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“人脸识别第一案”二审宣判

2021年4月9日，浙江省杭州市中级人民法院（“杭州中院”）就郭兵与杭州野生动物世界有限公司（“野生动物世界”）服务合同纠纷案二审公开宣判，二审维持了一审判决，同时增判野生动物世界删除郭兵办理指纹年卡时提交的指纹识别信息。据悉，本案源于游客郭兵因不满野生动物世界将年卡用户入园方式从指纹识别升级到人脸识别，而以侵犯隐私权和服务合同违约为由起诉野生动物世界。2020年11月，杭州富阳人民法院作出一审判决，要求野生动物世界删除郭兵办理指纹年卡时提交的包括照片在内的面部特征信息。一审判决后，双方均提起上诉。

[\(查看更多\)](#)

Hangzhou Court Issued the Final Judgement of “The First Case over Facial Recognition”

On April 9, 2021, the Hangzhou Municipal Intermediate People’s Court of Zhejiang Province (“Hangzhou Court”) issued the second-instance judgment publicly on the service contract dispute between GUO Bing and Hangzhou Wildlife World Co., Ltd. (“Wildlife World”), which upheld the first instance judgment, and meanwhile required Wildlife World to delete the fingerprint identification information provided by GUO Bing when he applied for the annual ticket. According to the relevant report, the case originated from the fact that tourist GUO Bing was dissatisfied with Wildlife World’s mandatory change of the annual ticket holders’ entry method from fingerprint recognition to facial recognition, and then sued Wildlife World for infringement of privacy and breach of service contract. In November 2020, the Hangzhou Fuyang People’s Court issued a first instance judgment, requiring Wildlife World to delete the facial feature information (including photos) submitted by GUO Bing when he applied for the annual tickets. After the judgment of the first instance, both parties appealed. [\(More\)](#)

工信部公开征集三项行业标准和标准计划项目意见

2021年4月7日，工业和信息化部（“工信部”）就三项行业标准与标准计划项目文件公开征求意见，包括：《APP用户权益保护测评规范》、《APP收集使用个人信息最小必要评估规范》等209项行业标准制修订计划；《智慧城市 电子围网技术要求》等5项行业标准外文版计划；以及《工业互联网平台 服务商评价办法》等20项推荐性国家标准制修订计划。征求意见截至2021年5月8日。 [\(查看更多\)](#)

MIIT Seeks Advice on 3 Industry Standard and Standard Plan Projects

On April 7, 2021, the Ministry of Industry and Information Technology (“MIIT”) publicly sought advice on three documents on industry standards and standard plan project, including: the formulation and revision plan on 209 industry standards such as *Regulations on App User Rights Protection Evaluation*, *Regulations on Evaluation of Minimum Necessary Rule of App’s Collection and Use of Personal Information*; the formulation plan on foreign language version of 5 industry standards such as *Electronic Fence Technology Requirements in Smart Cities*; and the formulation and revision plan on 20 recommended national standards such as *Industrial Internet Platform Evaluation Measures of Service Provider*. The deadline for submitting advice is May 8, 2021. [\(More\)](#)

工信部公开征集关于《智能网联汽车生产企业及产品准入管理指南（试行）》的意见

2021年4月7日，工信部公开征求对《智能网联汽车生产企业及产品准入管理指南（试行）》（征求意见稿）的意见。该《指南》旨在加强道路机动车辆生产企业及产品准入管理，推动智能网联汽车产业健康有序发展。根据《指南》第三条，“智能网联汽车生产企业应依法收集、使用和保护个人信息，实施数据分类分级管理，制定重要数据目录，不得泄露敏感信息。在中华人民共和国境内运营中收集和产生的个人信息和重要数据应当按照有关规定在境内存储。因业务需要，确需向境外提供的，应向行业主管部门报备”。征求意见截至2021年5月8日。（[查看更多](#)）

MIIT Seeks Advice on the Guidelines for the Management of Intelligent Connected Vehicle Manufacturers and Product Access (Trial)

On April 7, 2021, MIIT sought advice on the *Guidelines for the Management of Intelligent Connected Vehicle Manufacturers and Product Access (Trial)* (Exposure Draft). The *Guidelines* aims to strengthen the management of road motor vehicle manufacturers and product market access, and to promote the healthy and orderly development of the intelligent connected vehicle industry. According to Article 3 of the *Guidelines*, “Intelligent connected vehicle manufacturers should collect, use and protect personal information in accordance with the law, implement categorized and classified data management, develop catalogs of critical data, and must not disclose sensitive information. The personal information and critical data produced and collected during the operation process within the territory of the People’s Republic of China should be stored in China in accordance with relevant regulations. If it is necessary to provide the information and data overseas due to business needs, the manufacturers should report to the competent industry authority.” The deadline for advice is May 8, 2021. ([More](#))

工信部下架60款侵害用户权益APP

2021年4月6日，工信部向社会通报了60款侵害用户权益的APP名单。其中53款为经工信部委托第三方机构核查仍未完成整改；另有7款则为经浙江省通信管理局开展手机应用软件监督检查认定存在问题且未完成整改。依据《网络安全法》和《移动智能终端应用软件预置和分发管理暂行规定》等法律法规要求，工信部组织对上述60款APP进行下架。（[查看更多](#)）

MIIT Required 60 Apps to be Removed for Infringing Users’ Rights and Interests

On April 6, 2021, MIIT notified the society of 60 apps infringing users’ rights. Among them, 53 apps failed to pass the verification of third-party agencies commissioned by MIIT, and had not yet completed the rectification; the other 7 apps were held problematic by the Zhejiang Provincial Communications Administration during its inspection of mobile phone application softwares and had not yet completed the rectification. In accordance with the *Cybersecurity Law*, the *Interim Provisions on the Administration of the Pre-Installation and Distribution of Application Software for Smart Mobile Terminals*, and other laws and regulations, MIIT required those 60 apps to be removed from the relevant app stores. ([More](#))

10家互联网平台企业承诺不利用大数据“杀熟”

2021年4月6日，广州市市场监督管理局（“广州市市监局”）发布通告，称其于3月31日联合广州市商务局召开了平台“大数据杀熟”专项调研和规范公平竞争市场秩序行政指导会。会上，唯品会、京东、美团、饿了么、每日优鲜、盒马鲜生、携程、去哪儿网、如祺出行、滴滴出行共10家互联网平台企业代表通报了用户数据使用和管理情况，对数据使用监管提出建议。10家企业代表还签署了《平台企业维护公平竞争市场秩序承诺书》，郑重承诺不非法收集、使用消费者个人信息，不利用数据优势“杀熟”。（[查看更多](#)）

10 Internet Platform Companies Promise Not to Use Big Data to Discriminate Customers

On April 6, 2021, the Guangzhou Municipal Administration for Market Regulation (“Guangzhou AMR”) issued a notice, stating that it had held a special survey on platform “using big data to discriminate customers” and an administrative guidance meeting on regulating fair competition market order. At the meeting, representatives of 10 Internet platform companies including Vipshop, JD.com, Meituan, Ele.me, Missfresh, Freshhema, Ctrip, Qunar, Ruqi Travel, Didi Chuxing, introduced their use and management of users’ data, and made recommendations on data using regulation. Representatives of the 10 companies also signed the *Commitment Letter of Platform Companies Maintaining a Fair Competitive Market Order*, and solemnly promised not to illegally collect or use consumer personal information, and not to use the data advantages to “discriminate customers”. ([More](#))

海外动态 Overseas News

SOMI向爱尔兰数据保护机构起诉TikTok，指控其违反GDPR规定

2021年4月7日，荷兰利益集团SOMI正式向爱尔兰数据保护机构起诉TikTok有限公司和TikTok信息技术英国有限公司。根据起诉书，SOMI认为TikTok严重违反《通用数据保护条例》（“GDPR”）规定的处理儿童数据的原则，具体表现为TikTok未能采取适当措施核实其用户年龄、未提供关于数据处理活动的清晰透明的信息、未能遵守数据分享和数据跨境传输的规定等。此前，SOMI曾在1月向丹麦和欧盟的执法机构呼吁对TikTok采取更为强硬的措施。（[查看更多](#)）

SOMI Submits Complaints to Irish DPC Against Tiktok for GDPR Violations

On April 7, 2021, SOMI, an interests group based in the Netherlands submitted a formal complaint to the Irish Data Protection Commission against TikTok Ltd and TikTok Information Technologies UK Ltd. The complaint alleges that TikTok has severely violated principles of the General Data Protection Regulation (“GDPR”) in relation to the processing of children’s data, because TikTok failed to take appropriate measure to verify the age of its users, provide a clear and transparent information about its processing activities, comply with data-sharing and cross-border data transfer requirements, take adequate technical and organization measures to protect personal data and so on. Before this, SOMI has already appealed to Dutch and European regulators in January to take tougher action against TikTok. ([More](#))

西班牙数据保护机构发布2020年度报告

2021年4月6日，西班牙数据保护机构（“AEPD”）发布2020年度报告。该报告强调，2020年AEPD主要关注确保医疗保健措施、控制疫情以及数据保护的基本权利。该报告指出，2020年AEPD一共收到10324件投诉，其中公民投诉最多的问题集中于互联网服务、视频监控、未经同意收到广告以及债务索赔等问题。此外，这份年度报告显示，处罚程序中出现频率最高的领域是视频监控、互联网服务、公共行政管理和电信。（[查看更多](#)）

Spanish Data Protection Authority Releases 2020 Annual Report

On April 6, 2021, the Spanish data protection authority (“AEPD”) released its 2020 annual report. The annual report highlights that in 2020, the AEPD generally focused on ensuring health care measures, control of the pandemic, and the fundamental right to data protection. The annual report also notes that in 2020, a total of 10,324 claims were filed with the AEPD and that the complaints raised most frequently by citizens refer to internet services, video surveillance, receiving unsolicited advertising, and debt claims. In addition, the annual report reveals that the most frequent areas in sanctioning procedures are video surveillance, internet services, public administration, and telecommunications. ([More](#))

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