



# NEWSLETTER

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2021.08

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### Weekly News By Lifang & Partners

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## 知识产权 Intellectual Property

### 国家知识产权局办公室印发《专利、商标代理行业违法违规行为协同治理办法》

日前，国家知识产权局办公室印发了《专利、商标代理行业违法违规行为协同治理办法》，将针对具有四种情形的专利、商标代理机构和代理人员列入黑名单，在一定期限内向社会公布，接受社会监督，并实施协同约束措施。据了解，《办法》的制定印发旨在进一步贯彻落实全面从严治党要求，加强党风廉政建设，防范廉政风险，打击专利、商标代理行业违法违规行为，营造风清气正的代理行业发展环境。

来源：中国知识产权报

### The China National Intellectual Property Administration issued the Measures for the Collaborative Governance of Illegal Acts in the Patent and Trademark Agency Industry

A few days ago, China National Intellectual Property Administration issued the "Measures for the Collaborative Governance of Illegal Acts in the Patent and Trademark Agency Industry", which blacklisted patent and trademark agencies and agents in four situations, and announced them to the public within a certain period of time. Accept social supervision and implement coordinated restraint measures.

It is understood that the formulation and issuance of the "Measures" aims to further implement the requirements of strict party governance, strengthen the construction of party style and clean government, prevent the risk of corruption, crack down on violations of laws and regulations in the patent and trademark agency industry, and create a clean and honest agency industry development Environment.

Source: China Intellectual Property News

### 市场监管总局发布《禁止网络不正当竞争行为规定》征求意见稿

市场监管总局17日发布《禁止网络不正当竞争行为规定》征求意见稿，面向社会公开征求意见。这意味着“二选一”、数据“杀熟”、虚假交易等网络不正当竞争行为将面临更严格、更细致的监管。

根据征求意见稿，经营者不得对经营者自身或者其商品的销售状况、交易信息、经营数据、用户评价等作虚假或者引人误解的商业宣传，欺骗、误导消费者或者相关公众。不得利用技术手段，通过限制交易对象、限制销售区域或时间、限制参与促销等方式，影响其他经营者的经营选择，实施“二选一”行为，妨碍、破坏具有依赖关系的交易相对方合法提供的网络产品或者服务的正常运行，扰乱市场公平交易秩序。

来源：经济参考报

## State Administration for Market Regulation issued the "Regulations on the Prohibition of Unfair Competition on the Internet" Draft for Solicitation of Comments

On the 17th, State Administration for Market Regulation issued the "Provisions on Prohibition of Unfair Competition on the Internet" draft for soliciting opinions from the public.

This means that online unfair competition behaviors such as "choosing one of the two", data "acquainting", and false transactions will face stricter and more detailed supervision.

According to the draft, operators shall not make false or misleading commercial propaganda on the sales status, transaction information, operating data, user evaluation of the operators themselves or their products, and deceive or mislead consumers or the relevant public.

Do not use technical means to influence the business choices of other operators by restricting transaction objects, restricting sales area or time, restricting participation in promotions, etc., implement "choosing one of the two" behaviors, and hinder or destroy the legal provision of dependent parties. The normal operation of the network products or services of the Internet disrupts the order of fair transactions in the market.

Source: [Economic Information Daily](#)

## 国家知识产权局：依法驳回“杨倩”“陈梦”“全红婵”等109件商标注册申请

国家知识产权局8月19日发布通告，依法驳回“杨倩”“陈梦”“全红婵”等109件商标注册申请，通告详情如下：

在第32届奥林匹克运动会上，中国体育代表团牢记党和人民嘱托，勇于挑战，超越自我，迸发出中国力量，取得了38枚金牌、32枚银牌、18枚铜牌的优异成绩，为祖国和人民赢得了荣誉，为全党全国各族人民在全面建设社会主义现代化国家新征程上团结奋斗、凝心聚力注入了精神力量。但个别企业和自然人把“杨倩”“陈梦”“全红婵”等奥运健儿姓名和“杏哥”“添神”等相关特定指代含义的热词进行恶意抢注，提交商标注册申请，以攫取或不正当利用他人市场声誉，侵害他人姓名权及其合法权益，已产生了恶劣的社会影响。对此，国家知识产权局予以谴责，并依据商标法第十条第一款第（八）项的规定，对第58130606号“杨倩”、第58108579号“陈梦”、第58265645号“全红婵”等109件商标注册申请（含一标多类）予以快速驳回。

来源：国家知识产权局

## China National Intellectual Property Administration: 109 trademark registration applications including "Yang Qian", "Chen Meng", and "Quan Hongchan", the names of the three Chinese new Tokyo Olympic Games champions, were rejected according to law

The CNIPA issued a notice on August 19, dismissing 109 trademark registration applications including "Yang Qian", "Chen Meng", and "Quan Hongchan" in accordance with the law. The details of the announcement are as follows:

At the 32nd Olympic Games, the Chinese sports delegation kept in mind the entrustment of the party and the people, bravely challenged, surpassed itself, and burst out Chinese power. They have won 38 gold medals, 32 silver medals, and 18 bronze medals. They have won honors for the motherland and the people, and united and worked hard for the whole party and the people of all ethnic groups on the new journey of building a modern socialist country in an all-round way. Infused with spiritual power.

However, individual enterprises and natural persons have maliciously registered the names of Olympic athletes such as "Yang Qian", "Chen Meng" and "Quan Hongchan" and related hot words with specific meanings such as "Xing Ge" and "Tian Shen" and submitted trademark registration applications. , To grab or improperly use the reputation of others in the market, infringe on the rights of others' names and their legal rights, and have had a bad social impact.

In this regard, the State Intellectual Property Office condemned it, and in accordance with the provisions of Article 10, paragraph 1, item (8) of the Trademark Law, imposed the trademark No. 58130606 "Yang Qian", the trademark No. 58108579 "Chen Meng", and No. 58265645. 109 trademark registration applications (including one label and multiple categories) including the trademark "Quan Hongchan" were quickly rejected.

Source: CNIPA

### 腾讯起诉抖音侵权《扫黑风暴》，索赔1亿

近日，腾讯视频发现抖音上持续存在大量未经授权搬运剪切《扫黑风暴》的侵权视频。对此，腾讯视频运营方上海企鹅影视文化传播有限公司将抖音运营方北京微播视界科技有限公司诉至北京知识产权法院，请求判令抖音方面删除、过滤、拦截平台上的侵权《扫黑风暴》的视频，停止通过抖音传播涉案侵权视频谋取不正当利益的行为，同时要求抖音赔偿经济损失及维权支出共计1亿元。

来源：新京报

### Tencent sues Douyin for infringement of "CRIME CRACKDOWN", claiming RMB 100 million

Recently, Tencent Video has discovered that a large number of infringing videos of TV Series "CRIME CRACKDOWN" continue to exist on Douyin without authorization.

In response, Tencent Video's operator Shanghai Penguin Film and Television Culture Communication Co., Ltd. sued Beijing Weibo Vision Technology Co., Ltd., the operator of Douyin, to the Beijing Intellectual Property Court and request an order for Douyin to delete, filter, and block the infringing "CRIME CRACKDOWN" videos on the platform, stop spreading the infringing videos through Douyin for illegitimate benefits, and demand Douyin to compensate for economic losses and rights protection expenses of RMB 100 million yuan.

Source: Beijing News

## 阿里巴巴推出用于版权交易的NFT市场

阿里巴巴推出新的NFT市场“区块链数字版权资产交易”，允许版权持有人出售IP相关的代币化版权资产凭证。该市场可通过阿里拍卖平台访问，为文学、游戏、动漫、音乐、美术等著作权人，提供基于“新版权区块链”的数字作品确权认证和上链交易。据悉，“新版权区块链”是四川区块链协会版权委员会集中运营的一个分布式账本技术平台。目前，该市场已上线，托管的数个NFT将于下月开始拍卖。投标人须缴纳500元押金才能参加拍卖，每场拍卖均设定100元起拍价，目前展出的作品包括《星球大战》影迷艺术品。买家可以通过整合到微信中的加密货币组合应用程序Bit Universe查看他们的收藏。

来源：腾讯网

## Alibaba launches NFT market for copyright transactions

Alibaba launched a new NFT market "Blockchain Digital Copyright Asset Trading", allowing copyright holders to sell IP-related tokenized copyright asset certificates. The market can be accessed through the Alibaba auction platform to provide copyright holders of literature, games, animation, music, art, etc., with digital works based on the "new copyright blockchain" for verification and on-chain transactions. It is reported that the "New Copyright Blockchain" is a distributed ledger technology platform operated by the Copyright Committee of the Sichuan Blockchain Association. Currently, the market is online, and several NFTs under custody will start auction next month. Bidders must pay a deposit of 500 yuan to participate in the auction, and each auction has a starting price of 100 yuan. The works currently on display include "Star Wars" fan art. Buyers can view their collections through Bit Universe, a cryptocurrency combination application integrated into WeChat.

Source: Tencent

## 华为诉国外专利公司潘奥普缔斯垄断侵权，索赔9900万

近日，华为技术有限公司、华为终端有限公司等与潘奥普缔斯专利管理有限责任公司（PanOptis Patent Management）等垄断纠纷一案民事裁定书公开，原告为华为技术有限公司等，被告为潘奥普缔斯专利管理有限责任公司等。

法院认为，本案原告方要求被告方承担连带赔偿责任的数额为人民币 9900 万元，并未超出本院级别管辖的标准，故本院对本案依法享有级别管辖权。且与原、被告双方在国外发生的诉讼，不构成重复诉讼。

本案裁判结果为驳回被告潘奥普缔斯专利管理有限责任公司等公司对本案管辖权提出的异议。

来源：腾讯网

## Huawei sued NPE PanOptis for monopoly infringement, claiming RMB 99 million

Recently, the first-instance civil ruling on monopoly disputes between Huawei Technologies Co., Ltd., Huawei Terminal Co., Ltd. and PanOptis Patent Management Co., Ltd. (PanOptis Patent Management) was published. The plaintiff is Huawei Technologies Co., Ltd., and the defendant is PanOptis Patent

Management Co., Ltd., etc.

The court held that the plaintiff in this case required the defendant to bear joint and several liabilities of RMB 99 million, which did not exceed the level of jurisdiction of this court. Therefore, this court has jurisdiction over this case in accordance with the law.

In addition, litigation with the plaintiff and the defendant in a foreign country does not constitute a repeated litigation.

The result of the judgment in this case was to dismiss the objections raised by the defendant PanOptis Patent Management Co., Ltd. and other companies on the jurisdiction of the case.

Source: Tencent

### 匡威在与马登的外观设计专利侵权案中胜出

史蒂夫·马登 (Steve Madden) 是一家主要生产和零售服装、鞋履、皮带、手袋和配饰的公司，而匡威 (Converse) 则主要是一家鞋履公司。匡威起诉马登侵犯其外观设计专利，但马登请求法院驳回匡威的部分侵权主张。法院比较了双方提交的证据图片，发现两个设计并没有不同到足以驳回匡威主张的程度。相反，普通消费者可能会产生混淆或受骗，认为被控产品是获得专利的外观设计。近日，美国马萨诸塞州联邦地区法院驳回了马登的这一请求。

来源：中国保护知识产权网

### Converse wins the design patent infringement case against Madden

Steve Madden is a company that mainly produces and retails clothing, shoes, belts, handbags and accessories, while Converse is primarily a footwear company. Converse sued Madden for infringing on his design patent, but Madden requested the court to dismiss some of Converse's infringement claims. The court compared the evidence images submitted by both parties and found that the two designs were not different enough to dismiss Converse's claim. On the contrary, ordinary consumers may be confused or deceived, believing that the accused product is a patented design. Recently, the Federal District Court of Massachusetts rejected Madden's request.

Source: Intellectual Property Protection in China

### 苹果放弃对Corellium的版权侵权诉讼

在苹果公司与网络安全初创公司Corellium之间长达两年的法律纠纷即将开庭之际，双方已达成庭外和解。

2019年8月，苹果指责Corellium公司创建iPhone的“虚拟化”版本，侵犯了其版权并违反了《数字千年版权法》(DMCA)。2018年，福布斯透露Corellium计划允许研究人员在他们的笔记本电脑上启动iPhone，以探索iOS系统的安全弱点或使用缺陷。此举在安全界引起了轰动。



近日，一份简短的法庭文件显示双方已经达成和解。法庭文件写道：“双方举行了谈判。案件已尘埃落定。双方及其律师签署了保密条款。”早在去年12月，苹果已经放弃了一部分关于版权侵权的案件，但一直试图证明Corellium违反了DMCA。

来源：中国保护知识产权网

## Apple settled the copyright infringement litigation against Corellium

Apple settled with Corellium, a cybersecurity startup, out of court at the time when the two-year legal dispute between the two parties is about to begin.

In August 2019, Apple accused Corellium of creating a "virtualized" version of the iPhone, infringing its copyright and violating the Digital Millennium Copyright Act (DMCA). In 2018, Forbes revealed that Corellium plans to allow researchers to boot the iPhone on their laptops to explore security weaknesses or usage flaws in the iOS system. This move caused a sensation in the security community.

Recently, a brief court document showed that the two parties had reached a settlement. The court document read: "The two parties held negotiations. The case has been settled. Both parties and their lawyers signed a confidentiality clause." As early as December last year, Apple had abandoned some cases of copyright infringement, but has been trying to prove that Corellium violated the DMCA.

Source: Intellectual Property Protection in China

## 竞争法 Overseas News

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### 天津发布《经营者反垄断合规指引》，强调小型经营者垄断风险

2021年8月10日，天津市市场监督管理委员会印发《经营者反垄断合规指引》（“《指引》”），为经营者开展日常反垄断合规提供指导。《指引》对执法实践中经营者典型的三大垄断行为进行简要列举和必要说明，帮助经营者进行风险识别和应对。《指引》特别提及，规模较小的经营者也可能会因为在某一特定相关市场具有较强控制力被认定为具有市场支配地位。因此不论经营者规模大小，均应当重视反垄断合规。（[查看更多](#)）

### Tianjin Issues the *Anti-Monopoly Compliance Guidelines for Business Operators Underlining the Monopoly Risk of Small Operators*

On August 10, 2021, the Tianjin Administration for Market Regulation issued the *Anti-Monopoly Compliance Guidelines for Business Operators* (“*Guidelines*”) to provide guidance for operators to carry out daily anti-monopoly compliance. The *Guidelines* briefly list and explain the three typical monopoly behaviors of operators in law enforcement to help operators identify and deal with risks. In addition, the *Guidelines* specifically point out that a smaller operator may also be identified as a dominant player because of strong control in a particular related market. Therefore, no matter the size of operators, it is necessary to pay attention to the monopoly compliance. ([More](#))

## 陕西、江苏发布《经营者反垄断合规指引（征求意见稿）》

2021年8月16日、17日，陕西省市场监督管理局和江苏省市场监督管理局分别发布《经营者反垄断合规指引（征求意见稿）》。两部文件均对反垄断风险识别（提示）、合规管理进行了规定，并对具有自然垄断属性的公用企业，水泥、混凝土等建材企业以及平台经营者等特殊市场领域的经营者进行了特别提示。（[查看更多](#)）

## Shaanxi and Jiangsu Issue the *Anti-Monopoly Compliance Guidelines for Business Operators (Draft for Comments)*

Recently, the Administration for Market Regulation of Shaanxi Province and Jiangsu Province issued the *Anti-Monopoly Compliance Guidelines for Business Operators (Draft for Comments)* respectively. Both of these guidelines stipulate anti-monopoly risk identification and compliance management and give special tips to operators of special market fields, including public enterprises with natural monopoly attributes, building materials enterprises such as cement and concrete, as well as platform operators. ([More](#))

## 丰城市混凝土协会及8家会员企业因实施垄断协议遭罚没2.86亿元

2021年8月19日，江西省市场监督管理局（“江西省市监局”）发布丰城市预拌混凝土协会及其会员企业垄断协议案的处罚决定。经调查，混凝土协会组织8家会员企业实施了固定、变更混凝土商品价格，限制产量，分割原材料采购和产品销售市场以及联合抵制等垄断协议。2021年7月23日，江西省市监局对该行业协会作出罚款50万元的行政处罚，并建议丰城市民政局依法撤销其社会团体法人登记；对会员企业责令停止违法行为，没收违法所得，并分处2018年销售额6%或8%的罚款；上述罚没款共计2.86亿元。（[查看更多](#)）

## Fengcheng Concrete Association and 8 Member Enterprises Fined Around CNY 286 Million for Implementing Monopoly Agreements

On August 19, 2021, the Administration for Market Regulation of Jiangxi Province (“**Jiangxi AMR**”) issued the punishment decision against Fengcheng Ready-mixed Concrete Association and its member enterprises. After investigation, it was found that the concrete association organized 8 member enterprises to implement several monopoly agreements, including price-fixing, restricting production, dividing the market of raw material procurement and sale and boycott. On July 23, 2021, Jiangxi AMR fined CNY 500,000 on the association, advised Fengcheng Civil Affairs Bureau to revoke its registration of social organizations, ordered the member enterprises to stop their illegal behaviors, confiscated their illegal income and fined 3% or 8% of their sales amount in 2018, the accumulative amount of which is around CNY 286 million. ([More](#))

## FTC修改诉状后再次对Facebook提起反垄断诉讼

2021年8月19日，美国联邦贸易委员会（“FTC”）在其与Facebook正在进行的反垄断案件中提交了修改后的诉状，指控Facebook采用非法的“买或埋”（buy-or-bury）计划以维持其支配地

位。Facebook为了进一步维持垄断，将应用程序开发者吸引到其平台，一旦发现后者有成功迹象并成为竞争危险时便“掩埋”他们。修改后的诉状提供了详细的统计数据以证明Facebook在美国个人社交网络市场占支配地位，同时还提供了新的直接证据证明其有能力控制价格或排除竞争，能够在不流失大量用户或用户参与度的情况下，显著降低向用户提供服务的质量，并通过将实际或潜在的竞争对手挤出市场的方式来限制竞争。此外，FTC还再次要求法院下令Facebook出售Instagram和WhatsApp。（[查看更多](#)）

### **FTC Files an amended complaint against Facebook**

On August 19, 2021, the Federal Trade Commission (“FTC”) filed an amended complaint against Facebook in the agency’s ongoing federal antitrust case, alleging that Facebook resorted to an illegal buy-or-bury scheme to maintain its dominance. Facebook lured app developers to the platform, surveilled them for signs of success, and then buried them when they became competitive threats. The amended complaint bolsters the FTC’s monopoly power allegations by providing detailed statistics showing that Facebook had dominant market shares in the U.S. personal social networking market. The suit also provides new direct evidence that Facebook has the power to control prices or exclude competition; significantly reduce the quality of its offering to users without losing a significant number of users or a meaningful amount of user engagement; and exclude competition by driving actual or potential competitors out of business. Moreover, FTC also again asked the court to order Facebook to sell Instagram and WhatsApp. ([More](#))

### **墨西哥反垄断机构因固定药价处罚药品经销商**

2021年8月17日，墨西哥联邦经济竞争委员会（“Cofece”）对五家制药公司限制药品供应，固定、操纵和提高墨西哥市场药品价格的行为进行了总计大约9.03亿比索的罚款。经调查，Cofece对五家公司以及其21位法人代表进行了处罚，因其在药品分销市场上实施了绝对垄断行为，对墨西哥消费者造成的损失约为23.59亿比索；此外，墨西哥医药产品分销商协会（Diprofar）也因协助实施上述行为而被处罚。（[查看更多](#)）

### **Mexican Antitrust Regulator Fines Drug Distributors for Price-fixing**

On August 17, 2021, the Plenary of the Federal Economic Competition Commission in Mexico (“Cofece”) fined five pharmaceutical companies for restricting the supply of medicines and fixing, manipulating and increasing the price of drugs in the Mexican market, for which they will have to pay around MXN 903 million. After investigation, Cofece sanctioned 5 companies as well as 21 legal representatives for the carrying out absolute monopolistic practices in the drug distribution market, whose damage to Mexican consumers is estimated to be MXN 2,359 million. In addition, the Association of Distributors of Pharmaceutical Products of the Mexican Republic was also fined for assisting in the execution of said conduct. ([More](#))

## 谷歌申请驳回俄亥俄州的反垄断诉讼，称其不构成公共运营商

2021年8月13日，谷歌申请法院驳回俄亥俄州总检察长对其提起的反垄断诉讼。该诉讼于今年6月提起，指控谷歌利用其支配地位，以“故意使竞争对手处于不利地位”的方式优待自己的产品，并认为谷歌是“公共运营商”或“公用企业”。谷歌在申请中反驳道，根据俄亥俄州法律，公共运营商收取费用以提供标准服务，且公用企业受到一系列的州法规监管。谷歌旨在为特定搜索提供查询结果，并不是运送商品，而仅是为人们提供有用的信息，其不满足该州公共运营商的认定标准。据悉，这是第一起寻求确认谷歌为公用企业的案件。（[查看更多](#)）

### Google Files to Dismiss Ohio Antitrust Lawsuit

On August 13, 2021, Google files to dismiss a monopoly lawsuit brought in June by the Ohio attorney general. The complaint alleged that the Silicon Valley giant has used its dominance to prioritize its own products in a way that “intentionally disadvantages competitors” and asserted that Google could be seen as a common carrier or a public utility. Google's lawyers argue in the motion that the search giant does not meet the state's requirements to be considered a common carrier. Under Ohio law, common carriers charge a fee to deliver a standardized service, and public utilities are regulated by a set of state regulations. However, the whole point of Google Search is to provide results tailored to a specific query, and it is not shipping a commodity product, but constantly working to provide useful information in response to people's unique queries. It is found to be the first case seeking confirmation of Google as a public utility. ([More](#))

## 网络安全与数据合规 Cybersecurity and Data Protection

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### 最高检下发通知明确个人信息保护公益诉讼办案重点

2021年8月21日，最高人民检察院下发《关于贯彻执行个人信息保护法推进个人信息保护公益诉讼检察工作的通知》（“《通知》”）。《通知》明确根据个人信息保护法有关规定，各级检察机关在履行公益诉讼检察职责时应当突出重点、从严把握以下方面：生物识别、宗教信仰、特殊身份、医疗健康、金融账号、行踪轨迹等敏感个人信息应当严格保护；儿童、妇女、残疾人、老年人、军人等特殊群体的个人信息需要特别保护；教育、医疗、就业、养老、消费等重点领域处理的个人信息，以及处理100万人以上的大规模个人信息应当重点保护；对因时间、空间等联结形成的特定对象的个人信息加强精准保护。（[查看更多](#)）

### The Supreme Prosecutor Issues a Notice to Clarify the Focus of Personal Information Protection Public Interest Litigation Cases

On August 21, 2021, the Supreme People's Procuratorate issued the *Notice on Implementing the Personal Information Protection Law and Promoting Public Interest Litigation on Personal Information Protection* (“*Notice*”). The *Notice* clarifies that according to the relevant provisions of the *Personal Information Protection Law*, all levels of procuratorial authorities shall focus on key points and strictly control the following aspects when performing their prosecutorial duties for public interest litigations: sensitive personal information such as biometrics, religious beliefs, special identities, medical health, finan-

cial accounts, and trajectories should be strictly protected; personal information of special groups such as children, women, persons with disabilities, the elderly, and military personnel requires special protection; education, medical care, employment, pension, consumption and other key areas of personal information handled, as well as the handling of large-scale personal information of more than 1 million users should be prioritized; the protection of personal information of specific targets formed due to time, space and other connections should be enhanced accurately. ([More](#))

### 《个人信息保护法》表决通过，2021年11月1日起实施

2021年8月20日，《个人信息保护法》（“《个保法》”）经人大常委会表决通过，并将于2021年11月1日起实施。《个保法》共八章七十四条，立法目的在于保护个人信息权益，规范个人信息处理活动，促进个人信息的合理利用，对个人信息保护具有里程碑意义。其主要内容包括：明确个人信息处理规则，对自动化决策、图像采集、敏感个人信息处理等作出有针对性规制；明确个人信息处理者需要承担的义务：如对个人信息分类管理、安全技术保护、专人负责、合规审计、风险评估、信息泄露及时补救等；对个人信息跨境进行从严监管等。（[查看更多](#)）

### **Personal Information Protection Law voted to be implemented from November 1, 2021**

On August 20, 2021, the *Personal Information Protection Law* reviewed and passed by the Standing Committee of the National People's Congress, which will come into forth as of November 1, 2021. The *Personal Information Protection Law* consists of seventy-four articles under eight chapters, aiming at protecting the rights and interests of personal information, regulating the processing of personal information, and promoting the reasonable use of personal information, which is a milestone for the personal information protection. Its main contents include: make clear rules on personal information processing, targeted regulation on automated decision-making, image collection, sensitive personal information processing, etc.; make clear obligations to be undertaken by personal information processors: including classification and management of personal information, security technical protection, designated personnel, compliance audit, risk assessment, timely remediation for information leakage, etc.; strictly regulate cross-border transfer of personal information, etc. ([More](#))

### 网信办等五部门发布《汽车数据安全管理办法（试行）》

2021年8月20日，国家互联网信息办公室、国家发展和改革委员会、工业和信息化部、公安部、交通运输部五部门联合发布《汽车数据安全管理办法（试行）》（“《规定》”）。《规定》由以下三章共19条组成：（1）明确汽车数据的范围；（2）汽车数据处理的四项原则；（3）汽车数据的收集、跨境转移、商业使用等问题。《规定》明确了汽车数据处理者开展数据处理活动的一般要求，主要包括：（1）对汽车数据的处理应当合法、正当、具体、明确，并与汽车的设计、生产、销售、使用、运营和维护直接相关；（2）利用互联网等信息网络开展汽车数据处理，应当执行网络安全等级保护等规定，并应当加强汽车数据保护，依法履行数据安全义务；（3）处理者应当建立投诉、举报渠道，及时处理用户投诉、举报。（[查看更多](#)）

## Five Authorities Including CAC jointly Issue *Automobile Data Provisions*(for Trial Implementation)

On August 20, 2021, the Cyberspace Administration of China (“CAC”), the National Development and Reform Commission, the Ministry of Industry and Information Technology, the Ministry of Public Security, and the Ministry of Transportation and Communications jointly issued “*The Automobile Data Provisions (for Trial Implementation)*”. *The Automobile Data Provisions* consists of 19 articles under the following three chapters: (1) clarification of the scope of automobile data; (2) four principles of automobile data processing; (3) automobile data collection, cross-border transfer, commercial usage, and other issues. *The Automobile Data Provisions* clarifies the general requirements for automobile data processors to carry out data processing activities, which mainly include: (1) the processing of automobile data should be legal, proper, specific, and clear, and be directly related to the design, production, sales, use, operation and maintenance of automobiles; (2) carrying out the processing of automobile data by using the Internet and other information networks should implement provisions such as cybersecurity grade protection, and should strengthen automobile data protection, and perform data security obligations in accordance with the law; (3) the processor should establish complaint and report channels, and handle user complaints and reports in a timely manner.[\(More\)](#)

## 工信部通报43款APP涉违规调用通信录、位置信息等问题

2021年8月18日，工业和信息化部（“工信部”）发布《关于APP违规调用通信录、位置信息以及开屏弹窗骚扰用户等问题“回头看”的通报》，共有43款应用软件因存在问题被通报，包括携程旅行、搜狐视频、爱奇艺等APP。工信部针对用户反映强烈的APP违规调用通信录、位置信息以及开屏弹窗骚扰用户等三方面问题，组织开展了“回头看”，并要求被通报APP在8月25日前完成整改，逾期不整改或整改不到位的，工信部将依法依规进行处置。（[查看更多](#)）

## MIIT Circulates 43 APPs for Illegal Calling of Address Book, Location Information and Other Information, etc.

On August 18, 2021, the Ministry of Industry and Information Technology (“MIIT”) issued a “*Look Back*” Notice on the Issues of APPs Illegally Calling Address Book, Location Information and Opening Pop-up Windows Harassing Users, with 43 APPs reported for problems, including Ctrip Travel, Sohu Video, iQIYI, etc. MIIT has organized a “look-back” for the three issues reflected by users, such as illegally calling of the address book, location information and harassment of users by opening pop-up windows, requiring the APPs being notified to complete the rectification before August 25. If failing to make rectification within the time limit or fail to make rectification as required, they will be disposed of by the MIIT in accordance with the law.[\(More\)](#)

## 商务部公开征求《直播电子商务平台管理与服务规范》行业标准（征求意见稿）意见

2021年8月18日，针对直播电商领域的规制，商务部就《直播电子商务平台管理与服务规范》（征求意见稿）行业标准公开征求意见。其不仅规定了对商家和直播主体入驻及退出、产品和服务信息审核等要求，还强调了数据信息的安全性和真实性。（[查看更多](#)）

## MOFCOM Publicly Solicits Comments on the Industry Standard for the *Management and Service Specifications for Livestream E-commerce Platform (Exposure Draft)*

On August 18, 2021, in response to the regulation for the livestream e-commerce sector, the Ministry of Commerce (“MOFCOM”) publicly solicited comments on the industry standard for the *Management and Service Specifications for Livestream E-commerce Platform (Exposure Draft)*. It not only stipulates the settlement and withdrawal of the merchants and live streaming subjects, and the examination and verification of product and service information, but also emphasizes the security and authenticity of data information. ([More](#))

## 市场监管总局关于《禁止网络不正当竞争行为规定（公开征求意见稿）》征求意见的通知

2021年8月17日，国家市场监督管理总局（“市场监管局”）发布《禁止网络不正当竞争行为规定（公开征求意见稿）》（“《征求意见稿》”），向社会公开征求意见。《征求意见稿》指出，经营者不得利用数据、算法等技术手段，通过影响用户选择或者其他方式，实施流量劫持、干扰、恶意不兼容等行为，妨碍、破坏其他经营者合法提供的网络产品或者服务正常运行。经营者不得直接、组织或者通过第三方，在短期内与竞争对手发生高频次交易或者给予好评等，触发平台的反刷单惩罚机制，减少该竞争对手的交易机会。 ([查看更多](#))

## SAMR Issues the *Regulations on Prohibition of Unfair Competition on the Internet (Exposure Draft)*

On August 17, 2021, the State Administration of Market Regulation (“SAMR”) issued the *Regulations on Prohibition of Unfair Competition on the Internet (Exposure Draft)* (“*Exposure Draft*”) for public comment. The *Exposure Draft* points out that operators shall not use data, algorithms, and other technical means to implement traffic hijacking, interference, malicious incompatibility and other acts to impede or disrupt the normal operation of network products or services legitimately provided by other operators, by influencing users’ choice or otherwise. Operators shall not directly organize, or through a third party, in a short period of time, conduct high-frequency transactions with competitors or give them favorable reviews, etc., thereby triggering the platform's anti-brushing punishment mechanism to reduce the transaction opportunities of such competitors. ([More](#))

## 浙江省通信管理局开展互联网行业市场秩序专项整治行动

2021年8月17日，浙江省通信管理局发布开展互联网行业市场秩序专项整治行动的通知，重点整治扰乱竞争秩序、侵害用户权益、威胁数据安全、违反资质和资源管理规定等问题，具体包括未征得用户同意向第三方提供用户个人信息；在用户数据收集、传输、存储等环节，未按法律法规要求建立数据安全管理制度和采取必要的安全技术措施；在向第三方提供用户数据时，未按法律法规要求采取安全评估、日志审计等必要的技术和管理措施等。 ([查看更多](#))

## Zhejiang Communications Administration Carries out Special Rectification Actions on the Internet Industry Market Order

On August 17, 2021, the Zhejiang Communications Administration issued a notice to carry out special rectification actions on the market order of the Internet industry, focusing on problems such as disrupting the order of competition, infringing on users' rights and interests, threatening data security, violating regulations on qualification and resource management, specifically including providing users' personal information to third parties without obtaining users' consent; in the collection, transmission and storage of user data, failing to establish a data security management system and take necessary security technical measures as required by laws and regulations; when providing user data to third parties, failing to take necessary technical and management measures such as security assessment and log audit as required by laws and regulations. ([More](#))

## 英国ICO对数据传输常见问题进行咨询解答

2021年8月11日，英国信息专员办公室（“ICO”）组织关于数据传输的咨询会。咨询委员会询问，是否有必要批准一项增编，允许从英国传输个人数据适用欧盟标准合同条款。此外，该咨询会提出以下要求：（1）ICO将终止（目前，暂时）对2001年、2004年和2010年SCC的批准；（2）起草一份全新的针对英国跨境数据传输协议；（3）发布数据传输风险评估报告；（4）对英国现有的数据传输指南进行修改。（[查看更多](#)）

## ICO UK Provides Advisory Answers to Frequently Asked Questions About Data Transmission

On August 11, 2021, the UK Information Commissioner's Office (“ICO”) organized a consultation session on data transfers. The Advisory Committee asked whether it was necessary to approve an addendum to allow the transfer of personal data from the UK to be subject to standard EU contractual terms. In addition, the advisory meeting requested that (1) the ICO terminate (for now, temporarily) its approval of the 2001, 2004, and 2010 SCCs; (2) draft an entirely new protocol for cross-border data transfers specific to the UK; (3) publish a data transfer risk assessment; and (4) make changes to the UK's existing data transfer guidelines. ([More](#))



立方律师事务所编写《立方观评》的目的仅为帮助客户及时了解中国法律及实务的最新动态和发展，上述有关信息不应被看作是特定事务的法律意见或法律依据，上述内容仅供参考。



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