



知识产权观察 IP Newsletter

Chief Editor: Ruixue Ran Vol.16 2006



News: In late August, 2006, Ruixue Ran, as one of the few experienced lawyers in 337 investigation practice in China, was invited by Bureau of Fair Trade for Imports and Exports of Ministry of Commerce of P.R.C to take part in the Seminar for Responding to 337 Investigation of the U.S. held by Ministry of Commerce in Zhoushan City, Zhejiang Province. Ruixue Ran made a speech on the practical problem in Chinese enterprises' responding to 337 investigation and the function of Chinese lawyers in 337 investigation etc.

Catalog


337 Investigations in the U.S.

-  Recent 337 Complaints
-  337-related Commission Notices

IP Strategy of Enterprises

-  Shanghai Announced Opinion on Promoting the Development of Service Outsourcing of Shanghai
-  Shijiazhuang Allocated Patent Financing Fund

IP Case

-  Final Judgment Announced on Case of Infringement on Trademark “长城”

 **Trade News**

- ◆ 2006 International Copyright Forum Be Held in Beijing

 **IP Cooperation**

- ◆ KIPO and POSCO Signed Cooperation Agreement on Innovation

***337 Investigation U.S*** **Recent 337 Complaints**

On August 22, 2006, Merck & Co., Inc. filed a complaint requesting that the U.S. International Trade Commission (ITC) institute a Section 337 investigation regarding certain alendronate salts and products containing same. The ITC has identified CIPLA Ltd. of India as respondent in the above mentioned complaint.

 **337-related Commission Notices**

On August 24, 2006, the U.S. ITC instituted a Section 337 investigation of certain nickel metal hydride consumer batteries, components thereof, and consumer electronic products containing same, based upon a complaint filed on July 26, 2006, by Ovonic Battery Company, Inc.. The products at issue in this investigation are certain nickel metal hydride consumer batteries, components thereof, and consumer electronic products containing same. Ovonic Battery Company, Inc. alleges that the importation into the United States and the sale within the United States after importation of the above-mentioned products has infringed the patent rights of the complainant in US. The

complainant request issuance of a permanent exclusion order and permanent cease and desist order. The ITC has identified Varta Aktiengesellschaft (Germany), Varta Microbattery GmbH (Germany) and Varta Microbattery, Inc. (NY) as respondents.

On August 31, 2006, the U.S. ITC instituted a Section 337 investigation of certain wireless communication devices, components thereof, and products containing the same, based upon a complaint filed on July 31, 2006, by Ericsson Inc. The products at issue in this investigation are certain wireless communication devices, components thereof, and products containing the same. Ericsson Inc. alleges that the importation into the United States and the sale within the United States after importation of the above-mentioned products has infringed the patent rights of the complainant in US. The complainant request issuance of a permanent limited exclusion order and permanent cease and desist order. The ITC has identified Samsung Telecommunications America LLP, Richardson, Texas, Samsung Electronics America, Inc., Ridgefield Park, NJ, and Samsung Electronics Co., Ltd., Seoul, Korea as respondents.

On August 31, 2006, the U.S. ITC instituted a Section 337 investigation of certain peripheral devices and components thereof and products containing same, based upon a complaint filed on August 1, 2006, by Microsoft Corporation. The products at issue in this investigation are certain peripheral devices and components thereof and products containing same. The above peripheral devices include keyboards and point-and-click devices (computer mice) that are in communication with a computer. Microsoft Corporation alleges that the importation into the United States and the sale within the United States after importation of the above-mentioned products has infringed the patent rights of the complainant in US. The complainant request issuance of a permanent exclusion order and permanent cease and desist order. The ITC has identified Belkin Corporation as respondent.

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On August 31, 2006, the U.S. ITC instituted a Section 337 investigation of certain hydraulic excavators and components thereof, based upon a complaint filed on August 1, 2006, by Caterpillar Inc.. The products at issue in this investigation are certain hydraulic excavators and components thereof. Caterpillar Inc. alleges that the importation into the United States and the sale within the United States after importation of the above-mentioned products has infringed the registered trademark rights of the complainant in US. The complainant request issuance of a permanent limited exclusion order and permanent cease and desist order. The ITC has identified 21 companies from the United States and Canada as respondents.

IP Strategy of Enterprise

◆ Shanghai Announced Opinion on Promoting the Development of Service Outsourcing of Shanghai

Recently, Shanghai City announced Opinion on Promoting the Development of Service Outsourcing of Shanghai (“the Opinion”). According to the Opinion, in the recent years, Shanghai City will try to make Shanghai City an important basement for global service outsourcing through attaching importance to the development of the outsourcing business of international off-shore service and vigorously cultivating a batch of service outsourcing enterprise with independent intellectual property, independent brand and high value-added service capability.

◆ Shijiazhuang Allocated Patent Financing Fund

Recently, Intellectual Property Office of Shijiazhuang City allocated the ninth financing

fund for patent application. The amount of the financing fund is RMB 134,100 Yuan and 203 patent application projects have been financed.

✦ IP Case

◆ Final Judgment Announced on Case of

Infringement on Trademark “长城”

Recently, the Supreme People's Court announced its final judgment on the case of infringement on the trademark of “长城”(English: Great Wall) used on the wine, ordering Beijing Jiayu Oriental Wine Co., Ltd. (the Defendant) to cease the production and sale of infringing wine bearing the trademark of “嘉裕长城 & device” (English: Jiayu Great Wall & device”) and the its picture and compensate China National Cereals Oils & Foodstuffs Corp. (the Plaintiff), the owner of the trademark of “长城”(English: Great Wall), more than RMB 10 Million Yuan for its economic losses. The object amount of the above intellectual property case is the maximal one in China in the recent years.

Background: In September, 2004, China National Cereals Oils & Foodstuffs Corp. brought a lawsuit of trademark infringement to Beijing High People's Court. In April 20, 2005, Beijing High People's Court adjudicated in the first instance that the Defendant has infringed the right of the Plaintiff and shall compensate the Plaintiff RMB 15 million Yuan for the economic losses. The Defendant refused to accept the judgment of first instance of Beijing High People's Court and filed an appeal with the Supreme People's Court.

 *Trade News***◆ 2006 International Copyright Forum Be Held in Beijing**

The 2006 International Copyright Forum, jointly sponsored by State Intellectual Property Office and World Intellectual Property Organization, will be held recently. This Forum is the first international conference in the area of copyright, jointly by Chinese government and international organization. Two hundred global representatives from copyright-related industries will have a deep discussion on the development of the industries relevant to Chinese copyright at the forum.

 *IP Cooperation***◆ KIPO and POSCO Signed Cooperation Agreement on Innovation**

Recently, Korean Intellectual Property Office (KIPO) and Pohang Steel Corp. (POSCO), the largest steel company in Korea, signed the Cooperation Agreement on Innovation. According to this Agreement, KIPO will provide POSCO with patent information service and intellectual property education course and hear the opinion and suggestion on relevant problems from POSCO; POSCO will provide KIPO with innovative management and leadership training and actively support KIPO on the cases in practice in the area of innovative management.