



IP NEWSLETTER

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• **337 Investigations in the U.S.**

• Recent Section 337 Complaints

On May 28, 2009, Cognex Corporation and Cognex Technology & Investment Corporation jointly filed a Complainant requesting the U.S. International Trade Commission to conduct an investigation under section 337 of the Tariff Act of 1930, as amended regarding Certain Machine Vision Software, Machine Vision Systems and Products Containing Same.

The proposed respondents are: MVTec Software GmbH, Germany; MVTec LLC, Cambridge, Massachusetts; E. Zoller GmbH & Co. KG, Germany; Zoller Inc., Ann Arbor, Michigan; Fuji Machine Manufacturing Co., Ltd., Japan; Fuji America Corporation, Vernon Hills, Illinois; Omron Corporation, Japan; Resolution Technology, Inc., Dublin, Ohio; Subtechnique, Inc, Alexandria, Virginia; and Visics Corp., Wellesley, Massachusetts.

• 337-related Commission Notice

On June 3, 2009, the U.S. International Trade Commission (USITC) voted to institute an investigation of certain course management system software products (Inv. No. 337-TA-677), based on a complaint filed by Blackboard Inc. of Washington, DC on April 17, 2009. The complaint alleges violations of section 337 of the Tariff Act of 1930 in the importation into the United States and sale of certain course management software products that infringe a patent asserted by Blackboard Inc. The complainant requests that the USITC issue exclusion orders and a cease and desist order.

The USITC has identified Desire2Learn Incorporated of Canada as the respondent in this investigation.

• **IP Strategy of Enterprises**

- Haier's Refrigerator Technology Proposal are Accepted as International Standards

Recently, four technologies concerning safety, energy saving and environment protection put forward by Haier have been approved by International Electrotechnical Commission. This is the first time that the Chinese refrigerator technologies are recognized by an international organization.

So far, Haier is the leading Chinese household appliance company who participated in creating the international standard, national standard and industry standard.

• **IP Cases**

- The Infringement Case over a Pram Design Patent

Recently, the Jiangsu Higher People's Court (hereinafter referred as “the Higher Court”) delivered its decision over the infringement case regarding a pram design patent, in which the Goodbaby Children Goods Co., Ltd (hereinafter referred as “the Plaintiff”) sued Zhongshan Baobaohao Goods Limited Company of Daily Expenses (hereinafter referred as “the Defendant”) and decided that the Defendant infringed the Plaintiff's patent and ordered the Defendant to pay RMB 500,000 to the Plaintiff as compensation.

Background: The Plaintiff owns a design patent named as “Pram's Hub”. In the early 2008, the Plaintiff found that the wheels of baby walkers produced by the Defendant are similar to the

Plaintiff's patented wheel. Therefore, the Plaintiff brought the Defendant to Nanjing Intermediate People's Court of Jiangsu province (hereinafter referred to as "the Intermediate Court"). During the trial in the Intermediate Court, both parties agreed that the hub involved in the lawsuit is very similar to the published picture of the Plaintiff's patent. Therefore, the Intermediate Court found that the Defendant's hub in the case infringed the Plaintiff's patent and ordered the Defendant to stop infringement and to compensate RMB 500,000 to the Plaintiff. The Defendant appealed this case but the Higher Court upheld the decision of first instance.

• Trade News

• Average Annual Increase of China's Gene Invention Patent Application reached 26%

Recently, Zhang Qin, deputy director of State Intellectual Property Office, stated at the China Genetic Science and Industry Development Summit that from 2004 to 2008, the application of China's gene invention patent increased at an average of 26% annually.

Zhang Qin indicated that in recent years, China has made remarkable improvement in independent research and development of genetic area. The domestic patent application and patent granting amount have increased considerably in the recent five years. However, the distribution of domestic patent is unbalanced. All of the top 10 applicants in the recent five years are universities and research institutions, and enterprises failed to be included.

• **IP Cooperation**

- China and Japan Signed the Memorandum for Communication and Cooperation in Intellectual Property Protection

Recently, the second Sino-Japanese Economic Senior Dialogue was held in Tokyo. Both sides signed the Memorandum for Communication and Cooperation in Intellectual Property Protection, under which a Sino-Japanese working group will be set up, communication of intellectual property legislation and law enforcement experiences will be strengthened and cooperation in intellect exchange, training and technology assistance will be carried out.

It is learned that the first Sino-Japan Economy Senior Dialogue was held in December 2007, Beijing.