



# NEWSLETTER

LIFANG & PARTNERS 立方观评



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2023.5

## 立方要闻周报

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MIIT Supports Hubei (Xiangyang), Zhejiang (Deqing), and Guangxi (Liuzhou) in Establishment National Level Vehicle Networking Pilot Zones



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FOTILE's Trademark, Font Size and Domain Name Infringed, The Court Awarded Damages of RMB 3.7 Million

人头马XO酒获赔百万元，看法院对三维立体商标的侵权判定

Remy Martin was Awarded Millions of Dollars in the Litigation of Infringement on 3D Trademark for the Shape of Bottles

180万元全额支持，干扰搜索引擎排名结果不正当竞争案



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Interference with Search Engine Ranking Results, The Court Awarded Damages of RMB 1.8 Million

美国法院判定Chrome未侵犯专利

Google Wins Appeal of Patent Infringement Litigation for Damages of \$20 Million Regarding Chrome Technology

日本专利局公布2022年专利信息服务动向调查报告

Japan Patent Office Announces 2022 Patent Information Service Trend Survey Report

INTA发布《元宇宙中的商标》和《非同质化代币》白皮书

INTA Releases "Trademarks in the Meta-Universe" and "Non-Homogenized Tokens" White Papers

## 立方竞争法周报 Weekly Competition Law News

### 江苏省市监局调查A.O.史密斯纵向垄断协议问题

2023年4月28日，据媒体报道，知名家电公司A.O.史密斯（AOS.N）前首席财务官朱军与A.O.史密斯（中国）环境电器有限公司前总经理陈东联名向国家反垄断局举报A.O.史密斯实施纵向垄断协议行为。江苏省市场监督管理局（“江苏省市监局”）正在对此进行调查，答复称目前无法透露相关具体信息。（[查看更多](#)）

### Jiangsu AMR Investigates A.O. Smith for Alleged Vertical Monopoly Agreements

On April 28, 2023, according to the media, former CFO of A.O. Smith Group Corp. (AOS.N), Zhu Jun, and former General Manager of A.O. Smith (China) Environmental Products Co., Ltd., Chen Dong, jointly reported A.O. Smith for engaging in vertical monopoly agreement behavior to the State Administration for Market Regulation (SAMR). The Jiangsu Administration for Market Regulation (“Jiangsu AMR”) is currently investigating the matter but has stated that it is unable to disclose any specific information at this time. ([More](#))

### 西宁中院对全省首例垄断纠纷一审案件公开宣判

2023年4月23日，西宁市中级人民法院（“西宁中院”）公开宣判某甲燃气器具公司与某乙天然气公司垄断纠纷一案，认定某乙天然气公司滥用市场支配地位强制获取交易机会。该案是青海省首例垄断纠纷案件。（[查看更多](#)）

### Xining Intermediate Court Announces the Verdict of the First-instance Trial of a Monopolistic Dispute Case in the Province

On April 23, 2023, Xining Municipal Intermediate People’s Court (“Xining Intermediate Court”) publicly announced its verdict on a monopoly dispute between a gas appliance company and a natural gas company, ruling that the natural gas company had abused its dominant market position to force transaction opportunities. This case is the first monopoly dispute case in Qinghai Province. ([More](#))

### 快递业反垄断与数据安全研讨会在京召开

2023年4月20日，由中国快递协会主办的快递业反垄断与数据安全研讨会在京召开。会议分为“快递业与反垄断”和“快递业与数据安全”两个部分，围绕市场公平竞争、数据安全等问题，讨论反垄断法和合规竞争、司法中的数据保护以及实际数据安全问题 and 对策。（[查看更多](#)）

### Anti-Monopoly and Data Security Symposium for the Express Delivery Industry Held in Beijing

On April 20, 2023, the Anti-Monopoly and Data Security Symposium for the Express Delivery Industry, hosted by the China Express Association, was held in Beijing. The conference was divided into two

parts: “Express Industry and Anti-Monopoly” and “Express Industry and Data Security.” Discussions centered around issues such as fair market competition, data security, anti-monopoly law and competition in compliance, data protection in the judicial system, practical data security issues and counter-measures. ([More](#))

## 市场监管舆情案例分析活动深入讨论水泥行业垄断协议典型案例

2023年4月20日，市场监管舆情案例分析活动在陕西西安举行。活动总结分析2022年度市场监管领域舆情整体情况，深入研讨“陕西省水泥协会及13家企业实施垄断协议被罚4.51亿元”典型案例。国家市场监督管理总局反垄断执法一司、陕西省市场监督管理局有关负责同志作交流发言。中央网信办、中国人民大学、复旦大学的专家对活动进行点评指导。 ([查看更多](#))

## Market Regulation and Public Opinion Case Analysis Event Extensively Discusses a Typical Case of Monopoly Agreements of the Cement Industry

On April 20, 2023, the Market Regulation and Public Opinion Case Analysis Event was held in Xi'an, Shaanxi Province. The event summarized and analyzed the overall public opinion situation in the field of market regulation in 2022, and conducted in-depth discussions on the typical case of “Shaanxi Cement Association and 13 companies implementing monopoly agreements being fined CNY 451 million”. Officials from the Division I of Anti-monopoly Enforcement of the SAMR and the Shaanxi Provincial Administration for Market Regulation (“Shaanxi AMR”) gave speeches at the event. Experts from the Cyberspace Administration of China, Renmin University of China, and Fudan University provided comments and guidance on the event. ([More](#))

## 欧盟委员会进一步精简合并集中审查流程

2023年4月20日，欧盟委员会（European Commission）修订《合并实施条例》（*Merger Implementing Regulation*），发布程序简化通知及文件传输通讯，以进一步简化《欧盟合并条例》（*EU Merger Regulation*）集中审查程序。新规扩大和/或澄清了简易程序的应用范围；为简易案件引入了新的通知表（“tick-the-box” Short Form CO）以进一步简化简易案件审查程序；减少和澄清了非简易案件通知表（Form CO）中的信息要求；优化了对委员会的文件传输。 ([查看更多](#))

## European Commission Further Streamlines the Merger Review Process

On April 20, 2023, the European Commission revised the *Merger Implementing Regulation* and issued a *Notice on Simplified Procedure* and a *Communication on the transmission of documents* to further simplify the *EU Merger Regulation* review process. The new regulation expands and/or clarifies the scope of the simplified procedure; introduces a new notification form (“tick-the-box” Short Form CO) to further simplify the review process for simplified cases; reduces and clarifies the information requirements in the notification form (Form CO) for non-simplified cases; and optimizes document transmission to the Commission. ([More](#))



## CMA对Google要求使用其支付系统的行为展开调查

2023年4月19日，英国竞争与市场管理局（CMA）发布公告，称正在调查谷歌（Google）在英国安卓（Android）设备上分发应用程序的行为，特别是Google Play应用商店要求某些应用程序开发人员使用其计费系统进行应用程序内购买的规则。CMA同时发布有意接受谷歌承诺的通知并邀请利益相关第三方就拟议承诺发表意见，截止至2023年5月19日。谷歌随即表示将允许开发人员使用替代支付选项。（[查看更多](#)）

## CMA Launches Investigation into Google's Requirement to Use Its Payment System

On April 19, 2023, the UK Competition and Markets Authority (CMA) announced that it is investigating Google's distribution of apps on Android devices in the UK, specifically the rules obliging certain app developers to use Google Play's own billing system for in-app purchases. The CMA also announced that it intends to accept a commitment from Google and invited interested third parties to comment on the proposed commitment, with a deadline of May 19, 2023. Google subsequently announced that it will allow developers to use alternative payment options. ([More](#))

## 欧盟发起时尚行业调查，Gucci遭突击检查

2023年4月18日，欧盟委员会发布公告，称对活跃于各欧盟成员国内的时尚行业企业进行了突击检查。委员会同时向该行业企业发出了正式的信息要求。委员会担忧相关企业可能违反了禁止实施卡特尔和限制性商业行为（包括某些横向和纵向限制）的欧盟反垄断规则。次日，意大利税务警察检查了米兰的一家古驰（Gucci）设施，这是欧盟对商业实践潜在违规行为进行调查的一部分。（[查看更多](#)）

## European Commission Confirms Unannounced Inspections in the Fashion Sector, Gucci's Office Is Raid

On April 18, 2023, the European Commission started unannounced inspections at the premises of companies active in the fashion industry in several Member States. In parallel, the Commission has sent out formal requests for information to companies active in the same sector. The Commission has concerns that the companies concerned may have violated EU antitrust rules that prohibit cartels and restrictive business practices including certain horizontal and vertical restrictions. The next day, Italian tax police inspected a Gucci facility in Milan as part of an EU investigation into potential violations of business practices. ([More](#))

## 美最高法院驳回赛诺菲在EpiPen案中的上诉

2023年4月17日，美国最高法院拒绝审理赛诺菲公司（Sanofi S.A.）关于晖致公司（Viatris Inc.）通过独家交易销售EpiPen自动注射器从而垄断自动注射器市场的上诉。晖致公司由迈兰公司（Mylan N.V.）和辉瑞公司（Pfizer Inc.）的Upjohn业务合并产生。2017年，赛诺菲公司起

诉迈兰公司，称其向药物福利管理者（pharmacy benefit manager）提供折扣以换取独占权的行为违反反垄断法。2020年，堪萨斯城一联邦法官因赛诺菲公司无法证明迈兰公司的谈判方法是非法的或对消费者产生了负面影响，裁定支持迈兰公司。第十巡回上诉法院（The 10th U.S. Circuit Court of Appeals）于同年7月支持该决定，称独家合同是肾上腺素自动注射器行业常见竞争策略。（[查看更多](#)）

## SCOTUS Rejects Sanofi's Appeal in the EpiPen Case

On April 17, 2023, the US Supreme Court declined to hear Sanofi S.A.'s appeal in a case against Viatris Inc., which accused the company of monopolizing the auto-injector market through exclusive deals to sell EpiPen. Viatris was created through a merger between Mylan N.V. and Pfizer Inc.'s Upjohn business. In 2017, Sanofi sued Mylan, alleging that its discounting to pharmacy benefit managers in exchange for exclusivity violated antitrust laws. In 2020, a federal judge in Kansas City ruled in favor of Mylan, stating that Sanofi failed to prove that Mylan's negotiating tactics were illegal or had a negative impact on consumers. The 10th US Circuit Court of Appeals supported this decision in July of the same year, stating that exclusive contracts were a common competitive strategy in the epinephrine auto-injector industry. ([More](#))

## 另有9州加入DOJ对谷歌数字广告技术垄断的诉讼

2023年4月17日，美国司法部（DOJ）发布公告，称包括亚利桑那州、伊利诺伊州、密歇根州、明尼苏达州、内布拉斯加州、新罕布什尔州、北卡罗来纳州、华盛顿州和西弗吉尼亚州等九个州的总检察长加入DOJ反垄断局和加利福尼亚州、科罗拉多州、康涅狄格州、新泽西州、纽约州、罗得岛州、田纳西州和弗吉尼亚州总检察长联合发起的民事反垄断诉讼，指控谷歌垄断多个数字广告技术产品，违反了谢尔曼法案（Sherman Act）第1条和第2条。（[查看更多](#)）

## Nine Additional States Join Justice Department's Suit Against Google for Monopolizing Digital Advertising Technologies

On April 17, 2023, the US Department of Justice (DOJ) announced that the attorneys general of nine states, including Arizona, Illinois, Michigan, Minnesota, Nebraska, New Hampshire, North Carolina, Washington, and West Virginia, had joined the DOJ's antitrust division and attorneys general from California, Colorado, Connecticut, New Jersey, New York, Rhode Island, Tennessee, and Virginia in a civil antitrust lawsuit against Google. The lawsuit alleges that Google has monopolized multiple digital advertising technology products in violation of Sections 1 and 2 of the *Sherman Act*. ([More](#))

## 欧盟延长《汽车行业集体豁免条例》有效期限并更新补充指南

2023年4月17日，欧盟委员会发布公告，称已将《汽车行业集体豁免条例》（Motor Vehicle Block Exemption Regulation, “MVBER”）有效期限延长五年，至2028年5月31日。委员会同时更新了补充指南，明确了车辆传感器生成的数据可能是提供维修和维护服务的必要投入要素（essential input），因此为遵守《欧洲联盟运行条约》（“TFEU”）第101条，经授权的和独立的维修商应有权平等地获得此类数据；规定了汽车供应商在考虑是否要基于潜在的网络安全考



虑拒绝提供如车辆生成数据等投入要素时必须适用比例原则；警告称如果供应商单方面拒绝向独立运营商提供车辆生成数据等必要投入要素，则可能受TFEU第102条规制。（[查看更多](#)）

## EU Prolongs Motor Vehicle Block Exemption Regulation and Updates the Supplementary Guidelines

On April 17, 2023, the European Commission announced that the *Motor Vehicle Block Exemption Regulation* (MVBER) will be extended for another five years until May 31, 2028. The commission also updated its supplementary guidelines, clarifying that data generated by vehicle sensors may be considered essential input for the provision of repair and maintenance services. Therefore, in compliance with Article 101 of the *Treaty on the Functioning of the European Union* (TFEU), authorized and independent repairers should have equal access to this data. The guidelines also establish the proportionality principle that automotive suppliers must apply when considering whether to refuse input elements such as vehicle-generated data based on potential cybersecurity concerns. The commission warns that if suppliers unilaterally refuse to provide essential input elements such as vehicle-generated data to independent operators, they may be subject to regulation under Article 102 of the TFEU. ([More](#))

## 欧盟委员会调查Renfe在线铁路票务反竞争行为

2023年4月24日，欧盟委员会（European Commission）对西班牙国有铁路公司Renfe展开调查，以评估其是否通过拒绝向第三方售票平台提供有关其门票、折扣和功能范围的全部内容以及与其客运铁路运输服务有关的实时数据，滥用其在西班牙客运铁路运输市场中的主导地位，限制在线铁路售票服务市场竞争。委员会已通过初步评估总结了案件主要事实及其关切。（[查看更多](#)）

## European Commission Opens Investigation into Possible Anticompetitive Practices by Renfe in Online Rail Ticketing

On April 24, 2023, the European Commission opened an investigation into the Spanish state-owned railway company Renfe to assess whether it abused its dominant position in the Spanish passenger railway transport market by refusing to provide third-party ticketing platforms with all information related to its tickets, discounts, and the scope of its services, as well as real-time data related to its passenger railway transport services. The commission has conducted a preliminary assessment and has summarized the main facts of the case and its concerns. The investigation aims to evaluate whether Renfe's actions have limited competition in the online railway ticketing service market. ([More](#))

## 万事达配合DOJ对其借记卡项目展开调查

2023年4月27日，据媒体报道，万事达（Mastercard）宣布美国司法部（DOJ）正在调查其美国借记卡计划及其与其他支付网络的竞争情况，以查明是否存在反垄断违规行为。万事达表示，已于2023年3月收到了DOJ的民事调查要求（CID），正在配合调查。该CID标志着两年前启动的对威士（Visa）的类似调查的扩大。2023年1月，DOJ已要求威士提供有关其美国借记卡业务和与其他支付网络的竞争情况的文件。（[查看更多](#)）

## Mastercard Cooperates With DOJ Antitrust Investigation of Debit Program

On April 27, 2023, according to media, Mastercard announced the US Department of Justice (DOJ) is investigating its US debit card program and its competitive practices with other payment networks to determine if there are any antitrust violations. Mastercard stated that it had received a Civil Investigative Demand (CID) from the DOJ in March 2023 and is cooperating with the investigation. The CID marks an expansion of a similar investigation launched two years ago against Visa. In January 2023, the DOJ had requested documents from Visa regarding its US debit card business and competitive practices with other payment networks. ([More](#))

## 英国《数字市场、竞争和消费者法案》发布

2023年4月25日，英国竞争与市场管理局（CMA）发布《数字市场、竞争和消费者法案》（DMCC），保护线上和线下企业自由竞争，加强CMA打击不公平商业实践的权力。在消费者保护方面，该法案授权CMA直接裁定某行为是否违反消费者权益法，CMA可对违法企业处以高达其全球营业额10%的罚款。在数字市场方面，该法案授权CMA的数字市场部（DMU）监督数字市场有关新制度的实施，监管数字和科技公司。在市场竞争方面，该法案更新了合并和罚款相关的门槛，加强CMA的调查和执法权力。（[查看更多](#)）

## UK Digital Markets, Competition, and Consumer Bill Is Released

On April 25, 2023, the UK Competition and Markets Authority (CMA) released the *Digital Markets, Competition, and Consumers (DMCC) Bill*, which aims to protect both online and high street businesses' freedom to compete and strengthen the CMA's power to combat unfair business practices. In terms of consumer protection, the bill authorizes the CMA to directly determine whether an action violates consumer rights laws and allows the CMA to impose fines of up to 10% of the global turnover of offending companies. Regarding digital markets, the bill authorizes the CMA's Digital Markets Unit (DMU) to oversee the implementation of new regulations in the digital market and regulate digital and technology companies. With respect to market competition, the bill updates the thresholds related to mergers and fines, strengthening the CMA's investigative and enforcement powers. ([More](#))

## 苹果赢得对Epic Games关于苹果应用商店规则的法律斗争

2023年4月24日，美国一联邦上诉法院做出裁决，禁止苹果（Apple）禁止开发者提供使用户可以在苹果应用商店外进行支付的链接，Epic Games由此赢得了其与苹果长达三年的法律斗争；但同时维持下级法院裁决，认定苹果并非iOS应用程序分发方面的垄断者，其要求应用开发者使用苹果专用的应用内支付系统的做法并未违反反垄断法。苹果主张，其限制iOS应用程序分发是出于保护iPhone用户安全和隐私的考虑。法院认为，苹果的安全和隐私协议属于反垄断法的范畴，向竞争对手开放应用内处理将弱化苹果当前的保护模式，苹果的做法并不构成对手机应用程序领域的垄断。（[查看更多](#)）

## Apple Wins Battle With Epic Games Over App Store Rules

On April 24, 2023, a federal appeals court in the United States ruled against Apple and prohibited the company from prohibiting developers from offering links that allow users to make purchases outside of the Apple App Store. As a result, Epic Games won its three-year legal battle against Apple. However, the court also upheld a lower court's ruling that Apple is not a monopolist in the distribution of iOS applications and that its practice of requiring app developers to use Apple's proprietary in-app payment system does not violate antitrust law. Apple argued that its restrictions on the distribution of iOS applications were intended to protect the security and privacy of iPhone users. The court found that Apple's security and privacy protocols fall within the scope of antitrust law, and opening up in-app processing to competitors would weaken Apple's current protective mode. Therefore, Apple's practices do not constitute a monopoly in the smartphone application field. ([More](#))

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

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### 工信部等八部门联合印发《关于推进IPv6技术演进和应用创新发展的实施意见》

2023年4月23日，工业和信息化部、中央网信办、国家发展改革委、教育部、交通运输部、人民银行、国务院国资委、国家能源局等八部门近日联合印发《关于推进IPv6技术演进和应用创新发展的实施意见》（以下简称“《实施意见》”）。《实施意见》提出了主要目标，即到2025年底，IPv6技术演进和应用创新取得显著成效，网络技术创新能力明显增强，“IPv6+”等创新技术应用范围进一步扩大，重点行业“IPv6+”融合应用水平大幅提升。《实施意见》还包括构建IPv6演进技术体系；强化IPv6演进创新产业基础；加快IPv6基础设施演进发展；深化“IPv6+”行业融合应用；提升安全保障能力等重点任务。（[查看更多](#)）

### ***Eight Departments Including the MIIT Jointly Issue the Implementing Opinions on Promoting the Evolution of IPv6 Technology and the Innovative Development of Application***

On 23 April 2023, the Ministry of Industry and Information Technology (the “MIIT”), the Office of the Central Cyberspace Affairs Commission, the National Development and Reform Commission, the Ministry of Education, the Ministry of Transport, the People's Bank of China, the State-owned Assets Supervision and Administration Commission of the State Council, the National Energy Administration jointly issued *the Implementing Opinions on Promoting the Evolution of IPv6 Technology and the Innovative Development of Application (the "Opinions")*. The Opinions put forward the main objectives, that is, by the end of 2025, the evolution and innovation of IPv6 technologies shall have achieved remarkable results, the innovation capabilities of network technologies shall have been significantly enhanced, the application scope of "IPv6 Plus" and other innovative technologies shall have been further expanded, and the level of integrated application of "IPv6 Plus" in key industries shall have been significantly enhanced. The Opinions also include key tasks such as construction of a technical system for the evolution of IPv6, strengthening of the industrial foundation for the evolution and innovation of IPv6, accelerating the evolution and development of IPv6 infrastructure, deepening the industrial integrated application of "IPv6 Plus", and enhancing security guarantee capabilities. ([More](#))

## 工信部介绍今年一季度工作进展及下一步治理重点

2023年4月20日，国务院新闻办公室举行新闻发布会，介绍了2023年一季度工业和信息化发展情况。工业和信息化部（以下简称“工信部”）新闻发言人出席发布会，介绍有关情况并回答记者提问。在推动信息通信服务民生方面，工信部工作进展包括：完善制度规范，出台了《关于进一步提升移动互联网应用服务能力的通知》，发布了《APP用户权益保护测评规范》等系列标准，对50余万款APP进行技术检测，通报了101款违规APP和SDK，重点规范热点问题，有效净化服务环境。下一步，工信部的重点工作包括：加快移动互联网应用程序公共服务平台建设，增强监测检测、风险预警、溯源认证等技术能力；加强APP全链条治理，规范软件安装卸载、自动续费、开屏弹窗等服务行为。（[查看更多](#)）

## MIIT Introduces the Work Progress in the First Quarter of This Year and the Key Points for the Next Step

On 20 April 2023, the State Council Information Office held a press conference to introduce the development of industry and information technology in the first quarter of 2023. The spokesman of the Ministry of Industry and Information Technology (the "MIIT") attended the press conference to introduce the relevant information and answer reporters' questions. In promoting information and communication services for people's livelihoods, the progress of the MIIT includes: improving institutional norms, issuing *the Notice on Further Enhancing the Service Capability of Mobile Internet Applications*, issuing a series of standards such as *the APP User Rights Protection Evaluation Specifications*, conducting technical testing on over 500,000 APPs, reporting 101 illegal APPs and SDKs, focusing on regulating hot issues and effectively purifying the service environment. For the next step, the MIIT will focus on: speeding up the construction of public service platforms for mobile internet applications, enhancing the technical capabilities for monitoring and detection, risk warning and traceability verification; strengthening the whole-lifecycle governance of applications, and regulating services such as software installation and uninstallation, automatic payment renewal and pop-up window. ([More](#))

## 工信部公布2022年国家新型数据中心典型案例名单

2023年4月14日，工业和信息化部（以下简称“工信部”）印发《关于公布2022年国家新型数据中心典型案例名单的通知》（工信厅通信函〔2023〕89号），公布了2022年国家新型数据中心典型案例名单。工信部要求各单位进一步加大对国家新型数据中心典型案例的宣传推广和政策支持，营造良好发展环境，推动算力基础设施高质量建设和应用，更好支撑经济社会各领域数字化转型。（[查看更多](#)）

## MIIT Announces the List of Typical Cases Concerning National-level New-type Data Centers for 2022

On 14 April 2023, the Ministry of Industry and Information Technology (the "MIIT") issued the "Notice on Publishing the List of Typical Cases Concerning National-level New-type Data Centers for 2022" (Communication Letter [2023] No. 89 of the MIIT), and announced the list of typical cases



of National New-type Data Centers for 2022. The MIIT requires all units to further enhance the publicity, promotion and policy support for the announced typical cases of national-level new-type data centers, create a favourable development environment, promote the high-quality construction and application of computing infrastructure, and better support digital transformation in various fields of the economy and society. ([More](#))

## 工信部支持湖北（襄阳）、浙江（德清）、广西（柳州）创建国家级车联网先导区

据工业和信息化部（以下简称“工信部”）2023年4月19日消息，近年来，湖北、浙江、广西坚持系统谋划，以重点区域车联网功能改造和核心系统能力提升、“地理信息+车联网”跨界融合发展、车联网规模化深度应用等为目标，统筹推动车联网产业创新发展，积极培育车联网产业生态，已具备较好的产业发展基础。工信部分别复函湖北省人民政府、浙江省人民政府、广西壮族自治区人民政府，支持湖北（襄阳）、浙江（德清）、广西（柳州）创建国家级车联网先导区。工信部明确了各地区的主要任务和目的，要求各地有关部门围绕国家级车联网先导区的主要任务和目标，按照《车联网（智能网联汽车）产业发展行动计划》（工信部科〔2018〕283号）部署，加快完善协同工作机制，抓紧推进实施，促进全省/全区车联网应用和产业发展。（[查看更多](#)）

## MIIT Supports Hubei (Xiangyang), Zhejiang (Deqing), and Guangxi (Liuzhou) in Establishment National Level Vehicle Networking Pilot Zones

According to the Ministry of Industry and Information Technology (the "MIIT") on 19 April 2023, in recent years, Hubei, Zhejiang, and Guangxi have adhered to the principle of systematic planning, aimed at the functional transformation of the Internet of Vehicles in key areas and the improvement of core system capabilities, the integrated development of "geographic information plus Internet of Vehicles", and the large-scale and in-depth application of the Internet of Vehicles. They have promoted the innovation and development of the industry of the Internet of Vehicles as a whole, actively cultivated the industrial ecology of the Internet of Vehicles, and have established a fairly solid industrial development base. The MIIT has separately replied to the People's Government of Hubei Province, the People's Government of Zhejiang Province, and the People's Government of Guangxi Zhuang Autonomous Region, supporting the establishment of national level Internet of vehicles pilot zones in Hubei (Xiangyang City), Zhejiang (Deqing City), and Guangxi (Liuzhou City). The MIIT has clarified the main tasks and objectives of each region, requiring relevant departments in the respective regions to focus on the main tasks and goals of the national-level Internet of vehicles pilot zone, and in accordance with the mandates in the *Action Plan for the Development of the Internet of Vehicles (Intelligent Connected Vehicles) Industry* (MIIT [2018] No. 283), accelerate the improvement of collaborative work mechanisms and speed up the implementation to promote the application and industrial development of the provincial/regional Internet of vehicles. ([More](#))

## 工信部部署开展5G网络运行安全能力提升专项行动

据工业和信息化部（以下简称“工信部”）2023年4月19日消息，工信部启动5G网络运行安全能力提升专项行动，旨在解决新形势下网络运行安全风险增多、运行维护难度加大等突出问



题，加快构建风险可控、响应快速、制度健全的信息通信网络“大运行安全”框架，推动网络运行安全治理模式向事前预防转型，以高水平5G网络运行安全保障经济社会高质量发展。工信部明确了专项行动的主要任务以及各阶段统筹规划。（[查看更多](#)）

## MIIT Deploys a Special Action to Enhance the Security Capability of 5G Network Operation

According to the Ministry of Industry and Information Technology (the "MIIT") on 19 April 2023, the MIIT launched a special action to enhance the security capability of 5G network operation, aiming to solve prominent problems such as increasing network operation security risks and increasing difficulty in operation and maintenance under the new situation, and accelerate the construction of a "mega operation security" framework for information and communication networks with controllable risks, rapid response, and sound systems, promote the transformation of network operation security governance model to prevention beforehand, and ensure high-quality economic and social development with high-level 5G network operation security. The MIIT also clarified the main tasks of the special action and the overall planning of each stage.([More](#))

## 工信部公布2023年规章制定工作计划

2023年4月18日，工业和信息化部（以下简称“工信部”）公布2023年规章制定工作计划，包括年内提请审议的项目6项，以及年内完成起草适时提请审议的项目9项。年内完成起草适时提请审议的项目包括：电子认证服务管理办法（修订）、通信短信息服务管理规定（修订）、电信和互联网用户个人信息保护规定（修订）等项目。（[查看更多](#)）

## MIIT Announces the Work Plan for Formulating Regulations for 2023

On 18 April 2023, the Ministry of Industry and Information Technology ( the "MIIT") announced the work plan for formulating regulations for 2023, including 6 projects to be submitted for review within the year and 9 projects to be drafted and submitted for review in a timely manner within the year. The projects that were to be drafted and timely submitted for review within the year include: Administrative Measures for Electronic Authentication Services (revised), Administrative Regulations for Short Message Communication Services (revised), and Personal Information Protection Regulations for Telecommunications and Internet Users (revised).( [More](#))

## 江苏省通信管理局通报存在安全问题及违法违规收集使用个人信息的APP

据江苏省通信管理局2023年4月23日消息，江苏省通信管理局持续开展APP侵害用户权益专项整治行动，组织第三方检测机构对群众关注的省内生活服务、休闲娱乐、实用工具等移动互联网应用程序（APP）进行检查，检测到25款APP应用存在网络安全隐患或违法违规收集使用个人信息的问题。江苏省通信管理局要求相关单位在20日内完成整改，逾期不整改的，将依法依规组织开展相关处置工作。（[查看更多](#)）

## The Jiangsu Communications Administration Publicizes List of APPs That Have Security Issues or Have Engaged in Illegal Collection and Use of Personal Information

According to the Jiangsu Communications Administration on 23 April 2023, the Jiangsu Communications Administration has continued to carry out special rectification actions for APP infringement on user rights. It has organized third-party testing agencies to inspect mobile internet applications (APPs) in fields such as life services, leisure and entertainment, and utility tools that are of concern to the public in the province. A total of 25 APPs have been detected to have network security risks or to have engaged in illegal collection and use of personal information. The Jiangsu Communications Administration has required the relevant APP operators to complete rectification work within 20 working days. If no rectification has been made within such time limit, the Jiangsu Communications Administration shall deal with these APPs in accordance with applicable laws and regulations. ([More](#))

### 欧盟委员会宣布成立算法透明中心

欧盟委员会于2023年4月17日宣布，于次日成立欧洲算法透明中心（“ECAT”）。委员会强调，ECAT将向委员会提供内部技术和科学专业知识，以确保大型的在线平台和搜索引擎所使用的算法系统符合数字服务法（Digital Services Act）规定的风险管理、缓解和透明度要求。委员会称，ECAT将负责对指定公司提交的透明度报告和风险自我评估进行全面分析，并根据欧盟委员会的要求对其系统进行检查。（[查看更多](#)）

## Europe: The European Commission Announces Establishment of Centre for Algorithmic Transparency

The European Commission (the “Commission”) announced, on 17 April 2023, the establishment, on the following day, of the European Centre for Algorithmic Transparency (the “ECAT”). The Commission highlighted that the ECAT will provide the Commission with in-house technical and scientific expertise to ensure that algorithmic systems used by the “Very Large Online Platforms” and “Very Large Online Search Engines” under the Digital Services Act comply with the risk management, mitigation, and transparency requirements set out therein. The Commission explained that the ECAT will be responsible for the analysis of the transparency reports and risk self-assessment submitted by the designated companies, and to carry out inspections to their systems whenever required by the Commission. ([More](#))

### 美国议员向众议院提交《2023年在线隐私法案》

2023年4月19日，美国国会议员Anna G.Eshoo和Zoe Lofgren向众议院提交了第2701号决议，该决议规定了与个人信息隐私有关的个人权利，为涉及个人信息的实体制定了隐私和安全要求，并成立一个名为“数字隐私局”的机构。该决议也被称为“2023年在线隐私法案”（“OPA”）。特别值得注意的是，OPA将监管任何有意收集、处理或维护个人信息以及通过电子网络传输个人信息的实体，包括非营利机构和普通运营商。此外，OPA将提供一些数据主体的权利，如访问权、纠正权、删除权、可携带权、对自动化决策进行人工审查的权利、知情

权，以及规定组织保留某类个人信息的暂时性权利，即不得在个人明确同意的期限之外保留该类信息。（[查看更多](#)）

## **USA: Online Privacy Act Introduced to House of Representatives**

On 19 April 2023, Congresswomen Anna G. Eshoo and Zoe Lofgren announced that they had introduced House Resolution 2701 to provide for individual rights relating to privacy of personal information, to establish privacy and security requirements for covered entities relating to personal information, and to establish an agency to be known as the Digital Privacy Agency to enforce such rights and requirements, and for other purposes, also known as the Online Privacy Act of 2023 ('the "OPA"'), to the U.S. House of Representatives. In particular, the OPA would regulate any entity, including non-profits and common carriers, that intentionally collects, processes, or maintains personal information and transmits personal information over an electronic network. Moreover, the OPA would provide several data subject rights, such as the right of access, rectification, deletion, portability, right to human review of automated decisions, right to be informed, and a right of impermanence which would mandate that organisations may not maintain a category of personal information for longer than expressly consented to by the individual. ([More](#))

## **知识产权 Intellectual Property**

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### **西湖双江两家法院签署全国首份名茶保护司法协作框架协议**

4月21日，作为绿茶皇后西湖龙井茶核心产地法院——杭州市西湖区法院与云南大叶茶正宗勐库大叶种茶产地法院——临沧市双江自治县法院共同签署全国首份名茶保护司法协作框架协议。

地理标志作为一项重要知识产权，引起当今国际社会的广泛关注。“西湖龙井”是杭州最具影响力的地理标志，“西湖龙井茶”是最为知名的地理标志证明商标之一。而双江是“中国古茶文化之乡”、是勐库大叶种茶的原生地，双江勐库大叶种茶通过农产品地理标志认证，两次被全国茶树良种审定委员会审定为全国优良茶种。

根据双方签署协议，协作秉承共识共为、共作共赢、共建共享、共商共议原则，通过建立法院之间常态化司法协作工作机制，为推动茶产业绿色健康规范发展提供优质高效司法服务和保障。

来源：杭州网

### **Xihu Court and Shuangjiang Court Signed the First National Judicial Collaboration Framework Agreement for the Protection of Famous Tea**

On April 21, as the green tea queen Xihu Longjing tea core origin court - Hangzhou Xihu District Court signed the first national judicial collaboration framework for the protection of famous tea agreement with Lincang County Court, which is Yunnan big leaf tea authentic Mengku big leaf tea origin court..

As an important intellectual property right, geographical indications have attracted wide attention from the international community today. "Xihu Longjing" is the most influential geographical indication in Hangzhou, and "Xihu Longjing tea" is one of the most well-known geographical indication certification trademark. As "China's ancient tea culture township", Shuangjiang is the native place of Mengku leaf tea. Shuangjiang Mengku leaf tea has passed the agricultural products certification of geographical indication, and certified as the national fine tea species twice by the National Tea Tree Species Validation Committee.

According to the agreement signed between the two sides, collaboration takes the principles about the consensus of a common for, working together to win, build and share. Through the establishment of a regular judicial collaboration between the court working mechanism, it will promote the green and healthy development of the tea industry to provide quality and efficient judicial services and protection.

Source: [Hangzhou.com](http://Hangzhou.com)

### 上海三中院审理全国首例故意避开技术保护措施侵犯医疗设备软件著作权罪案件

4月12日，上海市第三中级人民法院公开审理全国首例故意避开技术保护措施侵犯医疗设备软件著作权罪案件。

2019年3月至2022年7月，被告人刘某甲以营利为目的，未经著作权人许可，自行制作用于避开著作权技术保护措施加密狗，提供维修手册等作品的下载链接，擅自复制医疗设备软件，伙同被告人刘某乙通过网购平台等渠道销售加密狗和盗版软件给他人。经审计，2020年7月至2022年7月，刘某甲、刘某乙合计收取加密狗和盗版医疗软件的销售金额达106万余元。

法院认为，两名被告人以营利为目的，未经著作权人许可，复制发行、通过信息网络向公众传播其作品，故意避开著作权人为其作品采取的保护著作权的技术措施，情节特别严重，以侵犯著作权罪判处被告人刘某甲有期徒刑三年二个月，并处罚金七十万元，被告人刘某乙有期徒刑一年，缓刑一年，并处罚金八万元。

来源：上海第三中院

### Shanghai No.3 Intermediate Court Tried First Case of Infringement on Medical Equipment Software Copyright by Intentionally Circumventing Technical Protection Measures

On April 12, Shanghai No.3 Intermediate People's Court tried the first case of infringement of medical equipment software copyright by intentionally circumventing technical protection measures.

From March 2019 to July 2022, Defendant Liu A made dongles for circumventing copyright technical protection measures on his own, without the permission of the copyright owner for the purpose of profit, provided download links to works such as maintenance manuals, copied medical equipment software, and together with Defendant Liu B sold dongles and pirated software to others, through online shopping platforms and other channels. Upon audit, from July 2020 to July 2022, Liu A and Liu



B collectively received sales of dongles and pirated medical software amounting to more than RMB 1.06 million.

The court held that the two defendants, for the purpose of profit, without the permission of the copyright owner, copied, distributed and disseminated their works to the public through the information network, intentionally avoiding the technical measures taken by the copyright owner, for the protection of copyright of their works. The court sentenced defendant Liu A to three years and two months of imprisonment, and a fine of RMB 700,000 for the crime of copyright infringement, and defendant Liu B to one year of imprisonment, with probation for one year, and a fine of RMB 80,000.

Source: Shanghai Third Intermediate People's Court

### “方太”商标、字号及域名被侵权，获赔370万元

2023年3月30日，浙江省高级人民法院就宁波方太厨具有限公司与深圳市世纪方太电器有限公司、广东贝美克厨房电器有限公司、深圳市云贵厨房电器科技有限公司、佛山市顺德区小蝌蚪电子商务有限公司、杭州阿里巴巴广告有限公司侵害商标权及不正当竞争纠纷案作出二审裁判。此前杭州市中级人民法院判决被告共计赔偿370万元，二审法院驳回被告上诉，维持原判。

法院认为，认定商标近似与否应以相关公众的一般注意力为标准，既要对商标进行整体比对，又要对商标的主要部分进行比对，同时应当考虑被保护注册商标的显著性和知名度。经营者不得擅自使用他人有一定影响的企业名称及域名主体部分，引人误认为是他人商品或者与他人存在特定联系。本案中，被诉侵权标识与宁波方太公司主张权利商标在构成、读音、排列方式上相近似，以相关公众的一般注意力，容易产生混淆或误认，构成商标近似。“方太”商标已为相关公众所熟知，被诉商标具有明显攀附商誉的故意，客观上使公众产生误认，构成对宁波方太公司的不正当竞争。

来源：浙江省高级人民法院

### FOTILE 's Trademark, Font Size and Domain Name Infringed, The Court Awarded Damages of RMB 3.7 Million

On March 30, 2023, Zhejiang High People's Court made a final judgement on the case of infringement on trademark and unfair competition dispute between Ningbo Fotile Kitchenware Limited, versus Defendants Shenzhen Century Fotile Electric Limited et.al upholding the first instance judgment with damages of RMB 3.7 million.

The court held that the determination of the similarity of a trademark shall be based on the general attention of the relevant public, and that both the overall comparison of the trademark and the main parts of the trademark shall be compared, while the prominence and popularity of the registered trademark shall also be considered. The defendants shall not use the enterprise name and the main part of the domain name of the Plaintiff with certain influence without permission, which may lead to the misunderstanding of the source of products or the relationship with the Plaintiff. In this case, the infringing mark is similar to the trademark of Plaintiff in terms of composition, pronunciation and arrangement,



which is likely to cause confusion or misunderstanding with the general attention of the relevant public, and constitutes similar trademarks. The trademark "FOTILE" is well known to the public, and the Defendants are hitchhiking the reputation of the Plaintiff, which constitute unfair competition.

Source: Zhejiang High People's Court

## 人头马XO酒获赔百万元，看法院对三维立体商标的侵权判定

法院认为，本案所涉立体商标在相关公众的认知中已经形成对应关系，并在涉案酒类中具有较高知名度。根据《中华人民共和国商标法》第五十七条规定，未经商标注册人许可，在同一种商品上使用与其注册商标近似的商标，容易导致混淆的，或者销售侵犯注册商标专用权商品的，均属侵犯注册商标专用权的行为。经比对，原告立体商标与被告更换后的酒瓶相比，两者仅波纹密度有所变化，但不影响对两者整体近似的判断。被告应承担停止侵权并赔偿损失的民事责任。

来源：浙江省金华市中级人民法院

## Remy Martin was Awarded Millions of Dollars in the Litigation of Infringement on 3D Trademark for the Shape of Bottles

Jinhua Intermediate People's Court made a judgement on the case of infringement on trademark dispute between E.Remy Martin Limited versus Defendants Shandong Linglong Wine Limited et.al.

The court held that the three-dimensional trademark had formed a correspondence to the trademark owner, among the relevant public, and had a high reputation in the alcoholic beverage. According to Article 57 of the Trademark Law of the People's Republic of China, it is an infringement on trademark that is identical to a registered trademark on the same goods. After comparing the plaintiff's three-dimensional trademark with the defendant's infringing bottle, only the ripple density of the bottle was changed, but it does not affect the overall similarity of the two. The defendant shall bear the civil liability of stopping the infringement and compensating the damage.

Source: Jinhua Intermediate People's Court

## 180万元全额支持，干扰搜索引擎排名结果不正当竞争案

北京百度网讯科技有限公司与深圳一优网络科技有限公司不正当竞争纠纷案二审宣判。法院认为，一优公司所提供的服务“寄生”于百度公司搜索引擎产品和服务中心，通过妨碍、破坏百度公司正常经营活动的方式获取商业利益，该种经营模式不仅直接损害了百度公司的合法权益，对于社会福利和消费者福祉亦无增益，且容易被如涉案目标网站这类存在违法性的网站所利用，不利于营造健康、安全的网络环境。通过被诉行为这种作弊手段快速实现提升排名的目标，导致市场激励机制失灵，扰乱了正常网络经营活动和健康有序的竞争秩序。

法院认定被诉行为构成不正当竞争，并认为百度公司要求的经济赔偿损害数额180万元数额合理，予以支持。

来源：北京知识产权法院

## Interference with Search Engine Ranking Results, The Court Awarded Damages of RMB 1.8 Million

Beijing Intellectual Property Court made a judgement on the case of unfair competition dispute between Beijing Baidu Technology Limited, versus Defendant Shenzhen Yiyou Network Technology Limited. The court held that the services provided by Yiyou were "parasitic" on Baidu's search engine products and service centers, and obtained commercial interests by hindering and disrupting Baidu's normal business activities, which not only directly harmed Baidu's legitimate rights and interests, but also does not contribute to social welfare and consumer welfare, and is easily used by illegal websites such as the target website in question. Through the accused cheating acts, the ranking of the websites can be elevated quickly, but this will lead to the failure of the market incentive mechanism, and disrupted the normal network business activities, and normal competition.

The court found that the accused act constituted unfair competition, and held that the amount of economic compensation damages requested by Baidu for RMB 1.8 million shall be supported.

Source: Beijing Intellectual Property Court

## 美国法院判定Chrome未侵犯专利

美国德州法院之前判定谷歌专利侵权，要求谷歌赔偿2000万美元，专利与Chrome高度关联。谷歌对判决不服，坚决上诉，现在谷歌已经说服美国上诉法院，法院认定三项反恶意软件专利无效。

2013年Alfonso Cioffi和Allen Rozman（已故）的女儿在德州起诉谷歌，他们认为Chrome浏览器使用的反恶意软件功能侵犯了两位工程师发明的技术，专利可以预防恶意软件访问计算机关键文档。2017年陪审团认定谷歌侵权，要求谷歌赔偿2000万美元，而且未来还要继续支付版权费。原告律师曾说，之后9年谷歌每年要支付版权费约700万美元。

然而联邦巡回上诉法院却裁定所有专利无效。法院认为三项涉案专利是之前的反恶意软件专利的再版专利，新专利提到了针对WEB浏览器的特定技术，但这一技术在最初的专利中并没有提及。

来源：路透社

## Google Wins Appeal of Patent Infringement Litigation for Damages of \$20 Million Regarding Chrome Technology

The U.S. Texas court previously ruled that Google's patents were infringing, requiring Google to pay \$20 million in damages, and that the patents were highly relevant to Chrome. Google appealed the decision firmly and has now convinced the U.S. Court of Appeals that the court found three anti-malware patents invalid.

In 2013 the daughter of Alfonso Cioffi and Allen Rozman (deceased) sued Google in Texas, arguing that Chrome used an anti-malware feature that infringed on technology invented by the two engineers and that the patents prevented malware from accessing critical computer documents. 2017 a jury found Google guilty of infringement and demanded \$20 million in damages and to continue paying royalties in the future. Plaintiffs' lawyers had said that Google would have to pay copyright fee of about \$7 million per year for the next nine years.

However, the Court of Appeals for the Federal Circuit ruled that all of the patents were invalid. The court found that the three patents in question were reprints of previous anti-malware patents, and that the new patents referred to specific technology for the WEB browser that was not mentioned in the original patents.

Source: Reuters News

## 日本专利局公布2022年专利信息服务动向调查报告

2023年4月13日，日本专利局（JPO）公布2022年专利信息服务动向调查报告。

调查显示，在专利信息服务商动向方面，关于新服务和新技术的报道较多，特别是使用人工智能（AI）技术的检索和翻译等新功能和新服务层出不穷，2019年以后AI技术在该领域的应用越来越活跃；在研究创新方面，研究主题包括：专利和论文的三维可视化、企业知识产权部门的作用和企业知识产权人力资源状况、验证知识产权评价指标的有效性、公开ESG·SDGs有关的知识产权信息的影响等；2015-2018年期间，专利信息服务行业的市场规模连续上升，2019年至2021年期间，呈现出先下降后上升的趋势；提供专利信息服务的企业销售额的变化情况整体在2020年度略有下降，在2021年度有所回升，呈现出从持平到微增的状态。

来源：日本专利局

## Japan Patent Office Announces 2022 Patent Information Service Trend Survey Report

On April 13, 2023, the Japan Patent Office (JPO) announced the 2022 Patent Information Service Trends Survey Report.

The survey shows that in terms of patent information service provider trends, there are more reports on new services and technologies, especially new functions and services such as search and translation using artificial intelligence (AI) technology, and the application of AI technology in this field is increasingly active after 2019; in terms of research innovation, research topics include: three-dimensional visualization of patents and papers, the role of corporate IP departments and status of corporate IP human resources, validating the effectiveness of IP evaluation indicators, and the impact of disclosing IP information related to ESG-SDGs. the market size of the patent information service industry rose continuously during 2015-2018, and showed a trend of falling before rising between 2019 and 2021; the changes in sales of companies providing patent information services overall declined slightly in FY2020 and rebounded in FY2021, showing a state from flat to slightly increasing.

Source: Japan Patent Office

## INTA发布《元宇宙中的商标》和《非同质化代币》白皮书

2023年4月16日，国际商标协会宣布发布两份白皮书《元宇宙中的商标》、《非同质化代币》，着眼于知识产权的未来和相关未知领域。两份白皮书由超过13个INTA委员会成员共同撰写，是首批从商标角度研究新兴技术的文件之一，旨在围绕“新的数字生态系统在商标的整个生命周期中带来的挑战”提出建议，特别是对于尚未产生相互关系的分散虚拟世界。

两份白皮书呼吁统一元宇宙和NFTs的商标分类，探讨的问题主要包括如何以最佳方式引导全球知识产权界向前发展的具体建议、进一步倡导解决商标持有者在这个快速变化时代所面临的问题。

（来源：国际商标协会）

## INTA Releases "Trademarks in the Meta-Universe" and "Non-Homogenized Tokens" White Papers

On April 16, 2023, the International Trademark Association (INTA) announced the release of two white papers, "Trademarks in the Metaverse" and "Non-Homogenized Tokens," which look at the future of intellectual property and related uncharted territories. Co-authored by more than 13 INTA committee members, the two white papers are among the first to examine emerging technologies from a trademark perspective and aim to make recommendations around "the challenges posed by the new digital ecosystem throughout the life cycle of a trademark," particularly for decentralized virtual worlds where interrelationships have not yet been created.

The two white papers call for the harmonization of trademark classifications for metaverse and NFTs, and address issues such as specific recommendations on how best to guide the global IP community forward, and further advocacy to address the issues facing trademark holders in this era of rapid change.

Source: [International Trademark Association](#)

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