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Danfoss Prevails in Trademark Infringement Case

A Denmark-based Danfoss, an international leading player in refrigeration and air-conditioning equipments and parts, prevails in a trademark infringement case. In 2007, Danfoss found its trademark on counterfeit refrigeration expansion valves in the Chinese market. Investigation indicated the products were manufactured and sold by a refrigeration equipment company in Zhejiang. In December 2008, Danfoss filed a lawsuit against this Zhejiang company for trademark infringement in Beijing No. 1 Intermediate People's Court. In April 2009, the Court affirmed the infringement of the Danfoss trademark and so ordered that Zhejiang company ceases infringement and compensates Danfoss 200,000 yuan in damages.
(Source: BJGY Chinacourt)

Misuse of Well-known Trademarks to be Controlled

After two revisions in 1993 and 2001, China's 26-year long Trademark Law will be amended for the third time.
It was learnt from the State Administration for Industry and Commerce that, at present, the draft of Modification of Trademark Law has been

completed. And it tries to finish the revision procedure of the Trademark Law within the first half of this year, and conclude the amendment of the Trademark Law by the year 2010 at latest.

The newly-amended draft of China's Trademark Law stipulates the use of well-known trademarks, and firms' behaviors of misappropriating and misusing well-known trademarks will be restrained. "At the moment, the creation, use and management of well-known trademarks in China are disordered. On legislation and management, the management of well-known trademarks is almost blank on the whole."

According to Deputy Director of Intellectual Property Center of the Chinese Academy of Social Sciences surnamed Li, who has participated in the opinion-soliciting meetings on the amendment of the Trademark Law for several times. "And some enterprises having gained the title of 'Chinese Well-known Trademark' make use of it in their commercial ads, and illegally extend the implications of jurisdiction and administrative law enforcement on well-known trademarks, even misuse well-known trademarks. How to utilize well-known trademarks has been questioned by outsiders for a long time."

(Source: IPR in China)

State Council: Speed up the Building of Enterprises with Proprietary IPRs on West Coast of the Strait

State Council recently issued the Opinions on Supporting Fujian Province to Speed up of Building Economic Zone on the West Coast of the Strait (Hereinafter called Opinions). It proposes to build advanced manufacturing base on the West Coast of the Strait and speed up the transformation of the growth mode of foreign trade. An array of competitive enterprises with proprietary intellectual property rights will be fostered. They will actively support proprietary IPR and the export of proprietary brand products.

The Opinion pointed out that we need to enhance the capability of independent innovation, optimize and upgrade the industrial structure, and strengthen the development of innovation system on the west coast of the strait. Take a new road to industrialization; accelerate transformation of the mode of economic development; upgrade the industrial development level. Supporting accelerated development on west coast economic zone is an important guidance set by the central government.

(Source: IPR in China)

China to Establish CMMB Industry Alliance for Intellectual Property Right Protect

China will establish an industry alliance for its self-developed mobile TV standard CMMB (China Multimedia Mobile Broadcasting), and plan to intensify the intellectual property right

protection by means of CMMB patent pool, revealed an industrial insider.

The preparation work of the establishment of the industry alliance is initiated by related domestic enterprises and supported by the government.

Currently, a series of CMMB standards, about ten, has been promulgated by China's State Administration of Radio, Film and Television (SARFT). The core physical layer channel standard belongs to TiMi Technologies Co., Ltd., a comprehensive solutions provider of broadband wireless information technology held by the Academy of Broadcasting Science under SARFT, who started the research and development of terrestrial wireless digital TV transmission technology at the beginning of 2003, and applied for related invention patent, which laid the foundation for the CMMB standard.

According to the rules constituted for members of the CMMB working group, they are allowed to use related patents freely in research and development. Patent policies on business use will not come out until the patent pool is established.

The network signals of CMMB have covered 175 Chinese cities, and the number will reach 337 by the end of this year.

Meanwhile, the CMMB industry chain is taking shape in the country. By entering the industry alliance and the patent pool, enterprises of the industry chain will get more support and help.

(Source: IPR in China)

SPC: 4 Kinds of Cases must be Tried by IPR Tribunals

"IPR administrative cases concerning patent, trademark, layout-design of integrated circuit and new varieties of plants must be tried by IPR tribunals from July 1," which was stipulated in the Provisions on the Division of the Hearing of IP-related Administrative Cases on Patent, Trademark and Other Fields released by the Supreme People's Court yesterday.

The Provisions will be officially implemented from July 1, 2009. And the Interpretation by the Supreme People's Court of the Issues Relating to Division of the Hearing of Patent and Trademark Cases after the Corrections of Patent Law and Trademark Law was abolished at the same time.

In accordance with the prescription on the jurisdiction of cases in relevant laws, the IPR Tribunals of Beijing First and Second Intermediate People's Courts are allowed to adjudge cases of these four kinds, and the IPR Tribunals of Beijing Higher People's Court is planned to be the court of second instance for hearing these cases.

In addition, the Provisions nail down the division of second-instance courts (also superior courts), as the parties refuse to accept the judgments or rulings made by inferior courts and ask superior courts to retry the cases.

(Source: IPR in China)

Patent Judicial Interpretation Invites Comments

Supreme People's Court announced the Judicial Interpretation (JI) on Some Issues Regarding Application of Laws of Patent Infringement Cases (for comment version) on June 18, inviting the public to offer their comments.

The JI provides for scope of patent protection, determination of patent infringement and defense.

In regard to the scope of protection for invention and utility model patents, Article 2 of the JI provides, court shall determine the scope of protection of an invention or utility model patent based on the understanding of description and drawing(s) by a person skilled in the art. In parallel, the scope shall be consistent with the objective of the invention and shall not include the technical solution through which the patent overcomes the defect or insufficiency of the prior art. Article 9 provides for the scope of protection of design patent: Court shall determine the scope of protection of design patent as in Article 59 (2) of the Patent Law by looking at design identical or similar to the design patented products or similar products.

The public is invited to submit their comments via mail or online as of July 10.

(Source: IPR in China)