



# NEWSLETTER

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## No.315

2022.09

### 立方要闻周报

## Weekly News By Lifang & Partners

### NO.55

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

《中华人民共和国反电信网络诈骗法》2022年12月1日起施行

Law of the People's Republic of China on Combating Telecom and Online Fraud Shall Come into Force on 1 December 2022

“两高一部”联合发布信息网络犯罪案件适用刑事诉讼程序意见

SPC, SPP and MPS Jointly issued *the Opinions on the Application of Criminal Procedures in the Handling of Information Network-Related Criminal Cases*

国家网信办发布《数据出境安全评估申报指南（第一版）》

CAC Issues *Guidelines for Application for Security Assessment of Cross-border Data Transfer (First Edition)*

国家卫健委发布《医疗卫生机构网络安全管理办法》

NHC Issues *the Administrative Measures for the Cybersecurity of Medical and Healthcare Institutions*

北京市网信办开通数据出境安全评估申报咨询电话

The Cyberspace Administration of Beijing Municipality Opens a Hotline for Consultations on Application for Security Assessment of Cross-border Data Transfer

上海市经信委发布《上海市信息基础设施管理办法（草案）》

Shanghai Municipal Commission of Economy and Informatization Released *the Measures of Shanghai Municipality for the Management of Information Infrastructure (Draft)*

江苏省数据出境安全评估申报工作指引

Cyberspace Administration of Jiangsu Province Formulates *the Guidelines of Jiangsu Province on Applications for Security Assessment of Cross-border Data Transfer*

“未按照规定开展客户身份重新识别”，中国农业银行厦门市分行被罚196.5万



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Xiamen Branch of the Agricultural Bank of China Was Warned and Fined RMB 1.965 Million for Failing to Conduct Customer Identity Re-verification as Required

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因未告知消费者出售其个人信息，丝芙兰被罚120万美元

Sephora Was Fined \$1.2 Million for Failing to Tell Consumers to Sell Their Personal Information

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India's Revised Data Protection Bill Could Be Presented to Parliament by Early 2023

## 知识产权 Intellectual Property

共同惩治知识产权恶意诉讼！闵行检法签署全国首个合作备忘录

Shanghai Minhang District People's Procuratorate signed First Memorandum of Cooperation to Joint Punish Intellectual Property Malicious Lawsuits

判赔500万元：腾讯诉“微商截图王”等软件不正当竞争案宣判

Tencent Sued "Wishang Screenshot King" and Other Software for Unfair Competition and Awarded Damages of RMB 5 Million

一个专利两地起诉判赔2.2亿

A Patent was Sued in Two Places and Awarded Damages of RMB220 million

桶装水突出使用地名标识宣传水源地侵害他人注册商标专用权案

Case of Infringing Exclusive Right to Use Registered Trademark by Prominently Using Place Names in Barreled Water to Publicize Water Source Place

判赔350万元：离职员工披露和使用原公司商业秘密需承担侵权赔偿责任

The Departing Employees Shall be Liable for Indemnification of Infringement for Disclosure and Use of Trade Secrets of the Former Company



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判赔60万元：《梦幻西游》诉《放置西游》侵权，获法院保护

Fantasy Westward Journey Sued Placement Westward Journey for Copyright Infringement and Awarded Damages of RMB600,000

东盟延长PCT-ASPEC专利审查合作计划至2025年8月26日

Three-Year Extension of the PCT-ASPEC Pilot Programme till 26 August 2025

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

### 《中华人民共和国反电信网络诈骗法》2022年12月1日起施行

2022年9月2日,《中华人民共和国反电信网络诈骗法》已由中华人民共和国第十三届全国人民代表大会常务委员会于第三十六次会议通过,自2022年12月1日起施行。反电信网络诈骗法共七章50条,包括总则、电信治理、金融治理、互联网治理、综合措施、法律责任、附则等。反电信网络诈骗法明确,电信业务经营者应当依法全面落实电话用户真实身份信息登记制度。办理电话卡不得超出国家有关规定限制的数量。对经识别存在异常办卡情形的,电信业务经营者有权加强核查或者拒绝办卡。开立银行账户、支付账户,不得超出国家有关规定限制的数量。对经识别存在异常开户情形的,银行业金融机构、非银行支付机构有权加强核查或者拒绝开户等。 ([查看更多](#))

### Law of the People's Republic of China on Combating Telecom and Online Fraud Shall Come into Force on 1 December 2022

On 2 September 2022, *The Law of the People's Republic of China on Combating Telecom and Online Fraud*, as adopted at the 36th Session of the Standing Committee of the Thirteenth National People's Congress of the People's Republic of China was issued and shall come into force on 1 December 2022. The law has a total of 50 articles in seven chapters, including the general provisions, telecommunications governance, financial governance, internet governance, comprehensive measures, legal liability, and supplemental provisions. The law clarifies that telecommunications businesses shall comprehensively carry out the rules for the registration of phone users' personal identity information in accordance with the law. The number of phone cards applied for shall not exceed the number prescribed by the applicable regulatory provisions issued by the state. If any abnormal registration for a phone card is identified, the telecommunications business has the right to strengthen inspection or refuse to open the phone card. The number of bank accounts and payment accounts opened shall not exceed the number prescribed by the applicable regulatory provisions issued by the state. If any abnormal account opening is identified, a banking financial institution or non-banking payment institution has the right to strengthen inspection or refuse to open an account. ([More](#))

### “两高一部”联合发布信息网络犯罪案件适用刑事诉讼程序意见

2022年8月30日,最高人民法院、最高人民检察院、公安部联合发布《关于办理信息网络犯罪案件适用刑事诉讼程序若干问题的意见》(法发〔2022〕23号,以下简称《意见》)。《意见》主要内容有:规范信息网络犯罪案件的管辖;规范信息网络犯罪案件的取证;规范信息网络犯罪案件的证据审查;规范信息网络犯罪案件涉案财物处理。“两高一部”将指导地方各级人民法院、人民检察院、公安机关,准确执行刑法、刑事诉讼法和《意见》的有关规定,严格规范案件办理程序。 ([查看更多](#))

### SPC, SPP and MPS Jointly issued the Opinions on the Application of Criminal Procedures in the Handling of Information Network-Related Criminal Cases

On 30 August 2022, the Supreme People's Court (SPC), the Supreme People's Procuratorate (SPP), and the Ministry of Public Security (MPS) jointly issued *the Opinions on the Application of Criminal Pro-*

*cedures in the Handling of Information Network-Related Criminal Cases* (No. 23 [2022] of the Supreme People's Court) (the "Opinions"). The main contents of the Opinions include standardizing the following aspects of information network-related criminal cases: jurisdiction, evidence-taking, evidence review, and disposal of case-related properties. The SPC, SPP and MPS shall guide the courts, the people's procuratorates, and the public security organs at all levels to faithfully execute the relevant provisions of *the Criminal Law, the Criminal Procedure Law and the Opinions*, and strictly standardize the procedures for handling cases. ([More](#))

## 国家网信办发布《数据出境安全评估申报指南（第一版）》

2022年8月31日，为了指导和帮助数据处理者规范、有序申报数据出境安全评估，国家互联网信息办公室编制了《数据出境安全评估申报指南（第一版）》，对于申报情形、申报方式、申报流程、申报材料等作出了具体说明，并提供了相关模板供数据处理者参考。数据处理者因业务需要确需向境外提供数据，符合数据出境安全评估适用情形的，应当根据《数据出境安全评估办法》规定，按照申报指南申报数据出境安全评估。 ([查看更多](#))

## CAC Issues Guidelines for Application for Security Assessment of Cross-border Data Transfer (First Edition)

On 31 August 2022, in order to guide and help data processors in their application for security assessment of cross-border data transfer in a standardized and orderly manner, the Cyberspace Administration of China (CAC) prepared the Guidelines for Application for Security Assessment of Cross-border Data Transfer (First Edition), which provides specific explanations on circumstances for application, application methods, application procedures, application materials, etc., and provides the relevant templates for use. Where a data processor transfers data abroad due to its business needs, and such transfer falls into one of the circumstances applicable to security assessment for cross-border data transfer, it shall apply for security assessment in accordance with the provisions of *The Measures on Security Assessment of Cross-border Transfer of Data*. ([More](#))

## 国家卫健委发布《医疗卫生机构网络安全管理办法》

2022年8月29日，国家卫生健康委、国家中医药局、国家疾控局印发《医疗卫生机构网络安全管理办法》（以下简称《办法》）。《办法》提出，对新建网络，应在规划和申报阶段确定网络安全保护等级。各医疗卫生机构应全面梳理本单位各类网络，特别是云计算、物联网、区块链、5G、大数据等新技术应用的基本情况，并根据网络的功能、服务范围、服务对象和处理数据等情况，依据相关标准科学确定网络的安全保护等级，并报上级主管部门审核同意。 ([查看更多](#))

## NHC Issues the Administrative Measures for the Cybersecurity of Medical and Healthcare Institutions

On 29 August 2022, the National Health Commission (NHC), the National Administration of Traditional Chinese Medicine, and the National Bureau of Disease Control formulated and issued *the Administrative Measures for the Cybersecurity of Medical and Healthcare Institutions*. The measures note that the level of cybersecurity protection for a newly built cyberspace shall be determined at the stage of planning and application. A medical or healthcare institution shall comprehensively sort out the basic infor-

mation of various types of cyberspace of its own, especially the application of cloud computing, Internet of Things, blockchain, 5G, big data, and other new technologies, scientifically determine the applicable level of cybersecurity protection according to the relevant standards as well as the functions, service scopes, service objects and data processing of the cyberspace, and report the same to the competent authorities at the next higher level for review and approval. ([More](#))

## 北京市网信办开通数据出境安全评估申报咨询电话

2022年9月1日，为规范有序开展数据出境安全评估申报工作，北京市互联网信息办公室设立数据出境安全评估申报咨询电话010-67676912。此次咨询电话公布的背景为，根据《中华人民共和国网络安全法》、《中华人民共和国数据安全法》、《中华人民共和国个人信息保护法》、《数据出境安全评估办法》等法律法规，按照国家互联网信息办公室8月31日正式发布的《数据出境安全评估申报指南（第一版）》要求，数据处理者申报数据出境安全评估，应当通过所在地省级网信办进行申报，申报方式为送达书面申报材料并附带材料电子版。（[查看更多](#)）

## The Cyberspace Administration of Beijing Municipality Opens a Hotline for Consultations on Application for Security Assessment of Cross-border Data Transfer

On 1 September 2022, the Cyberspace Administration of Beijing Municipality sets up a telephone number for consultations on applications for security assessment of cross-border data transfer, 010-67676912, in order to help data processors to apply for security assessment in a standardized and orderly manner. The background to the announcement of this inquiry number is that, in accordance with *the Cybersecurity Law of the People's Republic of China, the Data Security Law of the People's Republic of China, the Law of the People's Republic of China on the Protection of Personal Information, the Measures on Security Assessment of Cross-border Transfer of Data*, and other applicable laws and regulations, as well as the requirements of *the Guidelines for the Application for Security Assessment of Cross-border Transfer of Data (First Edition)* issued by the Cyberspace Administration of China on August 31, a data processor shall submit the application through the provincial level office of the Cyberspace Administration of China by submitting written application documents together with electronic copies of the documents. ([More](#))

## 上海市经信委发布《上海市信息基础设施管理办法（草案）》

2022年8月23日，上海市经信委制定了《上海市信息基础设施管理办法（草案）》，并公开征求意见，征求意见截止日期为2022年9月22日。《草案》就信息基础设施的定义、范围、权责进行了明确规定，并就信息基础设施的发展、管理提出要求，适用于上海市市行政区域内信息基础设施的建设、设置、使用、维护、迁移、拆除及相关管理活动。（[查看更多](#)）

## Shanghai Municipal Commission of Economy and Informatization Released the Measures of Shanghai Municipality for the Management of Information Infrastructure (Draft)

On 23 August 2022, the Shanghai Municipal Commission of Economy and Informatization released *the Measures of Shanghai Municipality for the Management of Information Infrastructure (Draft)* and is seeking public opinion until 22 September 2022. *The Draft* clarifies the definition, scope, rights, and responsibilities of information infrastructure, puts forward requirements on the development and man-

agement of information infrastructure, and applies to the construction, installation, use, maintenance, relocation, dismantling, and related management activities of information infrastructure within the administrative region of Shanghai Municipality. ([More](#))

## 江苏省数据出境安全评估申报工作指引

2022年9月1日起,《数据出境安全评估办法》正式施行。为贯彻落实《数据出境安全评估办法》,保障数据要素安全跨境流动,江苏省互联网信息办公室根据国家互联网信息办公室《数据出境安全评估申报指南(第一版)》,结合江苏省工作实际,制定了《江苏省数据出境安全评估申报工作指引(第一版)》,提出“重要数据”认定参考标准、细化申报流程、明确设区市网信办及省级网信办分工。([查看更多](#))

## Cyberspace Administration of Jiangsu Province Formulates the Guidelines of Jiangsu Province on Applications for Security Assessment of Cross-border Data Transfer

On 1 September 2022, the Measures on Security Assessment of Cross-border Transfer of Data came into force. In order to implement *the Measures on Security Assessment of Cross-border Transfer of Data* and ensure the safe cross-border flow of data elements, the Cyberspace Administration of Jiangsu Province has formulated *the Guidelines of Jiangsu Province on Applications for Security Assessment of Cross-border Data Transfer (First Version)* in accordance with *the Guidelines for the Application for Security Assessment of Cross-border Transfer of Data (First Edition)* issued by the Cyberspace Administration of China and in light of the actual work situation of Jiangsu Province. *The Guidelines of Jiangsu Province on Applications for Security Assessment of Cross-border Data Transfer* proposes the reference standards for the identification of "important data", provides details on the application process, and clarifies the division of duties between cyberspace administrations of cities divided into districts on one hand and Cyberspace Administration of Jiangsu Province on the other hand. ([More](#))

## “未按照规定开展客户身份重新识别”,中国农业银行厦门市分行被罚196.5万

2022年8月31日,中国人民银行厦门市中心支行公布的行政处罚信息公示表显示,中国农业银行厦门市分行存在涉及未按照规定开展客户身份重新识别等8项违法行为,被警告,并被罚款196.5万元。与此同时,时任中国农业银行厦门市分行零售银行业务部副总经理陈泽熹对未按照规定开展客户身份重新识别、未按规定对高风险客户采取强化识别措施负有直接责任,被罚款1万元。([查看更多](#))

## Xiamen Branch of the Agricultural Bank of China Was Warned and Fined RMB 1.965 Million for Failing to Conduct Customer Identity Re-verification as Required

On 31 August 2022, according to the administrative penalty information disclosure form released by the Xiamen Central Branch of the People's Bank of China, the Xiamen Branch of the Agricultural Bank of China was warned and fined RMB 1.965 million for eight violations including failing to conduct customer identity re-verification as required. Meanwhile, Chen Zexi, then deputy general manager of the Retail Banking Business Department of the Xiamen Branch of the Agricultural Bank of China, was directly responsible for failing to conduct customer identity re-verification and failing to take enhanced measures for high-risk customers and was fined RMB 10,000. ([More](#))

## 美国联邦贸易委员会起诉数据中间商出售个人敏感地理位置数据

2022年8月29日，美国联邦贸易委员会（FTC）宣布，已对数据中间商Kochava提起诉讼，称其出售数以亿计的移动设备上的地理位置数据，这些数据可用来跟踪用户人们在敏感地理位置的行踪，Kochava出售这些数据，将使得人们暴露在“耻辱、跟踪、歧视、失业甚至肢体暴力”的威胁中。该诉讼旨在阻止Kochava收集涉及敏感地理位置的数据，并要求该公司删除已经收集的数据。（[查看更多](#)）

## FTC Sues Kochava for Selling Data that Tracks People at Reproductive Health Clinics, Places of Worship, and Other Sensitive Locations

On 29 August 2022, The Federal Trade Commission (FTC) filed a lawsuit against data broker Kochava Inc. for selling geolocation data from hundreds of millions of mobile devices that can be used to trace the movements of individuals to and from sensitive locations. The FTC alleges that by selling data tracking people, Kochava is enabling others to identify individuals and exposing them to threats of stigma, stalking, discrimination, job loss, and even physical violence. The FTC's lawsuit seeks to halt Kochava's sale of sensitive geolocation data and require the company to delete the sensitive geolocation information it has collected. ([More](#))

## 俄罗斯《个人数据法》修正案生效，适用于数据出境、个人数据处理等领域

2022年9月1日，俄罗斯联邦通信、信息技术和大众媒体监督局（“Roskomnadzor”）宣布，2022年7月14日第266-FZ号《个人数据法》修正案正式生效。Roskomnadzor特别强调，该修正案对2006年7月27日第152-FZ号《个人数据法》进行了重大修改，其中包括：《个人数据法》的域外适用适用；适用于与数据主体签订的处理个人数据的合同的最低标准；禁止强制提供生物识别数据等问题。（[查看更多](#)）

## Amendments to the Law "on Personal Data" Will Come into Force

On 1 September 2022, the Russian Federal Bureau of Telecommunications, Information Technology and Mass Media Supervision ("Roskomnadzor") announced that Amendment No. 266-FZ to the Personal Data Law has come into force on 14 July 2022. Roskomnadzor underlined in particular that the Amendment contains significant amendments to the Personal Data Law promulgated on 27 July 2006, No.152-FZ, including the extraterritorial application of the Personal Data Law; the minimum standards applicable to personal data processing contracts entered into with data subjects; the prohibition of compulsory provision of biometric data, etc. ([More](#))

## 因未告知消费者出售其个人信息，丝芙兰被罚120万美元

2022年8月31日，美国加利福尼亚州总检察长罗伯·邦塔（Rob Bonta）在发布会上表示，著名化妆品品牌丝芙兰（SEPHORA）就其侵犯消费者隐私一事与加州居民达成和解协议，决定支付120万美元的罚款，并在隐私政策中披露其向第三方出售消费者个人信息的事实，为消费者提供个人信息出售的退出机制。（[查看更多](#)）

## Sephora Was Fined \$1.2 Million for Failing to Tell Consumers to Sell Their Person-



## al Information

On 31 August 2022, California Attorney General Rob Bonta said in a press conference that the famous cosmetics brand Sephora has reached a settlement with California residents and decided to pay a fine of \$1.2 million and disclose in its privacy policy that Sephora sold consumers' personal information to a third party, and provide an exit mechanism for consumers' personal information sales. ([More](#))

## 修订后的印度数据保护法案可能在2023年初提交给议会

2022年8月29日，据报道，印度铁路、通信和电子及信息技术部长Ashwini Vaishnaw表示，一项新的数据保护法案将很快公布且征求公众意见，并有望在2023年1月印度议会预算会议期间提交。Vaishnaw说，该法案将反映围绕数据保护的现代思维，并补充说，"这不应该是我们试图为数字世界创建一个纸质系统"。即将发布的草案可能包括对拟议中的数据保护机构的结构和独立性的调整。 ([查看更多](#))

## India's Revised Data Protection Bill Could Be Presented to Parliament by Early 2023

On 29 August 2022, The Hindu reports that Indian Minister of Railways, Communications and Electronics and Information Technology Ashwini Vaishnaw indicated a fresh data protection bill will be published for public comments soon and hopefully be tabled during Indian Parliament's Budget Session in January 2023. Vaishnaw said the bill will reflect modern thinking around data protection, adding that "it should not be like we are trying to create a paper system for a digital world." The upcoming draft may include reported changes to the structure and independence of the proposed data protection authority. ([More](#))

## 知识产权 Intellectual Property

### 共同惩治知识产权恶意诉讼！闵行检法签署全国首个合作备忘录

在8月19日召开的闵行区知识产权保护工作推进会上，闵行区检察院与区法院共同签署《关于加强惩治涉知识产权恶意诉讼工作合作备忘录》，在共同惩治涉知识产权恶意诉讼行为、联合开展知识产权恶意诉讼领域综合治理等方面达成多项共识：建立涉知识产权恶意诉讼数据共享研判制度、专项协作配合机制、线索通报制度，加强涉知识产权恶意诉讼打击防范力度并深化涉知识产权恶意诉讼行为行业治理。

来源：闵行区人民检察院

### Shanghai Minhang District People's Procuratorate signed First Memorandum of Cooperation to Joint Punish Intellectual Property Malicious Lawsuits

On August 19, the People's Procuratorate and the District People's Court of Minhang District jointly signed the Memorandum of Cooperation on Strengthening the Punishments against Malicious Intellectual Property-related Lawsuits at the meeting for promoting the intellectual property protection of Minhang District and reached several consensuses in jointly punishing malicious intellectual property-

related lawsuits and jointly carrying out comprehensive governance of the field of malicious intellectual property-related lawsuits, including establishing a data sharing, research and judgment system, a special coordination and cooperation mechanism and a clue notification system, strengthening the efforts to combat and prevent malicious intellectual property-related lawsuits, and deepening the industry governance of malicious intellectual property-related lawsuits.

Source: [Shanghai Minhang District People's Procuratorate](#)

### **判赔500万元：腾讯诉“微商截图王”等软件不正当竞争案宣判**

日前，深圳市腾讯计算机系统有限公司将“微商截图王”等软件的所有者和运营方郴州七嘴网络科技有限公司、长沙市岳麓区智恩商品信息咨询服务部诉至北京知识产权法院。

法院认为，被告明知涉案软件可以用于制造虚假截图且具有以假乱真的效果，但其仍然向消费者提供，主观恶意较为明显。被告虽未直接实施造假行为，但为弄虚作假、行骗欺瞒提供了方便和条件，使得相关不法行为的实施门槛大为降低，造成相关公众对原告信任度降低，破坏公平有序的健康竞争秩序。因此，依据反不正当竞争法第二条的规定，被诉行为构成不正当竞争。

被诉软件是以实施涉案侵权行为为主的软件，被告收取的高额会员费主要是因被诉行为所得，因此可以参考被诉软件收取的会员费计算赔偿数额。因此经过综合考虑，法院酌定两被告连带赔偿原告经济损失500万元及合理开支28万余元。

来源：[北京知识产权法院](#)

### **Tencent Sued "Wishang Screenshot King" and Other Software for Unfair Competition and Awarded Damages of RMB 5 Million**

Shenzhen Tencent Computer System Co., Ltd. recently filed a lawsuit against the owner and operator of such softwares as WeiShang Screenshot King to Beijing Intellectual Property Court.

The court held that the defendant knew the software involved in the case could be used to create fake screenshots and confused customers, but it still provided to consumers, subjective malice is more obvious. Although the defendant did not directly commit fraud, it provided convenience and conditions for fraud and deception, greatly reduced the threshold for the implementation of relevant illegal acts, reduced the trust of the relevant public in the plaintiff, and damaged the fair and orderly healthy competition order. Therefore, according to Article 2 of the anti unfair competition law, the act constitutes unfair competition.

The accused software is used primarily for the implementation of infringement, and the high membership fee collected by the defendant is mainly income derived from the accused software, therefore the compensation amount may be calculated with reference to the membership fee collected by the accused software. The court ruled that the defendant should jointly compensate the plaintiff economic losses of RMB5 million and reasonable expenses of RMB280,000.

Source: [Beijing Intellectual Property Court](#)

## 一个专利两地起诉判赔2.2亿

近年来，珠海格力电器股份有限公司（下称格力）和奥克斯空调股份有限公司（下称奥克斯）的纷争呈“愈演愈烈”之势。从2015年至2017年两年多时间里的十余件专利侵权纠纷案件，到2018年奥克斯被判赔4000万元从而创造家电行业诉讼赔偿“纪录”，再到2019年被炒得沸沸扬扬的“举报门”事件，二者的纷争由来已久。

2021年12月，浙江省宁波市中级人民法院就两起奥克斯诉格力侵害发明专利权纠纷案件作出一审判决，均确认格力侵犯奥克斯相关发明专利权，合计赔偿1.666亿元。近日，2022年8月，奥克斯就同一专利（专利号：ZL00811303.3）于杭州中院起诉格力专利侵权两案作出判决，分别确认专利侵权，合计赔偿5800万。

来源：浙江省宁波市中级人民法院

## A Patent was Sued in Two Places and Awarded Damages of RMB220 million

In December 2021, the Ningbo intermediate people's Court of Zhejiang Province made a first instance judgment on two cases of dispute over the infringement on invention patent rights by AUX v. Gree, both of which confirmed that Gree infringed the relevant invention patent rights of Aux, with a total compensation of RMB166.6 million. Recently, in August 2022, Aux made a judgment on the two cases of the same patent suing Gree for patent infringement in Hangzhou intermediate people's court, confirming patent infringement respectively, and compensating a total of RMB58 million.

Source: Ningbo intermediate people's Court of Zhejiang Province

## 桶装水突出使用地名标识宣传水源地侵害他人注册商标专用权案

近日，广东省广州市白云区人民法院就广东鼎湖山泉有限公司与广州市白云区黄石圣玲桶装水店、温振宗、广东肇庆鼎湖泉雪食品有限公司侵害商标权纠纷一案作出判决，责令被告停止侵害、赔偿损失。

法院认为，涉案商标“鼎湖”经原告相当长的一段时间持续经营及宣传，已让相关公众对此地名有了超出地名本身的认识，该地名商标就具有了显著性，应受法律的保护。我国商标法规定，对于注册商标中涉及地名的，商标权人虽然无权禁止他人在相同或类似商品上正当使用该地名来表示商品与产地之间的联系，但本案三被告将“鼎湖”标识突出性使用在宣传海报、网页和被诉侵权产品等行为，已经明显超出了善意、正常使用地名标识的范畴。本案结合被告对地名标识的实际使用情况，确认被告具有攀附原告商誉和知名度的主观故意，排除了其行为的正当性，最终认定三被告的行为侵害了原告的注册商标专用权。

来源：广东省广州市白云区人民法院

## Case of Infringing Exclusive Right to Use Registered Trademark by Prominently Using Place Names in Barreled Water to Publicize Water Source Place

Recently, the People's Court of Baiyun District, Guangzhou City, Guangdong Province made a judgment on a dispute over trademark infringement and ordered the defendant to stop the infringement and compensate for the loss.

The court held that the plaintiff has, through quite a long period of continuous business operation and publicity for the trademark "Dinghu" involved, made the relevant public have known the place name beyond the place name itself. The trademark of the place name has distinctiveness and shall be protected by law. In accordance with the Trademark Law, for the place name involved in a registered trademark, the trademark holder has no right to prevent others from justifiably using the place name on the same or similar goods to indicate the connection between the goods and the place of origin. However, the defendant used the "Dinghu" logo in a prominent manner on publicity posters, web pages, and the alleged infringing products, which obviously went beyond the bona fide use of place name. Combining with the actual use of the place name logo by the defendant, it was confirmed that the defendant had a subjective intention to cling to the plaintiff's goodwill and popularity, ruled out the legitimacy of his behavior, and finally determined that the behavior of the three defendants infringed the plaintiff's exclusive right to use a registered trademark.

Source: People's Court of Baiyun District, Guangzhou City, Guangdong Province

### 判赔350万元：离职员工披露和使用原公司商业秘密需承担侵权赔偿责任

北京知识产权法院就北京心果科技有限公司与万源汇康科技（北京）有限公司、解某某不正当竞争纠纷一案作出二审判决，维持一审判决，责令被告停止侵害、赔礼道歉、消除影响并赔偿原告损失350万元。

法院认为，解某某为二公司签订《合作协议》的联系人，协议中约定了保密条款，其应当知晓心果公司的商业秘密以及双方对于商业秘密的约定。万源汇康公司通过解某某与“大众点评”平台进行联系，并在名称后冠以心果公司的“心果”字号进行合同审批，其应当知晓所使用的经营信息是心果公司的商业秘密。但解某某在心果公司任职期间将心果公司的商业秘密披露给万源汇康公司，并与万源汇康公司共同进行使用以获取不正当的商业利益；万源汇康公司明知解某某的身份，仍在其任职于心果公司时即开始使用其披露的商业秘密。因此，解某某及万源汇康公司的行为共同侵害了心果公司的商业秘密。

来源：北京知识产权法院

### The Departing Employees Shall be Liable for Indemnification of Infringement for Disclosure and Use of Trade Secrets of the Former Company

The Beijing Intellectual Property Court made a judgment of second instance on the case of unfair competition disputes, upheld the judgment of first instance, ordered the defendant to stop the infringement, apologize, eliminate the impact, and compensate the plaintiff for the loss of RMB3.5 million.

The court held that the defendant was the contact person for signing the Cooperation Agreement with Xinguo Co., and the agreement contained a confidentiality clause. The defendant should have known the trade secret of Xinguo Co. and the agreement on trade secret between the two parties. Wanyuan Huikang contacted the "Dianping" platform through the defendant and used the "Xinguo" name of Xinguo Company behind its name for examination and approval of contracts; therefore, it should have known that the operating information it used was the trade secret of Xinguo Company. However, during the period when the defendant was employed by Xinguo Company, the defendant disclosed the trade secrets of Xinguo Company to Wanyuan Huikang and used the trade secrets jointly with Wanyuan Huikang to obtain improper business interests. Wanyuan Huikang knew the identity of the defendant and started to use the trade secrets disclosed by Wanyuan Huikang when he was still em-

ployed by Xinguo Company. Therefore, the acts of the defendant and Wanyuan Huikang jointly infringed upon the trade secrets of Xinguo Company.

Source: [Beijing Intellectual Property Court](#)

### 判赔60万元：《梦幻西游》诉《放置西游》侵权，获法院保护

广州知识产权法院就广州网易计算机系统有限公司与广州火箭互动信息科技有限公司、成都玖壹玩网络科技有限公司著作权侵权及不正当竞争纠纷一案作出二审判决，驳回上诉，维持一审责令被告赔礼道歉、消除影响并赔偿原告60万元的判决。

法院认为，网易公司运营的《梦幻西游》与火箭公司运营的《放置西游》均为网络游戏，应认定网易公司与火箭公司具有直接的竞争关系。《梦幻西游》经过多年宣传、推广、经营，具有较高的影响力和知名度，其美术元素、角色创建界面与游戏存在较高的指向性。火箭公司在涉案《放置西游》游戏宣传广告中所展示游戏登录界面、角色创建界面与《梦幻西游》相应界面高度近似，而火箭公司亦仅在广告宣传中使用与《梦幻西游》游戏角色形象构成实质性相似的卡通形象，未在其经营的游戏中使用，故其行为构成虚假宣传。综上，火箭公司的行为构成不正当竞争。

来源：[广州知识产权法院](#)

### Fantasy Westward Journey Sued Placement Westward Journey for Copyright Infringement and Awarded Damages of RMB600,000

Guangzhou intellectual property court made a judgment of second instance on the case of copyright infringement and unfair competition disputes, rejected the appeal, and upheld the judgment of first instance ordering the defendant to apologize, eliminate the influence and compensate the plaintiff RMB 600,000.

The court held that the Fantasy Westward Journey operated by Netease and the Placement Westward Journey operated by the defendant are both online games, and it should be recognized that Netease and the defendant have a direct competitive relationship. After years of publicity, promotion and operation, Fantasy Westward Journey has high influence and popularity. Its artistic elements, character creation interface and game have high directionality. The login interface and character creation interface displayed in the advertisement of the game "Placing Westward Journey" involved in this case were highly similar to the corresponding interfaces of the game "Fantasy Westward Journey". Moreover, the defendant only used the cartoon image substantially similar to the image of the game "Fantasy Westward Journey" in the advertisement and did not use it in the game operated by the defendant. Therefore, the defendant's act constituted false advertisement. Based on the above, the defendant's act constitutes unfair competition.

Source: [Guangzhou intellectual property court](#)

### 东盟延长PCT-ASPEC专利审查合作计划至2025年8月26日

近日，东盟宣布将PCT-ASPEC延长3年至2025年8月26日止。根据PCT-ASPEC计划，专利申请人可根据东南亚国家协会的国际检索局ISA/国际初步审查局IPEA出具的书面意见或国际初步审查报

告IPER来加速以下9个东协国家的专利审查，包括：汶莱、柬埔寨、印尼、老挝、马来西亚、菲律宾、新加坡、泰国及越南。

新加坡及菲律宾专利局为受到认可的ISA/IPEA，可核发必要书面意见或IPER。PCT-ASPEC计划每年仅受理100件专利申请案。

来源：[ASEAN Intellectual Property Portal](#)

### **Three-Year Extension of the PCT-ASPEC Pilot Programme till 26 August 2025**

Association of Southeast Asian Nations(ASEAN) is pleased to announce that the PCT-ASPEC pilot programme will be extended for three years until 26 August 2025.The Patent Cooperation Treaty-ASEAN Patent Examination Cooperation (PCT-ASPEC) allows patent applicants to use a PCT report established by an ASEAN International Searching Authority or Preliminary Examining Authority (ISA/IPEA) to accelerate patent protection in nine participating AMS IP Offices,which include Brunei, Cambodia, Indonesia, Laos PDR, Malaysia, the Philippines, Singapore, Thailand and Vietnam.The cap of 100 applications per year and other criteria remain.

Source: [ASEAN Intellectual Property Portal](#)

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