

Table of Contents

Comments Sought on Regulations for Online Literature	1
Understanding and Application of Article 44.1 of the Trademark Law.....	1
China Strengthens Management on Patent Administrative Enforcement Certificates.....	1
Blizzard Safeguards the Copyright of World of WarCraft in First Instance.....	2
ALDI 阿尔迪 Trademark Rejected in China.....	2
Chinese Company Sue Dutch Retailers for Copy Product.....	3

Comments Sought on Regulations for Online Literature

The National Copyright Administration publicized its regulations for online literature to gather public opinions in Spetember. The regulations say that operators of search engines, browsers, blogs, app stores and online storage should not offer literature works without the permission of the right owners, and should delete infringing works and links within 24 hours after receiving the right owners' complaint.

<http://www.chinaipmagazine.com/en/news-show.asp?id=8682>

Understanding and Application of Article 44.1 of the Trademark Law

Article 44 (1) of the Trademark Law provides that: where a registered trademark stands in violation of the provisions of Article 10, 11 or 12 of this Law, or the registration of a trademark has been acquired by fraud or any other unfair means, the Trademark Office shall declare the registered trademark invalid; any other organization or individual may request the Trademark Review and Adjudication Board to declare such a registered trademark invalid.

In the Article, "registration obtained by unfair means" includes activities of preempt trademark registrations of massive amounts or multiple times even not for use. "Unfair means" refer not only to the unfairness of the means of registration, but also to the impropriety of the purpose of registration, namely, malicious registration.

This Article applies equally to the "pending trademark" under opposition proceedings.
<http://afdip.com/index.php?ac=article&at=read&did=2626>

China Strengthens Management on Patent Administrative Enforcement Certificates

Recently, the State Intellectual Property Office (SIPO) issued the Measures on Management of Certificates and identifications for Patent Administrative Enforcement (Trial) to implement the management system on certificates and qualifications for patent enforcement personnel and regulate patent administrative enforcement.

According to the measures, the certificates for patent administrative enforcement should be managed in a unified way and on a level-to-level basis across the nation. While enforcement personnel are performing their duties, they should carry and take the

initiatives to show the certificates for patent administrative enforcement and use the certificates in the enforcement areas identified by the certificates and within the term of validity.

SIPO will organize and carry out annual review of certificates for patent administrative enforcement among all levels of patent offices in order to further improve the quality of the enforcement. The personnel who meet the requirement will be incorporated into the database of the enforcement personnel.

http://english.sipo.gov.cn/news/official/201609/t20160928_1293980.html

Blizzard Safeguards the Copyright of World of WarCraft in First Instance

Blizzard Entertainment Co., Ltd (hereinafter referred to as Blizzard Entertainment) jointly with Shanghai EaseNet Network Technology Co., Ltd (EaseNet) filed two lawsuits against Chengdu Qiyou Limited (Seven Games), Beijing Fenbo Times Internet Technology Co., Ltd (Rekoo) and Guangzhou Dongjing Computer Technology Co., Ltd (UCWeb) to Guangzhou IP Court for copyright infringement and unfair competition in two separate cases.

The plaintiff argued that the game "Everyone WarCraft: War of Draenor" (formerly known as Chieftain Thrall: The expedition of WarCraft)) produced by Seven Games copied the image of hero and beast in World of WarCraft and used the name and decoration similar with

World of WarCraft. The plaintiff sought injunction and 10 million yuan in damages.

The Court took the cases and ruled that the three defendants to stop infringement and compensated 6 million yuan in damages.

In one case, with respect to the amount of damages, the court ruled that the three defendants compensate 4 million yuan in damages considering the popularity of World of WarCraft, the quantity of infringing works and actual sales revenue generated on the platform of Apple by these defendants.

In another unfair competition case, the court held that unfair competition was constituted and upheld the claims of the plaintiff and ruled the defendants to compensate 2 million yuan for economic losses.

Since some of the defendants appealed, the case will enter the procedure of second-instance.

<http://english.sipo.gov.cn/news/ChinaIPNews/2016/201609/P020160928307178633851.pdf>

ALDI 阿尔迪 Trademark Rejected in China

After the ALDI 阿尔迪 trademark registration filed by Ald i Einkauf GmbH & Co.Ohg and Aldi GmbH & Co. Kg (herein refer to as Aldi Company) was rejected by the Trademark Office of the State Administration for Industry and Commerce (TMO) and Trademark Review and Adjudication Board (TRAB), the case then entered into administration litigate process. Currently, Beijing Higher People's

Court maintained the decision made by TRAB in its second- instance rule.

The No.10128550 ALDI 阿尔迪 trademark was filed for registration by Aldi Company in October 2011, certified to be used in Class 25 goods including clothes, shoes and headgear. TMO then rejected the application on the ground that the trademarks constitute similarity with cited trademark when used in the same or similar products.

The first cited trademark was No.3042252 阿尔迪诺 trademark, which was filed for registration in December 2001, certified to be used in Class 25 products including clothes, shoes and headgears. The second cited trademark was No.6907335 阿迪 trademark, which was filed for registration in August 2008, certified to be used in Class 25 clothes products.

The disgruntled Aldi Company then sought review to TRAB and then initiated litigation to Beijing IP Court, but was not backed. The company then brought the case to Beijing Higher People's Court. The court held that the second cited trademark is a valid prior trademark. The trademark filed for registration constituted similarity with second cited trademark 阿迪 in character pattern, pronunciation and look. It would cause confusion among the public when used in the same or similar products. So ordered.

<http://english.sipo.gov.cn/news/ChinaIPNews/2016/201610/P020161012315267540491.pdf>

Chinese Company Sue Dutch Retailers for Copy Product

A Chinese company has sued Dutch retailers Blokker B.V. and Leen Bakker for selling a party tent which might have been copied from the Chinese design. The case involves a party tent with a butterfly-like shape that Zhejiang Zhengte sells worldwide. Blokker and Leen Bakker sold an exact copy, bearing the name Le Sud.

The court in Hague had the oral hearing in early October and the judgment will be rendered on Nov 2 if the two parties cannot come to a settlement by themselves within a week.

"At the time the legal proceedings were initiated, Zhejiang Zhengte knew only about Blokker and Leen Bakker selling the sunscreens. Zhejiang Zhengte did not know who the producer is, or if the producer is based in the Netherlands". said the Dutch patent firm that represents the Chinese company.

"It cannot be excluded that Zhejiang Zhengte on the one hand and Leen Bakker and Blokker on the other hand enter into a settlement agreement before that date. We will wait for the judgment, and cannot reveal too much about the case before the judgment will be rendered. Should a settlement be agreed upon, there will be no more need for a judgment," the representative attorney added.

<http://www.chinaipmagazine.com/en/news-show.asp?id=8694>