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Weekly News By Lifang & Partners

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最高人民检察院：严厉打击行业“内鬼”泄露公民个人信息违法犯罪

The Supreme People's Procuratorate: Severely Crack Down on "Moles" Personal Information Leaking Crimes in Industries

网络安全审查办公室对知网启动网络安全审查

Cybersecurity Review Office Launched the Cybersecurity Review on CNKI

全国信息安全标准化技术委员会发布《网络安全标准实践指南—个人信息跨境处理活动安全认证规范》



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The National Information Security Standardization Technical Committee issued the *Guide of Cybersecurity Standard Practice - Security Certification Specification for Cross-border Processing of Personal Information*

中国信息通信研究院开展网络安全产业调研

China Academy of Information and Communications Technology Launched Cybersecurity Industry Research

加拿大国会下议院提交《关键网络系统保护法案》

Canada's House of Commons Introduces the *Critical Cyber Systems Protection Act*

美国参议员提出禁止出售位置和健康数据法案

U.S. Senator Introduces Bill to Ban the Sale of Location

算法推荐广告涉嫌歧视，Meta与美国司法部达成和解协议

U.S. Justice Department Secures Settlement Agreement with Meta Platforms, to Resolve Allegations of Discriminatory Algorithm-Recommended Advertising

加拿大下议院通过《在线流媒体法案》

Canada's House of Commons Passes the *Online Streaming Bill*

美国参议院银行委员会就消费者数据的收集和使用致函财政部长

U.S. Senate Banking Committee Sends Letter to Treasury Secretary on Collection and Use of Consumer Data

美国众议院小组顺利通过在线隐私法案

Online Privacy Bill Easily Passed by US House Panel

美国肯塔基州和马里兰州等州采用全国保险专员协会数据安全示范法

US's Kentucky and Maryland Adopt NAIC's *Insurance Data Security Model Law*

美国联邦贸易委员会处罚CafePress掩盖数据泄露事件

FTC Fines CafePress for Covering Up Data Breach



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知识产权 Intellectual Property

国知局开展“蓝天行动”：严厉打击商标代理伪造证据行为

CNIPA Organized "Blue Sky Action" : Cracked Down on Acts of Trademark Agency Fabricating Evidences

全额判赔1000万元，三公司侵害“精工”商标及字号

Three Companies Infringed the Trademark and Name of "Seiko", Damages of RMB 10,000,000 Was Awarded

最高检抗诉成功，“蒙娜丽莎”商标之争尘埃落定

The Supreme People's Procuratorate Successfully Protested in the Dispute over the Trademark of "MONALISA and Picture"

3万美元/兆瓦：通用电气侵犯西门子风机专利，按授权费率计算赔偿额

USD 30,000 Per Megawatt: General Electric Infringed Siemens' Patent and the Award Was Based on the Royalty

达美乐被Ameranth诉专利侵权，反获赔270万美元

Delta Was Sued by Ameranth for Patent Infringement and Was Awarded USD 2,700,000 in Compensation

快时尚巨头SHEIN再陷剽窃风波，面临1亿美元巨额诉讼

Fast Fashion Giant SHEIN Faces USD 100,000,000 Lawsuit for Plagiarism

立方竞争法周报 Weekly Competition Law News

反垄断法完成修改 自2022年8月1日起施行

2022年6月24日，十三届全国人大常委会表决通过关于修改《反垄断法》的决定。《反垄断法》在强化竞争政策的基础地位、设立公平竞争审查制度、明确垄断协议的范围和认定标准、完善规制数字经济领域的滥用行为，以及提升违法惩罚幅度等多个方面作出修改，并首次将“鼓励创新”写入立法目的。（[查看更多](#)）

Amendments to the Anti-Monopoly Law Will Take Effect on 1 August 2022

On June 24, 2022, the Standing Committee of the 13th National People's Congress passed the decision on amending the *Anti-Monopoly Law*. The *Anti-Monopoly Law* has been revised in various aspects, such as strengthening the fundamental status of competition policy, establishing a fair competition review system, clarifying the scope and identification standards of monopoly agreements, improving regulations of digital economy abuse, and imposing heavier penalties on violation conducts. This amendment also includes “encouraging innovation” in the legislative purposes for the first time. ([More](#))

贵州八家液化石油气经营企业因达成并实施垄断协议被罚共150万元

2022年6月20日，国家市场监督管理总局（“市场监管总局”）发布贵州省市场监督管理局（“贵州省市监局”）针对八家液化石油气经营企业作出的行政处罚决定书。经查明，这八家具有竞争关系的经营者达成并实施了固定/变更价格和分割销售市场的垄断协议。因此，贵州省市监局责令其停止违法行为，并分别处以2020年度销售额1%-2%的罚款，共计约150万元。（[查看更多](#)）

8 Liquefied Petroleum Gas Companies in Guizhou Receive a Fine of CNY 1.5 Million for Reaching and Implementing Monopoly Agreements

On June 20, 2022, the State Administration for Market Regulation (“SAMR”) issued an administrative penalty decision made by the Guizhou Provincial Administration for Market Regulation (“Guizhou AMR”) against 8 liquefied petroleum gas companies. It has been found out that these eight competing operators reached and implemented monopoly agreements of fixing/changing prices and dividing sales market. Therefore, Guizhou AMR ordered them to cease the illegal behavior and respectively imposed a fine of 1% to 2% of their 2020 annual sales, totaling about CNY 1.5 million. ([More](#))

射阳县大米协会因组织从事垄断协议行为被江苏省市监局罚款40万元

2022年6月20日，市场监管总局发布江苏省市场监督管理局（“江苏省市监局”）针对射阳县大米协会（“大米协会”）垄断协议案作出的行政处罚决定书。经查明，该大米协会在组织会员单位进行行业自律的过程中，以退出协会会员、停止使用“射阳大米”地理标志集体商标作为约束条件，要求会员单位统一大米销售价格。因此，江苏省市监局对其作出罚款40万元的处罚决定。（[查看更多](#)）

Sheyang County Rice Association Is Fined CNY 400,000 by Jiangsu AMR for Organizing Monopoly Agreements

On June 20, 2022, SAMR issued an administrative penalty decision made by the Jiangsu Provincial Administration for Market Regulation (“**Jiangsu AMR**”) against Sheyang County Rice Association (“**Rice Association**”) in a monopoly agreement case. It has been found out that during the process of organizing member unites to conduct industry self-discipline, the Rice Association requested the member units to unify selling price of rice, threatening to withdraw the companies’ association memberships and prohibit them using the geographical collective trademark “Sheyang Rice” if they don’t do so. Therefore, Jiangsu AMR decided to impose a fine of CNY 400,000. ([More](#))

福建省市监局公告送达某沥青混凝土公司垄断协议案处罚决定书

近日，福建省市场监督管理局（“**福建省市监局**”）针对福建武夷沥青混凝土有限公司垄断协议案作出处罚决定。由于采用多种其他送达方式均无法将处罚决定书有效送达该公司，福建省市监局采取了在市场监督管理部门门户网站公告送达的方式，自发布之日起经过60日即视为送达。这是中国反垄断执法机构首次对处罚决定书进行公告送达。 ([查看更多](#))

Fujian AMR Served a Penalty Decision by Publication against an Asphalt Concrete Company for Monopoly Agreement

Recently, Fujian Provincial Administration for Market Regulation (“**Fujian AMR**”) made a penalty decision on the monopoly agreement case of Fujian Wuyi Asphalt Concrete Co., Ltd. Since the decision could not be effectively served to the company by several other service methods, Fujian AMR decided to serve by publication on the website of the administration for market regulation. The decision shall be deemed to have been served 60 days after the publication date. This is the first time that China’s anti-monopoly law enforcement agency has served the penalty decision by publication. ([More](#))

欧盟计划对博通690亿美元收购VMware的交易展开反垄断审查

2022年6月23日，据媒体报道，欧盟计划对博通（Broadcom）以690亿美元（约合人民币4620亿元）收购软件公司VMware的交易展开反垄断审查。监管机构担忧，该交易可能对全球科技行业的竞争造成损害。通常，欧盟会启动为期数月的“第一阶段”审查，以评估大型收购案的反竞争影响。据悉，针对该交易，欧盟还计划进一步启动为期一年以上的“第二阶段”审查，而这最终可能彻底终止该交易。 ([查看更多](#))

EU Plans Anti-Trust Probe for Broadcom’s USD 69 Billion VMware Deal

On June 23, 2022, according to media report, EU is set for an antitrust investigation on Broadcom’s USD 69 billion (approximately CNY 462 billion) acquisition of software company VMware over regulatory concerns that the deal will harm competition across the global technology industry. Usually, EU launches a months-long “phase 1” investigation to assess the anti-competitive effects of large acquisitions. But it is reported that EU plans to push forward with a “phase 2” investigation, which could take over a year and may ultimately derail the deal altogether. ([More](#))

打车软件Uber和Lyft因涉嫌合谋固定价格面临反垄断集体诉讼

2022年6月22日，据媒体报道，打车软件Uber和Lyft在美国旧金山法院面临反垄断集体诉讼。诉讼指控他们利用在打车平台市场的“双寡头”垄断地位，将司机归为独立承包商而非公司员工，从而试图逃避雇主责任，并合谋维持控制交易价格。这一行为使司机收入降低，客户支付更高价格，损害了劳动力市场和消费市场的竞争。 ([查看更多](#))

Uber and Lyft Face Antitrust Class Action for Alleged Price-Fixing Conspiracy

On June 22, 2022, according to media report, the ridesharing companies, Uber and Lyft, are facing class antitrust litigation in San Francisco over claims that they exploits their “duopoly” in ridesharing platform market, labeling their drivers independent contractors, not employees, thereby trying to avoid the responsibilities of employers, while also conspiring to maintain control over the transaction prices. So that drivers earn less and customers pay more, which hurts competition in both labor and consumer markets. ([More](#))

欧盟普通法院支持欧盟委员会否决蒂森克虏伯与塔塔钢铁合并

2022年6月22日，欧盟普通法院（General Court）作出裁决，维持欧盟委员会禁止蒂森克虏伯（Thyssenkrupp）与塔塔钢铁公司（Tata Steel）拟议合并的决定。此前，欧盟委员会认为该合并交易将严重阻碍内部市场的有效竞争，且蒂森克虏伯和塔塔钢铁公司所提出的救济措施无法全面、持久地解决被认定的竞争问题，因此决定禁止合并。随后，蒂森克虏伯向欧盟普通法院提起诉讼，要求撤销欧盟委员会的决定。最终，欧盟普通法院驳回了蒂森克虏伯的起诉，维持欧盟委员会决定。（[查看更多](#)）

The General Court Upholds EU Commission’s Decision Prohibiting the Proposed Merger between Thyssenkrupp and Tata Steel

On June 22, 2022, the EU General Court ruled and upheld the European Commission’s decision prohibiting the proposed merger between Thyssenkrupp and Tata Steel. Previously, the European Commission concluded that the merger transaction would result in a significant impediment to effective competition in the internal market, and the remedies proposed by Thyssenkrupp and Tata Steel did not address in a full and lasting manner the competition problems identified. Therefore, the European Commission decided to prohibit the merger transaction. Consequently, Thyssenkrupp brought an action before the General Court for annulment of the decision. Nevertheless, the General Court rejected its claim and upheld the European Commission’s decision. ([More](#))

德国联邦卡特尔局针对谷歌地图展开反垄断调查

2022年6月21日，德国反垄断机构联邦卡特尔局（“FCO”）发布公告称，其已对谷歌地图平台（Google Maps Platform）可能损害第三方地图服务提供商的反竞争行为展开调查。FCO初步认定，谷歌地图平台为第三方地图服务提供商提供接入服务，但在将谷歌地图的位置数据、搜索功能或谷歌街景嵌入第三方地图时，谷歌地图服务与第三方地图服务的结合可能会受到限制，这种做法会削弱地图服务领域的竞争。（[查看更多](#)）

German Federal Cartel Office Launches Antitrust Probe into Google Maps

On June 21, 2022, Germany’s antitrust agency, Federal Cartel Office (“FCO”), issued an announcement stating that it has launched an investigation into the anti-competitive behavior of the Google Maps Platform that may harm third-party map service providers. FCO preliminarily determined that the Google Maps Platform offers access to several map services. However, when it comes to embedding Google Maps’ location data, the search function or Google Street View into maps not provided by Google, the combination of Google Maps services with third-party map services may be restricted. This practice could impair competition in the area of map services. ([More](#))

法国反垄断机构接受Meta对在线广告竞争问题的承诺

近日，法国反垄断机构竞争管理局（“FCA”）批准Meta对其作出的承诺，结束了对法国市场非搜索相关在线广告竞争问题的调查。FCA经初步评估认为，Meta“可能”在法国非搜索相关在线广告市场占据支配地位，这将导致显著的网络效应。经审查，FCA接受Meta的改进承诺，包括重新整合合作伙伴计划、对广告销售团队进行培训以及为广告服务商提供合理、客观、透明和非歧视性的API接口。（[查看更多](#)）

France's Antitrust Agency Accepts Meta's Commitment of Online Advertising Competition

Recently, France's antitrust agency, Autorité de la concurrence (“FCA”), approved Meta's commitment and thus closed the investigation into competition in non-search related online advertising in the French market. In FCA's preliminary assessment, Meta is “likely” to have a dominant market position in the French market for non-search related online advertising, which results in significant network effects. Upon review, FCA accepted Meta's commitment to improvement, such as reintegrating partner program, training advertising sales teams and providing justified, objective, transparent and non-discriminatory API interfaces for advertising service providers. ([More](#))

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

国家能源局发布《电力行业网络安全管理办法》《电力行业网络安全等级保护管理办法》

2022年6月14日，国家能源局发布《电力行业网络安全管理办法（修订征求意见稿）》和《电力行业网络安全等级保护管理办法（修订征求意见稿）》，向社会公开征求意见。电力行业网络安全工作的目标是建立健全网络安全保障体系和工作责任体系，提高网络安全防护能力，保障网络安全，保障电力系统的安全稳定运行，促进信息化健康发展。（[查看更多](#)）

The National Energy Administration Issued *Administrative Measures for Cybersecurity in the Electric Power Industry* and *Administrative Measures for Hierarchical Cybersecurity Protection in the Electric Power Industry*

On June 14, 2022, the National Energy Administration issued the drafts of *Administrative Measures for Cybersecurity in the Electric Power Industry* and *Administrative Measures for Hierarchical Cybersecurity Protection in the Electric Power Industry* and solicited public comments. The targets of the cybersecurity work in the electric power industry are to establish and improve the cybersecurity guarantee system and work responsibility system, to enhance cybersecurity protection capabilities, to ensure cybersecurity and the safe, stable operation of the electric power system, and to promote the healthy development of informatization. ([More](#))

中央全面深化改革委员会通过《关于构建数据基础制度更好发挥数据要素作用的意见》

2022年6月22日，中央全面深化改革委员会第二十六次会议召开，审议通过了《关于构建数据基础制度更好发挥数据要素作用的意见》（“《意见》”）等。《意见》强调，数据基础制度建

设事关国家发展和安全大局，要维护国家数据安全，保护个人信息和商业秘密，促进数据高效流通使用、赋能实体经济，统筹推进数据产权、流通交易、收益分配、安全治理，加快构建数据基础制度体系。（[查看更多](#)）

The Central Committee for Deepening Overall Reform Approved *Opinions on Building a Basic Data System to Better Exerting Data Elements' Role*

On June 22, 2022, the 26th meeting of the Central Committee for Deepening Overall Reform was held, at which the *Opinions on Building a Basic Data System to Better Exerting Data Elements' Role* (“Opinions”) was reviewed and approved. The Opinions emphasize that the construction of a basic data system is related to the overall situation of national development and security. It is necessary to maintain national data security, protect personal information and business secrets, promote the efficient circulation and use of data to empower the real economy, coordinate the promotion of data property rights, circulation transactions, income distribution, and security governance, as well as accelerate the construction of a data infrastructure system. ([More](#))

成都出台智能网联汽车道路测试细则

近日，成都市经济和信息化局、公安局和交通运输局联合制定发布了《成都市智能网联汽车道路测试与示范应用管理规范实施细则（试行）》（“实施细则”）。《实施细则》主要规范了智能网联自动驾驶汽车在成都市开展道路测试与示范应用的相关事项，共九章三十七条，两个附件，并经过合法性审查和社会稳定风险评估工作，结论为“低风险”。（[查看更多](#)）

Chengdu Issued *Detailed Rules for Road Testing of Artificial Intelligent Networked Vehicles*

Recently, the Chengdu Municipal Bureau of Economy and Information Technology, Public Security Bureau, and the Transportation Bureau jointly formulated and released the *Detailed Rules for Road Testing of Artificial Intelligent Networked Vehicles (for trial implementation)* (“Rules”). The Rules mainly regulate matters related to the road testing and demonstration application of artificial intelligent self-driving networked vehicles in Chengdu. The Rules, with nine chapters, thirty-seven articles, and two annexes, have undergone legality review and social stability risk assessment, and the conclusion is “of low risk”. ([More](#))

电信终端产业协会、中国信息通信研究院：80%电视系统用户数据被非法采集

2022年6月20日，电信终端产业协会移动安全工作委员会2022年第一次会议召开，会上正式发布《OTT终端数据安全和个人信息保护研究报告（2022年）》（“《研究报告》”）。《研究报告》重点梳理了OTT行业现状、互联网电视安全问题现状、安全管理现状。《研究报告》显示，我国互联网电视用户数10.83亿户，并有80%的电视系统存在用户数据被非法采集共享的问题。（[查看更多](#)）

Telecommunication Terminal Industry Forum Association and China Academy of Information and Communications Technology: 80% of TV System Users' Data Is Illegally Collected

On June 20, 2022, the first meeting 2022 of the Mobile Security Committee of the Telecommunication Terminal Industry Forum Association was held, on which the *Research Report on OTT Terminal Data Security and Personal Information Protection (2022)* (“Research Report”) was released. The Research

Report focuses on the current situation of the OTT industry, Internet TV security issues, and security management. The Research Report shows that there are 1.083 billion Internet TV users in China, and 80% of the TV systems have the problem of illegal collection and sharing of users' data. ([More](#))

最高人民法院：严厉打击行业“内鬼”泄露公民个人信息违法犯罪

2022年6月21日，最高人民法院印发《关于加强刑事检察与公益诉讼检察衔接协作严厉打击电信网络犯罪加强个人信息司法保护的通知》（“《通知》”）。《通知》要求各地检察机关积极推动促进《个人信息保护法》等法律法规的统一正确实施，参与网络空间治理，强化刑事检察和公益诉讼检察职能衔接协作，实现全链条打击、一体化网络治理。 ([查看更多](#))

The Supreme People's Procuratorate: Severely Crack Down on “Moles” Personal Information Leaking Crimes in Industries

On June 21, 2022, the Supreme People's Procuratorate issued the *Notice on Strengthening the Coordination and Cooperation between Criminal Prosecution and Public Interest Litigation Prosecution to Severely Crack Down on Telecommunication Cybercrimes and Strengthen Judicial Protection of Personal Information* (“Notice”). The Notice requires local procuratorial organs to actively promote the unified and correct implementation of laws and regulations such as the *Personal Information Protection Law*, participate in cyberspace governance, strengthen the functions' connection and coordination of criminal prosecution and public interest litigation prosecution, as well as achieve full-chain strikes and integrated network governance. ([More](#))

网络安全审查办公室对知网启动网络安全审查

2022年6月23日，网络安全审查办公室表示，知网掌握着大量个人信息和涉及国防、工业、电信、交通运输、自然资源、卫生健康、金融等重点行业领域重要数据，以及我国重大项目、重要科技成果及关键技术动态等敏感信息。为防范国家数据安全风险，维护国家安全，保障公共利益，宣布对知网启动网络安全审查。 ([查看更多](#))

Cybersecurity Review Office Launched the Cybersecurity Review on CNKI

On June 23, 2022, the Cybersecurity Review Office stated that CNKI has a large amount of personal information and important data in key industries such as national defense, manufacturing industry, telecommunications, transportation, natural resources, health, and finance. Besides, it has sensitive information such as our country's major projects, important scientific and technological achievements, as well as key technological developments. In order to prevent national data security risks, maintain national security, and protect public interests, it has been announced that CNKI will be reviewed on cybersecurity. ([More](#))

全国信息安全标准化技术委员会发布《网络安全标准实践指南—个人信息跨境处理活动安全认证规范》

2022年6月24日，为落实《个人信息保护法》关于建立个人信息保护认证制度的相关要求，指导个人信息处理者规范开展个人信息跨境处理活动，全国信息安全标准化技术委员会组织编制了《网络安全标准实践指南—个人信息跨境处理活动安全认证规范》（“《实践指南》”）。《实践指南》提出了个人信息跨境处理活动安全的基本原则，规定了个人信息跨境处理活动的基本要求和个人信息主体权益保护要求。 ([查看更多](#))

The National Information Security Standardization Technical Committee issued the *Guide of Cybersecurity Standard Practice - Security Certification Specification for Cross-border Processing of Personal Information*

On June 24, 2022, in order to implement the relevant requirements of the *Personal Information Protection Law* on the establishment of a personal information protection certification system and to guide personal information processors to standardize cross-border processing of personal information, the National Information Security Standardization Technical Committee organized the compilation of the *Guidelines of Cybersecurity Standard Practice - Security Certification Specification for Cross-border Processing of Personal Information* (“Guidelines”). The Guidelines put forward the basic principles for the security of cross-border processing of personal information and stipulate the basic requirements for cross-border processing of personal information and the protection of the rights and interests of personal information subjects. ([More](#))

中国信息通信研究院开展网络安全产业调研

2022年6月27日，中国信息通信研究院发布公告，定于2022年6月至8月开展网络安全产业调研，并邀请涉及网络安全相关业务的企业参与本次调研，从产品技术、营销运营、产业发展等维度，收集网络安全企业的业务开展情况及对行业发展的认知，为产业界相关政策、标准、技术、市场的研究和决策提供支撑，更好地推动网络安全产业高质量发展。（[查看更多](#)）

China Academy of Information and Communications Technology Launched Cybersecurity Industry Research

On June 27, 2022, the China Academy of Information and Communications Technology issued an announcement that it will carry out cybersecurity industry research from June to August 2022 and invite companies involved in cybersecurity-related businesses to participate. From dimensions of product technology, marketing operation, industrial development and so on, the industry research will collect information on the business development of cybersecurity-related companies and their recognition of industry development to provide support for the research and decision-making of relevant policies, standards, technologies and markets in the industry, and better promote high-quality development of the cybersecurity industry. ([More](#))

加拿大国会下议院提交《关键网络系统保护法案》

近日，加拿大下议院出台了《关键网络系统保护法案》（“法案”）。该法案将为金融、电信、能源和运输部门的指定运营商引入新的监管制度。法案旨在“帮助公共和私营部门更好地保护自己免受网络攻击”，要求金融、能源、电信、运输四个优先关键基础设施领域的某些公司“立即”向国家网络安全当局报告网络安全事件，政府可以向这些公司发布具有约束力的网络安全指令。（[查看更多](#)）

Canada's House of Commons Introduces the *Critical Cyber Systems Protection Act*

Recently, the Canadian House of Commons introduced the *Critical Cyber Systems Protection Act* (“Act”), which would introduce a new regulatory regime for designated operators in the finance, telecommunications, energy and transportation sectors. The Act aims to “help both the public and private sectors better protect themselves against cyberattacks”. It calls for certain companies within the four priority critical infrastructure sectors of finance, energy, telecommunications and transport to “immediately” report cybersecurity incidents to the national cybersecurity authority. The government could issue binding cybersecurity directives to those companies. ([More](#))

美国参议员提出禁止出售位置和健康数据法案

2022年6月15日，美国参议员伊丽莎白·沃伦提出了一项法案，这项法案由许多民主党和独立参议员共同发起，被称为“2022年健康和位置数据保护法”。除少数例外情况外，该法案将禁止出售、分享或转让位置数据和健康数据。该法案赋予联邦贸易委员会（“FTC”）对违法行为的规则制定和执法权，也赋予各州检察长提起诉讼的权利。值得注意的是，该法案还将向因违反拟议法律而受到不利影响的人赋予私人诉讼权。（[查看更多](#)）

U.S. Senator Introduces Bill to Ban the Sale of Location

Recently, U.S. Senator Elizabeth Warren introduced a bill, cosponsored by a host of other Democratic and independent Senators, the *Health and Location Data Protection Act of 2022* (“Bill”), which, subject to a few exceptions, would prohibit the selling, sharing or transferring location data and health data. The Bill gives the Federal Trade Commission (“FTC”) rulemaking and enforcement authority for violations of the law and also grants state attorneys general the right to bring actions. Notably, the Bill would also give a private right of action to persons adversely affected by a violation of the proposed law. ([More](#))

算法推荐广告涉嫌歧视，Meta与美国司法部达成和解协议

2022年6月21日，美国司法部宣布与Meta平台公司就歧视性广告指控达成和解协议。此前，Meta的住房广告系统被指控基于用户种族、肤色、宗教、性别、残疾、家庭状况和国籍等信息歧视Facebook用户。根据和解协议，Meta将在2022年12月31日前停用具有“歧视算法”的住房广告推荐工具，并开发新的住房广告推荐系统。此外，Meta还需支付11.5054亿美元的罚款。（[查看更多](#)）

U.S. Justice Department Secures Settlement Agreement with Meta Platforms, to Resolve Allegations of Discriminatory Algorithm-Recommended Advertising

On June 21, 2022, the U.S. Department of Justice announced that it had obtained a settlement agreement resolving allegations that Meta Platforms has engaged in discriminatory advertising. Previously, it was alleged that Meta’s housing advertising system discriminates against Facebook users based on their race, colour, religion, sex, disability, familial status and national origin. According to the settlement agreement, Meta will stop using the advertising tool for housing ads with “discriminatory algorithms” by December 31, 2022, and develop a new system for housing ads. Moreover, Meta must pay a penalty of USD 115,054. ([More](#))

加拿大下议院通过《在线流媒体法案》

2022年6月21日，《在线流媒体法案》，或称C-11法案，在加拿大下议院三读通过。此前，加拿大政府于2022年2月2日推出该法案，以更新当今数字世界的《广播法》。《在线流媒体法案》明确，在线流媒体服务属于《广播法》的范畴，并确保加拿大广播电视和电信委员会拥有适当的权力工具，建立一个现代化的、灵活的广播监管框架。这些工具包括制定规则、收集信息和对违规行为进行处罚的能力。（[查看更多](#)）

Canada’s House of Commons Passes the Online Streaming Bill

On June 21, 2022, the *Online Streaming Act*, or Bill C-11, passed the third reading in Canada's House of Commons. Previously, on February 2, 2022, the Government of Canada introduced the Act to update the *Broadcasting Act* for today's digital world. The legislation clarifies that online streaming services fall under the Broadcasting Act and ensures that the Canadian Radio-television and Telecommunications Commission has the proper tools to put in place a modern and flexible regulatory framework for broadcasting. These tools include the ability to make rules, gather information, and assign penalties for non-compliance. ([More](#))

美国参议院银行委员会就消费者数据的收集和使用致函财政部长

2022年6月21日，美国参议院银行、住房和城市事务委员会向财政部长致函，要求金融稳定监督委员会审查金融机构的消费者数据活动，及其对美国金融稳定和安全的潜在威胁。信件中所提出的担忧是，这些信息可能被出售给第三方购买者或数据经纪人，他们将这些信息与从其他来源收集的个人信息进行汇编，并滥用于其他目的，包括收集消费者对价格上涨的容忍度，或利用某些人的消费模式来对他们进行敲诈或勒索。 ([查看更多](#))

U.S. Senate Banking Committee Sends Letter to Treasury Secretary on Collection and Use of Consumer Data

On June 21, 2022, the U.S. Senate Committee on Banking, Housing, and Urban Affairs sent a letter to Treasury Secretary to request a review by the Financial Stability Oversight Council of financial institutions' consumer data activities and their potential threat to U.S. financial stability and security. The letter raised concerns that this information may be sold to third-party purchasers or data brokers who compile it with personal data collected from other sources and exploited for other uses, including gleaning consumers' tolerance for price hikes or using certain people's spending patterns to target them for blackmail or ransomware. ([More](#))

美国众议院小组顺利通过在线隐私法案

2022年6月23日，美国众议院小组通过了一项两党在线隐私法案，以限制个人数据收集。该法案将要求 Alphabet 的谷歌和 Meta 的 Facebook 等公司，以及其他众多公司，只收集提供服务所必需的个人数据。社会安全号码等敏感信息将获得更多保护。该法案现已提交给全体委员会，尚不确定能否最终顺利通过，因为它面临使用消费者数据进行广告的科技公司的批评，这些公司通过提供免费服务以使用消费者数据进行广告。 ([查看更多](#))

Online Privacy Bill Easily Passed by US House Panel

On June 23, 2022, A U.S. House of Representatives panel passed a bipartisan online privacy bill to limit personal data collection. The bill would require companies like Alphabet's Google and Meta's Facebook, along with a long list of others, to only collect personal data necessary to provide services. Sensitive information like Social Security numbers would get even more protection. The bill now goes to the full committee. The bill's fate is uncertain, given that it faces criticism from tech companies, who provide free services by using consumer data for advertising. ([More](#))

美国肯塔基州和马里兰州等州采用全国保险专员协会数据安全示范法

2022年6月23日，肯塔基州和马里兰州延续了各州保险部门的做法，采用全国保险专员协会的保险数据安全示范法版本。与其所依据的《示范法》类似，这些法律要求其所在州的被许可

人维护全面的书面信息安全计划，进行风险评估以确定是否适于实施某些技术保障措施，如多因素认证和加密，制定事件响应计划，并要求第三方服务提供商实施安全措施。 ([查看更多](#))

US's Kentucky and Maryland Adopt NAIC's Insurance Data Security Model Law

On June 23, 2022, Kentucky and Maryland continued the trend of state insurance departments adopting some version of the NAIC's *Insurance Data Security Model Law*. Like the Model Law on which both are based, the laws require licensees of their states to maintain a comprehensive written information security program, perform a risk assessment to identify the appropriateness of implementing certain technical safeguards such as multifactor authentication and encryption, develop an incident response plan, and require third party service providers to implement security measures. ([More](#))

美国联邦贸易委员会处罚CafePress掩盖数据泄露事件

2022年6月24日，FTC最终敲定了针对CafePress的命令，指控其未能保护包括社会安全号码在内的消费者敏感个人数据，并掩盖了重大数据泄露事件。在FTC的这一命令中，要求该公司加强其数据安全性，并要求公司曾经的所有者Stileding Pumpkin Entity公司支付五十万美元，用于为数据泄露的受害者提供补救。 ([查看更多](#))

FTC Fines CafePress for Covering Up Data Breach

On June 24, 2022, FTC finalized an order against CafePress over allegations that it failed to secure consumers' sensitive personal data, including Social Security numbers and covered up a significant data breach. The Commission's order requires the company to bolster its data security. It requires its former owner, Residual Pumpkin Entity, to pay a half-million dollars, which will be used to provide redress to victims of the data breaches. ([More](#))

知识产权 Intellectual Property

国知局开展“蓝天行动”：严厉打击商标代理伪造证据行为

近日，国家知识产权局组织各地严厉打击商标代理伪造地理标志申请证据行为，截至目前已立案处罚3起案件。

四川某商标代理有限公司(下简称四川某公司)代理“关门红梅”地理标志商标申请过程中，对《南江县志》进行篡改；河北某知识产权代理有限公司(下简称河北某公司)代理“邱县杏鲍菇”地理标志商标申请过程中，对《邱县志》进行篡改；韶关某信息技术咨询服务有限公司(下简称韶关某公司)代理“韶关三角鲂”和“韶关鱮鱼”地理标志商标申请过程中，对《韶关年鉴(1996—2000)》《韶关年鉴(2009)》和《韶关市志(1988—2000)》进行篡改。上述三家商标代理机构将篡改后的材料作为证据提交国家知识产权局，违反了商标法有关规定，经机构所在地的商标执法部门调查取证，依法对四川某公司处警告和4万元罚款；对河北某公司处警告和4万元罚款；对韶关某公司处警告和2万元罚款；同时对相关责任人给予警告和罚款行政处罚。

下一步，国家知识产权局将按照最高标准、最强措施、最严要求，继续打击商标代理违法违规行为，加大公开曝光力度，进一步净化商标代理市场，促进商标代理行业规范发展。

来源：国家知识产权局

CNIPA Organized "Blue Sky Action" : Cracked Down on Trademark Agents' Fabricating Evidence

Recently, China National Intellectual Property Administration (CNIPA) organized local administrative enforcement authorities for cracking down on trademark agents fabricating evidences for geographical indication applications, and three trademark agencies were punished by local AMR.

These three trademark agencies submitted tampered materials as evidence to CNIPA, which violated the the *Trademark Law*. The local AMR imposed warnings and penalty fines ranging from RMB 20,000 to 40,000 on the three agencies, and also imposed warnings and fines on the responsible persons.

In the next step, CNIPA will crack down on illegal acts of trademark agencies in accordance with the highest standards, strongest measures and most stringent requirements, increase public exposure, further purify the trademark agency market, and promote the standardized development of the trademark agency industry.

Source: CNIPA

全额判赔1000万元，三公司侵害“精工”商标及字号

广州知识产权法院对精工控股株式会社（SEIKO HOLDINGS CORPORATION）（下称精工控股）与广西天睿精工精密电子有限公司（下称广西天睿精工）、湖南天睿精工科技有限公司（下称湖南天睿精工）、广州仟鼎进出口贸易有限责任公司侵害商标权及不正当竞争纠纷案作出二审判决，维持原判，此前一审判决三被告停止侵权，连带赔偿原告经济损失及合理费用1000万元，广西天睿精工、湖南天睿精工变更企业名称，。

本案中，精工控股是第97127号“SEIKO”、第159371号“精工”等注册商标权利人，核准注册商品为第14类钟、表、计时器等。而三被告在共同生产、销售的手表机芯产品及包装盒上标注含有“SEIKO”的标识，且三被告在共同经营的网页，广西天睿精工、湖南天睿精工在其公司背景墙、展厅等多处突出使用与“SEIKO”读音、形态近似的“TRSEIKO”标识，构成商标侵权。

同时，原告的企业字号“精工”及“SEIKO”经过长期使用，与原告产生唯一对应性。而广西天睿精工和湖南天睿精工作为成立在后的同业竞争者，将原告企业字号注册登记为自己的企业字号，引起相关消费者的混淆，构成不正当竞争，且在公司背景墙等多处完整呈现企业中文名称以及含有“SEIKO”的英文名称，虽没有突出使用，但鉴于原告企业字号的知名度，也容易引起消费者误认，构成不正当竞争。

损害赔偿方面，原告主张按照侵权获利确定损害赔偿数额。由于被告无正当理由不提供关于生产、销售被诉侵权产品的单价、数量、利润率等相关证据，导致法院无法查明其侵权获

利，由被告承担举证妨碍责任。法院参考原告提供的证据计算被告侵权获利，依法对原告主张的1000万元赔偿数额予以全额支持。

来源：广州知识产权法院

Three Companies Infringed the Trademark and Name of "Jingong", Damages of RMB 10,000,000 Was Awarded

The Guangzhou Intellectual Property Court made a judgment on the dispute over trademark infringement and unfair competition between SEIKO HOLDINGS CORPORATION and Guangxi Tianrui Electronics Co., LTD, et. al., upholding the first instance judgment. Previously, the first instance judgment ordered the three defendants to stop the infringement and pay damages of RMB 10,000,000.

In this case, the three defendants used "SEIKO" on the watch movement products and packaging boxes, and prominently used "TRSEIKO" on the website, the background wall, the exhibition hall and other places, which constituted trademark infringement and unfair competition.

In terms of damages, the defendant did not provide relevant evidence without justifiable reasons, the court calculated the defendant's profit by referring to the evidence provided by the plaintiff, and fully supported the plaintiff's claim.

Source: Guangzhou Intellectual Property Court

最高检抗诉成功，“蒙娜丽莎”商标之争尘埃落定

6月14日，北京市高级人民法院对“M MONALISA及图”商标一案做出判决，撤销一、二审判决，改判驳回一审原告蒙娜丽莎集团股份有限公司（下称“蒙娜丽莎集团”）的诉讼请求。这意味着再审法院确认了原商标评审委员会做出的裁定结论，即蒙娜丽莎集团名下争议商标“M MONALISA及图”在烹调器具、高压锅（电加压炊具）、盥洗室（抽水马桶）、坐便器商品上予以撤销，在其余商品上予以维持。该案系最高人民检察院审查提起抗诉并经最高人民法院指定再审且改判的商标行政纠纷第一案。

再审法院认为，第4356344号“M MONALISA及图”商标（下称争议商标）核定使用的“盥洗室”等商品与第1558842号“蒙娜丽莎Mona Lisa”（下称引证商标）核定使用的“蒸汽浴设备”等商品在功能、用途、销售渠道、消费对象方面相同，二者构成类似商品。其次，法院认为，从字母构成角度，争议商标与引证商标均含有字母“MONALISA”，从呼叫角度，争议商标会被相关公众呼叫为蒙娜丽莎，与引证商标中文构成相同，故二者构成近似商标标志。再次，引证商标在“蒸汽浴设备”等商品上长期使用，已具有一定知名度，争议商标核定使用在“盥洗室”等商品上，容易使相关公众产生混淆误认，二者构成商标法意义上的商标近似。

针对蒙娜丽莎集团提出的关于第1476867号商标延伸注册的主张，法院认为，第一，第1476867号商标被认定为驰名商标的时间晚于争议商标的申请注册时间；第二，蒙娜丽莎公司所提交的证据不足以证明第1476867号商标在争议商标申请注册时已具有较高知名度；第三，第1476867号商标注册在第19类商品上，与争议商标和引证商标核定使用的第11类商品分属于不同的商品类别；第四，第1476867号商标在“瓷砖”商品上的知名度，不足以能够使争议商标在“盥洗室”等商品上与引证商标相区分。故该延伸注册主张缺乏事实依据，不能成立。综上，

争议商标注册在“盥洗室(抽水马桶)、坐便器”商品上违反了2001年《商标法》第二十八条的规定，予以撤销。

该案对于2001年《商标法》第二十八条的适用规则、各自具有历史延续的商标注册使用边界、商标延续申请注册等诸多争议较大的法律适用问题进行了详尽论述，对相关类案的判定具有示范意义。

来源：北京市高级人民法院

The Supreme People's Procuratorate Successfully Protested, and the Dispute over the Trademark of "M MONALISA and Picture" Was Resolved

On June 14, the Beijing High People's Court made a ruling on the trademark case of "M MONALISA and picture", revoking the first and second judgments, and rejecting the claims of the plaintiff, MONALISA Group co., LTD. (MONALISA Group). The court ruled that the No. 4356344 trademark "M MONALISA and pictures" (disputed trademark) shall be revoked on cooking utensils, pressure cookers (electric pressurized cookware), lavatories and toilets, and maintained in other products.

This case is the first trademark administrative dispute that the Supreme People's Procuratorate of China filed a protest and was appointed by the Supreme People's Court of China to retrial and amend the judgment.

The court held that the disputed trademark and No. 1558842 "Mona Lisa" (cited trademark) constituted similar trademarks used on similar products. In terms of the claim of MONALISA group for the extension of trademark registration No. 1476867, the court held that it was recognized as a well-known trademark later than the application for registration of the disputed trademark. In addition, it is in a different class of products from the disputed trademark, and its popularity is not sufficient to distinguish the disputed trademark from the cited trademark on products such as "lavatory", so the claim of extension of registration could not be established.

Source: Beijing High People's Court

3万美元/兆瓦：通用电气侵犯西门子风机专利，按授权费率计算赔偿额

6月17日，美国马萨诸塞联邦地区法院的一个陪审团判定，美国通用电气公司（General Electric Co.）侵犯了德国公司西门子歌美飒（Siemens Gamesa Renewable Energy S.A.）的一个专利，并判定歌美飒公司的另一个涉案专利是无效的。这两个专利都涉及海上的风力发电机（又称风电涡轮机）。该陪审团判定通用电气需赔偿歌美飒，赔偿金额将按照专利的授权使用费来计算，即每兆瓦30,000美元。7月21日将举行一次庭审来确定最终的赔偿金额。

2020年7月，通用向美国国际贸易委员会（USITC）起诉了歌美飒，指控其侵犯了通用的两个专利，号码分别是6,921,985和7,629,705，名称分别是“操作电机的方法和设备”和“风力发电机的低电压穿越”。2022年1月，ITC发布了337调查的结果，确认歌美飒没有侵犯其中一个专利’705，但有限地侵犯了另一个专利’985。

2020年9月，歌美飒在美国佛罗里达中区联邦地方法院起诉了通用，指控其侵犯了歌美飒的两个专利，号码分别是8,575,776和9,279,413，名称分别是“带启动装置的风力发电机”和“风力

发电机”。歌美飒指控通用生产的品牌为Haliade-X的风机侵犯了其品牌为Direct Drive的风机。

6月17日，该地区法院的陪审团判定歌美飒的’776号专利是无效的，但’413号专利是有效的，且通用侵犯了该专利，但其侵权行为不是故意的，所以无需向歌美飒支付惩罚性赔偿

来源：知识产权家

USD 30,000 Per Megawatt: General Electric Infringed Siemens' Patent and the Award Was Based on the Royalty

On June 17, a jury in Federal District Court for the District of Massachusetts ruled that General Electric Co. infringed one patent of the Siemens Gamesa Renewable Energy S.A. and ruled that another of Gamesa's patents was invalid.

The jury ordered General Electric to pay damages, which will be calculated at the basis of a royalty of USD 30,000 per megawatt, and a trial will be held on July 21 to determine the final damages.

Source: IP Specialist

达美乐被Ameranth诉专利侵权，反获赔270万美元

6月8日，美国加利福尼亚南区联邦地方法院驳回了美国专利经营公司Ameranth, Inc. 的延长上诉时间的请求。11年前，该公司起诉了美国食品连锁巨头达美乐比萨饼（Domino's Pizza, Inc.），索赔一亿美元，最后于2021年6月被判需向其支付270万美元的律师费和其他法律费用。

从2011年8月开始，Ameranth公司陆续起诉了达美乐和其他30多个公司，指控这些公司侵犯了其四个专利，被告包括苹果、甲骨文、星巴克、希尔顿酒店等。这些专利涉及的技术与移动设备上的菜单生成和数据同步有关。

2021年6月，法官考虑了Ameranth在过去诸多案件中“毫无惧意”的表现，于是根据专利法第285条判定此案是一个“特殊案件（exceptional case）”，（“在特殊的（专利）案件中，法院可将合理的律师费判给胜诉方”。“特殊案件”没有明确的定义。根据判例法，“特殊案件”有两个判定条件：以主观恶意发起、客观上毫无根据。）并命令该公司向达美乐支付270万美元的律师费和其他法律费用。

来源：知识产权家

Delta Was Sued by Ameranth for Patent Infringement and Was Awarded USD 2,700,000 in Compensation

On June 8, the Federal District Court for the Southern District of California rejected the request to extend the appeal time by a patent company, Ameranth, Inc. which sued Domino's Pizza, Inc. for USD 100,000,000 11 years ago and was finally ordered to pay damages of USD 2,700,000.

Since August 2011, Ameranth sued Domino's and more than 30 other companies, including Apple, Oracle, Starbucks, And Hilton Hotels, alleging that the companies infringed four of its patents. In June 2021, the judge considered Ameranth's "fearlessness" in many past cases and ruled that the case was an "exceptional case" under Section 285 of the *Patent Law*. ("In an exceptional (patent) case, the court

may award reasonable attorney's fees to the prevailing party.") There is no clear definition of "exceptional case". According to case law, there are two criteria: it was initiated in malice and groundless.)

Source: IP Specialist

快时尚巨头SHEIN再陷剽窃风波，面临1亿美元巨额诉讼

近日，一名美国自由艺术家起诉中国快时尚零售商Shein，指控该公司未经许可抄袭了她的作品，并索赔1亿美元。

原告Maggie Stephenson是一名杂志广告自由插画师，其客户包括丝芙兰、Urban Outfitters、Net-a-Porter Magazine和Mr Porter等。

起诉书称，Shein抄袭了她一部名为“*One is good, more is better*”的作品。自2019年4月创作以来，该作品及其衍生作品在网上广泛流传，其市价从19美元到300美元不等。但Stephenson于2021年才在美国版权局注册了该作品，而Shein在过去三年里以“无框抽象图案壁画”的形式出售这件艺术品的“复制品”，Shein以4美元的售价提供两个尺寸选项，远低于Stephenson允许授权零售商出售的价格。

目前Stephenson已对以Shein名义进行交易的Zoetop Business Co和Shein Distribution Corp提起诉讼，其中包括四项索赔：版权侵权、替代和/或共同侵犯版权、删除版权管理信息和虚假版权管理信息。Stephenson还要求法院永久禁止被告以任何方式复制或使用她受版权保护的艺术品；销毁所有侵权产品和所有相关营销、广告和促销材料；并为每项违反美国版权法的行为赔偿25000美元，外加合理的律师费和成本。

来源: BrandArk

Fast Fashion Giant SHEIN Faces USD 100,000,000 Lawsuit for Plagiarism

Recently, American freelance artist Maggie Stephenson sued Chinese fast fashion retailer Shein for USD 100,000,000, claiming the company copied her work.

The plaintiff alleged that Shein copied a artwork of hers entitled "One is good, more is better", which was created in April 2019 and had a market value ranging from USD 19 to USD 300. And Shein has been selling copies of the artwork as "frameless abstract murals" for USD 4 for the past three years.

The lawsuit includes four claims: copyright infringement, substitution and/or joint copyright infringement, deletion of copyright management information and false copyright management information. Stephenson also asked the court to permanently prohibit the defendant from copying or using her copyrighted artwork in any way; destroy all infringing products and all related marketing, advertising and promotional materials; and USD 25,000 for each violation of U.S. *Copyright Law*, plus reasonable attorney's fees and costs.

Source: BrandArk

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