



知识产权观察 IP Newsletter

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★美国 337 调查

◆337 新案报道

2006 年 1 月 10 日, SanDisk 公司提请美国国际贸易委员会发动涉及 NOR 及 NAND 闪存装置及相关产品的 337 调查。被申请人为来自美国的 STMicroelectronics 所属的两家公司。

2006 年 1 月 10 日, Solomon Technologies 公司提请美国国际贸易委员会发动涉及组装发动机及传动系统的 337 调查。被申请人为丰田汽车公司, 丰田在开曼的生产厂及其在美国的销售公司。

2006 年 1 月 11 日, Align Technology 公司提请美国国际贸易委员会发动涉及治疗牙齿错位装置及制造方法的 337 调查。被申请人为 Orthoclear 所属的 3 家公司。

2006 年 1 月 17 日, F&G Research 公司提请美国国际贸易委员会发动涉及滚轮鼠标及其相关组件的 337 调查。被申请人为来自日本的索尼公司和来自台湾的 8 家公司。

◆337 案件进展追踪

无汞碱性电池 337 调查案重起风云

美国联邦上诉法院于 2006 年 1 月 25 日推翻美国国际贸易委员会的裁决, 认定劲量公司涉案专利有效, 将本案发回重审。

轰动一时的无汞碱性电池 337 调查案极富戏剧性, 原在美国国际贸易委员会审理阶段, 先由行政法官初审裁决专利有效且侵权成立, 委员会终裁认定涉案专利无效, 从而不构成专利侵权。劲量公司不服美国国际贸易委员会的裁决, 上诉至美国联邦上诉法院, 而美国联邦上诉法院改判专利有效。

◆企业知识产权战略

◆USPTO 公布 2005 年获美国专利最多的 10 大公司

近日, 美国专利商标局 (USPTO) 公布了 2005 年获美国发明专利最多的 10 家私营企业名单。IBM 以 2,941 件名列第一。前十名中包括 4 家日本公司, 1 家韩国公司及其他 4 家美国公司。

◆银川成立民间科技成果转化中心

近日，由银川企业家协会发起成立的科技成果转化中心在银川市正式挂牌成立。该中心是全国首家由民间团体发起成立、旨在为中小企业和高校科研院所搭建交流平台的科技服务机构。

◆知识产权要案报道

◆ 费列罗巧克力在华胜诉

近日，天津市高级人民法院对意大利费列罗公司诉蒙特莎（张家港）食品有限公司不正当竞争案做出终审判决。判令被告停止使用原告合法拥有的“金沙 TRESOR DORE”系列巧克力包装、装潢，并向原告支付赔偿金 70 万元。

◆行业信息快递

◆CN 域名注册超百万

2006 年 1 月 17 日，中国互联网络信息中心（CNNIC）在京发布第十七次中国互联网络发展状况统计报告。报告显示，截至 2005 年 12 月 31 日，我国国家顶级域名 CN 注册量首次突破百万，成为国内用户注册域名的首选。

◆世界经济论坛评出 2006 年科技先驱公司

世界经济论坛近日宣布，全球共有 36 家公司当选“2006 年科技先驱”，其中包括英国的 Intelligent Energy，美国的 Fortinet 等，主要来自能源、生物技术和保健、信息技术三大领域。

◆知识产权合作

◆USPTO 与 KIPO 就 PCT 申请达成协议

2005 年 12 月，美国专利商标局 (USPTO) 与韩国知识产权局 (KIPO) 就 PCT 申请的国际检索和初审达成协议，双方决定，向 USPTO 提交 PCT 申请的申请人可选择 KIPO 进行国际检索与初审。该协议已于 2006 年 1 月 1 日生效。

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★ 337 Investigation U.S

◆ Recent 337 Complaints

On January 10, 2006, SanDisk Corporation filed a complaint requesting that the U.S. International Trade Commission (ITC) institute a Section 337 investigation regarding certain NOR and NAND flash memory devices and products containing same. The ITC has identified STMicroelectronic N.V, Geneva, Switzerland, and STMicroelectronic, Inc., Carrollton, TX. as respondents in the above mentioned complaint.

On January 10, 2006, Solomon Technologies, Inc. filed a complaint requesting that the U.S. International Trade Commission (ITC) institute a Section 337 investigation regarding certain combination motor and transmission systems and devices used therein, and products containing same. The ITC has identified Toyota Motor Corporation (Japan), Toyota Motor Manufacturing North America (KY), and Toyota Motor Sales (U.S.A) as respondents in the above mentioned complaint.

On January 11, 2006, Align Technology, Inc. filed a complaint requesting that the U.S. International Trade Commission (ITC) institute a Section 337 investigation regarding certain incremental dental positioning appliances and methods of producing same. The ITC has identified Orthoclear, Inc. (CA), Orthoclear holdings, Inc. (BVI) and Orthoclear Pakistan Pvt. Ltd., (Pakistan) as respondents in the above mentioned complaint.

On January 17, 2006, F&G Research, Inc. filed a complaint requesting that the U.S. International Trade Commission (ITC) institute a Section 337 investigation regarding

certain scrolling wheel computer mice and components thereof. Eight companies (from Taiwan and Japan) have been identified as the respondents in the above mentioned complaint.

◆ 337-related Court decisions

The Latest News of a 337 Investigation

Regarding Zero-mercury-added Alkaline Batteries

The U.S. Court of Appeals for the Federal Circuit (“the Federal Circuit”) has decided that US Patent No. 5,464,709 owned by Energizer Holdings Inc. is still valid and that the U.S. International Trade Commission (ITC) must retry the case on January 25, 2006.

The above-mentioned 337 case has gone through a dramatic process. At the 337 investigation stage in the ITC, the presiding administrative law judge (“ALJ”) issued his initial determination (“ID”) granting the validity of such patent and finding a violation of section 337 at first; then the ITC decided to terminate the 337 investigation, finding no violation of section 337 through its review of the case. Energizer Holdings Inc. appealed to the Federal Circuit which made the above-mentioned judgment (finding the patent valid) again.

★ IP Strategy of Enterprise

◆ USPTO Issues List of Top Ten

Companies Receiving the Most U.S. Patents in 2005

The US Patent & Trademark Office (USPTO) has issued the list of the Top Ten Companies that received the most U.S. patents in 2005. IBM is at the top of this list, which includes four companies from Japan, one company from Korea and other four companies from U.S.A.

◆ Yinchuan Establishes a Center to

Promote Scientific and Technological Achievements

Yinchuan Enterprisers' Association has recently established a center for promoting scientific and technological achievements. This center is the first technology service institution established by nongovernmental body. It will focus on promoting exchanges between minor enterprises and university and scientific institutions.

★ IP Case

◆ Ferrero Rocher Wins an Unfair Competition Case in China

Tianjin Superior People's Court recently pronounced the final decision of an Unfair Competition Case in which Ferrero Rocher sued Montresor (Zhangjiagang) Food. The court ruled that the defendant, (Montresor (Zhangjiagang) Food), had to stop using the packaging and decoration of KINDER CHOCOLATE owned by the

plaintiff (Ferrero Rocher) immediately, and pay the plaintiff RMB 700,000 as compensation.

Trade News

◆ The registration of “.cn” Domain Name Exceeds One Million

On January 17, 2006, China Internet Network Information Center (“CNNIC”) issued the seventeenth statistic report regarding the development of China’s internet network. This report states that the registration of “.cn” exceeded one million before December 31, 2005, for the first time and that “.cn” has been the best choice for Chinese users.

◆ 2006 Top Major Technology Companies

Chosen by World Economic Forum

The World Economic Forum reported that thirty-six companies have been chosen as the 2006 Top Major Technology Companies recently. The list includes Intelligent Energy (UK), Fortinet (U.S.A), and others. A majority of these companies are in the fields of energy sources, biology technology and information technology.

IP Cooperation

◆USPTO Cooperates with KIPO Regarding PCT Applications

The US Patent & Trademark Office (“USPTO”) and Korean Intellectual Property Office (“KIPO”) have entered into an agreement regarding international searching and the preliminary examination of PCT applications in December, 2005. The two parties agreed that an applicant, who submits the application to the USPTO, has the right to choose KIPO for completing international searching and preliminary examination.