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立方竞争法周报 Weekly Competition Law News

重庆市市监局对市属重点国有企业开展经营者集中申报培训

2022年9月30日，重庆市市场监督管理局（“重庆市市监局”）发布公告，称其于近日联合市国资委对重庆市国有企业开展经营者集中申报培训。重庆市市监局从经营者集中申报的重要性、重庆市市监局开展试点审查工作概况及意义、国有企业在申报中需重点关注的问题、经营者集中反垄断审查的理论和实务四个方面进行了系统培训，并编印发放了《经营者集中反垄断审查资料汇编》。（[查看更多](#)）

Chongqing AMR Conducts Merger Filing Training for Key State-Owned Enterprises under the Municipality

On September 30, 2022, the Chongqing Municipal Administration for Market Regulation (“Chongqing AMR”) issued an announcement, stating that it had cooperated with the Chongqing Municipal State-Owned Assets Supervision and Administration to jointly conduct a merger filing training for state-owned enterprises (“SOEs”) in Chongqing. The Chongqing AMR conducted systematic training from four aspects: the importance of declaration of operator concentration, the overview and significance of the pilot merger review work conducted by Chongqing AMR, the issues that SOEs need to focus on during the declaration, and the theory and practice of merger review. During the training, Chongqing AMR also compiled and issued the *Compilation of Information on Anti-monopoly Review of Operator Concentration*. ([More](#))

上海市成立反垄断和公平竞争委员会

近日，上海市政府发布公告，决定成立上海市反垄断和公平竞争委员会，由副市长担任委员会主任，其他领导成员包括来自上海市发展改革委员会、上海市市场监督管理局、上海市司法局、上海市财政局、上海市国有资产监督管理委员会、上海市统计局、上海市知识产权局等不同部门的领导，委员会办公室将设在上海市市场监督管理局。（[查看更多](#)）

Shanghai Establishes Anti-Monopoly and Fair Competition Committee

Recently, Shanghai government issued an announcement deciding to establish the Shanghai Anti-Monopoly and Fair Competition Committee, with the vice mayor as the director of the committee. Other leading members include leaders from different departments such as the Shanghai Municipal Development and Reform Committee, Shanghai Municipal Administration for Market Regulation, Shanghai Municipal Bureau of Justice, Shanghai Municipal Finance Bureau, Shanghai Municipal State-owned Assets Supervision and Administration Commission, Shanghai Municipal Bureau of Statistics, and Shanghai Intellectual Property Administration. The committee office will be located in the Shanghai Municipal Administration for Market Regulation. ([More](#))

国资委出台新规重点防范垄断风险

近日，国务院国有资产监督管理委员会（“国资委”）发布了《中央企业合规管理办法》（“《办法》”），于2022年10月1日起施行。《办法》明确提出，中央企业应结合实际设立首

席合规官，由总法律顾问兼任，领导合规管理部门组织开展相关工作，指导所属单位加强合规管理。《办法》还要求，强化重点领域合规风险防范，制定专项管理指南，其中反垄断合规被摆在首要位置。（[查看更多](#)）

SASAC Issues New Measures to Focus on Preventing Monopoly Risks

Recently, the State-Owned Assets Supervision and Administration Commission of the State Council (“SASAC”) issued the *Measures for the Compliance Management of Chinese Central State-Owned Enterprises* (the “*Measures*”), which will take effect on October 1, 2022. The *Measures* clearly stated that Chinese central state-owned enterprises should set up the post of chief compliance officer based on the actual situation, which should be served by the general counsel of the company to lead the compliance management department to organize and carry out relevant work and guide the enterprise to strengthen compliance management. The *Measures* also requires companies to strengthen compliance risk prevention in key areas and develop special management guidelines. Among them, anti-monopoly compliance is placed in the first place. ([More](#))

法国法院将对苹果的反垄断罚款降低至3.72亿欧元

2022年10月6日，据媒体报道，法国一上诉法院降低了法国竞争管理局对苹果公司“在分销和零售网络方面的反竞争行为”的罚款，从此前的11亿欧元降低至3.72亿欧元。2020年，法国竞争管理局认定苹果公司强迫其法国授权经销商保持与苹果商店以及官网上一致的售价，并对苹果公司进行了罚款。上诉法院支持了法国竞争管理局对苹果滥用零售商对该公司的经济依赖性的指控，但驳回了固定价格指控，大幅降低了计算整体罚款的比率，罚款因此有所减少。（[查看更多](#)）

French Court Cuts Down Antitrust Fine Against Apple

On October 6, 2022, it was reported that an appeals court in France lowered the fine levied against Apple by the French Competition Authority due to alleged “anti-competitive behavior towards its distribution and retail network” from 1.1 billion EUR to 372 million EUR. The antitrust regulator fined Apple in 2020 after finding that it imposed prices on Apple Authorized Resellers in France so that prices were in line with those charged at Apple Stores and on Apple.com. The appeals court backed the antitrust watchdog’s charge that Apple abused the retailers’ economic dependency on the company but tossed the fixed-pricing charge and significantly lowered the rate applied to calculate the overall fine, resulting in the reduction in the fine. ([More](#))

美国众议院通过并购申报费用现代化法案

2022年9月29日，美国众议院投票通过了《并购申报费用现代化法案》（Merger Filing Fee Modernization Act），法案已通过参议院表决，白宫也在本周内发布了支持法案的声明。这一法案将提高企业在涉及大型并购交易的申报案件中需要向联邦机构支付的费用，从而为联邦贸易委员会和司法部反托拉斯部门筹措资金，而小型并购交易的申报费用将被降低。国会预算办公室估计，这一措施将在未来五年内为联邦政府节省14亿美元。（[查看更多](#)）

US House Votes to Pass Merger Antitrust Bill

On September 29, 2022, the US House of Representatives voted to pass the *Merger Filing Fee Modernization Act*. A version of the bill already passed the Senate and the House package gained the support of the White House in a statement this week. The bill would increase the fees businesses pay to federal agencies when a large merger deal requires government review, which would raise money for the Federal Trade Commission and Department of Justice Antitrust Division. In the case of smaller deals in need of review, fees would be lowered. The Congressional Budget Office estimated the measure would save the federal government \$1.4 billion over the next five years. ([More](#))

第17届东亚高官竞争政策年会暨第14届东亚竞争法律政策研讨会将召开

2022年9月28日至29日，第17届东亚高官竞争政策年会（EATOP）暨第14届东亚竞争法律政策研讨会（EAC）将于菲律宾马尼拉召开，此次会议由亚洲开发银行、菲律宾竞争委员会和日本公平交易委员会联合组织举办。会议目标包括推动东亚、东南亚竞争机构交流关于制定和实施竞争政策的观点和实践方法；讨论应对经济冲击的竞争法律、隐私政策和宣传，以及加强在东亚和亚太地区的竞争力；强调在加强市场竞争的同时促进发展中经济体可持续监管的关键。

([查看更多](#))

Event: 17th East Asia Top Officials' Meeting on Competition Policy and the 14th East Asia Conference on Competition Policy

From September 28 to September 29, the 17th East Asia Top Officials' Meeting on Competition Policy (EATOP) and the 14th East Asia Conference on Competition Policy (EAC) is to be held in Manila, Philippine. This event is co-organized by Asian Development Bank Institute, the Philippine Competition Commission and Japan Fair Trade Commission. The objectives of the event are to exchange views and best practices on the formulation and implementation of competition policies among competition authorities in East and Southeast Asia; to discuss competition law, privacy policy, and advocacy in response to economic shocks and their capacity to strengthen competitiveness in Asia and the Pacific; and to highlight keys to promoting sustainable regulation in developing economies while enhancing market competition. ([More](#))

美国司法部就法院批准美国糖业公司收购帝国糖业公司发表声明

2022年9月23日，美国司法部就地区法院批准美国糖业公司（U.S. Sugar）收购帝国糖业公司（Imperial Sugar）发布声明，称司法部对法院不阻止这一合并的决定感到失望，该交易将把世界上最大的精炼蔗糖供应商与其在美国东南部的一个主要竞争对手结合起来，增加了对外国进口的依赖，这种重要的厨房食品市场的进一步整合将对数百万美国人产生实际影响。美国司法部正在审查该决定并将很快确定下一步行动。美国糖业公司拥有世界上最大的垂直整合蔗糖制造和精炼业务，美国糖业公司于2021年3月宣布以3.15亿美元的价格收购帝国糖业公司，美国司法部2021年11月23日宣布起诉以寻求阻止该交易。 ([查看更多](#))

DOJ Issues Statement on the District Court's Decision in U.S. v. U.S. Sugar and Imperial Sugar

On September 23, 2022, the Department of Justice (“DOJ”) issued a statement regarding the District Court's decision in U.S. v. U.S. Sugar and Imperial Sugar, stating that “We are disappointed in the

court's decision not to block this merger, which would combine one of the largest sugar cane refiners with one of its primary competitors in the Southeastern United States and increase reliance on foreign imports. Further consolidation in the market for this important kitchen staple will have real-world consequences for millions of Americans. We are reviewing the opinion and will determine next steps shortly". U.S. Sugar is the world's largest vertically-integrated cane sugar milling and refining operation. In March 2021, U.S. Sugar announced that it was acquiring Imperial Sugar for \$315 million, and DOJ announced on November 23, 2021 that it was suing to block the deal. ([More](#))

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

民政部印发《国务院关于加强数字政府建设的指导意见》实施方案

2022年9月26日，民政部办公厅印发《民政部贯彻落实〈国务院关于加强数字政府建设的指导意见〉的实施方案》（以下简称“《实施方案》”）。《实施方案》要求构建开放共享的民政数据资源体系。主要涉及三个方面：（1）创新数据管理机制，强化数据管理职责，健全民政大数据资源体系，以及强化数据治理和全生命周期管理；（2）深化数据高效共享，加大跨部门数据共享协调力度，建立标准统一、动态更新的民政政务数据目录，有序推进垂管系统与地方数据平台、业务系统数据双向共享；（3）促进数据有序开发利用，编制全量覆盖、动态更新的民政政务数据共享开放目录，整合未成年人保护等重点领域信息资源库等。（[查看更多](#)）

MCA Issues Implementation Plan of the Ministry of Civil Affairs on Implementing the State Council's Guidelines on Strengthening the Construction of Digital Government

On September 26, 2022, the General Office of the Ministry of Civil Affairs (the "MCA") issued the *Implementation Plan of the Ministry of Civil Affairs on Implementing the State Council's Guidelines on Strengthening the Construction of Digital Government* (the "Implementation Plan"). The Implementation Plan requires the establishment of an open and shared data resource system of civil affairs. The Implementation Plan mainly involves three aspects: (i) innovate the data management mechanism, strengthen the data management responsibilities, improve the bigdata resource system of civil affairs, and strengthen data governance and lifecycle management; (ii) deepen efficient data sharing, strengthen the coordination of cross-departmental data sharing, establish a unified and dynamically updated data catalogue of civil affairs and government affairs, and orderly promote the two-way data sharing between vertically-managed systems and local data platforms and operation systems; (iii) promote the orderly development and utilization of data, prepare a full-coverage and dynamically updated data catalogue of civil affairs and government affairs, and integrate information resource databases in key areas such as protection of minors. ([More](#))

信安标委发布《信息安全技术 网络安全众测服务要求》征求意见稿

2022年9月27日，全国信息安全标准化技术委员会（以下简称“信安标委”）秘书处发布《信息安全技术 网络安全众测服务要求》征求意见稿，意见反馈截至2022年11月26日。“网络安全众测服务”是指，以自愿的方式组织非特定的自然人或组织，在审计及监督下，对网络产品和系统

等开展漏洞发现等安全测试的过程。此标准确立了网络安全众测服务的角色及其职责，描述了服务流程，规定了服务要求，供众测需求方、众测组织方、授权测试方和众测审计方开展网络安全众测服务时使用。（[查看更多](#)）

NISSTC Issues Information Security Technology - Requirements for Crowdsourcing Security Test Services (Draft for Comments)

On September 27, 2022, the National Information Security Standardization Technical Committee (the "NISSTC") released the exposure draft of *Information Security Technology - Requirements for Crowdsourcing Security Test Services* to solicit public opinions until November 26, 2022. "Crowdsourcing security test services" refers to the process of organizing non-specific natural persons or organizations in a voluntary manner to conduct security tests to identify vulnerabilities on network products and systems under audit and supervision. The draft establishes the roles and responsibilities of the crowdsourcing security test services, describes the service process and stipulates the service requirements, and can be used by the crowdsourcing test demand-side, the crowdsourcing test provider, the authorized test entity, and the crowdsourcing test auditing entity when conducting the test services. ([More](#))

信安标委就国标《信息安全技术 网络安全信息报送指南》征求意见

2022年9月28日，信安标委秘书处发布《信息安全技术 网络安全信息报送指南》征求意见稿，意见反馈截至2022年11月27日。此标准描述了网络安全信息报送的信息类型、要素、格式规范，以及网络安全信息报送活动的参与角色、基本流程、报送方式，用于为网络安全信息报送活动中的各参与角色提供参考。报送的网络安全信息类型包括脆弱性信息、网络安全威胁信息、网络安全事态信息、网络安全事件信息、网络安全态势信息、网络安全资讯、其他信息等，与拟出台的《信息安全技术 网络安全信息共享指南》存在对应关系，该文件以附录形式描述前述对应关系。（[查看更多](#)）

NISSTC Issues Information Security Technology - Guidelines for Cyber Security Information Submission (Draft for Comments)

On September 28, 2022, the NISSTC released the exposure draft of *Information Security Technology - Guidelines for Cyber Security Information Submission* to solicit public opinions until November 27, 2022. The draft describes the types, elements, and formats of the submitted cyber security information, as well as the participating roles, basic procedures, and submission methods of the cyber security information submission activities, providing reference for various participants. The types of the cyber security information submitted include vulnerability information, cyber security threat information, cyber security event information, cyber security incident information, cyber security situation information, cyber security message, and other information, which correspond to the proposed *Information Security Technology - Guidance for Cyber Security Information Sharing*. The foregoing corresponding relationship is set out in the appendix of the draft. ([More](#))

信安标委就国标《信息技术 安全技术 信息技术安全性评估方法》征求意见

2022年9月30日，信安标委秘书处发布《信息技术 安全技术 信息技术安全性评估方法》征求意见稿，意见反馈截止于2022年11月29日。标准共18节，包含3个附录，可配合国家标准GB/T

18336《信息安全技术 信息技术安全评估准则》的使用，为信息技术产品的安全测试评估工作提供依据，可为信息技术产业提升产品安全性提供指引和参考。（[查看更多](#)）

NISSTC Issues Information Technology Security Technology - Methodology for IT Security Evaluation (Draft for Comments)

On September 30, 2022, the NISSTC released the exposure draft of *Information Technology Security Technology - Methodology for IT Security Evaluation* for public comment until November 29, 2022. The draft consists of 18 sections and 3 appendices which may be used in coordination with the national standards *Information Security Technology – Evaluation Criteria for IT Security* (GB/T 18336) to provide the basis for the testing and assessment of the security of information technology products and provide guidance and reference for the information technology industry to improve the security of products. ([More](#))

自然资源部联合查处“问题地图”共享服务

2022年9月28日，据北京日报报道，自然资源部联合国家安全机关，在上海、广州、深圳、长沙、成都、重庆等地，对使用境外“问题地图”服务的相关企业组织开展联合执法行动。一些境外地图服务商以“开源共享”等名义，诱导境内人员对我重要军事目标、关键基础设施等开展非法测绘活动，造成我相关敏感涉密地理空间信息数据泄露。一些境内企业在提供互联网服务时，忽视国家安全风险隐患，未依法履行地图内容信息审查程序，违规使用境外地图服务商共享的“问题地图”。据悉有关部门将持续加强对相关行业领域的执法监督。（[查看更多](#)）

MNR Joint Investigation "Problem Map" Sharing Service

On September 28, 2022, according to the report of Beijing Daily, the Ministry of Natural Resources (the "MNR") and other state security organs jointly carried out law enforcement actions against enterprises that use overseas "problem maps" services in Shanghai, Guangzhou, Shenzhen, Changsha, Chengdu, Chongqing and other places. In the name of "open source sharing", some foreign map service providers induced domestic personnel to carry out illegal surveying and mapping activities against China's important military targets, key infrastructures and etc., resulting in the leakage of China's relevant sensitive and secret-related geospatial information and data. When providing Internet services, some domestic enterprises ignored potential national security risks, and did not go through the map content information examination procedures in accordance with the law. Furthermore, they illegally used "problem maps" shared by overseas map service providers. As reported, the related authorities will continue to strengthen the supervision of law enforcement in related industries. ([More](#))

上海数据集团成立，构建数据要素市场，承担公共数据授权运营

2022年9月29日，上海数据集团有限公司（以下简称“数据集团”）正式揭牌成立。数据集团是以数据为核心业务的具有功能保障属性的市场竞争类企业，功能定位是构建数据要素市场、激发数据要素潜能、保障数据安全。上海市政府已正式授权数据集团开展公共数据运营业务，数据集团将承担上海市公共数据和国企数据的授权运营，作为上海一体化城市大数据资源基础治理的支撑主体，围绕数字产业化、产业数字化以及数据生态领域开展布局。（[查看更多](#)）

Shanghai Data Group Is Established to Build Data Element Market and Undertake Authorized Operation of Public Data

On September 29, 2022, Shanghai Data Group Co., Ltd. (Shanghai Data Group) was officially launched. Shanghai Data Group is an enterprise competing in the market with data as its core business and attributes of functional guarantee. Its functional orientation is to build the data element market, stimulate the potential of data elements, and protect data security. The Shanghai Municipal Government has officially authorized Shanghai Data Group to operate public data. Shanghai Data Group will undertake the operation of the authorized Shanghai public data and data of state-owned enterprises, serve as the supporting body for basic governance of Shanghai's integrated urban big data resources, and make layout in the fields of digital industrialization, industrial digitization and data ecology. ([More](#))

上海市通管局：127款APP存在违规收集个人信息等问题，25款未完成整改

2022年9月26日，上海市通信管理局（以下简称“上海通管局”）通报第三方检测机构对上海市APP应用侵害用户权益行为的检查结果。经检测发现127款APP存在“违规收集个人信息”“违规使用个人信息”“APP强制、频繁、过度索取权限”等相关问题，上海市通信管理局已通报相关APP运营企业，督促存在问题的APP进行整改。根据通报，尚有25款APP未完成整改，上述APP应在9月30日前落实整改工作。逾期不整改的，上海通管局将依法依规组织开展处置工作。（[查看更多](#)）

SCA: 25 APPs Have Not Completed the Rectification Among the total 127 non-compliance APPs of Personal Information

On September 26, 2022, Shanghai Communications Administration (the "SCA") notified the results of the inspection, by third-party testing agencies, of activities infringing the rights and interests of users by the Apps in Shanghai. Upon testing, it was found that 127 Apps had relevant problems such as illegal collection of personal information, illegal use of personal information, and compulsory, frequent and excessive requests of authority. SCA has notified relevant App operating enterprises to make rectification. According to the notice, there are still 25 Apps that have not completed rectification. The above-mentioned Apps shall implement the rectification by September 30. If rectification is not made within the time limit, SCA will carry out the work in accordance with the laws and regulations. ([More](#))

欧洲法院总法律顾问就GDPR第88条的解释发表意见

2022年9月22日，欧洲法院总法律顾问Campos Sánchez-Bordona就C-34/21号案件发表意见，该裁决涉及德国联邦州部门雇用的教师是否必须同意以视频会议的方式流媒体授课，或者当不同意时，是否可以基于GDPR中规定的合法目的之一处理其个人数据进行。总法律顾问认为，GDPR第88(1)条和第88(2)条应被解释为，成员国通过的立法规定只有在符合GDPR第88(2)条规定的要求时，才是确保在雇佣场景下处理雇员个人数据保护其权利和自由的更具体规则。相反，如果成员国法律下的立法规定不符合GDPR第88(2)条规定的要求，那么只有在它可能基于GDPR的其他规定或GDPR第6(2)条中提到的国家适应性规定的情况下，才能适用。（[查看更多](#)）

Opinion Of Advocate General Campos Sánchez-Bordona regarding Article 88 in GDPR

On September 22, 2022, Campos Sánchez-Bordona, Advocate general of Court of Justice, delivered the opinion in Case C-34/21. This matter to be determined in the proceedings which have given rise to the request for a preliminary ruling is, in essence, whether teachers employed by a Land Hessen ministry (Germany) have to consent to the streaming of their lessons by videoconference or whether, if they do not consent to this, the processing of their personal data may be based on one of the legitimate aims provided for in Regulation (EU) 2016/679. The Advocate general held the opinion that, Article 88(1) and (2) in GDPR is to be interpreted as meaning that:

A legislative provision adopted by a Member State is a more specific rule for ensuring the protection of the rights and freedoms in respect of the processing of employees' personal data in the employment context only if it meets the requirements laid down by Article 88(2) of Regulation 2016/679.

If that legislative provision does not meet the requirements laid down by Article 88(2) of Regulation 2016/679, it is applicable, where appropriate, only in so far as it may be based on other provisions of that regulation or on national adaptation provisions, as referred to in Article 6(2) thereof. ([More](#))

CNIL发布健康信息数据库控制者的合规检查清单

2022年9月28日，法国的数据保护机构国家信息与自由委员会（Commission nationale de l'informatique et des libertés, CNIL），为运营健康信息数据库的数据控制者提供了一份合规检查清单。该清单旨在帮助数据控制者对照CNIL的参考系统证实其合规性。如果一个实体不符合检查清单中的标准，那么其数据库将可能被认为不合规。（[查看更多](#)）

CNIL Publishes Compliance Checklist for Health Data Warehouse Controllers

On September 28, 2022, France's data protection authority, the Commission nationale de l'informatique et des libertés (the "CNIL"), provided a compliance checklist for data controllers who operate health data warehouses. The checklist is designed to help data controllers verify compliance against CNIL's reference system. If an entity does not meet the criteria in the checklist, its database may be considered noncompliant. ([More](#))

谷歌将向伊利诺伊州居民支付违反BIPA的和解金

2022年9月29日，据报道，参与对谷歌集体诉讼的伊利诺伊州居民每人将获得154美元的和解金，共计1亿美元和解金。这笔赔款是在与谷歌一起集体诉讼案达成和解之后发生的，该案中涉案居民指控谷歌的人脸分组工具违反了伊利诺伊州的生物识别隐私法，该工具在谷歌照片上按相似度对人脸进行排序。然而，该州法律要求公司在收集和保存用户的生物识别信息之前，必须获得用户的肯定性同意。据悉，可以收到赔偿的居民包括在2015年5月至今年4月期间出现在谷歌照片上的人。（[查看更多](#)）

Google Will Pay Settlement to Illinois Residents for the Violations of BIPA

On September 29, according to the report, Illinois residents who involved in a class-action lawsuit against Google will receive \$154 each, and the total settlement amount reached \$100 million. In this case, the residents alleged Google's face grouping tool, which sorts faces on Google Photos by similarity, violated Illinois' biometric privacy law. The State law requires companies to obtain affirmative consent from users before collecting and saving their biometric information. As reported, people

who appeared in a photo on Google Photos between May 2015 and this April while they were residents of Illinois will receive the compensation. ([More](#))

工信部发布《工业和信息化行政处罚程序规定（征求意见稿）》

2022年9月28日，工业和信息化部（以下简称“工信部”）发布《工业和信息化行政处罚程序规定（征求意见稿）》，意见反馈截止于2022年10月29日。该意见稿共五章六十三条，对行政处罚管辖、行政处罚决定、行政处罚执行和结案等内容作出了详细规定。明确工业和信息化管理部门实施行政处罚应当坚持全过程记录的原则；明确具有一定社会影响的行政处罚决定，应当自作出决定之日起七个工作日内依法予以公开，公开的行政处罚决定被依法变更、撤销、确认违法或者确认无效的，应当在三个工作日内撤回行政处罚决定信息并公开说明理由；根据《行政处罚法》规定，明确重大执法决定法制审核的情形和内容。（[查看更多](#)）

MIIT Releases Regulations on Administrative Penalty Procedures for Industry and Information Technology (Draft for Comments)

On 28 September 2022, the Ministry of Industry and Information Technology (MIIT) released *Regulations on Administrative Penalty Procedures for Industry and Information Technology (Draft for Comments)* (the “Draft”) for public comment until October 29, 2022. The Draft contains five chapters and sixty-three articles, which specify the jurisdiction of administrative penalty, the decision on administrative penalty, the implementation of administrative penalty and the closure of cases, etc. The Draft clarifies that the industrial and information management departments shall adhere to the principle of recording the whole process when implementing administrative penalty. The Draft also specifies that administrative penalty decisions with a certain level of social impact shall be made public in accordance with the law within seven working days from the date of making the decision; In the event that administrative penalty decisions that have been made public are changed, revoked, confirmed to be illegal, or confirmed to be invalid, any relevant publicized information shall be withdrawn within three working days. In accordance with the *Administrative Punishment Law*, the circumstances and content of the legal review of major law enforcement decisions are clarified in the Draft. ([More](#))

《陕西省大数据条例》审议通过

2022年9月29日，陕西省第十三届人民代表大会常务委员会第三十六次会议通过《陕西省大数据条例》（以下简称“《条例》”），自2023年1月1日起施行。《条例》共八章八十一条，其中，在安全保障方面，《条例》规定，政务部门负责管理政府信息化建设过程中收集、产生的数据，不得将数据管理权向企业转移。政务部门应当要求参与政府信息化建设、维护的企业、事业单位按照有关法律、行政法规的规定和合同约定履行数据安全保护义务，对涉及的敏感个人信息等，依法采取脱敏、加密保护等措施。企业、事业单位不得擅自留存、使用、泄露或者向他人提供获取的政务数据，不得擅自将数据用于商业用途或者向境外提供。（[查看更多](#)）

Regulations of Shaanxi Province on Big Data Was Approved

On 29 September 2022, *The Regulations of Shaanxi Province on Big Data* (the “Regulations”) has been adopted at the 36th Session of the Standing Committee of the 13th People's Congress of Shaanxi

Province and will come into force as of January 1, 2023. The Regulations consist of 81 articles in eight chapters. Concerning the security guarantee, the Regulations provide that government departments shall be responsible for the management of data collected and produced in the process of the government's information construction and shall not transfer the right of data management to enterprises. Government departments shall require enterprises and public institutions participating in the construction and maintenance of information technology of the government to fulfill their obligations of data security protection according to the provisions of relevant laws and administrative regulations as well as contractual agreements, and take measures such as desensitization and encryption protection for sensitive personal information involved in accordance with the law. No enterprise or public institution may, without authorization, retain, use, divulge or provide others with any government data obtained, or use any data for commercial purposes or provide such data to overseas parties without authorization. ([More](#))

广州数据交易所正式挂牌运营

2022年9月30日，广州数据交易所揭牌仪式在广州市南沙区举行，标志着广东省级数据交易机构正式成立运营。当日，首批数据经纪人、数商企业签约进场，在交易所已申请挂牌的交易标的超300个，进场交易标的超200个，并达成首日交易总额超1.55亿元。围绕数据开放、共享、交换、交易、应用、安全、监管等数据要素全周期，广州数据交易所在全国首创数据流通交易全周期服务，为市场主体提供数据资产登记、交易清结算、信息披露、数据保险、数据托管、人才培养等内容，解决数据供给难、确权难、定价难、入场难、监管难、安全难等关键共性难题。 ([查看更多](#))

Guangzhou Data Exchange Was Officially Launched for Operation

On 30 September 2022, the unveiling ceremony of Guangzhou Data Exchange was held in Nansha District, Guangzhou, marking the official establishment and operation of this provincial-level data exchange in Guangdong. On the same day, the first batch of data brokers and commercial data enterprises have entered into the exchange for trading transactions with signed contracts. More than 300 subject matters for transaction have been applied for listing, while more than 200 subject matters for transaction have entered the exchange for trading, with the total trading volume exceeding RMB155 million on the first day. Focusing on the full cycle of data elements such as data opening, sharing, exchange, transaction, application, security, and supervision, Guangzhou Data Exchange is the first in China to introduce services tailored to the full cycle of data circulation and transaction service, providing market entities with data asset registration, transaction clearing and settlement, information disclosure, data insurance, data trusteeship, talent training, and other services to address the difficulties in the areas of data supply, right confirmation, pricing, entry into exchange market, supervision and safety and other key common problems. ([More](#))

上海经信委组织开展2022年国家新型数据中心典型案例征集工作

2022年10月8日，上海市经济信息化委（以下简称“经信委”）组织开展2022年国家新型数据中心典型案例征集工作。征集方向主要为：一、大型数据中心，包括互联网、工业、金融、政务等重点行业领域；二、中小数据中心；三、边缘数据中心。上海经信委将根据申报情况组织专家评审，选择符合《上海市数据中心建设导则》（2021版）相关要求的新型数据中心，并推荐至工信部。 ([查看更多](#))

SHEITC Organizes the Collection of Typical Cases of National New Data Centers in 2022

On 8 October 2022, The Shanghai Municipal Commission of Economy and Informatization (SHEITC) initiated to organize the collection of typical cases of new types of national data centers for the year 2022. The collection efforts mainly focus on the following: (1) large data centers, including Internet, industry, finance, government affairs and other key industries and sectors; (2) small and medium-sized data centers; and (3) edge data centers. SHEITC will organize expert reviews based on application status, select new data centers meeting the relevant requirements of the *Guiding Rules for the Construction of Data Centers in Shanghai Municipality (2021 Edition)*, and recommend them to the MIIT. ([More](#))

欧盟理事会批准《数字服务法》

2022年10月4日，欧盟理事会（Council of the European Union）通过了《数字服务法》（the Digital Services Act，以下简称DSA），DSA旨在禁止数字空间内非法内容的传播，并保护用户的基本权利，该法的通过为确保更安全的在线环境迈出了重要的一步。DSA明确规定了中介服务提供者（如社交媒体、在线市场、超大在线平台（VLOP）和超大在线搜索引擎（VLOSE））的责任和义务。根据DSA，平台的运营不仅需要更加透明，而且还要对其传播非法和有害内容的行为承担责任。（[查看更多](#)）

DSA: Council Gives Final Approval to the Protection of Users' Rights Online

On 4 October 2022, The Council took an important step to ensure a safer online environment by approving the Digital Services Act (DSA). The DSA protects the digital space against the spread of illegal content and ensures the protection of users' fundamental rights. The DSA defines clear responsibilities and accountability for providers of intermediary services, such as social media, online marketplaces, very large online platforms (VLOPs) and very large online search engines (VLOSEs). Under the DSA, platforms will not only have to be more transparent, but will also be held accountable for their role in disseminating illegal and harmful content. ([More](#))

英美《数据访问协议》生效

2022年10月3日，英国和美国于2019年10月3日签署的《关于为打击严重犯罪而获取电子数据的协议》（The Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Access to Electronic Data for the Purpose of Countering Serious Crime，以下简称“《数据访问协议》”）正式施行。《数据访问协议》将允许英美两国的执法机构在满足隐私保护和公民权利标准的前提下，更便利地从对方获取用户电子数据以打击严重犯罪。该协议还规定了美国和英国当局在获取和使用根据数据访问协议获得的数据时，必须遵守商定的要求、限制以及条件。（[查看更多](#)）

U.S.-UK Data Access Agreement Enters into Force

On 3 October 2022, *The Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Access to Electronic*

Data for the Purpose of Countering Serious Crime (the “Agreement”) entered into force. The Agreement was signed on 3 October 2018. The Agreement will allow each country’s investigators to gain better access to vital data to combat serious crime in a way that is consistent with privacy and civil liberties standards. U.S. and UK authorities must also abide by agreed requirements, limitations and conditions when obtaining and using data obtained under the Agreement. ([More](#))

美国总统拜登签署关于美欧个人数据隐私的行政命令

2022年10月7日，美国总统拜登签署了一项关于加强美国信号情报活动保障措施的行政命令，旨在保护欧盟和美国之间个人数据传输的隐私，并解决欧洲对美国情报收集活动的担忧。白宫表示，该行政命令为跨大西洋数据流提供了一个新的法律框架，这些数据流对数字经济至关重要。该项行政命令所涵括的法律框架将接受欧盟委员会的审查和批准，预计需要几个月的时间。 ([查看更多](#))

Biden Signs Executive Order on US-EU Personal Data Privacy

On 7 October 2022, US President Joe Biden signed an executive order designed to protect the privacy of personal data transfers between the EU and the United States and address European concerns about US intelligence collection activities. The executive order provides a new legal framework for trans-Atlantic data flows that are critical to the digital economy, the White House said. The new legal framework will be subject to review and ratification by the European Commission, a process expected to take several months. ([More](#))

30万丰田用户信息或被泄露

2022年10月7日，丰田汽车（Toyota Motor）表示，其旗下T-Connect服务的约296000条客户信息可能被泄露。使用T-Connect（通过网络连接车辆的远程信息服务）的296,019个电子邮件地址和客户号码可能会被泄露。丰田在一份声明中表示，根据安全专家的调查，无法从存储信息的数据服务器的访问历史记录中确认第三方访问。与此同时，丰田表明第三方访问不能完全排除。然而，丰田表示，用户的敏感个人信息，如姓名、电话号码或信用卡信息，不可能被泄露。 ([查看更多](#))

Toyota Says About 296,000 Pieces of Customer Info Possibly Leaked

On 7 October 2022, Toyota Motor said it had found that about 296,000 pieces of customer information from its T-Connect service might have been leaked. Toyota said 296,019 email addresses and customer numbers of those using T-Connect, a telematics service that connects vehicles via a network, were potentially leaked. A third party access could not be confirmed from the access history of the data server where the information was stored based on security experts’ investigation, Toyota said in a statement. At the same time, it added that third-party access “could not be completely ruled out.” There was no possibility, though, that users’ sensitive personal information, such as names, phone numbers or credit card information, were leaked, Toyota said. ([More](#))

前Uber首席安全官因向黑客支付赎金被判妨碍司法罪

2022年10月5日，华盛顿邮报报道称，美国联邦法院陪审团认定前优步（Uber）首席安全官乔·

沙利文（Joe Sullivan）犯妨碍司法罪。他曾授权向2016年入侵该公司的黑客付款，并向当时正在调查优步隐私保护的美国联邦贸易委员会隐瞒了公司漏洞。此外，沙利文还向优步时任的首席执行官发送了一封电子邮件，称该事件是常规的“安全事件”，而非严重的数据泄露。这是美国首例对数据泄露事件的首席安全官责任进行裁决的案件。（[查看更多](#)）

Former Uber Chief Security Officer Was Convicted of Obstruction of Justice for Payments to Hackers

On 5 October 2022, the Washington Post said that a US federal court jury has found former chief security officer for Uber, Joe Sullivan, guilty of obstruction of justice. He authorized payments to hackers who breached the company in 2016, and hid the company's vulnerabilities from the U.S. Federal Trade Commission, which was investigating Uber's privacy practices at the time. Moreover, Sullivan sent an email to Uber's then-CEO describing the incident as a routine "security incident" rather than a serious data breach. This is the first US case to rule on the liability of a chief security officer for a data breach. ([More](#))

知识产权 Intellectual Property

全国著作权质权登记信息实现统一查询

为落实《国务院关于开展营商环境创新试点工作的意见》（国发〔2021〕24号），根据在北京、上海等6个城市试点“便利开展机动车、船舶、知识产权等动产和权利担保融资”的要求，近日国家版权局联合中国人民银行，指导中国版权保护中心与中国人民银行征信中心顺利实现著作权质权登记信息通过动产融资统一登记公示系统统一查询。自2022年9月26日起，该系统开始提供包括6个试点城市在内的全国范围著作权质权登记信息的统一查询服务。

来源：国家版权局

Unified Inquiry of National Copyright Pledge Registration Information

Recently, The National Copyright Administration and the People's Bank of China realize the unified inquiry of copyright pledge registration information through the unified registration system for movable property financing. From September 26, 2022, the system will start to provide unified inquiry services for the copyright pledge registration information nationwide including the six cities.

Source: National Copyright Administration

浙江省高院：商标许可人同时为侵权公司股东的应承担连带责任

近日，浙江省高级人民法院就四川省恒丰塑胶有限公司（原告）与泾阳恒丰塑胶有限公司、谢利萍、陈桂林、浙江淘宝网络有限公司（被告）侵害商标权及不正当竞争纠纷一案作出判决，责令被告赔偿经济损失150万元及为制止侵权行为所支付的合理开支23万元，共计173万元。本案中，原告方对被告方关于“恒丰”商标的许可协议已终止，但被告方仍继续使用“恒丰”

商标及相近似的标识，应当承担侵权责任。法院认为，商标许可人既为被告方公司的股东及监事，同时还将自己的私人银行账号提供给被告方公司使用的，应与被告方公司承担连带责任，这严厉打击了各侵权方的恶意侵权行为，保护了原告的合法权益。

来源：浙江省高级人民法院

Trademark Licensor Shall Bear Joint and Several Liabilities if it is also the Shareholder of the Infringing Company

The Zhejiang Higher People's Court made a judgment on the case of trademark infringement and unfair competition, and ordered the defendant to pay the damage of RMB1.73 million.

The plaintiff shall bear the liability for infringement, as it continued using the "Heng Feng" trademark and similar marks, after the license agreement between the plaintiff and the defendant of the "Heng Feng" trademark has been terminated, and the defendant obtained trademark license from the other defendant. The court held that the trademark licensor was the shareholder and supervisor of the defendant, who provided its private bank account to the defendant for use, so the trademark licensor shall bear joint and several liability with the defendant.

Source: Zhejiang Higher People's Court

阿科玛全部无效霍尼韦尔第四代HFO液体发泡剂核心专利

8月12日，国家知识产权局公告显示，霍尼韦尔国际公司（霍尼韦尔）的一件中国发明专利被“宣告专利权全部无效”。无效请求人是：阿科玛法国公司（阿科玛）。该项专利是第四代HFO液体发泡剂（HFO-1234yf）的核心专利，是2010年由霍尼韦尔与杜邦联合研发的。HFO-1234yf可用作冰箱制冷剂、灭火剂、发泡剂等。2010年被认可在汽车空调中使用，因此有着巨大的市场发展空间。2016年5月，阿科玛在中国专利局向霍尼韦尔这件专利提出了无效宣告请求，2017年，国家知识产权局对这件专利作出第一次无效决定，结果是该专利部分无效。随后由北京知识产权法院和最高人民法院审理该无效案。最终，最高人民法院在2021年底维持了北京知识产权法院一审判决和国家知识产权局的裁决。而在今年阿科玛终于全部无效霍尼韦尔第四代HFO液体发泡剂核心专利。

来源：企业专利观察

Arkema Invalidated Honeywell's All Fourth Generation HFO-1234yf Core Patent

On August 12, the China National Intellectual Property Administration (CNIPA) announced that a Chinese patent for invention of Honeywell International Inc. (Honeywell) was "declared all invalid". The invalidation petitioner is Arkema France Inc. (Arkema). The patent is the core patent of the fourth generation of HFO liquid blowing agents, which was jointly developed by Honeywell and DuPont in 2010. HFO-1234yf can be used as refrigerator refrigerant, fire extinguishing agent, blowing agent, etc. It was approved for use in automobile air conditioners in 2010, and there is a huge market for development. In May 2016, Arkema submitted a request to CNIPA for invalidation of this patent. In 2017, CNIPA made the first invalidation decision on this patent, with the result that this patent was partially invalidated. Subsequently, the Beijing Intellectual Property Court (Beijing IP Court) and the Supreme People's Court (SPC) heard this invalidation case. Finally, the SPC upheld the first-instance judgment of the Bei-

jing IP Court and the ruling of the CNIPA. Arkema continued invalidation requests against other claims of this patent, and it has been declared all invalid by CNIPA.

Source: [Enterprise patent observation](#)

“CK”商标遭闪购店攀附 场地出租方承担部分连带责任

中奢集合国际贸易（广州）有限公司、卡尔文·菲瑞（意大利）有限公司（Ckfree (Italy) Co., Limited）（被告）通过注册与原告CALVIN KLEIN 商标相近似的CKfree商标并拆分使用，攀附原告知名商标，其主观故意明显，且生产销售规模较大，法院坚持“严格保护”司法政策，由场地租赁方、销售者追及生产商，全额支持了原告的赔偿请求。

被告中奢公司、菲瑞公司等 在麦凯乐公司租赁场地开设闪购店，销售侵害原告商标权的商品。这些闪购店存续时间短，权利人维权较为困难，法院本着加强保护的原则，认为麦凯乐商场作为一家大型连锁公司，对于该新类型侵权行为应有更高的注意义务，判决商场承担部分连带责任，为此类案件的审理树立了标杆。

来源: [山东省高级人民法院](#)

Trademark of "CK" Used by Flash Sale Shop and The Shop Site Lessor Shall Bear Partial Joint and Several Liabilities

The defendant leased a site to set up flash sale shop selling infringing products. These shops existed for a short period of time, making it difficult for the right holders to protect their rights. The defendant had registered the "CKfree" trademark, which was similar to the plaintiff's "CALVIN KLEIN" trademark, and split it for use, thereby taking advantage of the goodwill of the trademark. The malice of the defendant was obvious. Moreover, the scale of production and sale was relatively large. Due to the nature of such flash sale shop, the court held that the shop site lessor shall have a higher duty of care with respect to this new type of infringement, and ruled that the lessor of the site shall assume partial joint and several liability, which sets up a benchmark for the trial of similar cases.

Source: [Shandong Higher People's Court](#)

法院认定将他人注册商标用作企业名称属于不正当竞争

本案中，关于广东欣意线缆有限公司（被告）与安徽中青欣意铝合金电缆有限公司（原告）的经营范围基本一致，其在企业名称中使用与“欣意”商标相同的字号的行为究竟应该认定为侵害商标权还是构成不正当竞争行为。对于该争议，法院认为，首先，原告“欣意”权利商标注册日期远远早于被告企业名称登记时间，作为同业经营者，被告对原告在先商标注册情况理应知晓并应予以合理避让，但其仍将“欣意”登记为企业名称，其主观上难谓诚信；其次，该登记行为极易造成相关公众的误认，认为被告与原告之间具有关联关系；最后，本案被告对于“欣意”字样并未突出字号（即商标性使用），而是完整规范使用到企业名称之中。因此，本案中被告的行为应按照反不正当竞争行为来认定和加以处理。

来源: [广东省深圳市宝安区人民法院](#)

Court Affirming Unfair Competition in Using Other's Registered Trademark as Enterprise Name

The business scope of the defendant was basically identical to that of the plaintiff. The focus of this case was whether the use of the trade name identical to the trademark "Xin Yi" in the enterprise name constituted trademark infringement or unfair competition. The Court held that, firstly, the registration date of the plaintiff's "Xin Yi" trademark was much earlier than the registration date of the defendant's enterprise name. As operators in the same industry, the defendant should have been aware of the plaintiff's prior trademark registration, and shall have made reasonable effort to avoid it. However, the defendant's registration of "Xin Yi" as an enterprise name could hardly be regarded as in good faith. Secondly, the act of registration could easily lead to confusion of the relevant public. Lastly, the defendant did not make the word "Xin Yi" prominent as a trade name (i.e. use for trademark purpose) but put it into its enterprise name completely and in a standard manner. Therefore, the act of the defendant constituted unfair competition.

Source: Bao'an District People's Court of Shenzhen City, Guangdong Province

Express One起诉美国邮政署（USPS）商业窃密

Express One以涉嫌违反合同和窃取商业机密为由起诉USPS，诉讼金额为5亿美元。根据犹他州联邦法院的一项诉讼，美国邮政署在推出自己的电子商务平台后，错误地终止了与第三方经销商的合同，并据称盗取了该公司的机密商业。Express One在诉讼中对美国邮政署提出了多项主张，包括违反合同、不当得利和商业秘密盗用等。几年前，美国邮政署让Express One共享其业务信息，只是为了邮政署启动自己的USPS Connect电子商务平台，然后放弃与Express One的合同。该公司表示，邮政署的行为已经造成了超过5亿美元损失。

来源: POSTALTIMES

Express One Brings a Lawsuit against the USPS for Trade Secret Theft

Express One brought an action against the U.S. Postal Service (USPS) for alleged breach of contract and swiped the company's confidential business knowledge for a sum of USD500 million. The USPS was claimed to have wrongly terminated a contract with a third-party reseller after the post office launched its own e-commerce platform, and also allegedly steal the company's confidential business knowledge, according to a lawsuit in Utah federal court. Express One filed a complaint against the USPS making multiple claims, including contract breach, unjust enrichment and trade secret misappropriation.

Source: POSTALTIMES

英国知识产权局发布人工智能专利申请审查指南

2022年9月22日，英国知识产权局（UKIPO）发布《人工智能（AI）发明相关的专利申请审查指南》及场景实例，规定了UKIPO审查人工智能相关的发明专利申请的做法。人工智能目前没有公认的定义，英国政府将人工智能定义为：有能力完成原本需要人类智慧的任务的技术，如视觉感知、语音识别和语言翻译。指南规定了审查人工智能专利申请或使用人工智能的法律框架，以及如何利用人工智能，场景实例提供了专利规范的实际说明。该指南对人工智能进行了定

义，规定了审查人工智能专利申请或使用人工智能的法律框架，以及如何利用人工智能；场景实例提供了专利规范的实际说明。

来源: UKIPO

UKIPO Releases the Guidance for Examining Patent Applications Relating to Artificial Intelligence (AI) Inventions

On 22 September 2022, The UK Intellectual Property Office (UKIPO) released the Guidance for Examining patent applications relating to artificial intelligence (AI) inventions and Scenarios. These guidelines set out the practice within the Intellectual Property Office (IPO) for the examination of patent applications for inventions relating to artificial intelligence (AI). There is no single agreed-upon definition of artificial intelligence. The government has defined AI as: technologies with the ability to perform tasks that would otherwise require human intelligence, such as visual perception, speech recognition, and language translation. The Guidelines provide the legal framework for the examination of artificial intelligence patent applications or the use of artificial intelligence, and how to make use of artificial intelligence, and provide a practical description of patent standards through scenarios.

Source: UKIPO

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