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立方要闻周报

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CAC Focuses on Rectifying Chaos Involving Virtual Currency Speculations

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CBIRC Launches Special Rectification Work Against the Violation of Personal Information Rights and Interests

信安标委下达2022年第二批网络安全推荐性国家标准计划

NISSTC Issues the Second Batch of Recommended National Standards Plan for Cyber Security in 2022

上海市公安局组织开展2022年全市网络和数据安全监督检查工作

Shanghai PSB Organizes the Supervision and Inspection of Cyber and Data Security in 2022

江苏开展网络安全行动，排查三类企业数据安全隐患

Jiangsu Launches Cyber Security Actions to Investigate Data Security Risks of Three Types of enterprises

浙江江山一女子因售卖公民个人信息被判刑并承担公益赔偿

A Woman in Jiangshan, Zhejiang Sentenced to Prison and Bear Public Interest Compensation for Selling Personal Information



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FTC就制定规则打击商业监控和松懈的数据安全实践征求意见

FTC Explores Rules Cracking Down on Commercial Surveillance and Lax Data Security Practices

谷歌因误导用户提供隐私信息被罚款6000万澳元

Google Fined AUD 60 Million for Misleading Users to Provide Private Information

Robinhood Crypto 因网络安全违规而面临罚款

Robinhood Crypto Faces a Fine for Cyber Security Violations

Twitter确认540万账户数据泄露

Twitter Confirms the Data Leak of 5.4 Million Accounts

知识产权 Intellectual Property

有关专利独占许可及专利保护期限问题的认定

SPC: Identification of patent exclusive license and patent protection period

判赔300万元：未经许可侵害标准必要专利，以2倍许可使用费确定赔偿数额

SEP patentee was awarded damages for RMB3,000,000 for twice the royalty fee

知网收录作品侵权被判赔19.6万

CNKI enlisting articles of competitor for paid reading and downloading was recognized as copyright infringement

投诉侵权反被认定恶意投诉，并构成不正当竞争

Reckless Complaints against infringement are deemed as unfair competition

网点经营者突出使用“小米”驰名商标并虚假宣传构成侵权

Highlight the use of "Xiaomi" well-known trademark and false publicity constitutes infringement

长期放任既有侵权行为存续构成主观恶意

Long-term laissez-faire of existing infringement acts also constitute malice

16亿美金商业秘密案：IBM再赔BMC2100万

USD100 million trade secret case: IBM pays BMC another USD 21 million



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OPPO在德面临手机禁售令

OPPO faces mobile phone lock-up order in Germany

立方竞争法周报 Weekly Competition Law News

贵州省一网约车办证公司因滥用市场支配地位被罚没约184万元

2022年8月12日，国家市场监督管理总局（“市场监管总局”）发布了贵州省市场监督管理局（“贵州省市监局”）对贵州周富承物流有限公司（“当事人”）滥用市场支配地位案作出的行政处罚决定书。据调查，当事人在贵州省兴义市的网约车运输证办证服务市场中具有市场支配地位。2019年12月至2021年8月期间，当事人在代办运输证时，没有正当理由，限定兴义市滴滴网约车司机必须通过该公司相关人员办理车辆商业保险。因此，贵州省市监局决定没收其违法所得，并处以2020年度销售额4%的罚款，共计约184万元。（[查看更多](#)）

A Guizhou Online Car-Hailing License Company Fined Approximately CNY 1.84 Million for Abusing Market Dominant Position

On August 12, 2022, the State Administration for Market Regulation (“SAMR”) issued the administrative penalty decision made by Guizhou Provincial Administration for Market Regulation (“Guizhou AMR”) on the case of Guizhou Zhoufucheng Logistics Co., Ltd. (“the party”) abusing market dominance. According to the investigation, the party had a dominant market position in the online car-hailing license service market in Xingyi City, Guizhou Province. From December 2019 to August 2021, without justifiable reason, the party limited the online car-hailing drivers of Didi in Xingyi City to buy commercial vehicle insurance only from the party’s relevant personnel. Therefore, Guizhou AMR decided to confiscate its illegal income and impose a fine of 4% of the annual sales in 2020, totaling about CNY 1.84 million. ([More](#))

河南省市监局自查清理妨碍全国统一大市场建设的规定和做法

2022年8月8日，据媒体报道，日前，河南省市场监督管理局（“河南省市监局”）联合河南省发展改革委员会印发通知，在全省范围内针对妨碍全国统一大市场建设的规定和做法开展自查清理工作。清理范围包括：含有地方保护、市场分割、指定交易等妨碍统一市场和公平竞争的政策措施；歧视外资企业和外地企业、实行地方保护的规定和做法；妨碍依法平等准入和退出的规定和做法；招标采购领域违反统一大市场建设的规定和做法。（[查看更多](#)）

Henan AMR Conducts a Self-Inspection and Cleans up Regulations and Practices Hindering the Construction of a Unified National Market

On August 8, 2022, it is reported that, recently, the Henan Provincial Administration for Market Regulation (“Henan AMR”), in conjunction with the Henan Provincial Development and Reform Commission, issued a notice to carry out a province-wide self-inspection and cleanup campaign on regulations and practices that hinder the construction of a unified national market. The scope includes: policies and measures that hinder the unified market and fair competition, such as local protection, market segmentation and designated transactions; regulations and practices that discriminate against foreign-funded enterprises and nonlocal enterprises and implement local protection; regulations and practices that hinder equal access and exit according to law; regulations and practices that hinder the unified market construction in bidding field. ([More](#))

湖南省市监局：将持续强化反垄断执法工作

2022年8月5日，湖南省市场监督管理局（“湖南省市监局”）发布新闻称，湖南省强化反垄断执法，深入推进公平竞争审查制度落实。今年以来，市场监管总局通报了23起行政垄断案件，湖南占7起；在整治行政垄断专项执法行动工作中，截至目前全国共查处行政垄断案件28起，湖南占7起。今后，湖南省市监局还将继续保持反垄断执法高压态势。（[查看更多](#)）

Hunan AMR: Continues to Strengthen Anti-Monopoly Law Enforcement

On August 5, 2022, the Hunan Provincial Administration for Market Regulation (“Hunan AMR”) issued a news release, claiming that Hunan is strengthening anti-monopoly law enforcement and deeply promoting the implementation of the fair competition review system. So far this year, SAMR has notified 23 administrative monopoly cases, among which Hunan accounts for 7; in the special campaign to rectify administrative monopoly, so far 28 administrative monopoly cases have been investigated and punished, among which Hunan accounts for 7. In the future, Hunan AMR will continue to adopt a high-pressure attitude in anti-monopoly law enforcement. ([More](#))

最高法：支持以全部产品销售额而非涉案产品销售额作为罚款计算基数

2022年8月5日，中国裁判文书网公布了最高人民法院（“最高法”）作出的海南省市场监督管理局（“海南省市监局”）与海南盛华建设股份有限公司（“盛华公司”）反垄断行政处罚纠纷二审判决书。双方当事人对垄断行为罚款基数应为全部产品销售额还是涉案产品销售额存在争议，后上诉至最高法。最高法指出，综合文义解释、立法目的和过罚相当原则，垄断行为通常对市场经济危害较大，应当处以较为严厉的处罚，并结合个案情况综合判断以确定罚款数额。因此，最高法最终判定支持以全部产品销售额作为罚款计算基数。（[查看更多](#)）

SPC: Supports to Use Sales of All Products Instead of the Sales of the Products Involved as the Calculation Basis of Fines

On August 5, 2022, China Judgments Online published the second-instance judgment of the Supreme People’s Court (“SPC”) on the anti-monopoly administrative penalty dispute between Hainan Provincial Administration for Market Regulation (“Hainan AMR”) and Hainan Shenghua Construction Co., Ltd. (“Shenghua”). There was a dispute between the two parties on whether the calculation basis of fines should be the sales of all products or the sales of the products involved, and later they appealed to the SPC. The SPC points out that, considering the semantic interpretation, legislative intent and the principle of appropriate penalty, the monopolistic conducts usually cause great harm to market economy, so more severe penalties should be imposed, and the amount of fine should be determined comprehensively in combination with individual cases. Therefore, the SPC finally supported to use the sales of all products as the calculation basis of fines. ([More](#))

最高法驳回美团买菜反垄断诉讼管辖权异议

近日，中国裁判文书网公布了最高法作出的北京三快在线科技有限公司（“三快在线”）、北京三快科技有限公司（“三快科技”）和朱某等滥用市场支配地位纠纷民事管辖上诉管辖裁定书。原审中，美团买菜APP运营商三快在线就原审法院管辖权和案件是否属于垄断案件提出异

议，后上诉至最高法。最高法认为，原审法院认定本案为垄断纠纷中的滥用市场支配地位纠纷并无不当，应适用侵权纠纷而非合同纠纷的管辖规定。根据相关规定，北京知识产权法院对本案有管辖权，驳回三块在线提出的管辖权异议。（[查看更多](#)）

SPC Rejects Meituan-Grocery's Jurisdiction Reconsideration Application in the Anti-Monopoly Lawsuit

Recently, China Judgments Online published the ruling of the SPC on the civil jurisdiction appeal of Beijing Sankuai Online Technology Co., Ltd. (“Sankuai Online”), Beijing Sankuai Technology Co., Ltd. (“Sankuai Technology”) and Mr. Zhu. In the first instance, Sankuai Online, the operator of Meituan-Grocery APP, applied for a reconsideration regarding the jurisdiction of the first-instance court and whether the case was a monopoly dispute, and later appealed to the SPC. The SPC held that it was proper for the court of first instance to hold this case as a monopoly dispute involving abuse of market dominance, and the jurisdictional provisions applicable to the case should be tort disputes rather than contract disputes. According to relevant regulations, Beijing Intellectual Property Court has jurisdiction over this case, and the jurisdiction reconsideration application filed by Sankuai Online should be rejected. ([More](#))

广州知识产权法院解释垄断协议横向与纵向关系的认定

近日，广州知识产权法院审结广州震雄装饰工程有限公司与广州高思贸易有限公司横向垄断协议纠纷及合同纠纷案。在该案中，双方当事人对于涉案协议是否属于横向垄断协议存在争议。广州知识产权法院在判决中指出：应根据协议主体是否位于商业活动链条的同一层次或环节来区分诉争协议属于横向协议还是纵向协议，同时，考虑到同一市场主体所处的层次或环节存在相对性，确定协议性质不能只看协议主体是否曾在某个层次或环节从事过商业活动，而应具体到涉案交易中，审查涉案协议中主体之间是纵向关系还是横向关系。（[查看更多](#)）

Guangzhou IP Court Explains the Determination of Horizontal and Vertical Relationship of Monopoly Agreement

Recently, Guangzhou Intellectual Property Court (“Guangzhou IP Court”) concluded the case of horizontal monopoly agreement dispute and contract dispute between Guangzhou Zhenxiong Decoration Engineering Co., Ltd. and Guangzhou Gaosi Trading Co., Ltd. In the case, there was a dispute between the parties as to whether the agreement in question was a horizontal monopoly agreement. The Guangzhou IP Court opined that whether an agreement is a horizontal agreement or a vertical agreement should be decided according to whether the agreement subjects are located at the same level or link in the commercial chain. At the same time, considering the relativity of the level or link where a market subject is located, determining the nature of an agreement cannot only be depended on whether the agreement subjects have once engaged in commercial activities at a certain level or link, but should also examine whether the relationship between the agreement subjects is vertical or horizontal in the specific transactions. ([More](#))

英国 CMA 对卫星运营商 ViaSat 收购 Inmarsat 展开调查

2022年8月9日，英国竞争和市场管理局（“CMA”）宣布，其开始对美国卫星运营商 ViaSat 收购英国 Inmarsat 展开调查，以确定该交易是否会导致“英国任何一个或多个市场内竞争的大幅

减少”。2021年11月，双方达成协议，ViaSat 将以73亿美元收购Inmarsat。两家公司表示，该合并将打造出一家领先的全球通信创新企业，并希望这笔交易能在2022年年中完成。但这一交易引发了竞争担忧，多个竞争监管机构可能对此展开调查。（[查看更多](#)）

UK CMA Probes Satellite Operator ViaSat's Acquisition of Inmarsat

On August 9, 2022, the UK Competition and Markets Authority (“CMA”) announced that it is beginning its own review into US satellite operator ViaSat’s Acquisition of Inmarsat UK, seeking to ascertain if the deal represents “a substantial lessening of competition within any market or markets in the UK”. Back in November 2021, ViaSat struck a deal to acquire Inmarsat for USD 7.3 billion. The companies said that the tie-up would create a leading global communications innovator and they hoped the deal would close in mid-2022. But the deal has raised competition concerns, which could be investigated by several competition regulators. ([More](#))

澳大利亚电信公司 Telstra 作出承诺，以解决关于5G的竞争担忧

2022年8月3日，澳大利亚竞争和消费者委员会（Australian Competition and Consumer Commission, “ACCC”）接受了澳大利亚电信公司 Telstra 作出的承诺，以解决有关5G竞争担忧。经调查，ACCC 认为 Telstra 注册了多个无线电通讯站点，而这一行为具有阻碍 Optus 部署其 5G 网络以及参与零售移动市场竞争的实质性目的或潜在影响。这是因为低频谱的接入对于为移动业务提供核心网络覆盖以及5G的部署而言至关重要。为解决这一担忧，Telstra 承诺注销其注册的 900 MHz 频段的所有剩余站点。这将有助于 Optus 更广泛地拓展其 5G 网络，为消费者提供更多移动服务选择。（[查看更多](#)）

Telstra Undertakes to Address 5G Competition Concerns

On August 3, 2022, the Australian Competition and Consumer Commission (“ACCC”) has accepted an undertaking from Telstra to address competition concerns about 5G network competition. After investigation, ACCC was concerned that Telstra registered a number of radio communication stations, which is crucial to providing core network coverage for mobile services and the rollout of 5G, and this behavior had the substantial purpose or likely effect of preventing or hindering Optus from deployment of its 5G network and from engaging in competitive conduct in the retail mobile market. To solve this concern, Telstra promised to deregister all remaining radiocommunications sites it registered in the 900 MHz spectrum. This will facilitate Optus’ ability to roll out its 5G network more broadly, giving consumers more choice over mobile services. ([More](#))

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

交通运输部发布《自动驾驶汽车运输安全服务指南（试行）》（征求意见稿）

2022年8月8日，交通运输部发布了《自动驾驶汽车运输安全服务指南（试行）》（征求意见稿），向社会公开征求意见。征求意见稿明确了该指南的适用范围、基本原则、发展导向，提出了自动驾驶汽车运输经营者要求、车辆要求、人员要求，规定了安全生产管理、运输安全保

障、车辆动态监控、运行状态信息管理、应急处置等安全保障要求，以及监督管理要求等内容。本次征求意见反馈截止日期为2022年9月7日。（[查看更多](#)）

MOT Issues the Guidance on Self-driving Vehicle Transportation Safety Service (Trial) (Draft for Comments)

On 8 August 2022, the Ministry of Transport (“MOT”) issued the *Guidance on Self-driving Vehicle Transportation Safety Service (Trial) (draft for comments)*, and publicly to solicit comments from the public. The draft defines the scope of application, basic principles and development orientation of the guidance, puts forward the requirements for operators, vehicles and personnel of self-driving vehicles, and stipulates safety requirements such as safety production management, transportation safety, dynamic vehicle monitoring, operating condition information management, emergency response, as well as supervision and management requirements, etc. The deadline for soliciting comments is 7 September 2022. ([More](#))

国家网信办发布互联网信息服务算法备案信息公告

2022年8月12日，国家互联网信息办公室（“国家网信办”）公开发布了境内互联网信息服务算法信息。这是在今年年初国家网信办等四部门联合发布《互联网信息服务算法推荐管理规定》，要求相关算法推荐服务提供者履行备案手续后，首批得以公布的备案信息。本次公布的备案信息共30条，具体内容包括算法名称、算法类别、主体名称、应用产品、主要用途、备案编号等。之后，国家网信办将在同一页面持续更新算法备案清单。（[查看更多](#)）

CAC Issues Announcement on the Filing Information of Internet Information Service Algorithm

On 12 August 2022, the Cybersecurity Administration of China (“CAC”) issued the announcement on the filing information of domestic Internet information service algorithm. At the beginning of this year, four departments including the CAC jointly issued the *Regulations on the Administration of Internet Information Service Algorithm Recommendation*, which required the relevant algorithm recommendation service providers to perform the filing procedures. This represents the first batch of published filing information since then. There are a total of 30 pieces of filing information published this time, the categories of which information includes algorithm name, algorithm category, subject name, application product, main purpose, filing number, etc. After that, the CAC will continuously update the algorithm filing list on the same web page. ([More](#))

最高检发布一起涉案企业数据合规典型案例

2022年8月10日，据报道，最高人民检察院（“最高检”）于近日发布第三批涉案企业合规典型案例，其中一起涉及企业数据合规。在本案中，2019年至2020年，Z公司在未经授权和许可的情况下，通过爬虫程序非法获取E公司运营的外卖平台数据，造成E公司存储的具有巨大商业价值的海量商户信息被非法获取，流量成本增加，直接经济损失4万余元。后由于Z公司及相关人员认罪认罚、积极赔偿并取得原谅，检察院作出不起诉决定。此外，检察院对Z公司进行了数据合规审查，并监督其进行整改完善。（[查看更多](#)）

SPP Issues a Typical Case of Data Compliance of Enterprise

On 10 August 2022, it was reported that the Supreme People's Procuratorate of the PRC ("PRC SPP") recently issued the third batch of typical cases of enterprise compliance, one of which involved corporate data compliance. In this case, from 2019 to 2020, company Z illegally obtained data on the take-out platform operated by company E through a crawler program without due authorization and permission, resulting in the illegal acquisition of massive merchant information with great commercial value stored by company E, increased traffic cost and direct economic loss of more than RMB 40,000. After company Z and related personnel pleaded guilty, took a positive attitude on compensation and obtained forgiveness, the PRC SPP decided not to prosecute. In addition, the PRC SPP conducted a data compliance review on company Z and supervised its rectification and improvement. ([More](#))

国家网信办曝光一批涉未成年人电信网络诈骗典型案例

2022年8月8日，国家网信办曝光了一批涉未成年人电信网络诈骗典型案例。公布的案例主要涉及不法分子以加入“明星粉丝QQ群”、免费赠送游戏装备等为诱饵，诱导未成年人进行转账或刷单，骗取未成年人钱财等行为。国家网信办强调，各种社交类平台、短视频平台要落实信息内容管理要求，建立完善账号完善预警机制，落实账号实名登记制度，建立完善举报机制，对现有应用、业务、技术进行安全评估并整改。 ([查看更多](#))

CAC Exposes a Batch of Typical Cases of Telecommunication Network Fraud Involving Minors

On 8 August 2022, the CAC exposed a batch of typical cases of telecommunication network fraud involving minors. The published cases mainly involve criminals who use joining the "QQ group of star fans" and giving away free game equipment as bait to induce minors to transfer money or pay bills, so as to defraud minors' money. The CAC emphasized that all kinds of social platforms and short video platforms should implement the information content management requirements, establish and improve the early warning mechanism for accounts, implement the real-name registration system for accounts, establish and improve the reporting mechanism, and conduct safety assessment and rectification of existing applications, businesses and technologies. ([More](#))

国家网信办集中整治涉虚拟货币炒作乱象

2022年8月9日，据报道，今年以来，国家网信办清理处置了一批宣传炒作虚拟货币的违法违规信息、账号和网站。国家网信办督促指导主要网站平台切实落实主体责任，对诱导虚拟货币投资等信息内容和账号进行自查自纠；加强督导检查，对违法账号依法予以关闭；指导地方网信部门约谈违法经营主体；会同相关部门依法予以关闭违法网站平台。下一步，国家网信办将继续会同相关部门，加强对虚拟货币相关非法金融活动的打击力度，依法保护人民群众财产安全。 ([查看更多](#))

CAC Focuses on Rectifying Chaos Involving Virtual Currency Speculations

On 9 August 2022, it was reported that since the beginning of this year, the CAC had cleaned up and disposed of a batch of illegal information, accounts and websites that promote and hype virtual currencies. The CAC urged and guided the main website platforms to effectively implement their respective

responsibilities, and to conduct self-examination and self-correction on information content and accounts involving inducing virtual currency investment; strengthened supervision and inspection, and

closed illegal accounts according to law; guided local cybersecurity departments to summon illegal business entities for meetings; closed the illegal website platforms in conjunction with relevant departments according to law. In the next step, the CAC will continue to work with relevant departments to strengthen the crackdown on illegal financial activities related to virtual currency and protect the public's property safety according to law. ([More](#))

银保监会开展侵害个人信息权益乱象专项整治工作

2022年8月10日，据报道，银行保险监督管理委员会（“银保监会”）近日向各银保监局、银行保险机构等下发《关于开展银行保险机构侵害个人信息权益乱象专项整治工作的通知》，要求全面梳理和排查银行业保险业在个人信息保护方面的问题和漏洞，深入整治侵害消费者信息权益乱象，督促银行保险机构建立健全消费者个人信息保护工作机制等。本次专项整治工作以银行保险机构自查为主，监管部门适时开展抽查和督导，将从2022年8月持续至12月。（[查看更多](#)）

CBIRC Launches Special Rectification Work Against the Violation of Personal Information Rights and Interests

On 10 August 2022, it was reported that the China Banking and Insurance Regulatory Commission (“CBIRC”) recently issued the *Notice on Launching Special Rectification Work Against the Violation of Personal Information Rights and Interests by Banking and Insurance Institutions* to all banking and insurance regulatory bureaus and banking and insurance institutions, requiring to comprehensively sort out and check the problems and loopholes in personal information protection of the banking and insurance industry, rectify in-depth the chaos of infringement of consumer information rights and interests, urging banking and insurance institutions to establish and improve the working mechanism of consumer personal information protection. This special rectification work will focus on self-examination of banking and insurance institutions, and the regulatory authorities will conduct random inspections and supervision from time to time. This special rectification work will last from August to December 2022. ([More](#))

信安标委下达2022年第二批网络安全推荐性国家标准计划

2022年8月8日，全国信息安全标准化技术委员会（“信安标委”）下达了2022年第二批网络安全推荐性国家标准计划，并在附件中公布了9项由其归口的标准项目。这些标准项目涉及智能门锁网络安全技术、网络安全信息报送、关键信息基础设施、安全技术实体鉴别、网络安全众测服务、智能手机预装应用程序安全、移动智能终端的移动互联网应用程序个人信息处理活动管理、应用商店的移动互联网应用程序个人信息处理规范性审核与管理、网络数据分类分级等方面。（[查看更多](#)）

NISSTC Issues the Second Batch of Recommended National Standards Plan for Cyber Security in 2022

On 8 August 2022, the National Information Security Standardization Technical Committee

(“NISSTC”) issued the second batch of recommended national standards plan for cyber security in 2022, and published nine standard items under its jurisdiction in the annex. These standard projects involve cyber security technology of intelligent door lock, cyber security information submission, key information infrastructure, identification of security technology entities, cyber security public testing service, security of pre-installed APP on smart phones, management of personal information processing activities of mobile Internet APPs of mobile intelligent terminals, normative audit and management of personal information processing of mobile Internet APPs in APP stores, classification and grading of network data, etc. ([More](#))

上海市公安局组织开展2022年全市网络和数据安全监督检查工作

2022年8月12日，上海市公安局发布了关于组织开展2022年全市网络和数据安全监督检查工作的通知（“通知”）。通知表明，此次监督检查工作由上海市公安局会同上海市委网信办相关部门开展。检查范围覆盖涉及国计民生和城市安全运行的重要信息系统，进博会核心业务和支撑保障系统，核酸检测系统，健康码系统等。检查内容包括关键信息基础设施安全保护责任和防护措施、网络安全等级保护定级备案和测评整改等工作落实情况，以及联网单位依法备案、数据分类分级管理制度落实、重要数据安全保护状况、重要数据跨境流动监管、6个月以上日志留存、网络安全应急响应等情况。（[查看更多](#)）

Shanghai PSB Organizes the Supervision and Inspection of Cyber and Data Security in 2022

On 12 August 2022, Shanghai Public Security Bureau (“Shanghai PSB”) issued the *Notice on Organizing the Supervision and Inspection of Cyber and Data Security in 2022* (“Notice”). The Notice indicates that the supervision and inspection work will be carried out by the Shanghai PSB in conjunction with the relevant departments of the Office of Shanghai Cyberspace Affairs Commission. The scope of the inspection covers important information systems related to the national economy and people’s livelihood and the safe operation of the city, the core business and support system of China International Import Expo, nucleic acid detection system, health code system, etc. The inspection contents include the implementation of key information infrastructure security protection responsibilities and protective measures, grading and filing of grade-based cyber security protection and related evaluation and rectification, as well as networked units filing according to law, implementation of data classification and grading management system, status of security protection of important data, supervision cross-border flow of important data, log retention for more than 6 months, and cyber security emergency response. ([More](#))

江苏开展网络安全行动，排查三类企业数据安全隐患

2022年8月11日，江苏省启动“铸盾2022”信息通信行业网络与数据安全专项检查专项行动。在此次行动中，省内外40支队伍、106名检测人员，将利用10天左右时间，针对4家基础电信企业、省内100家互联网企业、200家工业互联网企业的共6.7万个联网资产，集中检测漏洞风险。此次全面“体检”，有助于企业及时堵住漏洞、消除隐患，继续强化安全意识，筑牢网络与数据安全防线。（[查看更多](#)）

Jiangsu Launches Cyber Security Actions to Investigate Data Security Risks of Three Types of enterprises

On 11 August 2022, Jiangsu launched the “Cast Shield 2022” special inspection on cyber and data security of information and communication industry. In this action, 40 teams and 106 inspectors from inside and outside the province will spend about 10 days to focus on the detection of vulnerability risks for a total of 67,000 networked assets of 4 basic telecommunications enterprises, 100 Internet enterprises and 200 industrial Internet enterprises in the province. This comprehensive “physical examination” will help enterprises to plug loopholes and eliminate hidden dangers in time, continue to strengthen their security awareness, and build a defense line of cyber and data security. ([More](#))

浙江江山一女子因售卖公民个人信息被判刑并承担公益赔偿

2022年8月11日，据报道，近日，浙江省江山市人民法院审结了一起侵犯公民个人信息刑事附带民事公益诉讼案件。在本案中，被告人李某应朋友请求，将其之前在一家房地产企业工作时获得的业主信息兜售以牟利。法院审理后认为，李某的行为构成了侵犯公民个人信息罪，同时，还侵犯了众多个人的合法权益，严重侵害公民个人信息安全，损害社会公共利益。因此，法院判决李某承担刑事责任以及公益损害赔偿。（[查看更多](#)）

A Woman in Jiangshan, Zhejiang Sentenced to Prison and Bear Public Interest Compensation for Selling Personal Information

On 11 August 2022, it was reported that Jiangshan City People’s Court recently concluded a case of criminal infringement of citizens’ personal information with collateral public interest civil litigation. In the case, the defendant Li, at the request of a friend, sold for a profit personal information obtained when she worked in a real estate company. After the trial, the court held that Li’s behavior constituted the crime of infringing citizens’ personal information. At the same time, it also violated the legitimate rights and interests of a large number of citizens, seriously infringing citizens’ personal information security and damaging the public interests. Therefore, the court ruled that Li should bear criminal responsibility and compensation for damage to public interests. ([More](#))

FTC就制定规则打击商业监控和松懈的数据安全实践征求意见

2022年8月11日，美国联邦贸易委员会（“FTC”）举办发布会，宣布其正在探讨是否需要制定新的规则打击商业监控和松懈的数据安全实践。商业监控指通过收集、分析和利用有关人员的信息从而获利的业务。大规模商业监控增加了数据泄露、欺骗和操纵信息主体等数据滥用行为的风险。FTC认为，仅执行《联邦贸易委员会法》可能不足以保护消费者。相比之下，制定规则以设定明确的隐私和数据安全要求，并赋予FTC对首次违规行为进行经济处罚的权力，可以激励各类公司加强其商业合规。目前，FTC发布了《拟议规则制定的预先通知》，就商业监控带来的危害以及是否需要新规则来保护人们的隐私和信息征求公众意见。（[查看更多](#)）

FTC Explores Rules Cracking Down on Commercial Surveillance and Lax Data Security Practices

On 11 August 2022, the US Federal Trade Commission (“FTC”) held a press conference, announcing that it was exploring rules to crack down on commercial surveillance and lax data security. Commer-

cial surveillance is the business of collecting, analyzing, and profiting from information about people. Mass surveillance has heightened the risks and stakes of data breaches, deception, manipulation, and other abuses. The FTC found that enforcement of the *FTC Act* alone may not be enough to protect consumers. By contrast, rules that establish clear privacy and data security requirements across the board and provide the FTC the authority to seek financial penalties for first-time violations could incentivize all companies to invest more consistently in compliant practices. A few days ago, FTC issued the *Advance Notice of Proposed Rulemaking*, seeking public comment on the harms stemming from commercial surveillance and whether new rules are needed to protect people's privacy and information. ([More](#))

谷歌因误导用户提供隐私信息被罚款6000万澳元

2022年8月12日，澳大利亚竞争和消费者委员会（Australian Competition and Consumer Commission）表示，澳大利亚联邦法院已判令谷歌支付6000万澳元的罚款，因为它在2017年1月至2018年12月期间就收集和使用安卓手机上的个人位置数据的行为向消费者作出了误导性陈述。据调查，谷歌向其用户表示，只有“位置历史记录”设置涉及到谷歌是否可以收集、保留和使用个人位置数据。但事实上，“网络和应用活动”设置也涉及这一权限，并且默认处于打开状态。法院认定谷歌这一行为违反了《澳大利亚消费者法》，依法对其处以罚款。（[查看更多](#)）

Google Fined AUD 60 Million for Misleading Users to Provide Private Information

On 12 August 2022, the Australian Competition and Consumer Commission (“ACCC”) said that the Federal Court had ordered Google to pay AUD 60 million in penalties for making misleading representations to consumers about the collection and use of their personal location data on Android phones between January 2017 and December 2018. According to the investigation, Google represented to some Android users that the setting titled “Location Histor” was the only Google account setting that affected whether Google collected, kept and used personally identifiable data about their location. In fact, however another Google account setting titled “Web & App Activity” also involves this right, and it was turned on by default. The court found Google's behavior breached the *Australian Consumer Law* and fined it according to law. ([More](#))

Robinhood Crypto 因网络安全违规而面临罚款

2022年8月8日，据报道，美国纽约州金融服务部（“NYDFS”）对在线经纪公司Robinhood的加密货币交易部门处以3000万美元的罚款，原因是该公司涉嫌违反反洗钱和网络安全法规。这是纽约州金融监管机构的首次针对加密货币的执法行动。据NYDFS调查，Robinhood Crypto未能维持和确保其在反洗钱和网络安全方面的合规，随着公司迅速发展，公司在管理和监督其合规计划方面存在缺陷，包括未能保持合规文化或为合规分配资源。另外，NYDFS还要求Robinhood聘请一名独立顾问来评估其合规性。（[查看更多](#)）

Robinhood Crypto Faces a Fine for Cyber Security Violations

On 8 August 2022, it was reported that the New York State Department of Financial Services (“NYDFS”) had fined the cryptocurrency trading unit of online brokerage Robinhood USD 30 million for alleged violations of anti-money laundering and cybersecurity regulations. It was the New York State financial regulator's first crypto enforcement action. According to NYDFS's investigation, Robinhood Crypto failed to maintain and certify compliant anti-money-laundering and cybersecurity pro-

grams, and there were shortcomings in the company's management and oversight of its compliance programs, including failures to maintain a culture of compliance or allocate resources to the programs, especially as the company grew quickly. In addition, NYDFS also asked Robinhood to retain an independent consultant to evaluate its compliance. ([More](#))

Twitter确认540万账户数据泄露

2022年8月8日，Twitter证实其安全漏洞导致了用户数据的泄露。据称，该漏洞是2021年6月平台代码更新所导致，直到今年年初才被发现。Twitter在通过其漏洞赏金计划收到报告后，于2022年1月才修复了该漏洞，这给了黑客几个月的时间来利用这个漏洞。日前美国科技媒体Bleeping Computer表示，有人在Twitter收到通知之前设法利用了该漏洞，因为一个拥有超过540万个帐户的数据库在黑客论坛上以30,000美元的价格出售。在分析了论坛上发布的数据后，Twitter证实用户数据遭到入侵。 ([查看更多](#))

Twitter Confirms the Data Leak of 5.4 Million Accounts

On 8 August 2022, Twitter confirmed that its security vulnerability led to the leakage of users' data. The vulnerability, which was the result of a June 2021 platform code update, went unnoticed until early this year. Twitter fixed the problem in January after receiving a report through its bug bounty program. This gave hackers several months to exploit the flaw. A few days ago, the US technology media Bleeping Computer published that someone managed to exploit the vulnerability before Twitter was notified of it, for a database of more than 5.4 million accounts was sold on a hacking forum for USD 30,000. After analyzing the data posted on the forum, Twitter confirmed that user data was compromised. ([More](#))

知识产权 Intellectual Property

有关专利独占许可及专利保护期限问题的认定

最高人民法院就山东艾德姆机电有限公司与淮南巨万实业有限责任公司侵害实用新型专利权纠纷一案作出二审判决，维持一审责令被告赔偿原告26万，撤销责令被告停止生产、销售侵权产品行为的判决。

最高院认为，专利独占许可使用协议的双方均是具有完全民事行为能力的民事主体，且协议内容明确、具体，协议双方并未对协议内容提出异议，该授权许可行为并不违反法律、行政法规的强制性规定，被许可人能够依据该协议获得涉案专利的独占实施许可；专利权人对《专利独占许可使用协议书》的内容作出确认并不需要以专利仍在保护期内为前提；当事人请求停止侵害已经超过专利保护期限的专利权，依法不予支持。综上，原告作为涉案专利的独占实施被许可人，依法享有以自己的名义提起本案诉讼的权利。巨万公司的相关上诉理由不能成立，本院不予支持。

来源：最高人民法院

SPC: Identification of patent exclusive license and patent protection period

The Supreme People's Court (SPC) made a second-instance judgment on the dispute over infringement of utility model patent, upheld the first instance judgement by ordering the defendant to compensate the plaintiff for RMB260,000, and revoked the judgment that ordered the defendant to stop producing and selling infringing products.

SPC held that the licensee could obtain the exclusive license for the patent according to the Patent Exclusive License Agreement(the agreement). The patentee's confirmation of the contents of the agreement does not require that the patent is still within the protection period. However, the plaintiff's request to stop infringing the patent that has expired can not be supported according to law. To sum up, the plaintiff, as the exclusive licensee of the patent, has the right to file a lawsuit for damages.

Source: SPC

判赔300万元：未经许可侵害标准必要专利，以2倍许可使用费确定赔偿数额

日前，最高人民法院就徐斌、宁波路宝科技实业集团有限公司与河北易德利橡胶制品有限责任公司、河北冀通路桥建设有限公司侵害发明专利权纠纷一案作出二审判决，判决被告停止侵权并赔偿损失共计300万元。

法院认为，本案中，原告主张的三种赔偿方式中，侵权获利及权利人损失所涉及的产品成本及利润率均为其自行核算，被告主张的利润率也是其自行核算，上述数据的真实性均难以确认，不予采信。对于许可使用费，原告提供了多份专利实施许可合同予以佐证，具有较强的客观性，因此采用许可使用费的倍数确定侵权赔偿数额。关于许可使用费倍数的确定，被告明知涉案专利为标准必要专利，非但没有主动寻求专利许可，反而径行在之后的平赞高速公路工程中再次未经许可实施涉案专利且拒不付费主观上存在明显过错，在适用许可使用费的倍数确定赔偿数额时，对上述情节应当重点予以考虑。综上，法院以2倍许可使用费确定赔偿数额。

来源：最高人民法院

SEP patentee was awarded damages for RMB3,000,000 for twice the royalty fee

Recently, SPC made a second-instance judgment on the case of infringement of the patent right of invention, ruling the defendant to stop the infringement and compensate the losses totaling RMB 3,000,000.

The court held that, among the three compensation methods advocated by the plaintiff, the product cost and profit rate involved in the infringement profit and the plaintiff's loss were all accounted for by itself, and the profit rate advocated by the defendant was also accounted for by itself. The authenticity of the above data was difficult to confirm, and shall not be accepted. As for the royalty, the plaintiff provided several patent licensing contracts, which is convincing. Therefore, the multiple of royalty was used to determine the amount of infringement compensation. With regard to the determination of the multiple of royalty, the defendant knew that the patent involved was a standard and essential patent, instead of actively seeking the patent license, it implemented the patent without permission again and refused to pay, which was at fault. When applying the multiple of royalty to determine the amount of compensation, the above circumstances should be given special consideration. To sum up, the court determined the compensation amount by twice the license fee.

Source: SPC

知网收录作品侵权被判赔19.6万

8月4日，北京法院审判信息网披露的一系列案件判决书显示，因相关著作权权属、侵权纠纷，北京世纪超星信息技术发展有限责任公司（下称“世纪超星”）起诉《中国学术期刊（光盘版）》电子杂志社有限公司（下称“学术期刊公司”），世纪超星称，其对涉案文章享有专有使用权，被告学术期刊公司未经许可，擅自提供上述涉案文章的付费在线阅读、下载服务，侵害原告权利。法院审理认为，被告将涉案文章收录并提供下载服务，不属于期刊与期刊之间的转载或摘编行为，被告行为构成侵权。相关诉讼一共13起，世纪超星共获赔19.6万元。

来源：[北京法院审判信息网](#)

CNKI enlisting articles of competitor for paid reading and downloading was recognized as copyright infringement

On August 4th, a series of case judgments disclosed by Beijing Court Trial Information Network showed that due to related copyright ownership and infringement disputes, Beijing Century Superstar Information Technology Co., Ltd (Superstar) sued China Academic Journals (CD Edition) Electronic Publishing House (CNKI).

Superstar claimed that it had the exclusive right to use the articles involved, and the defendant CNKI provided the paid online reading and downloading services of the articles involved without permission, infringing the plaintiff's rights. The court held that the defendant's inclusion and commercial use involved in the case are not the reprinting or excerpting between journals which can constitute non-infringement acts. Therefore, the defendant's acts constituted copyright infringement. There were 13 related lawsuits, and Superstar was awarded total damages of RMB 196,000.

Source: [Beijing Court Trial Information Network](#)

投诉侵权反被认定恶意投诉，并构成不正当竞争

近日，浙江省义乌市人民法院对义乌酷沃家居用品有限公司与上海高缔网络科技有限公司、杭州阿里巴巴广告有限公司确认不侵害著作权及不正当竞争纠纷一案作出判决，责令被告赔偿原告经济损失及合理支出费用。

法院认定，确认不侵权的逻辑前提是相关知识产权为被告享有，而该案被告其实并不享有著作权，其对自身是否为真正的权利人实际是清楚的，但在原告提供了相关作品真实权利人的情况下，不但没有更加审慎审查自己的权利基础，并且未向电商平台撤回投诉，导致原告经济损失。因此，该行为应该被认定为恶意投诉，有违诚实信用原则，因此应当认定构成不正当竞争。该案一审判决已生效。

来源：[浙江省义乌市人民法院](#)

Reckless Complaints against infringement are deemed as unfair competition

Recently, the People's Court of Yiwu City, Zhejiang Province made a judgment over the dispute of non-infringement of copyright and unfair competition, which ordered the defendant to compensate the plaintiff for its economic losses and reasonable expenses.

The court held that the defendant actually does not have the copyright on which it filed complaint against plaintiff. However, when the plaintiff provided the real right holder of the relevant works, the defendant not only failed to examine his right base more carefully, but also failed to withdraw his complaint from the e-commerce platform, resulting in the plaintiff's economic loss. Therefore, this behavior should be regarded as a malicious complaint constituting unfair competition. The first-instance judgment of the case has come into effect.

Source: Yiwu People's Court, Zhejiang Province

网点经营者突出使用“小米”驰名商标并虚假宣传构成侵权

近日，上海知识产权法院就小米科技有限责任公司、小米通讯技术有限公司与周秋均、上海寻梦信息技术有限公司侵害商标权及不正当竞争纠纷一案作出一审裁判，判决被告赔偿原告50万元。

法院认为，本案原告小米科技公司享有的第8228211号“小米”商标经核准注册后持续使用至今，原告及其关联公司投入大量资金对小米品牌进行宣传，并获得了众多荣誉，可以认定涉案商标在2020年已为中国境内相关公众广为知晓，属于驰名商标。被告周某某在其开设的店铺中销售浴霸、暖风机、平板灯、凉霸四种被诉侵权商品时，在商品名称、商品图片、商品详情页面多处以及产品机身、外包装、说明书等多处突出使用“小米”“小米家浴霸”“小米家风暖”“小米家用平板灯”“小米家用凉霸”等标识。该些标识使用了涉案“小米”商标，属于在不相同或者不类似商品上复制、摹仿原告注册的涉案“小米”驰名商标，不正当地利用“小米”驰名商标的市场声誉，误导公众，损害了权利人的利益，构成商标侵权。

来源：上海知识产权法院

Highlight the use of "Xiaomi" well-known trademark and false publicity constitutes infringement

Recently, the Shanghai Intellectual Property Court made a first-instance judgment on the case of trademark infringement and unfair competition dispute, and ruled that the defendant compensated for RMB 500,000.

The court held that the trademark "Xiaomi" of the plaintiffs has been used continuously since it was registered. The plaintiffs have invested a lot of money to publicize Xiaomi brand and won many honors. It can be concluded that the trademark has been widely known by the relevant public in China in 2020 and is a well-known trademark. When the defendant sells four kinds of alleged infringing goods, the logos such as Xiaomi, Xiaomi's Heater are prominently used in many places. Such use of Xiaomi trademark, constituted copying and imitating the plaintiff's well-known trademarks on different or similar goods. They improperly use the market reputation of Xiaomi well-known trademark, mislead the public and damage the interests of the right holder, thus constituting trademark infringement.

Source: Shanghai Intellectual Property Court

长期放任既有侵权行为存续构成主观恶意

江苏省无锡市中级人民法院就无锡睿健时代科技有限公司（以下简称睿健公司）、上海小腰信息科技有限公司（以下简称小腰公司）、泰兴市时代健身用品有限公司（以下简称时代公

司)、凌云不正当竞争纠纷一案作出二审判决,判决维持原判,责令被告停止侵害、赔礼道歉、赔偿损失。

无锡中院认为,赔偿数额的确定应考虑以下方面:1、被告小腰公司主观攀附故意显著的行为构成恶意重复侵权,2、时代公司、凌云与小腰公司构成共同侵权。小腰公司主张其主动履行前案判决内容并获得睿健公司认可,其对于本案中的被控侵权行为仅是疏忽、遗漏,但从睿健公司申请法院执行前案判决及本案诉讼发生的情况看,自前案生效判决作出至本案一审公证保全时间相隔一年有余,小腰公司并未以迅速断开链接、整体性删除等方式清除存在侵权行为的视频,而是放任其继续存在,直至本案二审仍在微信公众号中使用“下载FitTime”字样提供其APP下载,侵权方式更为隐蔽,侵权主体增加,行为人主观恶意明显,故一审法院全额支持睿健公司的赔偿请求,并无不当。

来源:江苏省无锡市中级人民法院

Long-term laissez-faire of existing infringement acts also constitute malice

The Intermediate People's Court of Wuxi City, Jiangsu Province made a second-instance judgment on the case of unfair competition dispute, which upheld the first instance judgment by ordering the defendant to stop the infringement, apologizing and compensating for the losses.

The court held that the following aspects should be considered in determining the amount of compensation: 1. The defendant's acts constitutes malicious repeated infringement. 2. defendants acts constitute joint infringement. The defendant claimed that he took the initiative to fulfill the content of the previous case judgment and obtained the plaintiff's approval. Its alleged infringement was only negligence and omission. However, judging from the situation that the plaintiff applied for the court to execute the previous case judgment and the litigation, it took more than one year from the effective judgment of the previous case to the notarization and preservation of the first instance. The defendant did not clear the infringing video by quickly breaking the link and deleting it as a whole, but let it continue to exist. Until the second trial of this case, its APP download was still provided in WeChat official account, and the way of infringement was more concealed, the number of infringing subjects increased, and the subjective malice of the perpetrator was obvious. Therefore, the court of first instance fully supported the plaintiff's claim for compensation.

Source: Wuxi Intermediate People's Court, Jiangsu Province

16亿美金商业秘密案: IBM再赔BMC2100万

8月8日,美国的德克萨斯南区联邦地区法院判定国际商业机器公司(IBM Corp.)向企业管理软件公司BMC Software, Inc.再支付2,100万美元的律师费和其他法律费用。5月,该地区法院判定了IBM公司因违约和欺骗性的诱导需向BMC公司支付16亿美元的赔偿。

来源:互联网综合

USD100 million trade secret case: IBM pays BMC another USD 21 million

On August 8th, the U.S. Federal District Court for the Southern District of Texas (S.D. Tex.) ordered IBM Corp to pay BMC Software, Inc, an enterprise management software company, another \$21 million in attorney fees and other legal fees. In May, the district court ruled that IBM had to pay \$1.6 billion in compensation to BMC for breach of contract and deceptive inducement.

Source: Internet Synthesis

OPPO在德面临手机禁售令

据8月5日外媒报道，慕尼黑第一地区法院判决诺基亚赢得了两起针对OPPO的专利禁令诉讼。

根据诺基亚的官方声明，“法院认定诺基亚的行为是公平的”。而OPPO在德网站销售页面上目前已下架了所有智能手机。“除了暂停某些产品的销售和营销外，OPPO将继续在德国运营。”OPPO发言人Peter Manderfeld称。

据悉，诺基亚针对OPPO的诉讼也在法国、西班牙、英国、荷兰、芬兰和瑞典进行。

来源：EPO

OPPO faces mobile phone lock-up order in Germany

On August 5th, the First District Court of Munich ruled that Nokia won two patent ban lawsuits against OPPO.

According to Nokia's official statement, "the court decided that Nokia's behavior was fair". OPPO has removed all smartphones from the sales page of German website. However OPPO will continue to operate in Germany. It is reported that Nokia's lawsuits against OPPO are also conducted in France, Spain, the United Kingdom, the Netherlands, Finland and Sweden.

Source: EPO

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