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CNIPA Issued *the Measures of the CNIPA for Online Oral Hearing of Administrative Adjudication Cases*

抖音诉百度用头条等词组推广获赔12万



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Douyin V. Baidu for Using "Headline" and Other Phrases to Promote Ads, Awarded Damages of RMB 120,000

学校雕塑招投标涉著作权侵权案宣判：不拆除侵权雕塑，承担5倍惩罚性赔偿责任

Sculpture Copyright Infringement Judgement: the Infringing Sculpture will not be Demolished, but 5 Times of Punitive Damages was Awarded

全国首例网络游戏商业代练行为不正当竞争案一审宣判

First Judgement on Online Game Power Leveling

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Brazil Joins the Hague System

USPTO就人工智能和发明人身份征求公众意见

USPTO Seeks the Public Comments on Patenting AI Inventions

为支持韩版ChatGPT研发，韩国将修改《著作权法》允许对出版物进行数据分析

Korea will Amend "Copyright Law" to Allow Data Analysis of Publications for Support Korean Version of ChatGPT

立方竞争法周报 Weekly Competition Law News

上海市市监局联合市国资委展开国企竞争合规培训

2023年2月21日，国家市场监督管理总局（“市场监管总局”）发布公告，上海市市场监督管理局（“上海市市监局”）联合上海市国资委，于2月17日举办了2023年度首场国企竞争合规培训，围绕国企普遍关注的经营者集中反垄断审查法规和实务问题进行了讲解。这是自市场监管总局委托上海开展经营者审查工作以来，上海市市监局和上海市国资委在企业竞争合规领域的首次合作。（[查看更多](#)）

Together with Shanghai SASAC, Shanghai AMR Launches Competition Compliance Training for State-owned Enterprises

On February 21, 2023, the State Administration for Market Regulation (“SAMR”) issued a statement, stating that the Shanghai Administration for Market Regulation (“Shanghai AMR”), together with Shanghai State-owned Assets Supervision and Administration Commission (“Shanghai SASAC”), launched the first competition compliance training for state-owned enterprises in 2023 on February 17. The training focuses on regulations and practical issues of anti-monopoly review of operator concentration, which is a common concern of state-owned enterprises. This is the first cooperation between Shanghai AMR and Shanghai SASAC in the field of enterprise competition compliance since Shanghai being delegated by SAMR to carry out the filing review work. ([More](#))

东北制药因不公平高价行为被罚1.33亿

2023年2月20日，市场监管总局发布辽宁省市场监督管理局（“辽宁省市监局”）对东北制药集团股份有限公司（“东北制药”）作出的处罚决定。辽宁省市监局调查发现东北制药在2018年11月至2019年6月间，滥用其在中国左卡尼汀原料药市场的支配地位，实施以不公平高价销售左卡尼汀原料药的行为，排除、限制下游左卡尼汀制剂市场竞争，损害了消费者利益和社会公共利益。辽宁省市监局最终决定责令东北制药停止违法行为，并处以其2018年度中国境内销售额2%的罚款，计人民币13,300.44万元。（[查看更多](#)）

Northeast Pharm Fined CNY 133 Million for Unfair High Prices

On February 20, 2023, SAMR issued the penalty decision made by Liaoning Provincial Administration for Market Regulation (“Liaoning AMR”) against NORTHEAST Pharmaceutical Group Co., Ltd. (“Northeast Pharm”). Upon investigation, Liaoning AMR found that during November 2018 to June 2019, Northeast Pharm abused its dominant market position in the Chinese levocarnitine API market, selling levocarnitine API at unfairly high prices, which excluded and restricted competition in the downstream levocarnitine preparation market, and harmed the consumer welfare and social public interests. Liaoning AMR decided to order Northeast Pharm to cease illegal behavior and imposed a fine of 2% of its 2018 Chinese domestic sales, totaling CNY 133,344,000. ([More](#))

广西开展2023年强化民生领域反垄断执法专项行动

2023年2月20日，广西壮族自治区市场监督管理局（“广西市监局”）发布公告，将在2023年2月至10月间开展民生领域反垄断执法专项行动，主要针对三种垄断行为：（1）建材日用消费品、汽车、医药等领域的垄断协议行为；（2）公用事业等自然垄断领域的滥用市场支配地位行为；（3）教育、医疗卫生、交通运输、工程建设等领域的行政垄断行为。（[查看更多](#)）

Guangxi Carries Out 2023 Special Campaign to Strengthen Anti-Monopoly Law Enforcement in the People's Livelihood Area

On February 20, 2023, the Administration for Market Regulation of Guangxi Zhuang Autonomous Region (“Guangxi AMR”) issued an announcement, stating that it will carry out the special campaign to strengthen anti-monopoly law enforcement in the people's livelihood area between February and October 2023, mainly focusing on: (1) monopoly agreement behaviors in areas like building materials and consumer goods, automobiles and pharmaceuticals; (2) abuse of dominant market position in natural monopolies such as public utilities; (3) administrative monopoly in fields like education, health care, transportation and engineering construction. ([More](#))

美司法部指控谷歌“故意毁坏”反垄断诉讼中的对话记录

2023年2月23日，据媒体报道，美国司法部（DOJ）认为谷歌应就其“故意多次毁坏”DOJ预期将在反垄断诉讼中用到的企业聊天记录的行为受到法庭制裁。DOJ表示尽管谷歌承诺保存与该诉讼相关的内部通信，但多年来谷歌一直维持着自动删除聊天记录的政策。谷歌在声明中表示“强烈反对DOJ的指控”，“我们团队多年来一直认真工作应对调查和诉讼。事实上仅在本案中，我们就提供了400多万份文件，还向世界各地的监管机构提供了数百万份文件”。（[查看更多](#)）

DOJ Says Google ‘Intentionally Destroyed’ Chat Logs In Antitrust Suit

On February 23, 2023, according to news report, the U.S. Justice Department (DOJ) believes Google should face court sanctions over “intentional and repeated destruction” of company chat logs that DOJ expected to use in its antitrust suit. DOJ said in a filing that despite Google's promises to preserve internal communications relevant to the suit, for years the company maintained a policy of automatically deleting chats. “We strongly refute the DOJ's claims,” Google said in a statement. “Our teams have conscientiously worked for years to respond to inquiries and litigation. In fact, we have produced over 4 million documents in this case alone, and millions more to regulators around the world.” ([More](#))

欧盟委员会对大韩航空收购韩亚航空展开调查

2023年2月17日，欧盟委员会发布公告，对大韩航空（Korean Air）收购韩亚航空（Asiana）的拟议交易展开深入调查。大韩航空和韩亚航空是韩国国内两家最大的航空公司，他们运营韩国国内航线、亚洲短途航线以及其他长途航线。经调查，欧盟委员会发现两家公司在欧洲经济区

(EEA) 和韩国之间提供航空客运和货运服务市场上是紧密的竞争对手，拟议交易可能会导致欧洲经济区和韩国之间四条航线上提供的客运服务的减少，削弱欧洲和韩国间提供货运服务市场上的竞争。 ([查看更多](#))

European Commission Opens In-depth Investigation into Proposed Acquisition of Asiana by Korean Air

On February 15, 2023, the European Commission issued a statement, announcing that it has opened an in-depth investigation to assess the proposed acquisition of Asiana by Korean Air. Korean Air and Asiana are respectively the first and second largest airlines in South Korea. They operate a network of domestic routes, short-haul routes in Asia as well as long-haul routes between South Korea and the rest of the world. The preliminary investigation indicates that the companies are strong and close competitors in the provision of passenger and cargo air transport services between the EEA and South Korea. The transaction could reduce competition in the provision of passenger transport services on four routes between South Korea and the EEA, and could eliminate potential competition in passenger transport services between the EEA and South Korea. ([More](#))

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

国家互联网信息办公室公布《个人信息出境标准合同办法》

2023年2月22日，国家互联网信息办公室公布《个人信息出境标准合同办法》（下称《办法》），自2023年6月1日起施行。《办法》规定，个人信息处理者通过与境外接收方订立标准合同的方式向中华人民共和国境外提供个人信息适用本办法。《办法》明确，个人信息处理者向境外提供个人信息前，应当开展个人信息保护影响评估并明确了重点评估内容，个人信息处理者应当在标准合同生效之日起10个工作日内向所在地省级网信部门备案。《办法》同时给予了个人信息处理者6个月的整改期，对于《办法》实施前已经开展的个人信息出境活动进行整改。 ([查看更多](#))

CAC Issued Measures for the Standard Contract for Outbound Transfer of Personal Information

On 22 February 2023, the Cyberspace Administration of China (the “CAC”) issued *the Measures for the Standard Contract for Outbound Transfer of Personal Information* (the “Measures”), which will come into force on 1 June 2023. According to the Measures, any personal information processor entering into a Standard Contract for the outbound transfer of personal information outside the PRC with an overseas recipient shall comply with the Measures. The Measures specify that prior to the outbound transfer of personal information, the personal information processor shall conduct a personal information protection impact assessment, with the key focus of such assessment highlighted in the Measures. The personal information processor shall, within 10 working days after the Standard Contract comes into effect, apply for filing on record with the cyberspace administration at the provincial

level. The Measures also give the personal information processor a six-month period to rectify its outbound transfer of personal information carried out before the implementation of the Measures. ([More](#))

工业和信息化部发布《关于进一步提升移动互联网应用服务能力的通知》

2023年2月28日，工业和信息化部（下称“工信部”）发布《关于进一步提升移动互联网应用服务能力的通知》（下称《通知》）。《通知》围绕提升用户服务感知、提升行业管理能力，即“两提升”，共提出26条措施。一是聚焦APP安装卸载、服务体验、个人信息保护、诉求响应等，针对性提出改善用户服务感知的12条措施。二是从行业协同规范发展、上下游联防共治的角度出发，抓住当前移动互联网服务的5类关键主体，即APP开发运营者、分发平台、SDK（软件开发工具包）、终端和接入企业，提出14条措施。（[查看更多](#)）

MIIT Issued Circular on Further Enhancing the Service Capacity of Mobile Internet Applications

On 28 February 2023, the Ministry of Industry and Information Technology (the “MIIT”) issued *the Circular on Further Enhancing the Service Capacity of Mobile Internet Applications* (the “Circular”). The Circular sets out 26 measures focusing on the enhancement of the service perception of users and the enhancement of the industry management capacity, i.e., “two enhancements”. The first enhancement consists of 12 measures for the improvement of users’ perception of services, focusing on APP installation and uninstallation, service experience, protection of personal information, and response to complaints. The second enhancement consists of 14 measures from the perspective of the coordinated and regulated development of the industry and coordinated regulation of both upstream and downstream enterprises, focusing on five categories of key subjects currently engaged in mobile internet services, namely APP developers and operators, distribution platforms, SDKs (software development kit), terminals, and internet access enterprises. ([More](#))

工信部等七部门联合印发《智能检测装备产业发展行动计划（2023—2025年）》

2023年2月21日，工信部、国家发展改革委、教育部、财政部、国家市场监管总局、中国工程院、国家国防科工局等七部门联合印发《智能检测装备产业发展行动计划（2023—2025年）》（下称《计划》），提出到2025年，智能检测技术基本满足用户领域制造工艺需求，核心零部件、专用软件和整机装备供给能力显著提升，重点领域智能检测装备示范带动和规模应用成效明显，产业生态初步形成，基本满足智能制造发展需求。《计划》在第四部分“产业生态优化工程”中提及了“推进数据安全共享”，强调加强智能检测数据的实时采集、分析与挖掘，鼓励基础和共性检测数据安全共享，提升数据资源的价值。（[查看更多](#)）

Seven Ministries and Departments Including the MIIT Jointly Issued the Action Plan for the Development of the Intelligent Testing Equipment Industry (2023-2025)

On 21 February 2023, seven ministries and departments including the Ministry of Industry and Information Technology (the “MIIT”), the National Development and Reform Commission, the Ministry of

Education, the Ministry of Finance, the State Administration for Market Regulation, the Academy of Engineering, and the State Administration of Science, Technology and Industry for National Defense jointly issued the *Action Plan for the Development of the Intelligent Testing Equipment Industry (2023-2025)* (the “Plan”). It is proposed that by 2025, intelligent detection technology will basically meet the manufacturing process requirements of the industry fields of users, and the supply capacity of core components, special software and complete equipment will be significantly improved. The demonstration and large-scale application of intelligent detection equipment in key fields have achieved remarkable results, and the industrial ecology has initially formed, basically meeting the development needs of intelligent manufacturing. In the fourth part on “industry ecology improvement project”, the Plan refers to “improving secure sharing of data”, emphasizing the strengthening of real-time collection, analysis and development of intelligent testing data, the encouragement of secure sharing of basic and general testing data, and the improvement of the value of data resources. ([More](#))

外交部发布《全球安全倡议概念文件》

2023年2月21日，外交部举办蓝厅论坛，发布《全球安全倡议概念文件》（下称《文件》）。《文件》的第十三项强调我国已提出《全球数据安全倡议》，希望推动达成反映各方意愿、尊重各方利益的全球数字治理规则；并强调持续推进落实《中国-阿拉伯联盟数据安全合作倡议》和《“中国+中亚五国”数据安全合作倡议》，共同应对各类网络威胁，构建开放包容、公平合理、安全稳定、富有生机活力的全球网络空间治理体系。（[查看更多](#)）

MFA Released the Global Security Initiative Concept Paper

On 21 February 2023, The Ministry of Foreign Affairs (the “MFA”) held a forum and released the *Global Security Initiative Concept Paper* (the “Paper”). Item 13 of the document emphasizes that China has proposed the Global Data Security Initiative in the hope of contributing to global digital governance rules that reflect the will and respect the interests of all parties. The Paper also stressed that China will continue to promote the implementation of *the China-LAS Cooperation Initiative on Data Security* and *the Data Security Cooperation Initiative of China+Central Asia*, jointly address various cyber threats, and build an open, inclusive, fair, reasonable, safe, stable, and dynamic global cyberspace governance system. ([More](#))

北京网信办：收到亚马逊、宝马等48家单位数据出境安全评估申报材料

2023年2月22日，北京市互联网信息办公室（下称“北京网信办”）公布自《数据出境安全评估办法》实施以来，北京网信办已收到亚马逊、宝马、三星、葛兰素史克、博士伦、去哪儿网、小米、摩根大通、大众、联想等48家单位正式提交的申报材料，其中：首都医科大学附属北京友谊医院和中国国际航空股份有限公司2家单位的相关数据出境场景已获国家互联网信息办公室批准，成为全国前两个数据合规出境项目；现代汽车、民生银行、丰田汽车等5家单位的数据出境安全评估申请已被国家互联网信息办公室受理；新浪微博、戴姆勒、施耐德电气、瑞士再保险等6家单位的申报材料，已经由北京市互联网信息办公室完成审核。此外，35家单位正在补充完善申报材料，142家单位初步表达了申报意愿，120余家单位咨询申报事宜。（[查看更多](#)）

Beijing Cyberspace Administration Received the Application Materials for Outbound Data Transfer Security Assessment from 48 Companies Including Amazon and BMW

On 22 February 2023, the Beijing Cyberspace Administration announced that since the implementation of the Measures for Security Assessment for Outbound Data Transfer, it has received application materials formally submitted by 48 entities, including Amazon, BMW, Samsung, GlaxoSmithKline, Bausch & Lomb, Qunar, Xiaomi, JP Morgan, Volkswagen and Lenovo. The relevant outbound data transfer scenarios for Beijing Friendship Hospital affiliated to Capital Medical University and Air China have been approved by the Cyberspace Administration of China, which became the first two projects in China where outbound data transfer is in compliance with relevant regulations. Application materials from 5 entities, including Hyundai Motor, Minsheng Bank and Toyota Motor, have been accepted by the Cyberspace Administration of China. A preliminary review of the application materials of six entities, including Sina Weibo, Daimler, Schneider Electric and Swiss Reinsurance, have been completed by the Beijing Cyberspace Administration. In addition, 35 applicant entities are supplementing and improving their application materials, 142 have preliminarily expressed their intentions to make an application, and over 120 have inquired about applications. ([More](#))

2023 中国国际大数据产业博览会新闻发布会在京召开

2023年2月20日，2023中国国际大数据产业博览会新闻发布会在北京国家会议中心召开。国家发展改革委创新和高技术发展司副司长会上介绍，我国数字基础设施实现跨越式发展，光纤总里程接近6000万公里，全国5G基站超过230个；数字产业创新能力加快提升，人工智能、物联网、量子信息领域发明专利授权量居全球前列；数字技术赋能实体经济成果显著，2022年工业互联网产业规模预计达到1.2万亿元。工信部技术发展司副司长表示，2023年将重点开展强化数字基础设施建设、加快建设数据要素市场、持续提升大数据应用水平、培育完善产业生态几个方面的工作。 ([查看更多](#))

China International Big Data Industry Expo 2023 Press Conference Held in Beijing

On 20 February 2023, China International Big Data Industry Expo 2023 Press Conference was held in China National Convention Center. Deputy Director of the Department of Innovation and High Technology Development of the National Development and Reform Commission said at the meeting that China's digital infrastructure has achieved leap-forward development, with the total mileage of optical fiber approaching 60 million km and more than 230 5G base stations in the country. The innovation capacity of the digital industry has improved at a faster pace, and the number of authorized invention patents in fields of artificial intelligence, the Internet of Things and quantum information ranked among the top in the world. Significant achievements have been made in energizing the real economy through digital technologies, and the scale of the industrial Internet business is expected to have reached CNY1.2 trillion in 2022. According to the deputy director of the Department of Technical Development of the Ministry of Industry and Information Technology, in 2023, work will be focused on strengthening the construction of digital infrastructure, accelerating the construction of the data element market, continuously improving the level of big data application, and cultivating and improving industrial ecology. ([More](#))

上海市通信管理局组织完成电信和互联网行业首批重要数据和核心数据认定工作

2023年2月24日，上海市通信管理局发布消息称，该局建立了属地数据安全风险防控重点企业名录，并组织上海电信、上海移动、上海联通、东方有线、拼多多、携程、哔哩哔哩、得物、小红书、喜马拉雅等10家重点电信和互联网企业按照工业和信息化领域重要数据和核心数据有关识别指南，开展重要数据和核心数据识别认定及目录备案工作。近期，该局组织数据安全领域专家对各企业报送的重要数据和核心数据开展专题评审，并通过评审意见通报、实地调研访谈等形式指导企业开展数据认定、分类分级和安全保护相关工作。评审认为，上海移动、得物、小红书、上海电信、拼多多、携程报送的数据目录总体质量较好，其中上海移动和得物的数据认定工作较为突出。现经多轮评审反馈和整改报送，该局已审核确定本市电信和互联网行业首批重要数据和核心数据目录，并按规定报送工业和信息化部。（[查看更多](#)）

Identification of the First Batch of Important Data and Core Data in the Telecommunications and Internet Industries Completed by the Shanghai Communications Administration

On 24 February 2023, Shanghai Communications Administration announced that it has created the list of key enterprises engaged in data security risk prevention and control within its jurisdiction. It also organized 10 key telecommunications and Internet enterprises, including Shanghai Telecom, Shanghai Mobile, Shanghai Unicom, Oriental Cable, Pinduoduo, Ctrip, Bilibili, Dewu, Little Red Book and Himalaya, to carry out the identification of important data and core data and directory filing work in accordance with the relevant identification guidelines for important data and core data in the field of industry and information technology. Recently, Shanghai Communications Administration organized experts in the field of data security to carry out a special review on the important data and core data submitted by enterprises, and guided enterprises to carry out data identification, grading and classification and security protection related work through the form of review opinion notification, field survey and interviews. Upon the completion of the review, it has been found that the overall quality of the data catalogues submitted by Shanghai Mobile, Dewu, Little Red Book, Shanghai Telecom, Pinduoduo and Ctrip was good, and the work on the data identification of Shanghai Mobile and Dewu was outstanding. After several rounds of review feedbacks and rectification submission, the Shanghai Communications Administration has examined and determined the catalogue of the first batch of important data and core data of the telecommunications and Internet industries in Shanghai, and submitted the same to the Ministry of Industry and Information Technology in accordance with the relevant provisions. ([More](#))

杭州市就《杭州市公共数据授权运营实施方案(试行)》公开征求意见

2023年2月17日，杭州市人民政府网站显示，杭州市数据资源管理局近日起草了《杭州市公共数据授权运营实施方案（试行）》（征求意见稿）（下称《实施方案》），并从2023年2月17日至2023年3月18日公开向社会征求意见。《实施方案》是浙江省首个就上述公共数据授权运营路径制定的具体落地措施的规范性文件。《实施方案》从总体要求、数据范围、主要任务以及工作保障四个方面进行了规定，对数据范围以及授权运营单位提出了具体的要求。（[查看更多](#)）

Public Comments Sought on the Implementation Plan for Authorized Operation of Public Data in Hangzhou (for Trial Implementation)

On 17 February 2023, according to the website of the Hangzhou Municipal People's Government, the Hangzhou Data Resources Administration has drafted the *Implementation Plan for Authorized Operation of Public Data in Hangzhou (for Trial Implementation) (Draft for Comment)* (the "Implementing Plan"), to solicit public comments from 17 February 2023 to 18 March 2023. The Implementing Plan is the first normative document in Zhejiang Province which provides detailed measures on the implementation of the above routes for authorized operation of public data. The Implementing Plan provides provisions in four aspects, namely, general requirements, scope of data, main tasks and security, and proposes detailed requirements on the scope of data and the authorized operators. ([More](#))

TikTok正接受加拿大隐私监管机构的调查

据BBC2023年2月25日消息，加拿大隐私保护监管机构已对TikTok收集用户数据展开调查。加拿大隐私专员办公室表示，它已与魁北克省、不列颠哥伦比亚省和艾伯塔省的省级隐私监管机构一起对TikTok展开了调查。隐私监管机构表示，由于TikTok的用户中有很多是少年人，保护儿童的隐私非常重要，他们将检查该公司是否履行了透明度义务。TikTok则表示，隐私保护是“重中之重”。([查看更多](#))

TikTok under Investigation by Canadian Privacy Authorities

According to BBC News on 25 February 2023, Canadian privacy protection regulators have launched an investigation into TikTok over its collection of users' data. Canada's Office of the Privacy Commissioner said it had launched the probe into TikTok alongside provincial privacy regulators from Quebec, British Columbia and Alberta. The privacy regulators said lots of TikTok's users are younger, and there is a greater "importance of protecting children's privacy". They will be examining whether the company is meeting its transparency obligations. TikTok said privacy is "a top priority."([More](#))

特斯拉调整安全摄像头后，荷兰监管机构决定不予罚款

2023年2月22日，荷兰个人数据监管机构表示，在特斯拉公司（Tesla Inc.）对汽车安全摄像头进行更改后，将不会再因其可能侵犯隐私而进行罚款。特斯拉在其汽车中使用此类摄像头，以帮助车主保护其免受盗窃或破坏，但荷兰数据保护局（DPA）将其视为潜在违规行为进行调查。自DPA调查开始以来，特斯拉已对其“哨兵模式”功能进行了更改，需要经过车主的同意才能开始拍摄。([查看更多](#))

Dutch Watchdog Decides Against Fine after Tesla Alters Security Cameras

On 22 February 2023, the Dutch personal data watchdog said it would not fine Tesla Inc. (TSLA.O) over possible privacy violations after the U.S. carmaker made changes to vehicle security cameras. Tesla uses such cameras in its cars to help owners protect them against theft or vandalism, but the Dutch Data Protection Authority (DPA) investigated them as a potential violation. Tesla had made changes to its "Sentry Mode" feature, which should require approval from the car's owners in order to begin filming since the DPA investigation began. ([More](#))

知识产权 Intellectual Property

国家知识产权局印发行政裁决案件线上口头审理办法

为方便案件当事人参加行政裁决程序，降低维权成本，提升行政效率，根据《中华人民共和国专利法》和有关法规、规章，国家知识产权局制定了《国家知识产权局行政裁决案件线上口头审理办法》（下称《办法》），自2023年2月17日起施行。《办法》规定了适用线上口头审理的案件类型；不适用线上口头审理的四种情形；线上口头审理的效力以及证据交换等问题。

来源：国知局

CNIPA Issued the Measures of the CNIPA for Online Oral Hearing of Administrative Adjudication Cases

In order to facilitate the parties concerned to cases to participate in administrative adjudication procedures, reduce the cost of rights protection, and improve administrative efficiency, the China National Intellectual Property Administration ("CNIPA") has formulated *the Measures of the CNIPA for Online Oral Hearing of Administrative Adjudication Cases (the "Measures")* in accordance with the Patent Law of the People's Republic of China and other relevant regulations and rules, which will come into force on February 17, 2023. The Measures set forth provisions on the types of cases to which online oral hearing applies, four circumstances in which online oral hearing does not apply, the validity of online oral hearing, the exchange of evidence, and other issues.

Source: CNIPA

抖音诉百度用头条等词组推广获赔12万

2月15日，北京抖音信息服务有限公司与北京百度网讯科技有限公司不正当竞争纠纷一案一审判决公开，百度因侵权被判赔偿抖音10万元。

抖音公司诉称，抖音公司为多个“今日头条”“头条”商标的注册人。百度公司未经许可，擅自使用“头条”“新闻头条”对“手机百度”App进行推广，导致在百度网中搜索“头条”等的结果带有涉案App推广链接及下载服务。抖音公司认为，百度公司的行为在导致用户混淆的同时构成虚假宣传，既侵害其商标权，也构成不正当竞争。法院审理认为，结合双方App服务内容和对象高度重合，百度公司的前述使用行为易使相关公众误认为涉案App由抖音公司提供，导致公众的混淆误认，侵害了抖音公司对涉案商标享有的专用权。在百度公司并未否认其在涉案App下载页面中实际使用今日头条网站名称、域名，且未提供合理解释及相关证据的情况下，法院认定百度公司的上述行为亦容易造成相关公众的混淆，违反反不正当竞争法第六条第三项。

来源：北京市海淀区人民法院

Douyin V. Baidu for Using “Headline” and Other Phrases to Promote Ads, Awarded Damages of RMB 120, 000

On February 15, the first-instance judgment of the unfair competition dispute between Beijing Douyin Information Service Co., Ltd. (Douyin) and Beijing Baidu Netcom Science and Technology Co., Ltd. (Baidu) was released, and Baidu was ordered to pay damages of RMB120,000 to Douyin.

Baidu used "Headline" and "News Headline" to promote the "Mobile Baidu" App, leading to the fact that in the results of searching "Headline" and others on the website of Baidu, would contain the promoted links of the above App concerned and the download services. In this regard, the court held that in light of the highly overlapping content of the App services of both parties, the said use by Baidu could easily cause the relevant public to misunderstand that the App in question was provided by Douyin, which would lead to the confusion of the public, and constitute trademark infringement. As Baidu did not deny actually using the name and domain name of Headline Website in the download page of the App, and failed to provide a reasonable explanation or relevant evidence, the court identified that the above act of Baidu also easily confused the relevant public, which violated Item 3 of Article 6 of the Anti-unfair Competition Law.

Source: [Beijing Haidian District Court](#)

学校雕塑招投标涉著作权侵权案宣判：不拆除侵权雕塑，承担5倍惩罚性赔偿责任

近日，重庆自由贸易试验区人民法院就重庆市花火文化传播中心（下称原告）与重庆两江新区礼嘉实验小学、重庆渝高科技产业（集团）股份有限公司（下称被告）著作权侵权纠纷案作出一审判决，责令二被告赔偿原告经济损失17万元。

法院认为，被告明知无权使用原告的设计仍然使用相关设计制作雕塑，且擅自进行修改，侵害原告作品的修改权、复制权和展览权。从当事人意思表示以及减少社会成本、提高社会效益出发，宜以提高赔偿额的方式作为拆除责任替代方式。本案中两被告明知原告设计了涉案雕塑作品且就设计费磋商未果的情况下，使用该作品制成雕塑，故两被告具有明显主观故意；侵权雕塑放置于礼嘉小学校内、学校主入口供师生和不特定公众参观，系持续性的侵权行为，受众范围较广；被告在制作雕塑时修改了原告的设计，在原告发出终止使用声明后仍继续使用上述作品，构成情节严重。综上，两被告应当承担惩罚性赔偿责任。

来源： [重庆自由贸易试验区人民法院](#)

Sculpture Copyright Infringement Judgment: the Infringing Sculpture will not be Demolished, but 5 Times of Punitive Damages was Awarded

Recently, Chongqing Free-Trade Zone Court issued a first-instance judgment in a copyright infringement dispute, ordering the two defendants to pay the damages of RMB 170,000.

The court held that the defendant, knowing that it had no right to use the plaintiff's design, still used the relevant design to make sculptures, and made modifications without authorization, which infringed on the plaintiff's right to modify, reproduce and exhibit its works. In order to reduce the social cost, it is

advisable to increase the amount of damages as the alternative to the liability of demolition of the infringing sculpture. The defendants clearly knew that the plaintiff had designed the said sculpture, and did not negotiate the design fee, but still used the work to make a sculpture. Therefore, the two defendants have obvious malice. Infringement sculptures are placed in the school and at the main entrance of the school for teachers and students and public to visit, which is a continuous infringement and covers a wide range. The defendant modified the plaintiff's design while making the sculpture, and continued to use the above works after the plaintiff issued the statement of termination of use, which constituted a serious case. To sum up, the two defendants shall be liable for punitive damages.

Source: Chongqing FreeTrade Zone Court

全国首例网络游戏商业代练行为不正当竞争案一审宣判

上海市浦东新区人民法院腾讯科技（成都）有限公司、深圳市腾讯计算机系统有限公司（下称原告）与佛山市南海区北笙网络科技有限责任公司（下称被告）不正当竞争纠纷案作出一审判决，责令被告立即停止涉案不正当竞争行为并赔偿原告经济损失985,000元。

法院认为，被诉行为扰乱市场竞争秩序，损害两原告作为经营者及游戏用户作为消费者的合法权益。两原告作为网络游戏开发商和运营商享有基于运营《王者荣耀》游戏产生的竞争性权益。但被告通过运营“代练帮”客户端设置“王者荣耀”专区、提供商业代练服务并从中获取收益，造成如下三方面的损害后果：一、破坏网络游戏运营、竞争秩序，对公共利益造成侵害；二、减损游戏的用户粘性和交易机会，干扰涉案游戏建立的实名机制、未成年人防沉迷机制，损害两原告作为经营者的商业利益和竞争优势；三、破坏涉案游戏公平竞技的游戏匹配及平衡机制，损害了游戏用户的消费体验和合法权益。被告运营的“代练帮”客户端通过发单返现金、设置“王者荣耀”专区的行为组织用户进行《王者荣耀》游戏代练交易，其商业化、规模化组织游戏代练交易的行为（包括向未成年人提供游戏代练服务）违反了诚实信用原则和公认的商业道德，侵害了原告、消费者的合法权益和社会公共利益，具有可责性，构成不正当竞争，应予以规制。

来源：上海市浦东新区人民法院

First Judgement on Online Game Power Leveling

The Shanghai Pudong New Area People's Court made the first-instance judgment on the unfair competition case filed by Tencent, ordering Defendant to cease the unfair competition acts and pay the damages of RMB 985,000 for Tencent.

The court held that the sued acts damaged the legitimate rights and interests of the two plaintiffs as operators and game users as consumers. The two plaintiffs, as online game developers and operators, enjoy the competitive rights and interests arising from the operation of the game "Honor of Kings". However, the defendants have caused damages in the following three aspects by setting up a special area of "Honor of Kings", and providing power leveling service through the operation of the client of "Power Leveling ", resulting in the following three damage consequences:

1. Causing prejudice to the operation of online games, and causing damage to public interests;
2. Decreasing the user stickiness and trading opportunities of the game, interfering with the real-name mechanism established by the game involved, and the mechanism for preventing minors from becoming addicted, and damaging the commercial interests and competitive advantages of the two plaintiffs as operators;
3. Destroying the game matching and balance mechanism of the fair competition of the game involved, and damaging the consumer experience and legal rights and interests of game users. The client of the "Power Leveling" operated by the defendant organizes users to conduct the practice transaction of the "Honor of Kings" game by issuing a ticket and returning cash and setting up the "Honor of Kings" zone. The defendant's act violated the principle of good faith and business ethics, infringed the legitimate rights and interests of the plaintiff and consumers and the social and public interests, and was liable, constituted unfair competition.

Source: Shanghai Pudong New Area People's Court

WIPO 中国: 巴西加入海牙体系

巴西政府于2023年2月13日交存了《海牙协定》1999年日内瓦文本的加入书。巴西是《1999年文本》的第71个缔约方，也是海牙联盟的第79个成员。《1999年文本》将于2023年8月1日在巴西生效。巴西加入海牙体系后，如果是巴西的设计师或企业主，只需提交一份国际申请，就可以在海牙体系所涵盖的96个国家中的任何一个寻求对外观设计的保护。如果是非居民，将能够通过产权组织的海牙体系在巴西获得国际外观设计保护，为将业务扩展到拉丁美洲提供便利。

来源: WIPO

Brazil Joins the Hague System

The Brazilian Government decided to join Hague Agreement on 13 February 2023. Brazil is the 71st party to the 1999 text and the 79th member of the Hague Union. The 1999 Text will enter into force in Brazil on August 1, 2023. After Brazil joined the Hague system, Brazilian designers or business owners can seek the protection of external design in any of the 96 countries covered by the Hague system by submitting an international application. Non-Brazilian residents will be able to obtain international design protection in Brazil through the Hague system of WIPO, which will facilitate the expansion of business to Latin America.

Source: WIPO

USPTO就人工智能和发明人身份征求公众意见

近日，美国专利商标局（USPTO）发布通知，针对人工智能和发明人身份征求公众意见。USPTO在激励和保护创新（包括人工智能（AI）支持的创新）方面发挥着重要作用，此次征求意见旨在确保美国在人工智能和其他新兴技术（ET）方面继续保持领先地位。2019年8月，美国专利商标局曾就人工智能发明专利申请公开征求意见。在征求意见中提出的诸多政策问题

中，美国专利商标局就涉及发明人的若干问题征求意见，例如自然人在人工智能发明构思过程中可能存在哪些不同的贡献，以及是否需要修改现行法律法规，以考虑除自然人以外的单位的贡献等内容。

来源: [federalregister](#)

USPTO Seeks the Public Comments on Patenting AI Inventions

Recently, the United States Patent and Trademark Office (USPTO) sought the public comments on Artificial Intelligence and Inventorship. The USPTO plays an important role in incentivizing and protecting innovation, including innovation enabled by artificial intelligence (AI), to ensure continued U.S. leadership in AI and other emerging technologies. In August 2019, the USPTO issued a request for public comments on patenting AI inventions. Among the various policy questions raised in the notice, the USPTO requested comments on several issues involving inventorship, such as the different ways a natural person can contribute to the conception of an AI invention and whether current laws and regulations involving inventorship need to be revised to consider contributions from entities other than natural persons.

Source: [Federal Register](#)

为支持韩版ChatGPT研发，韩国将修改《著作权法》允许对出版物进行数据分析

据韩国《中央日报》2月21日报道，从今年开始，韩国将支持研发韩版ChatGPT。为此，韩国将修改《著作权法》，允许使用各种出版物进行数据分析。韩政府还将为中小企业、大学等单位应用人工智能提供支持。韩政府决定从本月开始，通过征集人工智能企业的意见，制定出利用人工智能解决民生问题的方案。

来源: [界面新闻](#)

Korea will Amend "Copyright Law" to Allow Data Analysis of Publications for Support Korean Version of ChatGPT

According to a report in South Korea's JoongAng Ilbo on February 21, South Korea will support the development of South Korean version of ChatGPT from this year. To this end, South Korea will amend the "Copyright Act" to allow the use of a variety of publications for data analysis. The Government of South Korea will also provide support for the application of artificial intelligence to small and medium-sized enterprises, universities and other units. In addition, the South Korean government decided to develop a plan to solve people's livelihood problems using artificial intelligence by soliciting the opinions of AI enterprises from this month.

Source: [Jiemian](#)

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