedded head picture identification system and method; a method and apparatus to hang and link hard drive in hand-held electronic equipments, which four was respectively issued by SIPO on February 13, 2008, February 25, 2009, May 6, 2009, April 15, 2009.

The Patentees held those new type products including digital DV recorders, cameras, mobile phones launched by Sony and Cannon till now had broadly employed their four patents mentioned above and had infringed their patent rights.

Insiders noted that China has always been lagged behind in integrated circuit patents and there's no predating cases where foreign enterprises were sued for infringement on the basis of independent innovated patents in integrated circuit field. This suit is the first one that the Chinese integrated circuit industry initiated against foreign enterprises.

Source:http://www.chinanews.com.cn/it/it-itxw/news/2010/06-12/2341429.shtml

3. American Convenient Store "7-ELEVEN" sues for its rights

Internationally renowned convenient store "7-11" (7-ELEVEN) lodged a suit against Trademark Review and Adjudication Board (TRAB) before Beijing 1rst Intermediate People's Court to preserve its right claiming an opposed trademark No. 154388 "SEVEN-ELEVEN & DEVICE" applied for in the name of Jinjiang Dexin Costume Development Co. Ltd. has infringed its well-known trademark interests, whereas TRAB wrongly reject its opposition appeal against the opposed mark. The case has been officially accepted by the Court and the Court will select a day for trial.

America 7-ELEVEN claimed in its appeal before the Court that it's a giant in convenient store industry, and its trademark "7-ELEVEN" with spaced colors yellow, green, red and white was registered in 1987 in China. The opposed trademark of Jinjiang Dexin Costume Development Co. Ltd. is confusingly similar to its registered trademark "7-ELEVEN" in terms of pronunciation, appearance and device components. Its "7-ELEVEN" trademark is firstly created by itself and has a very strong distinctiveness as well as a very high reputation and is well recognized by the general consumers. The act of Jinjiang Dexin Costume Development Co. Ltd. has violated the principle of good faith and honesty and is a malicious act of unfair competition. America 7-ELEVEN had already appealed to TRAB basing on the facts referred to above however its case was wrongly rejected by TRAB.

TRAB rendered its reasons for rejection as follows: the goods covered by the opposed trademark are in class 25 like costume, shoes and etc., whereas the evidence submitted by American 7-ELEVEN is not sufficient to prove that its own trademark has obtain a certain degree of influence on those goods. Also, the goods such as costume and alike designated in the opposed application differentiate a lot from the services such as convenient store, restaurant and etc., and it's not likely to result in consumers' confusion and misrecognition as to origin of goods/services.

Source:http://www.lawbase.com.cn/law_info/lawbase_@46487.htm

4. 60% Invention Patents Go Beyond Drawing Board in 2008

A recent SIPO survey reveals how invention patents are in used in China in 2008. According to the survey, China fare well in patent application, evidenced by commercializing 60% of invention patent and transferring nearly 20% of patent technology. Statistics show that in 2008, SIPO granted a total of 93,706 invention patents, 46,590 of which were granted to domestic applicants, 47,116 of which were granted to foreign applicants. According to the survey, the commercialization rate was 60.6%, up 7.1% points. Rates categorized by types of patentees are: 80.3% for business, 37.9% for universities, 46.7% for research institutes and 43.6% for individuals.

Among the commercialized patents 80.8% of which were commercialized by individuals, 19.2% of which were through assignment or licensing. Nearly 90% patents were transferred to domesitc companies, showing that collaboration among businesses, universities and research institutes is becoming an importance force to facilitate the development of domestic companies.

Source:http://www.sipo.gov.cn/sipo_English/news/official/201006/t20100623_522947.html

utensil consisting of coffee cup, coffee pot, milk pot and sugar pot and he has made three similar designs respectively for each product, it's not permitted to have the three sets of utensils filed in combination in one application. Then what the applicant shall do in such instance? In light of the principle of non-double-patenting, it's might be better if he chooses to file "similar designs" application other than the "designs for products in set" application, specifically speaking, filing four applications each of which is respectively for "three coffee cups", "three coffee pots", "three milk pots" and "three sugar pots" other than filing three applications respectively for designs of three sets of coffee utensils.

Unlike there's no amount restriction for designs for products in set filed in one application, there must be not more than 10 similar designs (inclusive of basic design) in one application. By the way, as regards to an application with multiply designs, the official fee is charged independent of the amount of designs in such an application.

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Contact us:

Tel: + 86 10 82339088

Fax: + 86 10 82331881

E-mail: mail@deqi-iplc.com

Address: 7/F, Xueyuan Internaional Tower, No. 1 Zhichuan Road, Haidian District, Beijing, P.R.China

Postcode: 100083

Website: www.deqi-iplc.com