



# NEWSLETTER

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## 知识产权 Intellectual Property

### 《商标审查审理指南》2022施行

2021年11月16日，国家知识产权局发布《商标审查审理指南》（“《指南》”），《指南》自2022年1月1日起施行，原《商标审查及审理标准》同时废止。《指南》增加形式审查和事务工作编，细化了商标各项业务形式审查工作标准；明确商标文字检索等要素分类，规范检索；添加典型案例版块指导实践；补充马德里商标国际注册申请、异议以及后续业务等各项业务审查标准；对商标费用、文件送达、商标档案、商标公告等内容进行了规范。

来源：[国家知识产权局官网](#)

### ***The Guidance of Trademark Examination and Review Will Be Effective in 2022***

On 16 November 2021, the China National Intellectual Property Administration ("CNIPA") issued *The Guidance of Trademark Examination and Review* ("the Guidance"), which shall come into effect from 1 January 2022, and the former *Trademark Examination and Review Standards* shall be repealed at the same time. The Guidance adds formal examination and work chapter, refines the work standards for the formal examination of trademark; clarifies the classification of elements such as trademark text search; adds a typical case section to guide practice; supplements the examination standards for actions such as applications for international registration of Madrid trademarks, opposition and follow-up actions; and regulates trademark fees, document service, trademark files and trademark announcements.

Source: [CNIPA](#)

### 国家知识产权局明确：“逍遥镇”“潼关肉夹馍”，无权收加盟费

11月26日，国家知识产权局就“逍遥镇”“潼关肉夹馍”商标纠纷答记者问。

国家知识产权局指出，从法律上，“逍遥镇”作为普通商标，其注册人并不能据此收取所谓的“会费”。“潼关肉夹馍”是作为集体商标注册的地理标志，其注册人无权向潼关特定区域外的商户许可使用该地理标志集体商标并收取加盟费。同时，也无权禁止潼关特定区域内的商家正当使用该地理标志集体商标中的地名。

来源：[国家知识产权局](#)

### **Response from the CNIPA: "Xiaoyaozhen" and "Tongguan Rougamo", No Franchise Fees Allowed**

On 26 November 2021, CNIPA answered reporters' question on the dispute over the trademark of "Xiaoyaozhen" and "Tongguan Rougamo".

CNIPA responded that, the registrant of the "Xiaoyaozhen" trademark, which is a common trademark, could not charge the so-called "franchise fee". The "Tongguan Rougamo" is a registered geographical indication collective trademark, and its registrant does not have the right to license the collective trademark to merchants outside the specific area of Tongguan and charge franchise fees. At the same time,

the registrant has no right to prohibit businesses in the specific area of Tongguan from using the geographical names.

Source: CNIPA

## 深圳将建立商事主体名称登记驰名商标和知名字号保护名录

2021年11月22日，深圳市市场监督管理局发布《深圳市市场监督管理局商事主体名称登记驰名商标和知名字号保护办法》，该办法主要为已载入《商事主体名称登记驰名商标和知名字号保护名录》或正处于公示期的驰名商标及知名字号提供保护。并非所有驰名商标、知名字号都会直接纳入保护名录，保护名录在建立时要考虑字号是否显著区别于其他企业字号，以及公众熟知程度。保护名录公布后，商事主体认为有应当载入但未被载入保护名录情形的，可以向商事登记机关提出载入保护名录的建议。

来源：深圳市市场监督管理局官网

## Shenzhen Will Establish a List of Well-Known Trademarks and Famous Trade Names for the Protection of the Company Name Registration

On 22 November 2021, the Shenzhen Administration of Market Regulation issued the *Measures for the Protection of Well-known Trademarks and Famous Trade Names of Commercial Entities of the Shenzhen Administration of Market Regulation*, which mainly provides protection for well-known trademarks and famous trade names that have been included in the *List for the Protection of Well-known Trademarks and Famous Trade Names of Commercial Entities* or are in the public disclosure period. Not all well-known trademarks and famous trade names are directly included in the Protection List, which is established taking into account whether the name is significantly different from other trade names and the degree of public familiarity. If, after the publication of the Protected List, a commercial entity believes that it shall be included but has not been included in the Protected List, it may submit a proposal to the commercial registration authority to be included in the Protected List.

Source: Shenzhen Administration of Market Regulation

## 龙净“干法烟气净化”大型环保设备专利诉讼获赔1763.5万元

近日，南京市中级人民法院对福建龙净脱硫脱硝工程有限公司（以下简称福建龙净公司）诉某环境科技股份有限公司（以下简称某环境公司）侵害发明专利权纠纷一案作出了一审判决，判令某环境公司停止侵权行为并赔偿福建龙净公司经济损失及维权合理开支共计1763.5万元。

法院认为，被诉侵权设备的总承包合同约定的总金额可以作为计算某环境公司获利的基数。在此基础上，综合考虑行业平均利润率、涉案专利在被诉侵权设备中的技术贡献率，确定了10%的利润率。据此，认定某环境公司因侵权行为所获利润为1738万元，并全额支持了原告福建龙净公司关于维权合理开支25.5万元的主张。

来源：南京市中级人民法院

## In A Patent Litigation, Nanjing Court Awarded Damages of ¥17.635 Million Based on Calculation of Profit of the Defendant

Recently, the Nanjing Intermediate People's Court made a judgment of first instance on the case of Fujian Longjing Desulphurization and Denitrification Engineering Co., Ltd. (hereinafter referred to as Fujian Longjing) v. XX environmental technology company (hereinafter referred to as XX environmental company) infringed the patent right of the invention. Ordering XX environmental company to stop the infringement and to compensate Fujian Longjing for economic losses and reasonable expenses for the maintenance of rights totalling RMB 17,635,000.

The court held that the total amount agreed in the general contract for the infringing equipment could be used as the basis for calculating the profit made by XX environmental company. On this basis, a profit margin of 10% was determined by taking into account the average profit margin of the industry, and the technical contribution ratio of the patent in question in the infringing equipment. Accordingly, it was determined that the profit made by an environmental company as a result of the infringement was RMB 17.38 million, and the plaintiff, Fujian Longjing, was fully supported in its claim for reasonable expenses of ¥255,000 yuan to defend its rights.

Source: Nanjing Intermediate People's Court

## 组织刷单系不正当竞争，“大众点评”获赔30万元

上海汉涛信息咨询有限公司（“上海汉涛”）系大众点评平台的经营者，青岛简易付网络技术有限公司（“青岛简易付”）等三被告以营利为目的组织刷手刷单炒信，提供针对“大众点评”平台的店铺点赞、上门好评、人工店铺收藏、增加店铺访客量和浏览量等有偿服务，进行虚假交易、好评、炒作信用，帮助其他经营者进行虚假的商业宣传，造成了“大众点评”平台上的相关数据不真实，影响了上海汉涛的信用评价体系。虽然上海汉涛与被告青岛简易付在具体业务范围上存在一定差异，但两者均为互联网领域的经营者，存在竞争关系，故青岛简易付构成不正当竞争。最终，法院判决被告青岛简易付赔偿“大众点评”经济损失及合理支出30万元。

**立方短评：**反不正当竞争法的制定目的是为了鼓励和保护公平竞争，制止不正当竞争行为，并保护经营者和消费者的合法权益。为适应当前科技进步及互联网发展，“竞争关系”的认定趋势向扩大解释现有概念内涵和发展新概念的两个方向发展。增加了认定存在竞争关系的基准要素，不再单纯考虑商品或服务的可替代性，提出间接竞争关系的概念。即使经营者提供的是不相同也非类似的商品或服务，但若经营者的市场交易行为损害了其他经营者的合法权益，扰乱了社会经济秩序，则此类行为也应被认定是不正当竞争行为。

来源：知产宝

## Fabricating Data and Information on Dianping Platform Was Recognized by Court as Unfair Competition

Shanghai Hantao Information Consulting Co., Ltd ("Shanghai Hantao") is the operator of the Dianping platform, Qingdao Simple Pay Network Technology Co., Ltd ("Qingdao Simple Payment") and the other three defendants organized people to create false orders on Dianping for the purpose of profit. These company conducted false transactions, positive reviews and credit speculation, and helped other operators to carry out false commercial promotion, resulting in untrue data on the "Dianping" platform and affecting Shanghai Hantao's credit rating system. Although there were some differences in the scope of

business between Shanghai Hantao and the defendant Qingdao Simple Payment, both were operators in the Internet field and had a competitive relationship, and Qingdao Simple Payment constituted unfair competition. The court awarded damages of ¥300,000 to the plaintiff.

#### **Lifang & Partners Comments:**

In order to adapt to the current technological progress and the development of the Internet, the trend of determining the "competitive relationship" in pursuant to the Anti-Unfair Competition Law has evolved in two directions: expanding the interpretation of existing concepts and developing new concepts. The elements for determining the existence of a competitive relationship have been extended, and the concept of indirect competitive relationship has been introduced, instead of mere considering the substitutability of goods or services. Even if an operator provides goods or services that are not identical or similar, such acts shall be deemed as unfair competition, if the operator's market transactions harm the legitimate rights and interests of other operators, and disrupt the social and economic order.

Source: [iphouse](#)

### **软件附署名条件免费商业使用，未署名构成侵权**

长沙米拓信息技术有限公司（以下简称米拓公司）于2019年7月26日开发了米拓企业建站系统，享有该款软件的著作权。该公司网站为网络用户提供涉案建站软件的免费下载。用户需同意《最终用户授权许可协议》后，才可在自己计算机终端（服务器）中安装、使用建站软件。涉案用户协议主要内容载明，米拓公司同意用户免费商业使用涉案建站软件，但要求用户在所建网站中保留米拓公司的版权标识和网站链接信息。米拓公司发现河南省工程建设协会未按用户协议要求保留米拓公司的版权标识和网站链接信息，遂提起诉讼。

最高人民法院知识产权法庭二审认为，软件著作权人免费提供可由不特定用户免费下载使用的建站软件，在用户协议中明确要求免费使用软件的用户须保留著作权人的版权标识和有关链接信息，用户免费下载使用该建站软件时去除版权标识和有关链接信息，应当认定该用户侵害计算机软件著作权人的署名权，其应当依法承担停止侵害、赔偿损失的责任，人民法院还可根据其过错及侵权情节等具体情况酌定其是否承担赔礼道歉责任。

来源：[最高人民法院知识产权法庭官网](#)

### **Non-Compliance with Author Conditions in the Free Commercial Use of Software Can Constitutes Infringement**

Changsha Mituo Information Technology Co., Ltd (hereinafter referred to as Mituo) developed the Mituo website building system on 26 July 2019, and is the owner of copyright of the software. Mituo's website provides free downloads of the website building software for internet users. Users are required to agree to the *End User License Agreement* before they can install and use the website building software in their own computer terminals (servers). The main content of the *End User License Agreement* states that Mituo agrees to the free commercial use of the website software, but requires the user to retain Mituo's copyright logo and website link information in the website building software. Mituo found that Henan Province Engineering Construction Association did not retain Mituo's copyright logo and website link information as required by the *End User License Agreement*, and filed a lawsuit.

The Intellectual Property Court of the Supreme People's Court held in the second instance, that the software copyright owner provides free website building software that can be downloaded and used by unspecified users, and the user agreement clearly requires the user who uses the software for free to retain the copyright logo and relevant link information of the copyright owner. The user shall be deemed to have infringed the authorship right of the copyright owner of the computer software by removing the copyright logo and relevant link information, when downloading and using the website software free of charge, and shall be liable for stopping the infringement, and compensating for damages in accordance with the law, and the People's Court may also decide whether to assume the liability of making an apology.

Source: [The Intellectual Property Court of the Supreme People's Court](#)

### “Supreme”标识被擅用，法院判赔850万元

美国章节四公司（CHAPTER 4 CORP.）是一家于1993年在美国纽约州成立的潮牌公司。2019年11月14日，章节四公司以不正当竞争及商标侵权为由提起诉讼，认为上海皎奢国际贸易有限公司、复品实业(上海)有限公司,在其生产销售的被控侵权产品上使用“Supreme”标识，浙江奥特莱斯广场有限公司销售前述被控侵权产品并且在销售场所单独突出使用前述被控侵权标识，侵害了其所享有的第14108746号“Supreme”商标权，并构成不正当竞争。最终法院支持了章节四公司的诉讼请求，判决三被告共同承担共计850万元的赔偿责任。

本案中，章节四公司虽在中国并无一家实体店铺，但结合媒体报道事实、章节四公司与LV、NIKE、LACOSTE等品牌先后在中国大陆推出过联名款的事实、国家知识产权局在先行政决定中的事实认定等，可以认定“Supreme”标识已经具有一定影响，应受反不正当竞争法保护。同时，章节四公司的商标权亦应受到保护，由于商标权的地域性，上海皎奢国际贸易有限公司在境外取得的注册商标权不能对抗境内的在先合法权益，进口商品上使用的商标需避免侵害进口国的注册商标权或其他商业标识权益。

来源：[浙江省高级人民法院](#)

### Court Awards ¥8.5 Million in Damages for Unauthorised Use of Logo of Supreme

CHAPTER 4 CORP (C4C). is a hipster company founded in 1993 in New York State, USA. On November 14, 2019, C4C filed a lawsuit for unfair competition and trademark infringement, claiming that Shanghai Jiaoshe International Trade Co. Ltd. used the "Supreme" logo on the infringing products manufactured and sold by them, and that the Zhejiang Outlet Plaza Co. sale of the aforesaid infringing products constituted unfair competition. The Court ultimately upheld C4C 's claim and awarded the three defendants joint liability for a total of ¥8.5 million in damages.

In this case, although the defendant added the words "Italfigo" or "GRIP" to "Supreme", the font is not easily observable by the public as it is too small compare to the word "Supreme" and has a weaker overall presence; the main identifying feature of marks remains the word "Supreme". The defendant's use of the similar marks on same goods with C4C constituted trademark infringement. Although C4C does not have a physical shop in China, in light of the facts reported in the media, the fact that C4C has launched co-branded models with brands such as LV, NIKE and LACOSTE in China, and the factual findings of the CNIPA in its prior administrative decision, it can be concluded that the "Supreme " logo already has



a certain influence and shall be protected by the *Anti-Unfair Competition Law*. At the same time, the trademark rights of the C4C shall also be protected. Due to the territorial nature of trademark rights, the registered trademark rights obtained by Shanghai Jiaoshe International Trading Co., Ltd. outside of China cannot be opposed to the prior legitimate rights and interests within the China, and the trademarks used on imported goods need to avoid infringing the registered trademark rights or other commercial mark rights and interests in the importing country.

Source: Zhejiang Higher People's Court

## 欧洲议会委员会通过《数字市场法》建议案

11月23日,欧洲议会内部市场和消费者保护委员会以绝对多数票通过了旨在限制国际互联网巨头不正当竞争行为的《数字市场法》建议案。

这项建议案将市值超过800亿欧元、在欧洲年营业额超过80亿欧元的社交网络、搜索引擎、操作系统及电子商务运营商定性为“核心平台服务提供商”或“看门人”公司(gatekeeper),其中显然包括了谷歌、脸书、亚马逊等国际互联网巨头。建议案规定,这类公司在欧盟范围内不允许利用数据优势向用户投放指向性广告,除非获得用户明确许可。同时这类公司在欧盟范围内的同行业并购也将受到限制和监管,并购意向必须在事前获得欧盟委员会许可。如果这类公司有违反上述规定的行为,将被处以年营业额4%至20%的罚款。

欧洲议会全会计划在12月对《数字市场法》进行表决,如获通过将与欧盟各国政府展开进一步磋商,法案最终有望在明年上半年法国担任欧盟轮值主席国期间在欧洲落地实施。

来源: 央视新闻

## EU Parliament's key Committee Adopts Digital Markets Act

On 23 November 2021, the Parliament's Committee on the Internal Market and Consumer Protection (IMCO) approved the Digital Markets Act (DMA) following lengthy discussions, negotiations, and compromises.

The Digital Markets Act is a draft EU law intended to impose specific obligations on gatekeeper platforms, including the company with following criteria:

strong economic position, significant impact on the internal market and is active in multiple EU countries

strong intermediation position, meaning that it links a large user base to a large number of businesses

has (or is about to have) an entrenched and durable position in the market, meaning that it is stable over time

This obviously includes international internet giants such as Google, Facebook and Amazon. Under the proposal, such companies would not be allowed to take advantage of data to target advertising to users within the EU, unless they have obtained their explicit consent. They would also be subject to restrictions and regulations on mergers and acquisitions in the same industry within the EU, and would have to obtain prior approval from the European Commission for their intentions. Violations of these rules will result in fines of between 4% and 20% of annual turnover.

The European Parliament is scheduled to vote on the DMA in December and, if adopted, further consultations with EU governments will take place, with the bill eventually expected to be implemented in Europe during the French EU Presidency in the first half of next year.

Source: CCTV News

## 美国专利及商标局发布《2020年商标现代化法案》实施条例

11月17日，美国专利及商标局发布了《2020年商标现代化法案》（Trademark Modernization Act of 2020）的实施条例。条例内容包括建立新的商标异议单方删除（ex parte）和复审程序，同时明确了对注册商标“不使用（nonuse）”抗辩的新理由。实施条例将于2021年12月18日生效。2020年12月27日，《2020年商标现代化法案》在国会通过，该法案对《兰哈姆法案》（Lanham Act）进行了重大修订，旨在使商标审查程序现代化。

来源：USPTO

## The USPTO Amends the Rules of Practice to Implement Provisions of the Trademark Modernization Act of 2020 (TMA)

The United States Patent and Trademark Office (USPTO) amends the rules of practice in trademark cases to implement provisions of the *Trademark Modernization Act of 2020* (TMA). The TMA amends the Trademark Act of 1946 to establish new ex parte expungement and reexamination proceedings to cancel, either in whole or in part, registered marks for which the required use in commerce was not made. And provides for a new nonuse ground for cancellation before the Trademark Trial and Appeal Board. The regulation is effective on December 18, 2021. On 27 December 2020, TMA was passed in Congress, which makes significant amendments to the Lanham Act (the Act) and aims to modernize the trademark examination process.

Source: USPTO

## 立方竞争法周报 Weekly Competition Law News By Lifang & Partners

### 两药企不服3亿反垄断罚单告市场监管总局 北京高院提级审理

2021年11月22日，北京高级人民法院合并审理两药企不服国家市场监督管理总局（“市场监管总局”）反垄断处罚决定进而起诉市场监管总局的两起案件。此前，市场监管总局针对两涉案企业作出了3.255亿元的行政处罚。2020年12月，北京市第一中级人民法院开庭审理了这两起案件。如今，北京高级人民法院决定合并审理该案。（[查看更多](#)）

## Beijing High People's Court Hears over CNY 300 Million Anti-trust Penalty Decision

On November 22, 2021, Beijing High People's Court heard the cases together brought by two APIs companies against SAMR's CNY 325.5 million penalty decision. In the December of 2020, Beijing

No.1 Intermediate People's Court heard these two cases respectively, but this time Beijing High People's Court decided to hear the cases together. ([More](#))

### 市场监管总局集中发布43起未依法申报案处罚决定，合计处罚2750万元

2021年11月20日，市场监管总局集中发布了43起未依法申报案的处罚决定，合计处罚的金额为2750万元。本次公布的案件仍涉及多家国内知名互联网平台企业且绝大多数的违法情形为股权收购未依法申报。 ([查看更多](#))

### SAMR Issues 43 Gun-jumping Cases, Collectively Fining CNY 27.5 Million

On November 20, 2021, SAMR issued 43 gun-jumping cases, collectively fining CNY 27.5 million. It can be concluded from these 43 cases that various famous domestic internet platform companies are still involved in gun-jumping cases and most of these cases involved equity acquisition. ([More](#))

### 欧盟委员会重启对韩国现代重工20亿美元收购大宇造船交易的反垄断审查

2021年11月25日，根据相关媒体报道，欧盟委员会近日宣布将重启对韩国现代重工（Hyundai Heavy Industries）对其竞争对手大宇造船（Daewoo）价值20亿美元的收购交易的反垄断审查。此前，欧盟委员会于2020年7月暂停了对这一交易的审查，原因在于当事人并未提供监管机构所需的足够数据。监管机构担心，这一交易将导致货船制造市场的价格飞速上涨并导致竞争减少。据报道，欧盟委员会将于2022年1月20日之前作出其审查决定。此外，该项交易仍需要得到韩国以及日本相关监管机构的批准。 ([查看更多](#))

### EU Restarts Hyundai, Daewoo EU 2 Billion Deal Probe

EU antitrust regulators have resumed their investigation into Hyundai Heavy Industries bid for rival Daewoo after a temporary halt of more than a year, setting a Jan. 20 deadline for their decision on the deal. The European Commission, which paused its probe in July last year while waiting for the companies to provide requested data, had previously expressed concerns that the deal could inflate prices and reduce competition in cargo shipbuilding. The deal also requires regulatory approval in South Korea and Japan. ([More](#))

### 意大利反垄断机构对亚马逊和苹果罚款逾2亿欧元

2021年11月23日，意大利竞争和市场管理局（AGCM）发布消息称，亚马逊和苹果公司在2018年的合同中达成反竞争约定，只有选定的转售商被允许在Amazon.it上销售苹果和Beats产品。AGCM认为此举违反了欧盟规则，对亚马逊和苹果分别处以6870万欧元和1.345亿欧元的罚款。 ([查看更多](#))

## Amazon and Apple Hands over 200 Million in Italian Antitrust Fines

On November 23, 2021, it was reported by Italian antitrust watchdog that it had fined U.S. tech giants Amazon and Apple a total of more than 200 million euros for alleged anti-competitive cooperation in the sale of Apple and Beats products. It was found that the contractual provisions of a 2018 agreement between the companies meant only selected resellers were allowed to sell Apple and Beats products on Amazon.it, the watchdog said, adding that this was in violation of European Union rules and affected competition on prices. The authority imposed a fine of EU 68.7 million on Amazon and EU 134.5 million on Apple, ordering the companies to end the restrictions to give retailers of genuine Apple and Beats products access to Amazon.it in a non-discriminatory manner. ([More](#))

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

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### 《上海市数据条例》表决通过，明年1月1日起施行

2021年11月25日，上海市第十五届人大常委会第三十七次会议表决通过了《上海市数据条例》，为上海全面推进城市数字化转型提供基础性制度保障。

《上海市数据条例》规定了数据发展和管理体系、数据权益保障、公共数据、数据要素市场、数据资源开发和应用、浦东新区数据改革、长三角区域数据合作和数据安全及相应法律责任。

([查看更多](#))

### Shanghai Data Regulation Adopted and to Come into Force on January 1, 2021

On November 25, 2021, the 37th meeting of the Standing Committee of the 15th Shanghai Municipal People's Congress voted to adopt *Shanghai Data Regulation*, providing a basic institutional guarantee for Shanghai to comprehensively promote the urban digital transformation.

*Shanghai Data Regulation* regulates on data development and management systems, protection of data rights and interests, public data, data element markets, development and application of data resources, data reform in Pudong New Area, data cooperation in the Yangtze River Delta region and data security and corresponding legal responsibilities. ([More](#))

### 中央网信办发布《关于进一步加强娱乐明星网上信息规范相关工作的通知》

2021年11月23日，中央网信办印发《关于进一步加强娱乐明星网上信息规范相关工作的通知》（以下简称《通知》），旨在进一步加强娱乐明星网上信息规范，维护良好网络舆论秩序，营造更加清朗的网络空间。《通知》从内容导向、信息呈现、账号管理、舆情机制等4个方面提出15项具体工作措施，力求有效规范娱乐明星网上信息。《通知》强调，各地网信部门要高度重视加强娱乐明星网上信息规范工作，制定细化实施方案，指导督促网站平台抓好各项措施落实，务求取得工作实效。 ([查看更多](#))

## The CAC Issued *the Notice on Further Strengthening the Online Information Standards of Entertainment Stars*

On November 23, 2021, the Cyberspace Administration of China (CAC) issued *the Notice on Further Strengthening the Online Information Standards of Entertainment Stars* (the “*Notice*”), aiming to further strengthen the online information norms of entertainment figures, maintain good order of the online environment, and create clearer cyberspace. The *Notice* puts forward 15 specific work measures from four aspects, including content orientation, information presentation, account management and public opinion mechanism, in an effort to effectively standardize the online information of entertainment figures. The *Notice* stresses that the local Internet and information departments should attach great importance to strengthening the regulation work of online information of entertainment figures, formulate detailed implementation plans, guide and urge the website platforms to pay attention to the implementation of various measures to ensure efficient working achievement. ([More](#))

## 上海数据交易所揭牌成立

2021年11月25日，上海数据交易所揭牌成立仪式暨2021上海全球数商大会在沪举行。市委副书记、市长龚正为上海数据交易所揭牌并启动全数字化交易系统。会上，上海市数据交易专家委员会同步成立，31位在法律合规、金融交易、数据产业、数据安全、公共管理、综合经济等领域的专家，将为数据流通交易提供咨询意见和专业指导。 ([查看更多](#))

## Shanghai Data Exchange was Inaugurated

On November 25, 2021, the inauguration ceremony of Shanghai Data Exchange & 2021 Shanghai Global Digital Business Conference, was held in Shanghai. Gong Zheng, the Deputy Secretary of Municipal Party Committee and Mayor, inaugurated the Shanghai Data Exchange and launched the all-digital trading system. At the meeting, Shanghai Data Exchange Expert Committee was also established. 31 experts in the fields of legal compliance, financial transaction, data industry, data security, public management, and comprehensive economy, etc. will provide advice and professional guidance for data circulation and transaction. ([More](#))

## 工信部对腾讯公司采取过渡性的行政指导措施

今年以来，在工信部开展的App侵害用户权益专项整治中，腾讯公司旗下9款产品存在违规行为，共计4批次被公开通报，违反了2021年信息通信业行风纠风相关要求。按照有关部署，工信部对腾讯公司采取过渡性的行政指导措施，要求对于即将发布的App新产品，以及既有App产品的更新版本，上架前需经工信部组织技术检测，检测合格后正常上架。 ([查看更多](#))

## MIIT Takes Transitional Administrative Guidance Measures Against Tencent

Since this year, in the special rectification of Apps' infringement on users' rights carried out by Ministry of Industry and Information Technology (MIIT), nine products of Tencent have violated related rules and been publicly notified for four times, violating the relevant regulations of the information and communication industry in 2021. In accordance with the relevant deployment, MIIT has taken transitional administrative guidance measures for Tencent, asking that new App products and updated versions of

existing App products shall be technically tested by the MIIT, and only if they pass the test, will they be put on the apps shop. ([More](#))

## 国家计算机病毒应急处理中心监测发现十七款违法移动应用

国家计算机病毒应急处理中心近期通过互联网监测发现17款移动应用存在隐私不合规行为，违反《网络安全法》《个人信息保护法》相关规定，涉嫌超范围采集个人隐私信息。（[查看更多](#)）

### The CVERC Found 17 Illegal Mobile Applications

The National Computer Virus Emergency Response Center (CVERC) recently found 17 mobile applications with privacy non-compliance through Internet monitoring, which violate the relevant provisions of *the Cybersecurity Law* and *the PIPL* and are suspected of collecting personal privacy information beyond the scope. ([More](#))

## 工信部、公安部约谈阿里云、百度云督促落实防范治理电信网络诈骗工作要求

近日，工业和信息化部网络安全管理局、公安部刑事侦查局联合约谈阿里云、百度云两家企业相关负责人，通报了近期两家企业在防范治理电信网络诈骗工作中存在的接入涉诈网站数量居高不下等问题，要求两家企业切实履行网络与信息安全管理主体责任，严格落实《网络安全法》等法律法规要求，对相关问题限期予以整改；拒不整改或整改不到位的，将依法依规从严惩处。两家企业表示将认真落实监管要求，进一步加强网站接入、域名注册、信息服务等管理，切实防范化解电信网络诈骗风险。（[查看更多](#)）

### The MIIT and the MPS Interviewed Ali Cloud and Baidu Cloud to Urge Implementation of the Prevention and Control of Telecommunications Network Fraud Work Requirements

Recently, the Network Security Administration of MIIT and the Criminal Investigation Bureau of Ministry of Public Security(MPS) jointly interviewed the heads of Ali Cloud and Baidu Cloud, notified their problems in the prevention and governance of telecom network fraud, including the large number of links to fraudulent websites, etc., requires the two enterprises to fulfill their network and information security responsibilities, strictly implement *the Cybersecurity Law* and other laws and regulations, and rectify the relevant problems. If the two enterprises refuse to rectify or the rectification is implemented inadequately, they will be severely punished in accordance with the laws and regulations. The two enterprises indicated that they would earnestly implement the regulatory requirements, further strengthen the management of website access, domain name registration and information services, and effectively prevent and defuse the risk of telecom and network fraud. ([More](#))

## 欧盟《数字市场法》：结束大型网络平台的不公平行为

2021年11月23日上午，欧盟国内市场和消费者保护委员会通过了《数字市场法》（DMA）提案，该提案规定了欧盟允许具有“看门人”地位的公司做什么和不做什么的规则。该法律草案将大型平台的某些行为列入黑名单，并使委员会能够进行市场调查并制裁违规行为。（[查看更多](#)）

### Digital Markets Act: ending unfair practices of big online platforms

On the morning of November 23, 2021, the Internal Market and Consumer Protection Committee adopted the Digital Markets Act (DMA) proposal, which sets rules on what companies with “gatekeeper” status will be allowed to do and not to do in the EU. The draft law blacklists certain practices of large platforms and enables the Commission to carry out market investigations and sanction non-compliant behaviours. ([More](#))

## EDPB通过致联合国和ENISA的文件

在11月的全体会议上，欧洲数据保护委员会（EDPB）通过了一项回复联合国的关于向国际组织转移的文件。EDPB在信中欢迎联合国继续参与欧洲数据保护专员公署设立的向国际组织转移信息的特别工作组。

EDPB还就欧洲云服务网络安全认证计划（EUCS）与Schrems II的兼容性通过了致欧洲网络与信息安全局（ENISA）的文件。在文件中，EDPB重申了其立场，即最终认证计划应符合GDPR规定的义务，并应促进云服务提供商及其客户遵守GDPR，同时考虑到Schrems II的裁决。（[查看更多](#)）

### EDPB Adopts Letters to UN & ENISA

During its November plenary, the European Data Protection Board (EDPB) adopted a letter in reply to the United Nations (UN) concerning transfers to international organisations. In the letter, the EDPB welcomes the UN’s continuous participation in the Task Force on transfers to international organisations established by the European Data Protection Supervisor.

The EDPB also adopted a letter to European Union Agency for Cybersecurity (ENISA) concerning the European Cybersecurity Certification Scheme for Cloud Services’ (EUCS) compatibility with Schrems II. In the letter, the EDPB reiterates its stance that the final certification scheme should be consistent with the obligations laid down in the GDPR and should facilitate the compliance of cloud service providers and their clients with the GDPR, also considering the Schrems II ruling. ([More](#))

## 澳大利亚信息专员办公室发布首个消费者数据权利隐私评估

2021年11月23日，澳大利亚信息专员办公室（OAIC）发布了第一份消费者数据权利（CDR）隐私评估。OAIC提供了13项具有法律约束力的隐私保护措施，规定了消费者的隐私权以及提供商收集和处理其数据的义务。

OAIC的第一次隐私评估审查了最初的 CDR 数据持有人如何遵守隐私保护案一，该保护案要求提供商制定政策，说明他们如何管理消费者数据，并实施部实践、程序和系统以确保合规性。

([查看更多](#))

## **OAIC Published First Consumer Data Right Privacy Assessment**

On November 23,2021, the Office of the Australian information Commissioner (OAIC) Published its first Consumer Data Rights (CDR) Privacy Assessment. OAIC provides 13 legally binding privacy protections that set out consumers' privacy rights and providers' obligations to collect and process their data.

The OALC's first privacy assessment examined how the initial CDR data holders are complying with Privacy Safeguard 1, which requires providers to have a policy describing how they manage consumer data, and to implement internal practices, procedures and systems to ensure compliance. ([More](#))



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