



No.317

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### Weekly News By Lifang & Partners

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

### 网信办发布《中华人民共和国网络安全法（征求意见稿）》

2022年9月14日，国家互联网信息办公室（简称“网信办”）发布《关于修改〈中华人民共和国网络安全法〉的决定（征求意见稿）》，向社会公众公开征求意见，意见反馈截止时间为2022年9月29日。此次修改对于违反网络运行安全、关键信息基础设施安全保护、网络信息安全等制度的行为加大了处罚力度，具体体现在罚金上限大幅调整、引入从业禁止措施、增加行政处罚种类等方面。（[查看更多](#)）

### CAC Calls for Comments to Proposed Revisions to Cybersecurity Law of the People's Republic of China (Draft for Comments)

On 14 September 2022, the Cyberspace Administration of China (CAC) issued a Decision on Revising the *Cyber Security Law of the People's Republic of China (Draft for Comments)*, seeking public comments until 29 September 2022. The proposed revisions impose heavier penalties on violations of provisions on network operation security, security and protection of key information infrastructure, and network information security, etc., which are reflected by significantly adjusting the upper limit of fines, introducing measures for prohibiting the practice of related work, and increasing the types of administrative penalties. ([More](#))

### 国资委发布《中央企业合规管理办法》，将于10月1日实施

2022年9月16日，国务院国有资产监督管理委员会（简称“国资委”）发布《中央企业合规管理办法》（简称“《办法》”），并将于2022年10月1日起施行。《办法》共八章、四十二条，将“制度建设”单独设章，明确提出中央企业应当构建分级分类的合规管理制度体系，并进一步明确“数据保护”为重点关注领域，应制定合规管理具体制度或专项指南。《办法》提出，中央企业应当结合实际设立首席合规官，由总法律顾问兼任，对企业主要负责人负责。此外，《办法》要求加强合规管理信息系统与财务、投资、采购等其他信息系统的互联互通，实现数据共用共享。（[查看更多](#)）

### SASAC Issues Measures for Compliance Management of Centrally Administered Enterprises, Effective 1 October

On 16 September 2022, the State-owned Assets Supervision and Administration Commission of the State Council (“SASAC”) Issued *Measures for Compliance Management of Centrally Administered Enterprises (the “Measures”)*. The measures shall come into force on 1 October 2022. The Measures, consisting of eight chapters and 42 articles, set up a separate chapter for "System Establishment" and specify that central enterprises shall establish a hierarchical and classified compliance management system, and further specify that "data protection" is regarded as the key field and shall formulate specific systems or special guidelines for compliance management in this area. The Measures state that a centrally administered state-owned enterprise shall, in line with its actual situation, appoint a chief compliance officer concurrently held by its general counsel who is accountable to the chief responsible persons of such enterprise. In addition, the Measures call for enhanced interconnection between the compliance management information system and other information systems for finance, investment and procurement to achieve joint use and sharing of data. ([More](#))

## 信安标委就《信息安全技术网络数据分类分级要求》公开征求意见

2022年9月14日，全国信息安全标准化技术委员会（简称“信安标委”）归口的国家标准《信息安全技术网络数据分类分级要求》（简称“《要求》”）征求意见稿发布，意见征集截止2022年11月13日。《要求》给出了数据分类分级的原则和方法，包括数据分类分级基本原则、数据分类框架和方法、数据分级框架和方法、数据分类分级实施流程等。《要求》适用于行业领域主管（监管）部门参考制定本行业本领域的数据分类分级标准规范，也适用于各地方、各部门开展本地区、本部门的数据分类分级工作，同时还可为数据处理者进行数据分类分级提供参考。（[查看更多](#)）

## NISSTS Seeks Public Comments on Information Security Technology-Classification and Grading Requirements for Network Data

On 14 September 2022, National Information Security Standardization Technical Committee (“NISSTS”) sought public comments on *Information Security Technology-Classification and Grading Requirements for Network Data (the “Requirements”)*, with the deadline for feedback being 13 November 2022. The Requirements provide for principles and methods to classify and grade data, including the basic principles for classifying and grading data, the framework and methods for classifying data, the framework and methods for grading data, and the implementing procedures for classifying and grading data. The Requirements could be applicable as a reference to the formulation of the standards and specifications for data classification and grading purposes by competent (regulatory) departments for industrial sectors, as well as applicable to data classification and grading work carried out by local authorities and departments in their respective regions and departments, and could also be used as reference by data processors with respect to their classification and grading of data. ([More](#))

## 国内首个自动驾驶数据分类分级白皮书

2022年9月18日，《北京市高级别自动驾驶测试示范区数据分类分级白皮书》（以下简称《白皮书》）于2022世界智能网联汽车大会网络与数据安全峰会正式发布，据悉《白皮书》为国内首个自动驾驶数据分类分级白皮书。《白皮书》亮点包括以下内容：一、从数据保护的方法研究、内容评审、制度宣贯、数据盘点、分类分级、安全审计等多个方面提供指导；二、从六个门类对自动驾驶示范区数据进行盘点，分类分级结果涵盖数据格式等全面数据资产信息；三、确定示范区数据的重要性等级，将数据等级分为DL1-DL5五个等级；四、明确配套制定数据安全等级保障要求。（[查看更多](#)）

## The First White Paper on the Classification and Grading of Autopilot Data

On 18 September 2022, *The White Paper on Data Classification and Grading for High-level Autopilot Test Demonstration Areas in Beijing (the “White Paper”)*, which was officially released at the 2022 Summit on Network and Data Security of the World Intelligent and Connected Vehicles, is the first White Paper on the classification and grading of autopilot data in China. Highlights of the White Paper include the following aspects. The first is providing guidance from various perspectives, such as the research of data protection methods, content review, publicity and implementation of systems, inventorying of data, classification and grading, and security audit. The second is making inventories of data in demonstration zones for self-driving vehicles according to six categories, and the classification and



grading results should cover comprehensive information on data asset, such as the data formats. The third is determining the level of importance of data in demonstration zones and classifying such data into five grades, namely DL1 to DL5. The fourth is specifying the supporting requirements for ensuring the level of data security. ([More](#))

## 上海市经信委《上海市公共数据开放实施细则》公开征询意见

2022年9月14日，上海市经济和信息化委员会（简称“上海市经信委”）发布《上海市公共数据开放实施细则（征求意见稿）》（简称“《征求意见稿》”）。《征求意见稿》共七章，包括对数据开放、数据获取、开放平台、数据利用、保障措施等规定。《征求意见稿》细化数据获取流程，区分有条件开放/无条件开放等两类数据的获取，鼓励对开放数据进行实质性加工和创造性劳动后形成的数据产品进入流通交易市场。（[查看更多](#)）

## Shanghai Municipal Commission of Economy and Informatization Seeks Public Comments on *Implementing Rules of Shanghai Municipality on Opening Public Data*

On 14 September 2022, the Shanghai Municipal Commission of Economy and Informatization release the *Implementing Rules of Shanghai Municipality on Opening Public Data (Draft for Comments) (the "Draft")*. The Draft consists of seven chapters, including provisions on data opening, data access, opening platforms, data utilization, and security measures. Furthermore, the Draft details the data access procedures, distinguishing between two types of data access, i.e., conditional access to data and unconditional access to data, and encourages data products formed after substantial processing and creative work to open data to enter the circulation and trading market. ([More](#))

## 使用并向他人提供侵入京东的黑产软件：获利万余，被判3年

2022年9月11日，据报道，北京市大兴区人民法院曾公布一起因使用并向他人提供侵入京东的黑产软件被判处提供侵入、非法控制计算机信息系统程序、工具罪的案例。该案中，犯罪嫌疑人于某某自2020年6月至案发，明知他人编程的WIND黑产软件可用于侵入京东商城计算机信息系统，套取优惠券面额，仍使用并通过微信等方式推广WIND软件，并收取代理费和开卡费等费用，共向160余人次提供WIND软件，获利1万余元人民币。法院认为，于某某的行为已构成提供侵入、非法控制计算机信息系统程序、工具罪，依法应予惩处，被判有期徒刑3年，并处罚金人民币5万元。（[查看更多](#)）

## Used and Provided Illegal Software to Hack into Jingdong: Obtained Profit of About RMB10,000, Sentenced to 3 Years

On 11 September 2022, it is reported that the People's Court of Daxing District in Beijing has publicized a case in which a person was convicted of the crime of providing programs and tools for intruding into and illegally controlling the computer information system due to using and providing others with the black software of intruding into Jingdong. The suspect Yu, from June 2020 to the date of the crime, knew that the WIND malware programmed by others could be used to invade the computer information system of JD.com Mall to steal the face value of discount coupons, but still promoted the WIND software via WeChat and other ways, and charged agency fee, card opening fee and other fees

to more than 160 people, thereby obtaining a total profit of about RMB10,000. The court held that Yu's behavior constituted the crime of providing programs and tools for intrusion and illegal control of computer information systems, which should be punished according to the law and gave Yu a three-year sentence, together with a fine of RMB50,000. ([More](#))

### 出售个人信息获利6000泰达币，上海浦东检察院提起公益诉讼

2022年8月23日，上海浦东检察院公布一起侵犯公民个人信息刑事附带民事公益诉讼案例。被告人张某因侵害众多主体的个人信息安全权益致使公益受损，将要承担在国家媒体上公开道歉并赔偿的民事责任。该案中，张某非法侵入M公司系统，获取系统内客户订单信息的行为属于非法窃取公民个人信息行为，之后将盗取的订单信息非法转卖并从中获利，属于非法买卖公民个人信息行为。张某获利6000泰达币。上述行为均未取得权利人同意，侵害了公民个人信息权益，致使公共利益受损，符合公益诉讼的立案要求。2021年12月，浦东新区检察院以涉嫌侵犯公民个人信息罪对张某提起公诉。最终，法院以侵犯公民个人信息罪判处张某有期徒刑三年，缓刑四年，并处罚金人民币四万元。同时张某认可接受检察机关提出的全部民事公益诉讼请求：在国家级新闻媒体上公开赔礼道歉，并赔偿人民币38760元。 ([查看更多](#))

### Pudong Procuratorate in Shanghai Filed a Public Interest Litigation for Selling Personal Information to Obtain Profit of 6000 USDT

On 23 August 2022, The Pudong Procuratorate in Shanghai published a case of a criminal infringement of citizens' personal information with a civil public interest litigation collateral to the criminal activity. The defendant will bear the civil liability of public apology and compensation on the national media due to his infringement of the personal information security rights and interests of many subjects, resulting in damage to the public interest. The defendant's illegal intrusion into Company M's system to obtain customer order information therein constituted the illegal theft of citizens' personal information. The defendant then illegally resold the stolen order information for profit, which constituted the illegal purchase and sale of citizens' personal information. Defendant obtain a profit of 6000 USDT. The above acts did not obtain the consent of the right holders, infringed citizens' personal information rights and interests, and caused damage to the public interest, which conformed to the filing requirements of public interest litigation. In December 2021, the Pudong Procuratorate prosecuted the defendant for the crime of infringement of citizens' personal information. The court sentenced the defendant to three years in prison with a four year probation, together with a fine of RMB 40,000 for the crime of infringement of citizens' personal information. Meanwhile, the defendant accepted all the civil public interest litigation requests raised by the Pudong Procuratorate: public apology on national news media and compensation of RMB 38,760. ([More](#))

### 欧盟委员会《网络弹性法》，提出强制性网络安全标准

2022年9月15日，欧盟委员会提议制定《网络弹性法》（Cyber Resilience Act），要求制造商在设计 and 开发具有数字元素的产品（包括硬件和软件产品）时考虑网络安全，并且在产品的设计、生产、运维等整个生命周期中需始终对网络安全负责，这将确保投放到欧盟市场的可联网的有线、无线产品以及软件更为安全。根据这部拟议中的法案，全球的软硬件数字产品在欧盟

市场上市前要进行合格评定（自评估或第三方评估），以证明满足相关产品要求并起草欧盟符合性声明，由欧盟颁发“CE”标志后才可在市场自由流通。（[查看更多](#)）

## The Cyber-Resilience Law Sets Forth Mandatory Cyber-Security Standards

On 15 September 2022, the European Commission presented a proposal for a new Cyber Resilience Act. The Cyber Resilience Act introduces common cybersecurity rules for manufacturers and developers of products with digital elements, covering both hardware and software. It will ensure that wired and wireless products that are connected to the internet and software placed on the EU market are more secure and that manufacturers remain responsible for cybersecurity throughout a product's life cycle. Under the act, global digital hardware and software products would be subject to a pre-EU conformity assessment (either a self-assessment or a third-party assessment) to prove that they meet the relevant product requirements and prepare an EU compliance statement and be granted the "CE" mark by the EU before they can be freely marketed. ([More](#))

## 谷歌、Meta被韩国开一十亿最大罚单，因未经同意跨平台收集信息

2022年9月14日，韩国个人信息保护委员会在一份声明中表示，其对谷歌和Meta未经用户同意收集个人信息、用于分析用户兴趣并个性化推荐广告的违法行为作出罚款，对谷歌处以692亿韩元罚款（约合人民币3.46亿元）、对Meta 308亿韩元（约合人民币1.54亿元）罚款。委员会还要求，两家公司若要收集、利用第三方行为信息（用户访问其他网站或应用程序时的信息），必须提前通知用户并取得同意，让用户容易、明确地了解情况，并自由行使其决定权。据报道，这是韩国首次就个性化推荐广告平台收集个人信息行为进行罚款，也是对企业违反韩国《个人信息保护法》开出的最大罚单。（[查看更多](#)）

## S.Korea Fines Google, Meta Billions of Won for Privacy Violations

On 14 September 2022, in a statement, the Personal Information Protection Commission said it fined Google 69.2 billion won (RMB 346 million) and Meta 30.8 billion won (RMB154 million). The privacy panel said the firms did not clearly inform service users and obtain their prior consent when collecting and analysing behavioural information to infer their interests or use them for customised advertisements. The commission also requires that both companies notify their users and obtain their consent in advance if they intend to collect or use information about third-party conduct (information about users' access to other websites or applications), in order that users be easily and clearly informed and able to use their own discretion. As reported, this has been the first time that South Korea has imposed a fine on personalized recommendation advertisement platforms for their collection of personal information, and also the biggest fine against any company that violates *Personal Information Protection Law of South Korea*. ([More](#))

## 欧盟《数字市场法》正式签署，将于六个月后实施

2022年9月14日，欧洲议会主席和欧盟理事会事务部长正式签署《数字市场法》（Digital Markets Act，以下简称“DMA”），随后欧盟将在官方刊物上正式发布DMA，并将于6个月后实施此法案。2022年7月18日，欧盟27个成员国曾一致投票通过了DMA，此法案旨在确保数字行业具有竞争力和公平性，以促进创新、高质量的数字产品和服务。（[查看更多](#)）



## EU's Digital Market Act Officially Signed, Will Come into Force in 6 months

On 14 September 2022, The Digital Markets Act (DMA) has been signed by the President of the European Parliament and the Minister of State for the Council of the European Union. The DMA will then be published in the EU's official journal and come into force in six months. On July 18, 2022, the EU's 27 member states voted unanimously to adopt the DMA. This act aims to ensure that the digital industry is competitive and fair in order to promote innovative, high quality digital products and services. ([More](#))

## 知识产权 Intellectual Property

### 泉州知识产权法庭和泉州国际商事法庭揭牌成立

2022年9月14日，泉州知识产权法庭和泉州国际商事法庭揭牌成立，据悉，这是福建省第三个知识产权法庭和全国第五个在地方设立的国际商事法庭。2022年3月、4月，最高人民法院先后批复同意设立泉州知识产权法庭和泉州国际商事法庭，作为泉州中院专门审理知识产权案件、涉外商事案件的专业法庭。根据最高人民法院批复，泉州知识产权法庭集中管辖发生在泉州市辖区内的专利、植物新品种、集成电路布图设计、技术秘密、计算机软件的权属、侵权纠纷以及涉驰名商标认定、垄断纠纷的一审知识产权民事、行政案件，以及发生在泉州市辖区内除依法应由基层人民法院管辖之外的一审知识产权民事、行政和刑事案件，和不服基层人民法院管辖的一审知识产权民事、行政和刑事案件的上诉案件等。

来源：福建日报

### Quanzhou Intellectual Property Court and Quanzhou International Commercial Court Were Established

On 14 September 2022, the Quanzhou Intellectual Property Court and Quanzhou International Commercial Court were established, which are the third intellectual property court in Fujian Province and the fifth international commercial court established in China. In March and April 2022, the Supreme People's Court agreed to establish the Quanzhou Intellectual Property Court and the Quanzhou International Commercial Court as the special courts of the Quanzhou Intermediate Court specialized in hearing intellectual property cases and foreign-related commercial cases. According to the approval of the Supreme People's Court, the Quanzhou Intellectual Property Court has centralized jurisdiction over patents, new plant varieties, integrated circuit layout designs, technical secrets, computer software ownership, infringement disputes and disputes involving well-known trademarks and monopolies that occur within the jurisdiction of Quanzhou. First-instance intellectual property civil and administrative cases, as well as first-instance intellectual property civil, administrative and criminal cases within the jurisdiction of Quanzhou City other than those that should be under the jurisdiction of basic-level people's courts according to law, and first-instance intellectual property civil and administrative cases that do not accept the jurisdiction of basic-level people's courts and criminal appeals.

Source: Fujian Daily

## 智融科技IPO遭遇专利诉讼后终止

日前，珠海智融科技有限公司（简称“智融科技”）向上海证券交易所提交了《关于撤回首次公开发行股票并在科创板上市申请文件的申请》，撤回申请文件。根据智融科技申请，上海证券交易所决定终止对智融科技科创板IPO的审核。根据前述文件披露内容，2022年5月以来，英集芯起诉智融科技专利侵权索赔6609.37万，并对智融科技的27项专利提起提出无效宣告请求，目前，所有专利纠纷已在国家知识产权局审查过程中，部分被通知将于9月21日进行口头审理。

来源：上海证券交易所

## IPO of Zhirong Technology Was Terminated after Encountering Patent Litigation

Recently, Zhuhai Zhirong Technology Co., Ltd. ("Zhirong Technology") submitted the *Application for Withdrawing Application Documents for Initial Public Offerings and Listing on the Science and Technology Innovation Board* to the Shanghai Stock Exchange to withdraw the application documents. According to the contents disclosed in the foregoing documents, since May 2022, Yingjixin has sued Zhirong Technology for patent infringement claims of RMB66,093,700 and filed a request for the invalidation of 27 patents of Zhirong Technology. At present, all patent disputes have been examined by the China National Intellectual Property Administration, and some of these invalidations have been notified that will be heard on September 21.

Source: Shanghai Stock Exchange

## 擅用与Royal Oak手表完全相同的装潢设计构成不正当竞争，被判赔100万元

广东省深圳市中级人民法院就奥德马裴盖控股有限公司（AUDEMARS PIGUET HOLDING S.A.）与深圳市一方田隅跨境电子商务有限公司（以下简称“一方公司”）侵害商标权以及不正当竞争纠纷一案作出判决，判令被告停止侵权、支付经济损失及合理开支共100万元。

奥德马裴盖控股有限公司认为八角形边框与八个六角螺钉的组合设计已经成为其品牌的标志性设计，能够发挥区分商品来源的功能。原告发现被告一方公司生产经营的手表上使用与其“Royal Oak”系列手表相同的设计，遂提起诉讼。法院认为，Royal Oak（皇家橡树）和Royal Oak Offshore（皇家橡树离岸）手表在腕表业界知名度较高，Royal Oak（皇家橡树）手表八角形装潢设计非常独特，区别于通常的手表形状，具有区别商品来源的作用。被告未经授权擅自使用与原告Royal Oak（皇家橡树）手表完全相同的设计，目的在于攀附Royal Oak（皇家橡树）手表的已有商誉，导致相关公众的混淆或者误认。被告违反诚实信用原则，构成反不正当竞争法第六条一项所规定的不正当竞争行为，应当承担停止侵权并赔偿损失的民事责任。

来源：广东省深圳市中级人民法院

## Unauthorized Use of Decoration Design Identical to That of Royal Oak Watches Constituted Unfair Competition with Damages of RMB 1 million

The Shenzhen Intermediate People's Court in Guangdong Province made a ruling on a dispute over trademark infringement and unfair competition, ordering the defendant to cease the infringement and pay damages of RMB 1 million.

The plaintiff contended that the octagonal frame and eight hexagonal screws had become a symbol design of its brand and functioned as a source of products. The plaintiff brought the action after discovering that the defendant was using the same design on watches manufactured and sold by the defendant as on its Royal Oak watches. The court held that, Royal Oak and Royal Oak Offshore watches were better known in the wristwatch industry, and that the octagonal shape of the Royal Oak watches was unique enough to distinguish from the usual watch shape, and serve as a source of distinction. Defendant used the design identical to plaintiff's Royal Oak watch, taking advantage of the goodwill of the Royal Oak watch, which lead to confusion of the relevant public. The defendant's acts constituted unfair competition.

Source: Shenzhen Intermediate People's Court of Guangdong Province

### 生产、销售“无人直播”设备破坏快手公司直播秩序构成不正当竞争

用户通过观看直播欣赏实时、真实发生的事件是快手产品的主要特征。而量某公司生产、销售的一款将摄像头进行改造的智能手机内置名为“softcam”的无人直播软件，能够实现用本地视频文件进行直播。因认为该产品破坏快手平台的直播秩序，快手公司向法院提起诉讼。法院经审理认为，快手公司对于快手直播平台秩序的维护属于其经营自主权范畴，有权提出相应的诉讼主张；量某公司将“softcam”软件内置于红米手机，并对该手机摄像头进行改造，使涉案产品实现无人直播功能，在一定程度上改变了涉案产品的性能，属于再生产行为；该产品能够使用本地视频代替直播视频，具有掩盖事实、欺骗公众的意图，属于通过技术手段实时直播作弊的行为，违背快手公司意愿导致合法提供快手平台无法正常运行，违反了诚实信用原则和商业道德，亦不存在有利于提升消费者利益或社会公共利益的正当理由，最终认定量某公司构成不正当竞争。

来源：广州知识产权法院

### The Production and Sale of "Unmanned Live Streaming" Equipment Sabotaged the Live Broadcast of Kwai Constitutes Unfair Competition

The main feature of Kwai is that users enjoy real-time, real-life events by watching live broadcasts. A smartphone sold by a company has a built-in unmanned live broadcast software named "softcam" that can be used to broadcast live with local video files. The Plaintiff brought a lawsuit to the court against this company. Upon trial, the court held that the defendant had embedded "softcam" software into the Redmi mobile phone, and modified the camera of the mobile phone, so that the product could have the function of unmanned live streaming, which changed the performance of the product, and constituted reproduction of the products; the product could use local video to replace live video, with the intention of covering up the facts and deceiving the public, which constituted a cheating practice of real-time live streaming through technical means, causing prejudice to Plaintiff's normal operation of live streaming, violating the principle of good faith and business ethics, and constituted unfair competition.

Source: Guangzhou Intellectual Property Court

### “红底鞋”构成有一定影响的商品名称和包装装潢

北京知识产权法院就克里斯提·鲁布托简易股份有限公司（以下简称“克里斯提公司”）诉

广东万里马实业股份有限公司（以下简称“万里马公司”）涉“红底鞋”不正当竞争纠纷一案做出一审判决，判决侵权方停止侵权赔偿经济损失及合理支出人民币544.5万元。

克里斯提公司发现被告万里马公司擅自生产销售多款使用与克里斯提公司“红鞋底”装潢相同设计的女鞋产品并使用“红底鞋”作为其商品名称，遂提起诉讼。法院认为，“红底鞋”商品及红色鞋底装潢已具有较高市场知名度，在相关公众中已与克里斯提公司建立了稳定的对应关系建立稳定联系，具有区分商品来源的显著特征。克里斯提公司的“红底鞋”商品名称和使用在女士高跟鞋外鞋底的红色装潢设计构成“有一定影响的商品名称”、“有一定影响的包装装潢”。万里马公司的行为足以导致误认其与克里斯提公司具有某些特定联系，已构成不正当竞争。

来源：[北京知识产权法院](#)

### **“Red-sole shoes” Constitute a Certain Influence on the Name of the Goods and Packaging Decoration**

Beijing Intellectual Property Court made the judgment of the first instance in the dispute over unfair competition involving "red-sole shoes", and ordered the defendant to stop infringement with damages of RMB 5.445 million.

The Plaintiff filed a lawsuit, when it found that the defendant produced and sold several types of shoes, using the same design of the plaintiff's "red-sole" decoration, and using "red-sole soles" as the product name. The court held that the Plaintiff's products of "red-soled soles" and the decoration had high reputation, and established a stable relationship with the plaintiff among the relevant public, and had a distinct feature to distinguish the source of the products. The plaintiff's product name of "red-sole shoes" and the design of red decoration on the outer soles of lady's high-heeled shoes constituted a "product name that has certain influence" and "packaging and decoration that has certain influence". The act of the defendant was sufficient to mislead the public that the defendant had a certain connection with the plaintiff, and constituted unfair competition.

Source: [Beijing Intellectual Property Court](#)

### **“阿克苏苹果”地理标志证明商标获一二审法院保护**

近日，上海知识产权法院就阿克苏地区苹果协会与上海桂子鸡农产品有限公司（以下简称“桂子鸡公司”）等侵害商标权纠纷一案作出二审判决，维持一审关于桂子鸡公司使用阿克苏字样构成商标侵权的认定，责令桂子鸡公司支付经济损失及合理开支共15万元。

第5918994号“阿克苏苹果及图”商标系地理标志证明商标，其注册人为阿克苏地区苹果协会。根据商标法相关规定，以地理标志作为证明商标注册的，其商品符合使用该地理标志条件的自然人、法人或者其他组织可以要求使用该证明商标，控制该证明商标的组织应当允许。据此，桂子鸡公司应当证明其销售的苹果产自阿克苏地区，否则不能使用“阿克苏”标识。本案中，桂子鸡公司销售的涉案商品达8万多件，销售金额达300多万元，其应提交合同、付款凭证、物流凭证等证据，但桂子鸡公司仅提交了零星的证据材料，且提交的证据材



料的真实性、关联性均存疑，不能形成证据链。最终，法院认为，桂子鸡公司无使用阿克苏地名的正当理由，构成商标侵权。

来源：[上海知识产权法院](#)

### **“Aksu Apple” Geographical Indication Certification Trademark Was Protected**

Recently, the Shanghai Intellectual Property Court rendered its second-instance judgment on a dispute over trademark infringement, upholding the first-instance judgment and ordering the defendant to pay damages of RMB150,000es.

Trademark No. 5918994 "Aksu Apple and Logo" is a geographical indication (GI) certification mark, and its registrant is the Aksu Apple Association. The court held, that pursuant to *Trademark Law*, where a GI mark is registered as a certification mark, anyone meeting the criteria for use of the said GI mark may request to use the said certification mark, and the GI trademark owner shall consent to the use. Accordingly, the defendant shall prove that the apples it sold were produced in the Aksu region, otherwise, the "Aksu" mark shall not be used. In this case, the defendant sold more than 80,000 pieces of products, and the sales amount was more than RMB 3 million. It shall submit evidences such as contracts, payment receipts and logistics vouchers, and etc. However, the defendant only submitted sporadic evidences, and the authenticity and relevance of the submitted evidences are doubtful, thus the evidence chain cannot be formed. Ultimately, the court held that the defendant has no justification to use the Aksu, and its act constitutes trademark infringement on GI trademark.

Source: [Shanghai Intellectual Property Court](#)

### **瑞士竞争监督机构就专利使用问题对Novartis进行调查**

瑞士制药商Novartis于9月15日证实，瑞士竞争委员会(COMCO)已对其发起了调查，原因是该公司涉嫌非法利用一项专利来减少竞争压力。COMCO在一份声明中称，在9月13日清晨，其对“某”公司进行了突击检查，但在该声明中并未提及Novartis的名称。但Novartis随后在自己的声明中说它就是被调查的集团。COMCO在一份声明中称，“该公司（Novartis）被认为试图通过利用其一项专利多次提起诉讼，以保护其治疗皮肤病的药物不受竞争产品的影响”。

来源：[Biospace](#)

### **Swiss Agency Probes Novartis over Potential Unlawful Patent Use**

The Swiss drugmaker Novartis confirmed on September 15 that the Swiss Competition Commission (COMCO) had opened an investigation into it for allegedly using a patent to reduce competitive pressure. COMCO said in a statement that it had carried out an unannounced inspection of "a" company early on September 13. It did not name Novartis in the statement. But Novartis later said in its own statement, that it was the group that was under investigation. "The company (Novartis) is believed to have tried to protect its dermatological drugs from competing products by repeatedly filing lawsuits using one of its patents," COMCO said in a statement.

Source: [Biospace](#)



## 首尔半导体起诉Feit公司侵犯12项LED专利

近日，首尔半导体（Seoul Semiconductor）已就美国LED照明产品制造商及经销商Feit Electric Co. Ltd.（以下简称Feit公司），向加州中心区的美国地方法院提起专利侵权诉讼，称其侵犯了首尔半导体的12项LED专利。

据悉，针对Feit公司持续侵权行为，首尔半导体曾在美国提起过5次诉讼，其中2起案件胜诉。2019年和2020年，美国法院曾颁发禁令，要求Feit公司停止销售相关专利侵权产品。首尔半导体称，尽管已有此项禁令，但Feit公司的专利侵权行为并未得到纠正，所以此次直接向Feit公司提起诉讼。

来源：[koreatimes](#)

## Seoul Semiconductor Sued Feit for Infringing 12 LED Patents

Recently, Seoul Semiconductor (hereinafter referred to as "Seoul Semiconductor") filed a patent infringement lawsuit with the U.S. District Court in California Central District against Feit Electric Co., Ltd. ("Feit Company"), a U.S. manufacturer and distributor of LED lighting products, alleging that Feit infringes 12 of its LED patents.

Seoul Semiconductor is known to have brought five lawsuits in the United States against Feit for its continuous infringement, and won two of them. In 2019 and 2020, the US court issued injunctions ordering Feit to stop selling products infringing Feit's patents. Seoul Semiconductor claimed that Feit's patent infringement had not been corrected in spite of such injunctions, so it brought the lawsuits directly against Feit.

Source: [koreatimes](#)

## 未经授权将他人肖像以实物和NFT形式非法利用，土耳其法院发布初步禁令

近期，伊斯坦布尔第三知识产权法院发布了关于NFTs的初步禁令，此案件为土耳其法院首个关于NFTs并将NFTs作为初步禁令的对象的裁判。NFTs指非同质代币，其并非加密货币，但与加密货币一样，它使用区块链技术将所有权分配给数字（和物理）资产。此前，英国高等法院在Osbourne案（Osbourne V Persons Unknown & Anor, England and Wales High Court, Mar 10, 2022）中认为NFTs是“财产”，应获得法律保护并可成为初步禁令的对象。

该案标的为作词家及作曲家Cem Karaca晚年的肖像的利用，Cem Karaca的继承人诉至知产法院，主张Cem Karaca的肖像以实物和NFT形式被非法利用，要求颁发初步禁令。法院支持了初步禁令的请求，命令封锁访问那些以未经授权利用该肖像的平台，并禁止在Opeansea平台上销售NFT格式的“Cem Karaca”肖像。

来源：[mondaq](#)

## Turkish Court Issues Preliminary Injunction Against Unauthorized Physical and NFT Use of Another Person's likeness

Recently, Istanbul 3rd Civil Intellectual Property Court ("IP Court") rendered a preliminary injunction regarding NFTs.

The case is the first decision by a Turkish court regarding NFTs and making them the subject of a preliminary injunction. NFTs are non-homogenous tokens that are not cryptocurrencies, but, like cryptocurrencies, use blockchain technology to assign ownership to digital (and physical) assets. *Osbourne v. Persons Unknown & Anor*, England and Wales High Court, Mar 10,2022, previously held that NFTs are "property," deserving the protection of the law, and making them the subject of a preliminary injunction.

The case concerned the exploitation of an image of the lyricist and composer Cem Karaca in his later years. The heirs of Cem Karaca brought an action before the Intellectual Property Court, claiming that the image of Cem Karaca was illegally exploited in kind and in NFT form, and requesting a preliminary injunction. The court upheld the request for a preliminary injunction, ordering the blocking of access to platforms that exploited the image in an unauthorized manner and prohibiting the sale of images of "Cem Karaca" in NFT format on the Opeansea platform.

Source: [Mondaq](#)

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