



# NEWSLETTER

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## No. 178

2020.09

### 立方网络安全与数据合规周报

## Weekly Cybersecurity and Data Protection Review

### No.27

#### 国内要闻 Domestic News

《信息安全技术 个人信息安全规范》将于10月1日开始实施

TC260 Releases English Version of the PI Security Specification

最高院发布《关于审理涉电子商务平台知识产权民事案件的指导意见》

SPC Issues the Guiding Opinions on the Trial of Intellectual Property Right Related Civil Cases Regarding E-commerce Platforms

最高院发布《关于涉网络知识产权侵权纠纷几个法律适用问题的批复》

SPC Issues the Official Reply on Several Issues Regarding the Application of Law to Online Intellectual Property Infringement Disputes

#### 海外动态 Overseas News

因第四次侵犯用户隐私，新加坡数据保护机构对网约车应用Grabcar作出处罚

Singapore Personal Data Protection Commission Fines Grabcar for the 4th User Data Privacy Violation

爱尔兰高等法院暂停针对Facebook向美国传输欧盟数据的调查

Irish High Court Temporarily Freezes Probe into Facebook's EU-US Data Flows

## 国内要闻 Domestic News

### 《信息安全技术 个人信息安全规范》将于10月1日开始实施

2020年9月20日，全国信息安全技术标准化委员会（“信安标委”）发布英文版推荐性国家标准《信息安全技术 个人信息安全规范》（“《个人信息安全规范》”）。《个人信息安全规范》正文包括11章，分别为（1）范围，（2）规范性引用文件，（3）术语和定义，（4）个人信息安全基本原则，（5）个人信息的收集，（6）个人信息的存储，（7）个人信息的使用，（8）个人信息主体的权利，（9）个人信息的委托处理、共享、转让、公开披露，（10）个人信息安全事件处置以及（11）组织的个人信息安全管理要求。此外，《个人信息安全规范》还包含4个附录：（A）个人信息示例，（B）个人敏感信息判定，（C）实现个人信息主体自主意愿的方法以及（D）个人信息保护政策模板。《个人信息安全规范》将于2020年10月1日开始实施。（[查看更多](#)）

### TC260 Releases English Version of the PI Security Specification

On September 20, 2020, the TC260 released the English version of the recommended national standard *Information security technology—Personal information (PI) security specification* (“**PI Security Specification**”). The PI Security Specification is to be implemented on October 1, 2020, which mainly consists of 11 sections and 4 Annexes. The 11 sections are (i) scope; (ii) normative references; (iii) terms and definitions; (iv) basic principles of PI security; (v) PI collection; (vi) PI storage; (vii) use of PI; (viii) rights of PI Subjects; (ix) entrusted processing, sharing, transfer and public disclosure of PI; (x) handling of PI security incidents and (xi) PI security management requirements for organizations. The 4 Annexes are (A) Examples of personal information, (B) Identification of sensitive personal information, (C) Methods to safeguard independent choice of personal information subject, (D) Personal information protection policy template. ([More](#))

### 最高法院发布《关于审理涉电子商务平台知识产权民事案件的指导意见》

2020年9月13日，最高人民法院（“**最高法院**”）发布《关于审理涉电子商务平台知识产权民事案件的指导意见》（“《**指导意见**》”）。《指导意见》全文共十一条，重点规定了（1）法院对于平台、平台内经营者的认定以及平台开展自营业务的认定，（2）平台采取删除、屏蔽、断开链接等必要措施保护知识产权的义务及其条件，（3）知识产权权利人、平台经营者发送侵权通知、未侵权声明的具体形式，（4）认定侵权通知发出人、平台内经营者发出声明是否具有恶意的考量因素，（5）法院判断平台是否采取合理措施的考量因素等。（[查看更多](#)）

### SPC Issues the Guiding Opinions on the Trial of Intellectual Property Right Related Civil Cases Regarding E-commerce Platforms

On September 13, 2020, the Supreme People’s Court (“**SPC**”) issued the Guiding Opinions on the Trial of Intellectual Property Right-Related Civil Cases Regarding E-commerce Platforms (“**Guiding Opinions**”). The Guiding Opinions contains 11 articles which specifies that (i) how a court determines whether the party concerned is an e-commerce platform operator or business operator using such platform, and whether an e-commerce platform operator is carrying out its proprietary business, (ii) the ob-

ligations and thresholds for the platform operator to take necessary measures to protect intellectual property such as deleting, blocking and disconnecting links, (iii) the forms of the notice sent by an intellectual property right holder and the statement of non-infringement submitted by a business operator using an e-commerce platform, (iv) the factors to be considered when determining whether an infringement notifying party or a statement made by a business operator using the platform is malicious, (v) the factors to be considered by a court when determining on whether a platform operator has adopted reasonable measures, etc. ([More](#))

## 最高法院发布《关于涉网络知识产权侵权纠纷几个法律适用问题的批复》

2020年9月13日，最高法院发布《关于涉网络知识产权侵权纠纷几个法律适用问题的批复》（“《批复》”）。《批复》解释了六个涉网络知识产权侵权纠纷法律适用问题。根据《批复》，因恶意提交声明导致电子商务平台经营者终止必要措施并造成知识产权权利人损害，权利人依照有关法律规定请求相应惩罚性赔偿的，人民法院可以依法予以支持；知识产权权利人发出的通知内容与客观事实不符，但其在诉讼中主张该通知系善意提交并请求免责，且能够举证证明的，人民法院依法审查属实后应当予以支持。（[查看更多](#)）

## SPC Issues the Official Reply on Several Issues Regarding the Application of Law to Online Intellectual Property Infringement Disputes

On September 13, 2020, the SPC issued the *Official Reply on Several Issues Regarding the Application of Law to Online Intellectual Property Infringement Disputes* (“**Official Reply**”). The Official Reply focuses on six issues of law application regarding online intellectual property infringement disputes. According to the Official Reply, punitive damages is available where the e-commerce platform operator terminates the requisite measures due to malicious non-infringement statement, which causes damages to the intellectual property holder. The court shall grant immunity where the intellectual property holder can prove the infringement notice, which contains misrepresentation, was made in good faith. ([More](#))

## 海外动态 Overseas News

### 因第四次侵犯用户隐私，新加坡数据保护机构对网约车应用Grabcar作出处罚

2020年9月16日，据路透社报道，新加坡个人数据保护委员会（Personal Data Protection Commission, “PDPC”）对网约车应用Grabcar处以1万新加坡元的罚款。PDPC称，该应用的2019更新版本存在部分用户数据在未经授权的情况下被访问的风险，并称这是Grabcar第四次违反数据隐私法规。PDPC要求Grab通过隐私政策落实数据保护，具体来说，Grab应在开发技术系统时考虑数据保护措施，并内置于技术系统中。PDPC调查发现，Grabcar 2019更新版本可能对21541名司机和乘客的与拼车服务相关的个人照片、姓名和车牌号等个人数据安全造成潜在风险。考虑到Grab的业务要求其每天处理大量的个人数据，PDPC认为该案值得关注。（[查看更多](#)）

## Singapore Personal Data Protection Commission Fines Grabcar for the 4th User Data Privacy Violation

On September 16, 2020, *Reuters* reported that Singapore's Personal Data Protection Commission ("PDPC") fined ride-hailing application Grabcar SGD 10,000, saying a 2019 update put the data of some users at risk of unauthorized access in what the PDPC said was a fourth breach of data privacy regulations. The PDPC directed Grab to put in place a data protection by design policy, where data protection measures are considered and built into tech systems as they are being developed. It was reported that the update of this application risked the personal data of 21,541 drivers and passengers, including profile pictures, names and vehicle plate numbers, related to carpooling service GrabHitch. Given that the organization's business involves processing large volumes of personal data on a daily basis, the PDPC thought this is a significant cause for concern. ([More](#))

## 爱尔兰高等法院暂停针对Facebook向美国传输欧盟数据的调查

2020年9月14日，据路透社报道，爱尔兰高等法院要求欧盟监管机构暂停针对Facebook向美国进行跨大西洋数据传输行为合法性的调查。据悉，Facebook于上周对爱尔兰数据保护委员会提起诉讼，试图阻止一项可能要求该公司停止将数据从欧盟传输至美国的命令。（[查看更多](#)）

## Irish High Court Temporarily Freezes Probe into Facebook's EU-US Data Flows

On September 14, 2020, *Reuters* reported that Irish High Court temporarily froze a probe by EU regulator into the legality of Facebook's transatlantic data flows to the US. It was reported that Facebook last week launched legal action against Irish Data Protection Commission in an attempt to halt a proposed order that could stop the company from transferring data from the EU to the US. ([More](#))

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