



NEWSLETTER

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Intellectual Property

The State Council issued the National Plan for the Protection and Application of Intellectual Property Rights in the 14th Five-Year Plan

The State Council has recently issued *National Plan for the Protection and Application of Intellectual Property Rights in the 14th Five-Year Plan (The Plan)*. *The Plan* specifies the guiding ideology, basic principles, main objectives, key tasks and implementation safeguards for intellectual property work during the 14th Five-Year Plan period, and makes comprehensive arrangements for intellectual property work in the next five years. *The Plan* guarantees implementation in four areas, including strengthening organisational leadership, encouraging exploration and innovation, increasing investment, and ensuring the implementation of work, so as to ensure that the objectives and tasks are put into practice.

Source: [IPR daily](#)

Supreme Court: Increased Punitive Damages for IPR Infringement and Punishment for Infringement

On October 29, the Supreme People's Court issued *the Opinions on Strengthening Intellectual Property Judicial Work in the New Era to Provide Powerful Judicial Services and Protection for the Construction of a Strong Intellectual Property State (The Opinions)*. *The Opinions* put forward 20 measures on comprehensively strengthening intellectual property adjudication in the new era in four aspects: work requirements, fair administration of justice, enhancing effectiveness and deepening reform. It was clearly proposed that punitive damages shall be applied in accordance with the law, and that damages for IPR infringement and punishment for infringement shall be increased to deter infringement in a timely and effective manner.

Source: [China Network for the Protection of Intellectual Property Rights](#)

The Company Changed its Name to "Byte Dance", Court: Unfair Competition

Shenzhen Byte Dance Electronic Technology Co., Ltd (hereinafter referred to as "Shenzhen Byte") was established in 2019, formerly known as Shenzhen Mangyuanhao Electronic Commerce Co. The company changed its name to its current name on 18 March 2020. This company claims to be an affiliate of Beijing Byte Dance Technology Co Ltd (hereinafter referred to as "Beijing Byte Dance"), and has developed the "Appreciate Headlines" app.

The court held that Beijing Byte Dance's corporate name "Byte Dance" was popular and well known to the public nationwide, and Shenzhen Byte, as a company established later than Beijing Byte Dance, shall have been aware of its popularity and reasonably avoided it in the course of its business. However, the company still used the name "Byte Dance" as its business name, and the court therefore found that it had an obvious intention to hitchhike the reputation of Bytedance, which was likely to cause confusion and misleading the public, and constituted unfair competition.

Source: [Shenzhen Evening Paper](#)

Little Red Book Files Lawsuit for ¥30 Million for Unfair Competition and Trademark Infringement Against the Shiji App

Recently, Little Red Book, the Chinese famous App, filed a lawsuit against the unfair competition and trademark infringement of the Shiji app, demanding that Shiji immediately stop the infringement, pub-

lish an apology statement, and compensate for economic losses of RMB 30 million, and the People's Court of Shanghai Pudong New District has accepted the lawsuit.

Little Red Book claimed that the Shiji had stolen images from the Little Red Book platform without permission, which seriously infringed on the copyright of Xiaohongshu users. At the same time, the app placed the stolen images from the X Little Red Book platform on its own app to enhance its competitive advantage and disrupt the market order, which constituted unfair competition.

Source: [DoNews](#)

Hangzhou Weinnian's Trademark Application for Li Ziqi, the name of the Chinese celebrity, was Rejected

Recently, Li Ziqi formally sued Hangzhou Weinian Brand Management Co., Ltd. In addition, the company's trademark applications for Li Ziqi were all rejected. It is reported that Hangzhou Weinian was established in February 2013, and since December 2019, the company has applied for several Li Ziqi trademarks. Previously, Li Ziqi said in an interview with CCTV: "I indeed want to protect the word Li Ziqi, although I do not want it to be a name with too much commercial value in the future."

Source: [Fast Tech](#)

Apple's Trademark was Repeatedly Rejected for Similarity to the Snow Leopard Trademark

Recently, an administrative judgment of the second instance between Apple and t CNIPA was made public.

Apple applied for registration of the trademark No. 7022460 "SNOW LEOPARD" in 2008, which was rejected by the Trademark Office on the grounds that the applied trademark was similar to No. 1353814 "SNOW LEOPARD" registered by Jiangsu Snow Leopard Daily Chemical Co. "Ltd. on similar goods.

Apple was not satisfied with the Trademark Office's decision, and filed an application for re-examination with the Trademark Review and Adjudication Board, which was again rejected. Subsequently, Apple filed a lawsuit with the Beijing No.1 Intermediate People's Court, which held that the decision of the Trademark Review and Adjudication Board to reject the trademark shall be upheld.

Apple appealed to the Beijing High People's Court. The court held that Apple's application for the trademark "SNOW LEOPARD" could be translated into Chinese as "雪豹", which could form a correspondence, and that the application for the trademark was used on the same or similar goods as the captioned trademark, which could easily cause confusion and misunderstanding between consumers and the source of the goods. In addition, Apple did not submit effective evidence to prove that the application had gained a high reputation in China through the use of the trademark, which may not cause confusion and misunderstanding among consumers. Therefore, the Court did not support the appeal. The result of this case was that the appeal was dismissed and the judgment was upheld, and the judgment was final.

Source: [Caijing.Com](#)

KIPO Introduces Professional Examiner System in Patent Re-examinations

The Intellectual Property Review and Appeal Board of the Korea Intellectual Property Office (KIPO) has announced the introduction of a specialist examiner system from 21 October, whereby private technical experts with specialist knowledge and experience will participate in patent reviews. The expert examiners can provide explanations or opinions at the request of the main examiner to clarify issues re-

lating to the patent specification under examination. With the implementation of the system, the lead examiner may adopt the neutral viewpoint of the civil technical expert at the hearing to help him/her make a quick and accurate judgment.

Source: KIPO

Facebook Agrees to Pay French Media Publishers for Content Usage

In 2019, France became the first country in the EU to enact a directive on the right to publish (neighbouring rights) for media companies and news organisations. The directive requires large tech platforms to enter into negotiations with publishers seeking remuneration. Recently, Facebook announced that it had reached a licensing agreement with the Alliance générale de la presse (APIG), the French national and local newspaper union, to pay users for sharing the content of news publishers. This means that "people will continue to be able to upload and share news stories freely on Facebook, while at the same time protecting the copyright of publishing partners".

Source: Biztech news

Jaguar and Volkswagen settle patent dispute over luxury SUV

Jaguar Land Rover has settled a patent dispute with Volkswagen(VW), resolving a lawsuit over technology used in the US and Germany for luxury sport utility vehicles that made off-road driving less difficult for inexperienced drivers. The dispute began in November 2020 when Jaguar asked the US International Trade Commission (ITC) to block imports of VW's Porsche, Lamborghini, Audi and VW SUVs for allegedly using Jaguar's patented terrain response technology. Jaguar also filed patent infringement lawsuits in federal courts in New Jersey, Delaware and Virginia. The settlement was reached a week before the dispute to prevent the importation of VW vehicles was listed for trial. However, the terms of the settlement were not disclosed in documents filed with the federal court and the ITC.

Source: Intellectual Property Protection in China

Cybersecurity and Data Protection

With the implementation of PIPL, CCA reminds that without the consent of consumers, operators should not push commercial information

As a special law to protect citizens' personal information, the Personal Information Protection Law (PIPL) has been formally implemented since November 1. On October 28, China Consumers Association (CCA) issued a reminder: without consumers' consent, operators should not push commercial information to consumers; residential property companies and business premises cannot use face recognition as the only way to verify access; courier documents and other documents with personal information should be destroyed in time after use, or discarded after erasing key information. ([More](#))

CAC is seeking public comments on the Regulations on the Management of Internet User Account Name Information

On October 26, in order to regulate the management of Internet user account name information, protect the legitimate rights and interests of citizens, legal persons and other organizations, and maintain a good network ecology and create a clear cyberspace, in accordance with the Cybersecurity Law, PIPL, Administrative Measures on Internet-based Information Services, Provisions on the Ecological Governance of Network Information Contents and other laws and regulations, the Cyberspace Administration of China (CAC) has revised the Regulations on the Management of Internet User Account Name Infor-

mation which had come into effect on March 1, 2015, and is now seeking public comments thereon. ([More](#))

CAC is seeking public comments on the *Measures on Data Cross-border Transfer (Exposure Draft)*

On October 29, in order to regulate the activities of data cross-border transfer, protect the rights and interests of personal information subject, safeguard national security and social and public interests as well as promote the safe and free cross-border flow of data, CAC has drafted *the Measures for the Security Assessment on Data Cross-border Transfer* in accordance with the *Cybersecurity Law, Data Security Law, PIPL* and other laws and regulations, and is now seeking public comments thereon. ([More](#))

Apple, Alipay, WeChat, etc. have responded to the *PIPL*

Under the background that the PIPL would be formally implemented since November 1, Apple sent an email to users, informing them that Apple is ready for the *PIPL* on October 29, 2021. WeChat and Alipay have also responded: Wechat has added a mechanism for browsing and exporting personal information and has set up a portal for system permissions and authorization management as well as a way for personalized autonomy control; Alipay has released a simplified version of its privacy policy that is easier for users to read.

Zhang Xinbao, the professor at the Law School of Renmin University of China, said that strengthening the external independent supervision of head enterprises at this stage is important to create an industry governance mechanism for personal information protection and improve the governance level of personal information protection. ([More](#))

FTC Strengthens Security Safeguards for Consumer Financial Information Following Widespread Data Breaches

The Federal Trade Commission announced a newly updated rule On October 27th that strengthens the data security safeguards that financial institutions are required to put in place to protect their customers' financial information. In recent years, widespread data breaches and cyberattacks have resulted in significant harms to consumers, including monetary loss, identity theft, and other forms of financial distress. The FTC's updated Safeguards Rule requires non-banking financial institutions, such as mortgage brokers, motor vehicle dealers, and payday lenders, to develop, implement, and maintain a comprehensive security system to keep their customers' information safe. ([More](#))

Norwegian DPA: Ultra-Technology AS fined

The Norwegian Data Protection Authority has fined Ultra-Technology AS EUR 12,500 for performing a credit rating on a private individual without any legal basis. The company was also ordered to prepare written routines for credit ratings in accordance with Article 24. ([More](#))

GPA promotes human centric approach to privacy protection

Data protection and privacy commissioners from around the world met virtually last week at the 2021 Global Privacy Assembly (GPA) conference, which had as its theme "Privacy and Data Protection: A Human Centric Approach."

Conference participants also adopted a new two-year strategic plan for the GPA that seeks to create an environment in which privacy and data protection authorities can practically fulfil their mandates to ensure high standards of data protection globally and promote and facilitate effective regulatory cooperation. ([More](#))

Joint statement on global privacy expectations of VTC

In July 2020, six data protection and privacy authorities from Australia, Canada, Gibraltar, Hong Kong SAR, China, Switzerland and the United Kingdom jointly signed an open letter to video teleconferencing (VTC) companies. The letter highlighted concerns about whether privacy safeguards were keeping pace with the rapid increase in use of VTC services during the global pandemic, and provided VTC companies with some guiding principles to address key privacy risks. ([More](#))

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