

IP NEWSLETTER

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☀ 337 Investigations in the U.S.

• Recent Section 337 Complaints

On September 3, 2009, Paice LLC filed the U.S International Trade Commission (ITC) with a Complaint requesting that the Commission conduct an investigation under section 337 of the Tariff Act of 1930, regarding certain Hybrid Electric Vehicles and Components thereof. The proposed respondents are: Toyota Motor Corporation, Toyota City, Japan; Toyota Motor North America, Inc., New York, New York; and Toyota Motor Sales, U.S.A., Inc., Torrance, California.

☀ IP Strategy of Enterprises

• The Number of Huawei's LTE Patents Ranked Fourth in the World

Recently, Huawei announced that it has been granted 147 Long Term Evolution (LTE) patents. The number of patents ranked fourth in the world and second in the global telecom equipment manufacturers, which determined the leading advantage in LTE patents of Huawei.

LTE, with 100Mbit/s data download capability, is the evolution of next-generation of 3G technology, which improves and enhances air interface to 3G technology. By the end of August 2009, Huawei's LTE patents accounted for 12 percent of 1272 patents in total in the world.

☀ IP Cases

• Patent Non-Infringement Confirmation

Recently, Zhejiang Higher People's Court made the final ruling that the hookah products manufactured and sold by Yiwu Lingge Hardware Products Factory (hereinafter referred to as

the "Plaintiff") do not infringe the patent owned by Guangzhou Zhao Ying Metal Co., Ltd (hereinafter referred to as the "Defendant") and the litigation costs of the first and second instances shall be borne by the Plaintiff.

Background: The Plaintiff found a factory to manufacture hookah products. The Plaintiff, in order to avoid infringement of the utility model patent owned by the Defendant, informed the Defendant at the beginning of production and sales all the technical features of the products by mail, inquiring the Defendant whether the product was infringing, but never got a reply. Therefore, the Plaintiff filed a suit to the Court to confirm that he does not infringe the Defendant's patent. Zhejiang Jinhua Intermediate People's Court and Zhejiang Higher People's Court ruled that the Plaintiff was not infringing.

Trade News

- **Trademark Protection is More Strict in China**

Based on a recent case, enforcement in China does not appear to be different on trademarks protection from enforcement outside of China, even more restrictive. In the PORSCHE case, the Beijing Higher People's Court acknowledged that registered trade mark can not be used in similar services. The defendant's used the "PORSCHE" and the logo on the automobiles in the exhibition hall, in its brochure as well as in its website infringing upon the plaintiff's trade mark rights. The decision categorically rejects any right of the Beijing customizer to use the "PORSCHE" trademark, which is a more restrictive position than has apparently been taken in Germany.

According to the Interpretation of the Supreme People's Court on Certain Issues Regarding the Application of the Law in the Trial of Civil Cases Involving Trademarks, it is illegal to register words or characters identical or similar to a registered trademark of another

person as a domain name and engage in the electronic commerce of relevant commodities via the domain name so that the relevant general public is liable to be misled.

IP Cooperation

- **Sino-US Intellectual Property Rights Co-operation and Research Forum was held in Chicago**

On September 3, 2009, Sino-US Intellectual Property Rights Co-operation and Research Forum was held in Chicago. The forum, sponsored by John Marshall Law School of the United States, is a celebration of the 15th anniversary of successful cooperation between John Marshall Law School and State Intellectual Property Office of People's Republic of China (SIPO) and announcement of the establishment of China Intellectual Property Resource Center in John Marshall Law School. John Cowkley, Dean of John Marshall Law School and Huang Pinghe, Chinese Consul General in Chicago addressed at the opening ceremony and Ning Gan, deputy director of SIPO, attended the forum and delivered a speech of congratulations.

