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立方要闻周报

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立方竞争法周报 **Weekly Competition Law News**

浙江开展反行政性垄断专项行动，破除地方保护和市场分割

Zhejiang Launches Special Campaign on Administrative Monopoly Against Local Protection and Market Segmentation

河北省市监局面向全省征集反垄断违法线索

Hebei AMR Looks for Clues about Antitrust Violations from Public

国务院发布加快建设全国统一大市场的意见，强调反垄断重点领域执法等问题

The State Council Issues *Opinions on Accelerating the Construction of a National Unified Market*, Emphasizing Antitrust Law Enforcement in Key Areas

纽约议员推动反垄断法案，打击企业合并和不公平高价行为

New York Lawmakers Call for Antitrust Bill to Crack Down on Corporate Consolidation and Unfairly High Prices

意大利将组建新部门监管战略性企业并购

Italy to Set up Unit to Scrutinize Takeovers of Strategic Firms

斯堪尼亚向欧洲法院提起反垄断上诉

Scania Appeals to ECJ against Judgment in Antitrust Ruling

欧盟附条件批准美国工程航空集团派克汉尼汾收购Meggitt

EU Commission Approves Parker's Acquisition of Meggitt, Subject to Conditions

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



党中央国务院《加快建设全国统一大市场的意见》：建立数据要素市场基础制度

The CPC Central Committee and the State Council Issue *Opinions on Accelerating the Construction of the National Unified Market, Establishing Basic System for Data Element Markets*

中国信通院发布人工智能白皮书（2022）

CAICT Releases *White Paper on Artificial Intelligence (2022)*

中国互联网金融协会、中国银行业协会、中国证券业协会联合发起《关于防范NFT相关金融风险倡议》

NIFA, CBA and SAC Jointly Launch *Proposal on Preventing Financial Risks Related to NFT*

工业互联网专项工作组办公室发布《2022年工作计划》

The Office of the Industrial Internet Special Action Releases the *2022 Work Plan*

中央网信办、国家税务总局、国家市场监督管理总局联合开展“清朗·整治网络直播、短视频领域乱象”专项行动

CAC, STA and SAMR Jointly Launch the *Special Action of Qinglang 2022 to Rectify the Field of Online Live Broadcasting and Short Video*

国家广电总局、中宣部发布《关于加强网络视听节目平台游戏直播管理的通知》

NRTA and Publicity Dept. of CPC Issue the *Notice on Strengthening Management of the Online Audio-Visual Live Broadcasting Platforms of Games*

《2022年广东省数字经济工作要点》出台

Key Points of Digital Economy in Guangdong 2022 Released

国内首个可支持企业数据跨境流动的数据托管服务平台正式投入使用

The First Domestic Data-Hosting Platform Available for Enterprise Data Cross-Border Flow Officially Put into Use

最高法发布民法典颁布后人格权司法保护典型民事案例：AI算法、人脸识别技术应用可构成侵权

SPC Typical Cases of Personality Rights after Civil Code: AI Algorithms and Facial Recognition Apps May Cause Infringement



No.294

2022.04

新加坡网络安全服务供应商许可框架正式生效

Singapore: *Licensing Framework* for Cybersecurity Service Providers Enters into Effect

新加坡提高违反个人数据保护法的罚款额度

Higher Fines for Breach of PDPA in Singapore

荷兰税务机构因违反GDPR被数据保护局处以370万欧元罚款

Dutch DPA Fines Tax Authorities EUR 3.7 Million for Violating GDPR

巴西参议院将批准新的加密市场监管法案

Brazilian Senate Announces Incoming Approval of the *Bill Regulating Cryptocurrency Market*

索尼和任天堂改进游戏会员自动续费规则

Sony and Nintendo Improve Gaming Subscription Rules

韩国Source Music因意外泄露粉丝个人信息被个人信息保护协会罚款300万韩元

Source Music Fined KRW 3 Million by PIPC for Accidentally Leaking Fans' Personal Information

路易威登因虚拟试穿功能而卷入数据隐私诉讼

Louis Vuitton Sued for Alleged Violation over Virtual Try-On Feature

知识产权 Intellectual Property

国家知识产权局发布关于持续严厉打击商标恶意注册行为的通知

China National Intellectual Property Administration (CNIPA) issued Notice on Continuously Cracking Down on Malicious Trademark Registrations

全国首例药品专利链接诉讼案件宣判

The first pharmaceutical patent linkage case in China was announced

号称“一机玩遍所有游戏”，上海检察机关批捕一起涉嫌侵犯著作权罪案

Shanghai prosecutors approved the arrest of copyright infringement suspects who alleged "play all games on one machine"



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职工未经许可转发公司技术秘密至私人邮箱构成盗窃技术秘密侵权

The employee forwarding the company's technical secret to the private mailbox without permission constitutes the infringement on technical secret

超范围使用“Bang”商标？VPX在美被判赔1.75亿美金

VPX was fined USD 175 million in America for overuse of the "Bang" trademark

美国版权局发布CCB程序初始阶段的适用规则

The United States Copyright Office (USCO) issued applicable rules for the initial phase of the CCB Process

德国专利法修改将于2022年5月1日正式生效

The amendments to the German Patent Law will take effect on May 1, 2022

美国在欧洲申请专利数量超过中国等全球竞争对手

U.S. is outnumbering global rivals including China on patents filed in Europe

立方竞争法周报 Weekly Competition Law News

浙江开展反行政性垄断专项行动，破除地方保护和市场分割

2022年4月14日，为加快建设统一大市场，激发市场主体活力，浙江省市场监督管理局（“浙江省市监局”）开展破除地方保护和市场分割专项行动，聚焦教育、医疗卫生、工程建筑、交通运输、保险、政府采购、招投标等行业和领域，重点整治滥用行政权力限定或变相限定交易、妨碍商品服务和要素自由流通、排斥或限制外地经营者、制定含有排除限制竞争内容规定的行为。（[查看更多](#)）

Zhejiang Launches Special Campaign on Administrative Monopoly Against Local Protection and Market Segmentation

On April 14, 2022, in order to accelerate the construction of a national unified market and stimulate the vitality of market players, the Zhejiang Administration for Market Regulation (“Zhejiang AMR”) launched a special campaign against local protection and market segmentation, focusing on rectifying abuse of administrative power to restrict transactions directly or in disguise, hinder the free circulation of goods, services and factors, exclude or restrict out-of-town operators, formulate regulations that exclude and restrict competition, especially in education, health care, engineering construction, transportation, insurance, government procurement, bidding and other industries or fields. ([More](#))

河北省市监局面向全省征集反垄断违法线索

2022年4月12日，河北省市场监督管理局（“河北省市监局”）向社会广泛征集反垄断违法线索：（1）垄断协议违法行为，如行业协会或同类企业间固定价格、限制产量或分割市场、联合抵制交易等横向垄断协议，以及产品上下游供应链之间转售价格维持、限定销售区域和客户，或者排他性安排等纵向垄断协议；（2）滥用市场支配地位违法行为，如不公平高价或低价、拒绝交易、捆绑销售、差别待遇等；（3）行政垄断违法行为。（[查看更多](#)）

Hebei AMR Looks for Clues about Antitrust Violations from Public

On April 12, 2022, the Hebei Administration for Market Regulation (“Hebei AMR”) announces that it is wildly looking for clues about violations of the *Anti-Monopoly Law* from the public: (1) illegal monopoly agreements, including horizontal monopoly agreements between industry associations or similar enterprises fixing prices, restricting output, dividing market and refusing to deal, and vertical monopoly agreements between upstream and downstream suppliers maintaining resale prices, restricting sales areas and customers or other exclusive arrangements; (2) illegal abuse of market dominance, such as unfair pricing, refusing to deal, tying and bundling or discriminatory treatments; (3) illegal administrative monopoly conducts. ([More](#))

国务院发布加快建设全国统一大市场的意见，强调反垄断重点领域执法等问题

2022年4月10日，国务院发布《关于加快建设全国统一大市场的意见》（“《意见》”）。《意见》明确强调，应完善垄断行为认定法律规则，健全经营者集中分类分级反垄断审查制度；破

除平台企业数据垄断等问题，防止利用数据、算法、技术手段等方式排除、限制竞争；加强对金融、传媒、科技、民生等领域和涉及初创企业、新业态、劳动密集型行业的经营者集中审查；稳步推进自然垄断行业改革；加强对创新型中小企业原始创新和知识产权的保护。（[查看更多](#)）

The State Council Issues *Opinions on Accelerating the Construction of a National Unified Market*, Emphasizing Antitrust Law Enforcement in Key Areas

On April 10, 2022, the State Council of China issued the *Opinions on Accelerating the Construction of a National Unified Market* (“*Opinions*”). The *Opinions* specifically emphasized that authorities should improve the rules for the determination of monopolistic behaviors and complete the classification and grading system for merger review; resolve issues such as platform data monopolies, and prevent platform companies from utilizing data, algorithms and technical methods to exclude and restrict competition; strengthen merger control in the fields of finance, media, science technology, people’s livelihood as well as in the fields involving start-ups, new business forms and labor-intensive industries; steadily promote the reform of natural monopoly industries; enhance the protection of original innovation and intellectual property rights of small and medium enterprises. ([More](#))

纽约议员推动反垄断法案，打击企业合并和不公平高价行为

2022年4月13日，据媒体报道，纽约州议员正在推动一项新的反垄断法案，以打击企业合并和滥用市场力量实施不公平价格行为。《21世纪反垄断法案》（21st Century Antitrust Act）由纽约州参议院民主党副领袖迈克尔·吉纳瑞斯（Michael Gianaris）提出，该法案将“进一步授权司法部长调查企业哄抬价格行为，并允许消费者对垄断企业利用其市场力量不公平提高价格的行为提起集体诉讼”。（[查看更多](#)）

New York Lawmakers Call for Antitrust Bill to Crack Down on Corporate Consolidation and Unfairly High Prices

On April 13, 2022, according to media reports, the lawmakers in New York are pushing for a new anti-trust bill to crack down on corporate consolidation and abuse of market dominance for unfairly high prices. The bill of *21st Century Antitrust Act*, which is sponsored by New York State Senate Deputy Leader Michael Gianaris, “would further empower the attorney general to investigate corporate price gouging and allow consumers to sue when corporate monopolies use their market power to unfairly increase prices”. ([More](#))

意大利将组建新部门监管战略性企业并购

2022年4月11日，据报道，意大利政府将在内阁办公室组建新部门，加强对战略性公司并购交易的审查。该部门的职责之一是对相关市场动态进行战略分析，提升政府对战略性企业所有权架构变化的监控能力。意大利政府计划在今年5月底之前敲定该新规定，要求拥有敏感资产的企业在与潜在收购方初步接洽时即向意大利政府报告。（[查看更多](#)）

Italy to Set up Unit to Scrutinize Takeovers of Strategic Firms

On April 11, 2022, according to media reports, Italy plans to form a new unit at the cabinet office to oversee merger deals involving strategic companies. One of the tasks of the new unit will be strategic analysis of what is happening in relevant markets, to strengthen the government's capacity to police any changes to the ownership structure of strategic firms. The government plans to finalize by the end of May new rules forcing companies that own sensitive assets to inform it of preliminary discussions with potential suitors. ([More](#))

斯堪尼亚向欧洲法院提起反垄断上诉

2022年4月11日，瑞典货车和巴士制造商斯堪尼亚公司（SCANIA）发表声明，称已针对欧盟普通法院（EU General Court）的反垄断诉讼判决向欧洲法院（“ECJ”）提起上诉。2017年9月，欧盟委员会因其参与不当信息交换和在定价及推迟引入排放技术方面的卡特尔行为，作出超过8.8亿欧元（约合人民币60.6亿元）的罚款决定。同年稍晚时候，斯堪尼亚向普通法院提起上诉。2022年2月2日，普通法院判定维持欧盟委员会作出的罚款决定，驳回上诉。此次ECJ的二审结果将为终审判决。（[查看更多](#)）

Scania Appeals to ECJ against Judgment in Antitrust Ruling

On April 11, 2022, Scania, a Swedish manufacturer of vans and buses, issued a statement that it had appealed against EU General Court's judgment in a former antitrust ruling, to the European Court of Justice (“ECJ”). In September 2017, the EU Commission adopted a decision holding Scania liable to pay a fine of over EUR 880 million (around CNY 6.06 billion) for allegedly having participated in inappropriate exchanges of information and collusion with regard to pricing and the introduction of emissions technologies. Scania appealed to the General Court later the same year. On February 2, 2022, the General Court rendered a judgment that upheld the number of fines as set by the EU Commission and dismissed Scania's appeal. The ECJ's judgment will be the last court of instance. ([More](#))

欧盟附条件批准美国工程航空集团派克汉尼汾收购Meggitt

2022年4月11日，欧盟委员会附条件批准派克汉尼汾（Parker Hannifin）收购Meggitt的交易，条件是派克汉尼汾承诺剥离飞机机轮和制动器部门。经调查，欧盟委员会认为该承诺方案可维持在飞机机轮和制动器市场中的竞争，并继续使消费者在价格竞争中受益。欧盟委员会表示，批准合并的条件是派克汉尼汾完全遵守其做出的承诺。（[查看更多](#)）

EU Commission Approves Parker's Acquisition of Meggitt, Subject to Conditions

On April 11, 2022, the EU Commission has approved the proposed acquisition of Meggitt by Parker, subject to conditions that Parker committed to divest its entire aircraft wheels and brakes division. Through investigation, the EU Commission recognized the remedy package offered by Parker will preserve competition in these markets and ensure that customers will continue benefitting from competitive prices. The approval is conditional on full compliance with commitments offered by Parker. ([More](#))

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

党中央国务院《加快建设全国统一大市场的意见》：建立数据要素市场基础制度

2022年4月10日，《加快建设全国统一大市场的意见》（“《意见》”）正式出台，从技术和数据市场建设、反垄断与反不正当竞争、知识产权保护等方面向数字经济合规发展提出了要求。

《意见》提出加快培育统一的技术和数据市场：建立健全全国性技术交易市场，完善知识产权评估与交易机制，推动各地技术交易市场互联互通。完善科技资源共享服务体系，鼓励不同区域之间科技信息交流互动，推动重大科研基础设施和仪器设备开放共享，加大科技领域国际合作力度。加快培育数据要素市场，建立健全数据安全、权利保护、跨境传输管理、交易流通、开放共享、安全认证等基础制度和标准规范，深入开展数据资源调查，推动数据资源开发利用。（[查看更多](#)）

The CPC Central Committee and the State Council Issue *Opinions on Accelerating the Construction of the National Unified Market, Establishing Basic System for Data Element Markets*

On 10 April 2022, the *Opinions on Accelerating the Construction of the National Unified Market* (“Opinions”) was officially released, which aims to promote the digital economic compliance from the aspects of technology and data market construction, anti-monopoly and anti-unfair competition, and intellectual property protection. The Opinions propose to accelerate the cultivation of a unified technology and data market, establishing a national technology trading market, improving the intellectual property evaluation and trading mechanism, encouraging the interconnection of technology information in various regions, promoting the sharing of major scientific research infrastructure and instruments, and increasing international cooperation in the field of science and technology. The Opinions also emphasize the accelerating of data element market cultivation, establishing and improving basic systems and standards for data security, rights protection, cross-border transmission management, transaction circulation, open sharing, security certification, etc., conducting in-depth data resource investigations, as well as promoting data resource development and utilization. ([More](#))

中国信通院发布人工智能白皮书（2022）

2022年4月12日，中国信息通信研究院发布《人工智能白皮书（2022）》（“白皮书”），全面回顾了2021年以来全球人工智能在政策、技术、应用和治理等方面的最新动向，重点分析了人工智能所面临的新发展形势及其所处的新发展阶段。白皮书认为，人工智能技术及应用沿着“创新、工程、可信”三个方向持续演进，全球高度关注人工智能治理工作，人工智能安全可信成为重点。（[查看更多](#)）

CAICT Releases *White Paper on Artificial Intelligence (2022)*

On 12 April 2022, China Academy of Information and Communications Technology (“CAICT”) released the *White Paper on Artificial Intelligence (2022)* (“White Paper”), which comprehensively reviewed the latest trends in global artificial intelligence in policy, technology, application and govern-

ance since 2021. It focuses on analyzing the new development situation faced by artificial intelligence and its new development stage. The White Paper believes that AI technology and applications continue to evolve along the three directions of “innovation, engineering, and trustworthiness”. The world pays great attention to AI governance. AI security and trustworthiness have become the focal points. ([More](#))

中国互联网金融协会、中国银行业协会、中国证券业协会联合发起《关于防范NFT相关金融风险倡议》

2022年4月13日，为防范金融风险、保护消费者合法权益、维护行业健康生态，中国互联网金融协会、中国银行业协会、中国证券业协会联合发起一份《关于防范NFT相关金融风险倡议》（“《倡议》”），呼吁会员单位坚持守正创新，赋能实体经济；坚守行为底线，防范金融风险。《倡议》同时呼吁消费者树立正确的消费理念，自觉抵制NFT投机炒作行为，警惕和远离NFT相关非法金融活动，切实维护自身财产安全。（[查看更多](#)）

NIFA, CBA and SAC Jointly Launch Proposal on Preventing Financial Risks Related to NFT

On 13 April 2022, in order to prevent financial risks, protect the legitimate rights and interests of consumers, and maintain the healthy ecology of the industry, the National Internet Finance Association, the China Banking Association and the China Securities Association jointly launched a *Proposal on Preventing Financial Risks Related to NFT* (“Proposal”), calling on members to adhere to integrity for innovation supporting the real economy, and stick to the line to prevent financial risks. The Proposal also calls on consumers to establish a correct consumption concept, consciously resist speculative conducts, stay away from NFT-related illegal financial activities, and effectively protect their own property safety. ([More](#))

工业互联网专项工作组办公室发布《2022年工作计划》

2022年4月13日，工业互联网专项工作组办公室发布《2022年工作计划》（“《计划》”）。《计划》从网络体系强基行动、标识解析增强行动、平台体系壮大行动、数据汇聚赋能行动等十五个方面，确立加快5G全连接工厂建设等83项具体措施。其中，在深化融合应用方面，明确将发布一批工业互联网与细分行业融合应用参考指南；推进实施“十四五”国家重点研发计划“工业软件”重点专项，加快企业数字化改造关键技术创新。在强化技术创新方面，在“5G+工业互联网”、工业互联网标识解析、重点行业应用与安全等领域积极推进标准预研；组织实施2022年工业互联网创新发展工程，推动工业互联网产业链关键技术创新，上线不少于30个公共服务平台。（[查看更多](#)）

The Office of the Industrial Internet Special Action Releases the 2022 Work Plan

On 13 April 2022, the Office of the Industrial Internet Special Action released the *2022 Work Plan* (“Plan”). The Plan includes 15 aspects namely network system strengthening, identification resolution enhancement, platform system expansion, data aggregation empowerment and other actions, as well as 83 specific measures such as accelerating the construction of 5G fully connected factories. Among

them, in terms of deepening the integration application, the Plan specifically emphasizes a batch of reference guides for the integration application of the industrial Internet and sub-sectors will be released. It will promote the implementation of the key special projects of industrial software in the *14th Five-Year Plan* and accelerate the innovation of key technologies for digital transformation of enterprises. In terms of strengthening technological innovation, it will actively promote standard pre-research in the fields of 5G+ industrial Internet, industrial Internet identification, as well as key industry application and security. Besides, it will organize the *implementation of the 2022 Industrial Internet Innovation and Development Project*, promote key technological innovations in the industrial Internet industry chain, and launch no less than 30 public service platforms. ([More](#))

中央网信办、国家税务总局、国家市场监督管理总局联合开展“清朗·整治网络直播、短视频领域乱象”专项行动

2022年4月15日，按照2022年“清朗”系列专项行动安排，中央网信办、国家税务总局、国家市场监督管理总局宣布自即日起，开展为期两个月的“清朗·整治网络直播、短视频领域乱象”专项行动。主要任务以集中整治“色、丑、怪、假、俗、赌”等违法违规内容呈现乱象为切入点，进一步规范重点环节功能，从严整治功能失范、“网红乱象”、违规营利、恶意营销等突出问题。 ([查看更多](#))

CAC, STA and SAMR Jointly Launch the *Special Action of Qinglang 2022 to Rectify the Field of Online Live Broadcasting and Short Video*

On 15 April 2022, in accordance with the arrangements of the *Special Action of Qinglang 2022*, the Cyberspace Administration of China, the State Taxation Administration and the State Administration for Market Regulation announced that they will start a two-month Special Action of Qinglang 2022 to rectify the field of online live broadcasting and short video. The Special Action will focus on rectifying illegal contents include lustful, ugly, strange, fake, vulgar and gambling, further standardize the functions of key links, and strictly rectify outstanding issues such as functional anomie, Internet celebrity chaos, illegal profits and malicious marketing. ([More](#))

国家广电总局、中宣部发布《关于加强网络视听节目平台游戏直播管理的通知》

2022年4月15日，国家广播电视总局和中共中央宣传部联合发布了《关于加强网络视听节目平台游戏直播管理的通知》（“《通知》”），《通知》从6个方面对游戏直播作出规范要求，包括严禁传播违规游戏、加强对游戏直播内容播出管理、加强游戏主播行为规范引导、严禁违法失德人员利用直播发声出境、督促网络直播平台建立并实行未成年人保护机制和严格履行分类报备制度。 ([查看更多](#))

NRTA and Publicity Dept. of CPC Issue the *Notice on Strengthening Management of the Online Audio-Visual Live Broadcasting Platforms of Games*

On 15 April 2022, the National Radio and Television Administration and Publicity Department of the CPC Central Committee issued the *Notice on Strengthening Management of the Online Audio-Visual Live Broadcasting Platforms of Games* (“Notice”). The Notice regulates game live broadcasts from six

aspects, including strictly prohibiting the dissemination of illegal games, strengthening the management of game live broadcasting content, improving the guidance of game anchors' behavioral norms, strictly prohibiting illegal and immoral personnel from using live broadcasts and urging online live broadcast platforms to establish and implement a juvenile protection mechanism and strictly fulfill a classified reporting system. ([More](#))

《2022年广东省数字经济工作要点》出台

2022年4月14日，广东省工业和信息化厅发布《2022年广东省数字经济工作要点》（“《工作要点》”），围绕全面建设数字经济强省，针对发挥数据要素作用、大力推动数字产业化、加快推进产业数字化等提出系列举措。《工作要点》强调，建立健全数据法规制度体系、推进数据资源开发利用、促进数据交易流通。其中，提出要加速数据资源化、资产化、资本化，实施数字增值、数据增富工程，谋划建设“数字经济产业发展大脑”等具体工作。 ([查看更多](#))

Key Points of Digital Economy in Guangdong 2022 Released

On 14 April 2022, the Guangdong Department of Industry and Information Technology released the *Key Points of Digital Economy in Guangdong 2022* (“Key Points”), focusing on comprehensively building a strong digital economy province. The Key Points proposes a series of measures to give full play to data elements, to promote digital industrialization vigorously and to accelerate industrial digitalization. The Key Points emphasize that it is necessary to establish and improve the data legal system, to promote the development and utilization of data resources, and to improve the flow of data transactions. Among them, it is proposed to accelerate the resourceization, capitalization and capitalization of data, to implement digital value-added and data enrichment projects, as well as to establish a project of “Brain for the Development of Digital Economy and Industry”. ([More](#))

国内首个可支持企业数据跨境流动的数据托管服务平台正式投入使用

2022年4月14日，北京市朝阳区科学技术和信息化局联合北京国际大数据交易所研发的北京数据托管服务平台（“平台”）正式投入使用，为国内首个可支持企业数据跨境流通的数据托管服务平台。根据国家相关法律要求，数据处理器向境外提供在境内运营中收集和产生的重要数据及个人信息时，应当依照有关规定进行安全评估。平台以标准统一化、管理高效化、服务定制化为特点，支持提供数据托管、脱敏输出、融合计算、建档备案等服务，实现了数据、模型系统加密后托管，敏感数据审批后流通，保障数据跨境流通安全。 ([查看更多](#))

The First Domestic Data-Hosting Platform Available for Enterprise Data Cross-Border Flow Officially Put into Use

On 14 April 2022, the first domestic data-hosting platform available for enterprise data cross-border flow officially put into use (“Platform”). The Bureau of Science, Technology and Information of Chaoyang District, together with the Beijing International Big Data Exchange, developed the Platform. When data processors provide important data and personal information collected and generated during domestic operations to oversea operators, they shall conduct security assessments in accordance with relevant regulations. The platform is characterized by unified standards, efficient management, and customized services. It supports data-hosting, output desensitization, fusion computing and filing, which

realizes the encryption of data and model systems, also ensures the security of cross-border data flow. ([More](#))

最高法发布民法典颁布后人格权司法保护典型案例：AI算法、人脸识别技术应用可构成侵权

2022年4月11日，最高人民法院民一庭发布九件人格权司法保护典型案例。这九件案例，均为民法典颁布后全国各级人民法院已判决生效的具有重大社会影响和典型示范意义的案件，涉及网络与数据方面的案件包括网络竞价排名侵害名称权案、智能算法软件侵害人格权案、可视门铃侵害邻里隐私权案、非法买卖个人信息民事公益诉讼案等。通过案例，明确AI算法、人脸识别技术应用可构成侵权。 ([查看更多](#))

SPC Typical Cases of Personality Rights after Civil Code: AI Algorithms and Facial Recognition Apps May Cause Infringement

On 11 April 2022, the First Civil Division of the Supreme People's Court issued nine typical civil cases concerning protection of personality rights. The nine typical cases, of which the judgements have already come into effect after the promulgation of the Civil Code, have significant social impact and typical demonstration significance. They include cases concerning infringement of name rights by online bidding ranking, infringement of personality rights by intelligent algorithm software, infringement of privacy rights by neighbor's video doorbell, as well as Public Interest Litigation concerning illegal trading of personal information. It is clearly stated that the application of AI algorithms and face recognition technology may cause infringement. ([More](#))

新加坡网络安全服务供应商许可框架正式生效

2022年4月11日，新加坡网络安全局宣布根据2018年《网络安全法》第五部分启动网络安全服务供应商的许可框架。新框架旨在解决消费者和网络安全服务供应商之间的信息不对称问题，同时还提高了提供此类服务的标准。根据该框架，目前从事其中一种或两种服务类别的现有供应商必须在六个月之内申请许可。在2022年10月11日之后，无证提供服务的供应商将可能被处以最高50000新元的罚款和/或最高两年的监禁。 ([查看更多](#))

Singapore: Licensing Framework for Cybersecurity Service Providers Enters into Effect

On 11 April 2022, the Cyber Security Agency of Singapore has announced the launch of its *Licensing Framework* for cybersecurity service providers under Part 5 of the *Cybersecurity Act*. The intent of the framework is to better safeguard consumers' interests and address the information asymmetry between consumers and cybersecurity service providers. At the same time, the regulatory regime is also envisaged to improve service providers' standards and standing over time. Under the *Licensing Framework*, existing cybersecurity service providers who are already engaged in the businesses of providing either or both licensable cybersecurity services will be given six months to apply for a license. Any person who engages in the business of providing any licensable cybersecurity services

without a license after 11 October 2022 shall be guilty of an offence and liable on conviction to a fine not exceeding SGD 50000 or to imprisonment for a term not exceeding 2 years or to both. ([More](#))

新加坡提高违反个人数据保护法的罚款额度

2022年4月11日，据媒体报道，从2022年10月1日起，违反新加坡《个人数据保护法》（“PDPA”）的公司可能面临高达100万新元的罚款，如果该公司在新加坡的年营业额超过1000万新元，则会被处以新加坡国内营业额的10%的罚款。与GDPR相比，根据PDPA实施的处罚可能会更加严厉，GDPR目前规定了最高2000万欧元或全球营业额4%的罚款，二者之间以较高者为准。鉴于罚款提高，建议公司在新加坡收集、使用或披露个人数据时，仔细审查现有的数据保护计划和流程，以确保遵守PDPA。 ([查看更多](#))

Higher Fines for Breach of PDPA in Singapore

On 11 April 2022, according to the media reports, from 1 October 2022, companies that breach the Personal Data Protection Act (“PDPA”) may face fines of up to SGD 1 million or where the organization’s annual turnover in Singapore exceeds SGD 10 million, 10% of the organization’s Singapore turnover. Penalties imposed under the PDPA could potentially be more stringent compared to the GDPR, which currently imposes fines of up to EUR 20 million or 4% worldwide turnover, whichever is higher. Given these higher financial penalties, organizations collecting, using or disclosing personal data in Singapore are recommended to carefully review their existing data protection programs and processes to ensure compliance with the PDPA. ([More](#))

荷兰税务机构因违反GDPR被数据保护局处以370万欧元罚款

2022年4月12日，荷兰数据保护局（“DPA”）因违反GDPR对荷兰税务机关处以370万欧元的罚款。这是DPA有史以来最高的罚款，处罚依据包括6项违规行为：（1）没有法律依据处理个人数据；（2）对涉及个人数据的清单的目的没有事先作出明确解释；（3）包含错误的和未更新的数据；（4）数据存储时间过长；（5）对个人信息安全保护不足；（6）向隐私专员征求意见前耽搁时间过久。税务机关可以对DPA该处罚决定提出上诉。 ([查看更多](#))

Dutch DPA Fines Tax Authorities EUR 3.7 Million for Violating GDPR

On 12 April 2022, the Dutch data protection authority (“DPA”) fined tax authorities EUR 3.7 million for violating GDPR. The fine, the highest the DPA has ever imposed, was based on 6 violations including: (1) No legal basis for the processing of personal data; (2) The goal of lists containing personal data being not specifically defined in advance; (3) Containing incorrect and non-updated data; (4) Storing data for far too long; (5) Insufficient security of personal data; (6) Waiting too long before asking the internal privacy supervisor for advice. The tax authorities can appeal the decision. ([More](#))

巴西参议院将批准新的加密市场监管法案

2022年4月13日，据媒体报道，巴西参议院有望在今年上半年批准加密市场监管法案（“法案”）。该法案将授权巴西总统确定负责制定加密货币规则的部门。巴西总统可创建一个新

的监管机构，或者将该职能委托给国家证券交易委员会或巴西中央银行。法案还提议对在提供虚拟资产服务过程中实施欺诈的个人处以4-8年的有期徒刑，并处罚金。（[查看更多](#)）

Brazilian Senate Announces Incoming Approval of the *Bill Regulating Cryptocurrency Market*

On 13 April 2022, according to the media reports, the *bill regulating the cryptocurrency market* in Brazil is expected to be approved by the National Congress in the first half of this year. The proposed law would empower the Brazilian president to determine which federal entity should be responsible for the establishment of rules for cryptocurrencies. The president would either create a new regulator or delegate this function to the nation's Securities and Exchange Commission or the Central Bank of Brazil. The bill also proposes a penalty of four to eight years in prison, in addition to a fine for those who commit fraud in the provision of virtual asset services. ([More](#))

索尼和任天堂改进游戏会员自动续费规则

2022年4月13日，英国反垄断监管机构竞争和市场管理局公告结束对在线游戏领域的全行业调查。该调查着眼于用户被无限期地自动收取订阅费用的情况。作为调查结果，索尼承诺将采取措施，例如联系长期未使用会员资格但仍在付费的用户停止付款，任天堂则已更改自动续约的默认选项。（[查看更多](#)）

Sony and Nintendo Improve Gaming Subscription Rules

On 13 April 2022, the Competition and Markets Authority has announced to conclude the investigations into the online video gaming sector, where people automatically continue to be charged indefinitely. As a result, Sony has agreed to put in place measures to protect customers who haven't used their memberships for a long time but are still paying, such as contacting these customers to remind them how to stop payments; Nintendo has changed its business practices during the course of the investigation so that Nintendo Switch Online Service is no longer sold with automatic renewal set as the default option. ([More](#))

韩国Source Music因意外泄露粉丝个人信息被个人信息保护协会罚款300万韩元

2022年4月13日，韩国娱乐公司Source Music被韩国个人信息保护委员会（“PIPC”）勒令支付300万韩元（约合人民币1.6万元）的罚款。去年Source Music在使用Google问卷退还粉丝俱乐部会员费的过程中，由于问卷的隐私选项被意外设置为公开，填写问卷的22名粉丝的个人信息被泄露。Source Music在一份声明中就针对退款流程中的各种问题为泄密事件道歉，并指出：“对于这一疏忽，我们深表歉意。作为对此事件的回应，这一错误在被发现后立即得到了纠正，并向PIPC提交了报告。”（[查看更多](#)）

Source Music Fined KRW 3 Million by PIPC for Accidentally Leaking Fans' Personal Information

On 13 April 2022, Source Music has been ordered to pay a fine of KRW 3 million (approximately RMB 16000) by South Korea's Personal Information Protection Commission ("PIPC"), for its violation of the Personal Information Protection Act. Back in last year, Source Music used a Google questionnaire in the process of refunding fan club membership fees. However, due to the questionnaire's privacy settings being accidentally set to public, the personal information of 22 fans who filled out the questionnaire was leaked. Source Music apologized for the leak in a statement addressing various issues with the refund process, stating, "We apologize for this negligence. In response to this incident, the error was corrected immediately after it was discovered and a report was filed with the Personal Information Protection Commission." ([More](#))

路易威登因虚拟试穿功能而卷入数据隐私诉讼

2022年4月13日，据媒体报道，时尚品牌 Louis Vuitton 被卷入一起客户向美国纽约南区地方法院提出的集体诉讼中，该客户指控其虚拟试穿功能违反伊利诺伊州生物识别信息隐私法案。该虚拟试穿功能被用于通过提供面部信息进行眼镜试戴，而客户声称，这些面部信息是在其不知情或不同意的情况下被收集和存储的。 ([查看更多](#))

Louis Vuitton Sued for Alleged Violation over Virtual Try-On Feature

On 13 April 2022, according to media reports, fashion brand Louis Vuitton is facing a class-action lawsuit filed in U.S. District Court for the Southern District of New York by a customer who alleged its Virtual Try-On feature violates the Illinois Biometric Information Privacy Act. The feature is used for eyewear and customers provide an image of their face, which the customer alleged is collected and stored without their knowledge or consent. ([More](#))

知识产权 Intellectual Property

国家知识产权局发布关于持续严厉打击商标恶意注册行为的通知

国家知识产权局近日印发《关于持续严厉打击商标恶意注册行为的通知》（以下简称《通知》），提出为进一步落实2022年全国知识产权局局长会议部署，以“零容忍”的态度持续严厉打击商标恶意注册行为，构建部门协同、上下联动、社会共治的工作新格局，保护市场主体合法权益，维护社会公共利益，发布具体八项通知要求。

一、强化整治以“囤商标”“傍名牌”“搭便车”“蹭热点”为突出表现的商标恶意囤积和恶意抢注行为，重点打击违反诚实信用原则，违背公序良俗，谋取不正当利益，扰乱商标注册秩序的典型违法行为。二、完善商标注册全流程贯通的不以使用为目的的商标恶意注册行为重点监控名录，重点监控从事相关行为的市场主体，提升打击商标恶意囤积行为的精准度。三、继续完善有关审查标准、操作规程和程序规范，在法律赋予的裁量空间内最大程度防范和规制商标恶意注册行为。四、强化代理监管，维护行业秩序。五、依法依规开展商标注册领域信用监管，依法依规与其他有关部门共享严重违法失信名单信息并对严重违法失信主体实施联合惩

戒。六、强化协同配合，形成共治合力。七、强化制度保障，完善政策供给。八、强化正面引导，营造良好氛围。

来源：国家知识产权局

China National Intellectual Property Administration (CNIPA) issued Notice on Continuously Cracking Down on Malicious Trademark Registrations

CNIPA recently issued the "Notice on Continuously Cracking Down on Malicious Trademark Registration", proposing that to further implement the deployment of the 2022 National Conference of Directors of CNIPA, CNIPA will continue cracking down on malicious trademark registration with "zero tolerance", and eight notices on specific measures were issued.

Source: China National Intellectual Property Administration

全国首例药品专利链接诉讼案件宣判

4月15日，北京知识产权法院公开宣判原告中外制药株式会社诉被告温州海鹤药业有限公司确认是否落入专利权保护范围纠纷一案一审案件，法院经审理认为，涉案仿制药并未落入涉案专利权的保护范围，判决驳回原告的诉讼请求。该案为新《专利法》实施以来全国首例药品专利链接诉讼案件。

原告中外制药株式会社为第200580009877.6号，名称为“ED-71制剂”（简称涉案专利）的专利权人，也是相关上市专利药品“艾地骨化醇软胶囊”的上市许可持有人，该药品主要用来治疗骨质疏松。原告就上述药品和涉案专利登记在中国上市药品专利信息登记平台。原告发现，被告温州海鹤药业有限公司向国家药监部门申请注册了名称为“艾地骨化醇软胶囊”的仿制药上市许可申请，还在中国上市药品专利信息登记平台就上述仿制药作出了第4.2类声明，即其仿制药未落入相关专利权保护范围。因此原告向北京知识产权法院请求确认被告申请注册的仿制药落入涉案专利的保护范围。

法院经审理认为，被告仿制药的技术方案不同于原告专利的技术方案，未落入其专利权保护范围，判决驳回原告的诉讼请求。原告当庭表示将会上诉，被告表示服从一审判决。

来源：北京市高级人民法院

The first pharmaceutical patent linkage case in China was announced

On April 15, the Beijing Intellectual Property Court announced the judgement of first instance of Chugai Pharmaceutical Co., Ltd. v. Wenzhou Haihe Pharmaceutical Co., Ltd. The case was the first case of pharmaceutical patent linkage litigation in China, since the implementation of the new Patent Law.

The plaintiff, Chugai Pharmaceutical Co., Ltd., was the patentee of the patent No. 200580009877.6 (hereinafter, the patent), entitled "ED-71 Preparation", and the holder of the marketing license for the related patented medicine. The plaintiff registered the above medicine and the patent on the China Listed Pharmaceutical Patent Information Registration Platform. The defendant had applied to the regu-

latory authority for listing permit of a generic medicine, and made a Class 4.2 declaration, that its generic medicine did not fall within the scope of protection of the relevant patent rights on the China Listed Pharmaceutical Patent Information Registration Platform. The plaintiff requested the court to affirm that the generic medicine fall into the protection scope of the patent.

The court held that the technical solution of the defendant's generic medicine was different from the plaintiff's patent technical solution, and did not fall within the scope of protection of the patent, and dismissed the plaintiff's claims. The plaintiff claimed that it would appeal against the judgment.

Source: Beijing High People's Court

号称“一机玩遍所有游戏”，上海检察机关批捕一起涉嫌侵犯著作权罪案

近日，上海市松江区检察院以涉嫌侵犯著作权罪对李某露、李某秋、刘某等犯罪嫌疑人批准逮捕。

2021年5月，任天堂株式会社报警称，有电商在售游戏机内置“超级玛丽”等任天堂公司出品的游戏，有侵犯著作权的嫌疑。经进一步摸排，发现这样的网络店铺不在少数，而且游戏机销量巨大。公安机关随即立案侦查，发现其中多家店铺都由深圳市某科技有限公司经营。2021年9月，侦查人员前往广东深圳、佛山等地，对涉案公司办公地点、生产厂房、库房进行搜查，当场抓获公司副总、网店运营人员等多名犯罪嫌疑人，查获各型号游戏机7700余台。2021年11月，公司老板李某露、李某秋在家人的陪同下投案自首。目前，该案还在进一步侦办中。

来源：检查日报

Shanghai prosecutors approved the arrest of copyright infringement suspects who alleged "play all games on one machine"

Recently, the Shanghai Songjiang District Procuratorate approved the arrest of Li Moulu and other suspects for the crime of copyright infringement.

In May 2021, Nintendo Co., Ltd. reported to the police that some e-commerce companies were selling game machine with built-in games such as Super Mario and other nintendo's games, which were suspected of copyright infringement. PSB investigated and found that many of the stores were run by a Shenzhen technology company. In September 2021, police officers went to Shenzhen, Foshan and other places, and arrested a number of suspects, including the company's deputy general manager, and seized more than 7,700 game machines. In November 2021, the company's shareholder surrendered to the police. At present, the case is still under further investigation.

Source: Procuratorial Daily

职工未经许可转发公司技术秘密至私人邮箱构成盗窃技术秘密侵权

近日，最高人民法院知识产权法庭审结一起涉及盗窃公司技术秘密的上诉案，认定未经公司许可，职工以发送邮件到私人邮箱等方式窃取公司技术秘密的，构成盗窃技术秘密，公司与职工事先约定的保守商业秘密条款中的侵权损害赔偿数额可以作为人民法院判赔的重要依据。

2021年1月，原告向一审法院诉称，其前职工崔某某，其在离职前违反关于保密协议的约定及公司信息安全规章制度，将该公司具有保密要求的爬虫平台数据信息，擅自通过公司邮件系统发送至个人邮箱，使涉案技术秘密脱离公司控制，造成信息严重泄露。一审法院认为，崔某某的行为构成反不正当竞争法第九条禁止的“以其他不正当手段获取权利人的商业秘密”的侵犯商业秘密行为，应当停止侵权。酌定被告向原告赔偿合理开支在内的损失5万元。

一审判决后，双方均不服，向最高人民法院提起上诉。最高法审理后，可以将双方约定的侵权赔偿数额作为确定本案侵权损害赔偿的重要参考因素，综合考虑案件情况，再结合本案中涉案技术秘密的性质、商业价值、研究开发成本，以及侵权人的侵权情节等因素，最高人民法院二审改判禁止崔某某披露、使用或者允许他人使用倍通数据的涉案技术秘密，并赔偿倍通数据经济损失25万元及合理开支1.5万元。

来源：[最高人民法院知识产权法庭](#)

The employee forwarding the company's technical secret to the private mailbox without permission constitutes the infringement on technical secret

The Intellectual Property Tribunal of the Supreme People's Court (SPC) recently made a judgement of a case involving the mis-appropriation of technical secrets from a company, ruling that sending emails to private mailbox without the company's permission constitutes the mis-appropriation of technical secrets. SPC also affirmed that amount of damages for infringement stipulated in the terms of keeping business secrets agreed upon by the company and the employees can be regarded as an important basis for determining the infringement damages.

In January 2021, the plaintiff filed a lawsuit to the court, claiming that its former employee violated the confidentiality agreement and the company's information security regulations to send the crawler platform data information to his personal mailbox without permission, resulting in serious information leakage. The first-instance court held that the defendant's acts constituted infringement on business secrets, and ordered the defendant to stop infringement and pay damages of RMB 50,000.

Both sides appealed to the SPC. SPC affirmed that the amount of damages agreed by both parties could be taken as an important reference factor for determining the infringement damages. Considering the factors of the case, the Supreme People's Court ruled that the defendant was prohibited from disclosing, using or allowing others to use the technical secret, and awarded damages of RMB 265,000, increasing the amount of damages.

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

超范围使用“Bang”商标？VPX在美被判赔1.75亿美金

近日，在美国加利福尼亚中区联邦地区法院的一场仲裁中，仲裁员裁决美国饮料制造商Vital Pharmaceuticals, Inc.（简称VPX Sports或VPX）需向两个被侵权的饮料制造商支付1.75亿美元的赔偿金。这是美国有史以来赔偿金额最高的商标侵权案件之一。

2009年, Orange Bang起诉了VPX, 称其当时销售的能量饮料Bang Energy会引起消费者困惑。2019年, Orange Bang与魔爪能量联手指控VPX违反了2010年的和解协议并侵犯了Orange Bang的商标, 申请了仲裁。4月4日, 仲裁员Bruce Isaacs下达了裁决。Isaacs表示VPX违反了和解协议并侵犯了Orange Bang的商标, 并认定Bang Energy RTD不是“基于肌酸”的饮料, 因为“超级肌酸”不是真正的肌酸, 也不会提高人体的肌酸水平。

来源: [知识产权家](#)

VPX was fined USD 175 million in America for overuse of the "Bang" trademark

In an arbitration in the U.S. District Court for the Central District of California, an arbitrator arbitrated that Vital Pharmaceuticals, Inc. (VPX) should pay damages of USD 175 million to two infringed beverage manufacturers. This case is one of the trademark infringement cases with high damages in the United States.

In 2009, Orange Bang sued VPX, claiming that Bang Energy drink sold by VPX caused consumer confusion. In 2019, Orange Bang and Master Energy applied for arbitration, accusing VPX of violating the 2010 settlement agreement and infringing Orange Bang's trademark. On April 4th an arbitrator ruled that VPX had breached the settlement agreement and infringed Orange Bang's trademark, and affirmed that Bang Energy RTD was not a drink "based on creatine".

Source: [Intellectual Property Specialist](#)

美国版权局发布CCB程序初始阶段的适用规则

在多次延长关于建立版权索赔委员会 (CCB) 的通知与评论期后, 美国版权局现已发布CCB启动程序 (以下称为CCB程序) 的最终规则。CCB依据《版权小额索赔执行替代法案》(CASE法案) 而建立, 是一个自愿性的裁判所, 当事人可在此解决案值为3万美元或以下的纠纷。亲自到庭的版权所有人视其为理想的选择。

最终规则确立了CCB程序初始阶段适用的程序和要求, 包括提交主张、选择退出、合规审查、通知、送达、答复与反诉。版权局强调最终规则对提出权利主张收取两部分费用; 对权利主张、答复和反诉规定了标准化的要求; 要求认证方确认权利主张信息的准确性。

来源: www.jdsupra.com

The United States Copyright Office (USCO) issued applicable rules for the initial phase of the CCB Process

After several extensions of the notice and comment period for the establishment of the Copyright Claims Board (CCB), the USCO issued final rules for the CCB Initiation Process (CCB Process). The CCB, established under the Copyright Alternative in Small-Claims Enforcement ("CASE" Act), is a voluntary tribunal where litigants can resolve disputes worth USD 30,000 or less.

The final rule establishes the procedures and requirements applicable to the initial phase of the CCB process, including filing claims, opt-out, compliance review, notice, service, reply and counterclaim.

USCO emphasizes that the final rule charges two part fees for filing a claim. It standardizes requirements for claims, replies and counterclaims, requests the certifier to confirm the accuracy of the claim information.

Source: www.jdsupra.com

德国专利法修改将于2022年5月1日正式生效

在2021年8月10日通过的《第二部专利法现代化法案》中，对《德国专利法》进行了多项修订。该法案将于2022年5月1日生效。

该法案生效后，PCT申请进入德国国家阶段的时限将从申请日或优先权日起30个月延长至31个月。如果国际申请不是用德语提交的，需要提供德语翻译。在专利所有人变更的情况下，异议程序中当事人的变更将被简化和精简。新登记的权利持有人可以在正在进行的异议程序中代替前权利持有人，而无需程序的其他方同意。关于所有知识产权程序的一般规定，应当提供通过图像和声音传输方式参与听证、诉讼和作证的选项。在一个或多个德国专利商标局（DPMA）地点（慕尼黑、耶拿和柏林）适用的所有公共假期都将被认可，以延长时间限制从而消除计算时间限制时的法律不确定性。适度提高专利申请或专利维护年费，费用变更将于2022年7月1日生效。

来源: www.lexology.com

The amendments to the German Patent Law will take effect on May 1, 2022

In the Second Patent Law Modernization Act (Act) passed on August 10, 2021, a number of amendments were made to the German Patent Law, which will take effect on May 1, 2022.

After the Act takes effect, the time limit for PCT applications to enter the national phase in Germany will be extended from 30 months to 31 months from the filing date or priority date. If the international application is not filed in German, a German translation is required. The change of parties in opposition proceedings will be simplified if the patent owner changes. The newly registered rights holder may replace the former in ongoing proceedings without the consent of the other parties.

For all IP proceedings, it generally regulates that the option to participate in hearings, proceedings and testimony by means of image and sound transmission should be provided. All public holidays applicable at one or more Das Deutsche Patent- und Markenamt (DPMA) locations will be recognized in order to extend the time limit and eliminate legal uncertainty. A moderate increase in the annual fee for patent application or patent maintenance will take effect on July 1, 2022.

Source: www.lexology.com

美国在欧洲申请专利数量超过中国等全球竞争对手

欧洲专利局公布的数据显示，尽管全球流行病迫使许多人与世隔绝，但新思想仍以创纪录的速度渗透。2021年，美国公司和发明人在欧洲提交的专利申请增加了5.2%，有助于扭转2020年的整体下降趋势。“去年对专利的强劲需求表明，创新仍然强劲” EPO总裁Antonio Campinos在一份声明中表示，“它突出了创新者的创造力和韧性。”

美国发明人申请了创纪录的46,533项专利，几乎是中国的三倍。美国的增长是由五个领域的专利申请增加推动的：医疗技术，计算机技术，数字通信，制药和生物技术。美国在半导体专利方面领先于中国和韩国。

来源：www.bloombergquint.com

U.S. is outnumbering global rivals including China on patents filed in Europe

Data released by the European Patent Office (EPO) show that new ideas percolated at a record pace despite the isolation forced upon many people by the global pandemic. U.S. companies and inventors filed 5.2% more patent applications in Europe in 2021, helping to reverse the overall decline in 2020.

U.S. inventors filed a record 46,533 patents, almost three times more than China. The U.S. patent growth was driven by increased patent applications in five fields: medical technology, computer technology, digital communications, pharmaceuticals and biotechnology. The U.S. led in semiconductor patent aspect ahead of both China and South Korea

Source: www.bloombergquint.com

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 www.lifanglaw.com

 Email: info@lifanglaw.com

 Tel: +8610 64096099

 Fax: +8610 64096260/64096261