



# Beijing RisingMark

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## In this issue

### ➤ **China Becomes the 2nd Largest Patent Layout Target Market**

In the recent 2016 Global Patent Innovation Activities Research Report, China became the runner-up of patent layout target markets immediately after US. And Japan and US demonstrate high interest in Chinese market as the invention patents granted in China from these two countries accounted for nearly 1/5 of the total volume in China.

The report conducted a systematic scan, from 2008 to 2015, of the patent innovation activities that took place around the world, and compared the activities for research and analysis. It's reported that, from 2008 to 2015, the published invention patents and granted patents in China had grown by 20.97% and 22.48% respectively. The strong growth in technology innovation of China also helped push the growth of global patent technology innovation.

It's shown that from 2012 to 2015, among the 31 technical fields classified by WIPO, China tops the volume of granted invention patents in 13 fields including measurements, organic fine chemical etc.

The report also mentions the challenges in front of China for patent technology innovation such as the misalignment of patent quantity and quality, imbalance of development in different fields. (Source: [www.SIPO.gov.cn](http://www.SIPO.gov.cn))

### ➤ **China Design Patent Evaluation Report Application Volume Hit 30,000**

According to SIPO, the accumulated amount of applications for design patent evaluation report has hit 30,000 in China as of September 4, 2017; it took 5 years for the number of this application to reach the first 10,000, 14 months to reach the second 10,000, and only 10 months to reach the third 10,000.

The 30,000 evaluation reports involve 197 classes under International Classification for Industrial Designs, covering 92.1% of the whole list of 214 classes. Most of the applications are for daily consuming products such as bags, lightings, household vessels, toys, furniture, cosmetic products, photographic and cinematographic products, each of which have over

1,000 applications. It aligns with the numbers of design patent applications filed in these fields, and these fields are basically those covered by the Express IPR Enforcement Centers established by SIPO. The design patent evaluation report mechanism supplements the design patent preliminary examination system, which, as more widely recognized, plays an important role in Internet IPR protection, Customs recordal and infringement litigation. (Source: China IP Daily)

➤ **Ministry of Commerce: China IP Loyalties Export Up 489.4%**

At the 1st Regular Press Conference of September, Ministry of Commerce announced the recent service export and import statistics.

It's shown that from January to July, the export structure evolves to include more emerging fields of services which contributed to an accumulated total of 405.75 billion yuan export, up 8.3% over the same period of last year, 3.9% faster than the overall increase, and accounted for 50.2% of the service exports. Among the emerging fields, IP royalty fee, personal cultural and entertainment services, as well as maintenances and repair were found with growth rates of 489.4%, 20.4% and 14.4% respectively.

Meanwhile, export in the emerging field is growing at a relatively high speed as well, among which, the amount of IP royalty fee import from January to July was 112.58 billion yuan, up 25.8% over the same period of last year.

## **Cases in Spotlight**

➤ **“乔丹” (Jordan) Trademark Dispute Administrative Litigations Ruled**

In December 2016, the Supreme People's Court of China made rulings on the ten trademark administrative disputes among Michael Jordan (the retrial petitioner), Trademark Review and Adjudication Board of State Administration for Industry & Commerce (the retrial respondent), and Qiaodan Sports Co. Ltd. (the third party of the first instance).

The 10 judgements form a clear definition on the protection scope of the personal name claimed by Michael Jordan. With respect to the three disputed “乔丹”(the Chinese translation of Jordan) marks, the Supreme People’s Court found that the registrations have infringed on Michael Jordan’s prior right of personal name; and that due to the obvious subjective malicious intent of Qiaodan Sports, their operation conditions, their publicity and use of the trademark and business name involved are not sufficient to legitimate the registration of the disputed marks. Accordingly, the three “乔丹” marks shall be revoked and the Trademark Review and Adjudication Board is ordered to make adjudications anew. But for the seven cases involving “QIAODAN”and “qiaodan”, the pinyin of the Chinese characters, the court found Michael Jordan does not enjoy name right over “QIAODAN” or “qiaodan” and reject Michael Jordan’s petitions for re-trial.

➤ **Medical Devices Industry Billion Yuan Litigation Concluded**

October 2016, with Guangdong Provincial Higher People's Court (Guangdong High Court) making the final verdict on the two patent infringement cases and one trade secret infringement case between Shenzhen Mindray Biomedical Electronics Co., Ltd. (Mindray) and Shenzhen Edan Instruments Co., Ltd. (Edan), the intellectual property battle between the two parties finally came to an end. In the 12 cases in which the court ruled the final verdict, Mindray won all the victories, and the total amount of compensation reached over 28 million yuan.

Since April 2011, Mindray started a series of 23 patent infringement litigations and 1 trade secret infringement litigation against Edan, claiming for a total of more than 100 million yuan as indemnity, with over 65 million yuan for patent infringement and 41 million yuan for trade secret infringement. Several models of monitors and ultrasonic imaging equipment produced by Edan are alleged of infringing upon Mindray’s patent right.

It is reported that Mindray global sales reached nearly 10 billion yuan in 2015, with products sold to more than 190 countries and regions. Their monitor products take up more domestic market share than General Electric, Philips and other international leading brands, and have ranked No. 1 for 11 consecutive years. As known, Mindray and Edan had been

long time partners before they split and went against each other due to Edan's business expansion and subsequent impact on Mindray's existing market, which triggered the intellectual property battle between the two parties.

In October 2016, Guangdong High Court issued final rulings on the other 10 patent infringement cases and 1 trade secret case, in which Edan is ordered to stop production of infringing products involved, and to compensate for Mindray's economic loss for a total of around 27 million yuan, including 15 million yuan for the 10 patent infringement cases and 12 million yuan for the single trade secret case.

## **RSMK news**

### **➤ Company leaders went to the United States to participate in the training of high level intellectual property talents in 2014**

On November 17-12.16, 2014, Li Ji, the head of the company, went to the United States to attend a high-level training course on intellectual property rights in 2014. During this period, he trained and exchanged with Houston University, Morgan Law Office, the U.S. Patent and Trademark Office and the U.S. Supreme Court on U.S. patents, trademarks, copyright and trade secrets. Through the study of intellectual property knowledge in the United States, the knowledge of intellectual property knowledge and intellectual property environment in the United States has been effectively increased, and a good foundation has been laid for the effective development of intellectual property business in the United