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Enanta Pharmaceuticals Files Patent Infringement Suit Against Pfizer

立方竞争法周报 Weekly Competition Law News

六家印章公司因达成并实施垄断协议被罚没共计约40万元

2022年6月30日，国家市场监督管理总局（“市场监管总局”）发布云南省市场监督管理局（“云南省市监局”）针对六家印章公司作出的行政处罚决定书。经查明，这六家具有竞争关系的经营者，违反《反垄断法》第13条的规定，达成并实施了固定防伪印章刻制价格的垄断协议，限制了市场竞争。因此，云南省市监局责令其停止违法行为，没收违法所得，并对其中三家公司分别处以2018年度销售额3%的罚款，罚没款共计约40万元。（[查看更多](#)）

Six Stamper Companies Are Fined and Confiscated a Total of about CNY 400,000 for Reaching and Implementing Monopoly Agreements

On June 30, 2022, the State Administration for Market Regulation (“SAMR”) issued an administrative penalty decision made by the Yunnan Provincial Administration for Market Regulation (“Yunnan AMR”) against six stamper companies. It has been found out that these six competing operators reached and implemented a monopoly agreement of fixing prices of anti-counterfeiting stampers and seals, which restricted market competition. Therefore, Yunnan AMR ordered them to cease the illegal behavior, confiscated their illegal gains and imposed three of them respectively a fine of 3% of their 2018 annual sales, totaling about CNY 400,000. ([More](#))

十一家机动车检测公司因达成并实施垄断协议被罚款共计约22万元

2022年6月30日，市场监管总局发布吉林省市场监督管理厅（“吉林省市监厅”）对十一家机动车检测公司的行政处罚决定。经查明，四家属于同一实际控制人的机动车检测公司，连同其它七家具有竞争关系的公司，达成并实施固定机动车检测服务价格、统一分配销售收入的垄断协议，损害市场竞争和消费者权益。鉴于当事人已主动停止违法行为，吉林省市监厅决定从轻处罚。由于涉案所得无法计算，对各当事人分别处以2019年度销售额2%-3%的罚款，共计约22万元。（[查看更多](#)）

Eleven Motor Vehicle Inspection Companies Are Fined a Total of about CNY 220,000 for Reaching and Implementing Monopoly Agreements

On June 30, 2022, SAMR issued an administrative penalty decision made by the Jilin Provincial Administration for Market Regulation (“Jilin AMR”) against eleven motor vehicle inspection companies. It has been found out that four motor vehicle inspection companies belonging to one same actual controller, together with seven other competing companies, reached and implemented a monopoly agreement of fixing prices of motor vehicle inspection service. What’s more, they agreed to uniformly distribute their sales revenue. These behaviors harmed market competition and interests of consumers. Given that the companies have voluntarily ceased the illegal behaviors, Jilin AMR decided to mitigate relevant penalties. Since the illegal income involved in the case could not be calculated, Jilin AMR respectively imposed a fine of 2%-3% of their 2019 annual sales, totaling about CNY 220,000. ([More](#))

国家市场监督管理总局附条件批准高意股份有限公司收购相干公司股权案

2022年6月28日，市场监管总局宣布附条件批准高意股份有限公司（“高意公司”）收购相干公司股权。此前，市场监管总局分析认为此项集中对全球和中国境内相关商品市场具有或可能具有排除、限制竞争效果，经多轮商谈，高意公司承诺，按照公平、合理、无歧视的原则和多源供应原则，继续履行现有供应和采购合同及其商业条款，并承诺对第三方制造商的竞争性敏感信息采取保护措施。经审查，市场监管总局通过此方案并附条件批准集中。（[查看更多](#)）

SAMR Approves II-VI to Acquire Coherent's Equity, Subject to Conditions

On June 28, 2022, SAMR announced the conditional approval of II-VI Incorporated (“II-VI”)’s acquisition of Coherent Inc. According to the previous analysis of SAMR, this concentration has or may have the effect of excluding or restricting competition in the global and domestic relevant product markets. After several rounds of negotiation, II-VI has promised to continue performing the existing sales and procurement contracts, as well as their commercial terms, in accordance with the principle of fair, reasonable and non-discriminatory and principle of multi-source supply. Also, II-VI has committed to safeguard the competitively sensitive information of third-party manufacturers. After review, SAMR finally accepted the proposed remedies and approved the acquisition with conditions. ([More](#))

国家市场监督管理总局公布六份反垄断法配套规定

2022年6月27日，继《反垄断法》完成首次修订，市场监管总局就五份与反垄断法配套的部门规章和一份行政法规，向社会公开征求意见。这六份规定围绕滥用市场支配地位、垄断协议、滥用行政权力排除限制竞争、滥用知识产权排除限制竞争，以及经营者集中申报和审查制度，根据《反垄断法》最新内容作出修订，以适应《反垄断法》对执法实践的新要求。（[查看更多](#)）

SAMR Issues Six Supplementary Provisions for the Anti-Monopoly Law

On June 27, 2022, following the completion of the first revision of the Anti-Monopoly Law, SAMR publicly solicited opinions on five departmental rules and one administrative regulation, which support the enforcement of the Anti-Monopoly Law. Focusing on abuse of dominant market position, monopoly agreements, abuse of administrative power that excludes or restricts competition, abuse of intellectual property rights that excludes or restricts competition, and the merger filing and review system, the six provisions have been revised in accordance with the latest content of the Anti-Monopoly Law to adapt to the new requirements of law enforcement practices. ([More](#))

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

国家网信办发布《互联网用户账号信息管理规定》

2022年6月27日，国家互联网信息办公室（以下简称“国家网信办”）发布《互联网用户账号信息管理规定》（以下简称《规定》），自2022年8月1日起施行。《规定》共24条，从账号信息

注册和使用、账号信息管理、监督检查与法律责任等方面对互联网用户账号信息进行了保护。

《规定》要求互联网信息服务提供者应当制定和公开互联网用户账号信息管理规定、平台公约，明确账号信息注册、使用和管理相关权利义务；明确规定了互联网用户注册、使用账号信息不得存在的情形；规定互联网信息服务提供者应当建立健全并严格落实真实身份信息认证、账号信息核验、信息内容安全、生态治理、应急处置、个人信息保护等管理制度。（[查看更多](#)）

CAC Issued Regulations on the Management of Internet User Account Information

On 27 June 2022, the Cyberspace Administration of China (“CAC”) issued the *Regulations on the Administration of Internet User Account Information* (the "Regulations"), which will come into effect on 1 August 2022. The Regulations consisted of 24 articles, providing protection of Internet user account information in terms of account information registration and use, account information management, supervision and inspection and legal liability. The Regulations required that Internet information service providers shall formulate and make public rules for the management of Internet user account information, platform conventions, and clarified rights and obligations related to the registration, use and management of Internet user account information; clearly stipulated the circumstances which are strictly prohibited in terms of Internet user registration and use of account information; stipulated that Internet information service providers shall establish and strictly implement real identity information authentication, account information verification, information content security, ecological governance of network information contents, emergency response, protection of personal information and other management systems. ([More](#))

国家网信办公布《个人信息出境标准合同规定（征求意见稿）》

2022年6月30日，国家网信办公布《个人信息出境标准合同规定（征求意见稿）》，向社会公开征求意见。该规定的制定目的是为了规范个人信息出境活动，保护个人信息权益，促进个人信息跨境安全、自由流动。《标准合同规定》规定了可以通过签订标准合同的方式向境外提供个人信息的个人信息处理者的情形；明确了个人信息处理者向境外提供个人信息前，开展个人信息保护影响评估需重点评估的内容；具体要求了标准合同的主要内容，并将标准合同作为该规定的附件向社会公众征求意见。（[查看更多](#)）

CAC Published Regulation on Standard Contract on Cross-border Transfer of Personal Information (draft for comments)

On 30 June 2022, the CAC published for public comments the *Regulation on Standard Contract on Cross-border Transfer of Personal Information (draft for comments)* (the “Draft Regulation”). The purpose of the Draft Regulation is to regulate the cross-border transfer of personal information, protect the rights and interests of personal information, and promote the safe and free flow of personal information across borders. The Draft Regulation sets out the circumstances under which a personal information processor may provide personal information outside of the country by entering into a standard contract; specifies the content to be focused on when conducting a personal information protection impact assessment of before a personal information processor provides personal information outside of the country; specifies the main contents of a standard contract, and includes the standard contract as an annex to the Draft Regulation for public consultation. ([More](#))

网络安全管理局组织召开工业互联网安全深度行活动启动会

2022年6月28日，工业和信息化部网络安全管理局组织召开全国视频会议，部署启动工业互联网安全深度行活动。会上中国信息通信研究院和国家工业信息安全发展研究中心宣贯了《工业互联网企业网络安全分类分级管理指南（试行）》及系列安全防护规范。会议指出，开展工业互联网安全深度行活动，是贯彻落实国家重大决策部署、推动工业领域网络安全工作落地落实的重要举措，是指导地方健全工业互联网安全保障体系的重要抓手，是提升企业网络安全意识和防护能力的有效途径。（[查看更多](#)）

Launch Meeting for Industrial Internet Security In-depth Activity Organized by the Cybersecurity Administration

On 28 June 2022, the Cybersecurity Administration of the Ministry of Industry and Information Technology organized a national video conference to deploy and launch the in-depth activity for industrial Internet security. At the conference, the China Academy of Information and Communications Technology and the National Development and Research Center for Industrial Information Security publicized and promoted the *Industrial Internet Enterprise Network Security Classification and Classification Management Guide (trial)* as well as a series of security protection specifications.

It has been stressed in the meeting that carrying out industrial Internet security in-depth activity is an important measure to implement major decisions and arrangements of the central Chinese Government and promote the practical implementation of the cyber security work in the industrial field, an important starting point to instruct local governments to improve the system for ensuring the security of the industrial Internet, and an effective way to enhance enterprises' awareness of cyber security and protection capabilities. ([More](#))

国家网信办集中打击一批“李鬼”式投资诈骗平台

2022年7月1日，网信办官网发布消息称，今年以来，国家网信办反诈中心排查打击仿冒App4.2万个，并纳入国家涉诈黑样本库，并且，近期监测发现多起仿冒投资平台进行诈骗的事件。诈骗分子仿冒京东金融、马上金融、360借条等平台，推出大量“李鬼”式App，以相似标志和产品介绍以假乱真，以“小额返利”等诱导网民进行访问下载，进而实施诈骗。部分诈骗平台甚至宣称具有“国企背景”，以“国字头”名义吸引用户，以“拉人头”模式发展下线，给一些网民造成巨大财产损失。诈骗分子仿冒投资平台诱导欺诈网民，让网民遭受严重的财产损失，还可能带来个人信息泄露，应引起足够关注。（[查看更多](#)）

CAC Concentrates on Cracking Down a Number of "Li Gui" (i.e., Counterfeit) Investment Fraud Platforms

On 1 July 2022, the CAC's official website announced that, so far this year the CAC's anti-fraud center has detected and taken enforcement action against 42,000 "Li Gui", i.e., counterfeit Apps, and these Apps have been included in the national anti-fraud database, and also that recent CAC has detected through monitoring a number of incidents of fraud committed by counterfeit investment platforms. Fraudsters launched a large number of counterfeit Apps by counterfeiting platforms such as JD Finance,

Mashang Finance and 360 Jie, introducing counterfeit Apps with similar logos and product introductions, and luring netizens to visit and download with the offer of "small rebates" to commit frauds. Some counterfeit platforms even claim to have "state-owned enterprise background", to attract users in the name of such "state-owned enterprise background", to develop offline by "capitation" model, causing huge property losses to some netizens. Fraudsters fake investment platforms to induce fraud on Internet users, causing serious property losses to Internet users, as well as possible leakage of personal information, which should raise more concerns. ([More](#))

全国首部智能网联汽车管理条例：重点规范网络安全和数据保护

2022年6月23日,《深圳经济特区智能网联汽车管理条例》(以下简称《条例》)获市七届人大常委会第十次会议表决通过。《条例》是深圳市在新兴产业领域的重要立法,也是我国首部规范智能网联汽车管理的法规,对智能网联汽车的道路测试和示范应用、准入和登记、使用管理等作了全面规定,推动产业高质量可持续发展。《条例》第六章对网络安全和数据保护做出了专门规定:

一是规定智能网联汽车相关企业应当依法建立网络安全评估和管理机制,确保网络数据的完整性、安全性、保密性和可用性,防止网络数据泄露和被窃取、篡改。

二是规定相关企业应当依照国家相关规定,制定数据安全管理制度和隐私保护方案,采取措施防止数据的泄露、丢失、损毁,并将存储数据的服务器设在中华人民共和国境内。未经批准,不得向境外传输、转移相关数据信息。

三是禁止非法收集、处理、利用个人信息,禁止非法采集涉及国家安全的数据。

([查看更多](#))

First Administrative Regulations on Intelligent Connected Vehicles: Focus on Standardizing Network Security and Data Protection

On 23 June 2022, the *Regulations of Shenzhen Special Economic Zone on the Administration of Intelligent Connected Vehicles* (the "Regulations") were adopted at the 10th session of the Standing Committee of the Seventh Shenzhen Municipal People's Congress. The Regulations, as an important legislation of Shenzhen Municipality in the field of emerging industries and the first regulation on the administration of intelligent connected vehicles in China, make comprehensive provisions for the road testing and demonstrative applications, entry and registration, and the use and administration of intelligent connected vehicles, and promote the high-quality and sustainable development of the industry.

Chapter 6 of the Regulations make special prescriptions on network security and data protection:

First, it is stipulated that relevant enterprises involved in intelligent connected vehicles shall establish the mechanism for cybersecurity assessment and management, to ensure the completeness, security, confidentiality and availability of network data and prevent network data from being divulged, stolen or tampered with.

Second, it is stipulated that relevant enterprises shall, in accordance with the relevant provisions of the China, formulate a data security management system and a privacy protection scheme, take measures to prevent data from being divulged, lost or damaged, and set up their servers in which data is stored

within the territory of the People's Republic of China. Without approval, no relevant data or information may be transmitted or transferred overseas.

Thirdly, collecting, processing or using personal information in an illegal manner is prohibited, and illegal collection of data involving state security is prohibited. ([More](#))

全国首家数据资源法庭敲响“第一槌”

2022年6月28日，全国首家数据资源法庭浙江省温州市——瓯海区人民法院数据资源法庭依法认定，吴某犯非法获取计算机信息系统数据罪，判处有期徒刑3年3个月，并处罚金3万元。这是该法庭设立以来审结的第一起案件，引发广泛关注。经审理查明，吴某自2019年10月以来，利用技术手段非法获取某知名网商平台子账号数据并贩卖。截至案发，吴某共计开通账号8498个、出售1555个，非法获利224276元。该案经办法官毛小雨说，此案作为全国首家数据资源法庭的第一案，通过司法手段打击侵害数据安全的违法犯罪行为，为全国司法审判作了基层探索。

([查看更多](#))

China's First Data Resource Tribunal Concluded First Case

On 28 June 2022, the Data Resources Tribunal of the People's Court of Wenzhou -Ouhai District, Zhejiang Province, the first data resources tribunal in China, found Wu guilty of illegally obtaining data of a computer information system and sentenced him to a fixed-term imprisonment of three years and three months and a fine of RMB 30 ,000. This is the first case concluded by the tribunal since its establishment.

After the trial, the Tribunal found that since October 2019, Wu had used technical means to illegally obtain and engage in trafficking in sub-account data of a well-known network operator platform. As of the date of the crime, Wu had opened a total of 8,498 accounts, sold 1,555 accounts, and obtained a total of illegal profit of RMB 224,276. The presiding judge, Mao Xiaoyu, said that as the first case of the first data resources tribunal in China, this case combats the illegal and criminal activities of infringement of data security through judicial means, and represents grass-roots exploration efforts in this area for the judicial practice of the whole country. ([More](#))

上海市场监管局：未经同意收集业主个人信息，罚款10万

2022年6月30日，据上海市市场监管局微信公众号消息，上海梵讯网络技术有限公司未经消费者同意收集消费者个人信息，目前已责令当事人立即改正违法行为并罚款10万元。前期，上海市静安区市场监管局依法对上海梵讯网络技术有限公司涉嫌侵犯公民个人信息的违法行为开展调查。经查，当事人自2018年1月起，在其自行开发、运营的电脑软件“梵讯房屋管理系统”及手机软件“手机梵讯”中加入了抓取、收集二手房源信息及业主姓名、联系方式等信息的采集功能的程序。当事人的上述行为未取得原始房源信息发布者及消费者同意，并无偿提供给房屋中介等客户使用。截至案发，当事人共抓取、收集真实房源信息及消费者个人信息3806条。 ([查看更多](#))

Shanghai MSA: A Fine of RMB100,000 Imposed for The Collection of Personal Information Without Consent

On 30 June 2022, according to the information from WeChat official account of the Shanghai Market Supervision Administration (“Shanghai MSA”), Shanghai Fanxun Network Technology Co., Ltd. (the “Company”) collected the personal information of consumers without their consent, and it has been ordered to immediately correct the illegal act and imposed a fine of RMB 100,000. Upon Shanghai MSA’s investigation, it has been found that since January 2018, the computer software “Fanxun housing management system” and the mobile phone software “Fanxun”, which are developed and operated by the Company, had added a software program with the function of collecting information on second-hand housing sources information and the names and contact information of the owners.

The Company had not obtained the consent of the publisher of original housing source information and consumers, and such information have been provided to estate agencies for a fee. Up to the date of the case, the Company had obtained and collected a total of 3,806 pieces of housing source information and consumers' personal information. ([More](#))

工行被罚：收集与业务无关的消费者金融信息，且未建立以分级授权为核心的消费者金融信息使用管理制度

2022年6月27日，中国人民银行长沙中心支行披露的行政处罚信息显示，工商银行湖南省分行存在九项违法行为，被警告并处91.8万元罚款，其中包括： 1. 未按要求向金融消费者披露与金融产品和服务有关的重要内容； 2. 收集与业务无关的消费者金融信息； 3. 未建立以分级授权为核心的消费者金融信息使用管理制度； 4. 未按规定开展持续的客户身份识别； 5. 未按规定对高风险客户采取强化识别措施等。同时，时任工商银行湖南省分行银行卡中心总经理李克平对前述第8、9项违规负有责任，被处3.5万元罚款。（[查看更多](#)）

ICBC Was Punished for Collecting Consumers' Financial Information Irrelevant to Its Business and Its Failure to Establish a Management System for The Use of Consumers' Financial Information Based on Hierarchical Authorization

On 27 June 2022, the People's Bank of China Changsha Central Branch disclosed administrative penalty information that: Industrial and Commercial Bank of China (the “ICBC”) Hunan Branch was warned and imposed a fine of RMB918,000 for nine violations, including, among others: 1. failing to disclose the important contents relating to financial products and services to financial consumers as required; 2. collecting consumers' financial information irrelevant to its business; 3. failing to establish a management system for the use of consumers' financial information with hierarchical authorization as the core; 4. failing to conduct on-going client identification as required; and 5. failing to adopt intensified identification measures against high-risk consumers as required.

In the meantime, Keping Li, General Manager of the ICBC Hunan Branch, was liable for the above violations 4 and 5 and was imposed a fine of RMB35,000. ([More](#))

英国将从GDPR（通用数据保护条例）转向：政府咨询确认了要改变英国数据隐私制度

2022年6月30日，据消息称，英国政府正在寻求“重塑”英国在数据隐私方面的制度，使其国内用人单位更容易遵守相关要求。英国脱欧后，用人单位必须遵守英国版的 GDPR（有一些细微的

变化)。既然英国已经离开欧盟，并且有了新的“监管自由”，英国政府也正在寻求一些变化。目前英国政府可能的改变主要涉及数据主体访问请求、合法权益与平衡测试、人工智能与自动化决策、合规改革等。有观点评论认为，这些改变一定程度上会降低用人单位的合规义务，但是这样可能影响欧盟对英国政策的态度，那些受到GDPR监管的跨国企业，可能还是需要继续遵守当前的GDPR制度以应对监管。（[查看更多](#)）

UK to Shift Away From GDPR: Government Consultation Confirms Plans to Change UK Data Privacy Regime

On 30 June 2022, according to the news, the UK government is proposing to amend its data privacy regime to make it easier for employers to comply with its requirements.

After Brexit, UK employers will have to comply with the UK version of the GDPR (with some minor changes). However, now that the UK has left the EU, the UK government is looking for some change as it takes on new "regulatory freedoms". Potential changes to the UK government currently relate to data subject access requests, legitimate interests and balancing tests, artificial intelligence and automated decision making, and compliance reform. The view was expressed that these changes will reduce employers' compliance obligations to a certain extent, but this may lead to the EU's attitude towards the UK's policy, and multinational companies dealing with GDPR in multiple jurisdictions may still choose to continue to comply with the current GDPR regime in order to deal with regulation. ([More](#))

法国国务委员会确认对亚马逊违规使用Cookie处罚3500万欧元的决定

2022年6月27日，法国国务委员会在其裁决中批准了法国国家信息与自由委员会（CNIL）2020年对亚马逊作出的3,500万欧元处罚决定。该公司在没有事先取得用户同意或提供足够信息的情况下，在用户的电脑上存储了cookies。

CNIL于2020年12月7日向亚马逊开出了这份3,500万欧元的罚单。CNIL在其决定中指出，当用户访问“Amazon.fr”（亚马逊法国网站）时，大量以投放广告为目的的cookies在没有取得用户同意的情况下被自动存储在他们的电脑上。网站提供的信息也并不能让用户能够事先清楚地了解关于cookies的存储的信息，特别是关于存放cookies的真实目的和拒绝cookies的方法。此外，当用户通过其他网站发布的广告后访问“Amazon.fr”时，上述cookies也会在无提示的情况下被自动储存。法国国务委员会确认了亚马逊存在CNIL所指控的违反《法国数据保护法》第82条的两项行为：即未经事先同意存放cookies及未将相关信息告知用户，并指出，考虑到违规行为的严重性、处理的范围和该公司的财务能力，CNIL确认的罚款金额并无不妥。（[查看更多](#)）

The Council of State Confirms the Sanction for 35 Million Euros Imposed Against Amazon

On 27 June 2022, in its judgement the Council of State confirms the 35 million euro penalty imposed by the CNIL on Amazon in 2020. The company deposited cookies on users' computers without prior consent or satisfactory information.

On 7 December 2020, the CNIL imposed a fine of 35 million euros on AMAZON EUROPE CORE. In its decision, the CNIL found when a user visited the "Amazon.fr" site, a large number of cookies with an advertising purpose were automatically deposited on his or her computer without any action on his or her part. the banner displayed on the "Amazon.fr" site did not allow users residing in France to be clearly informed beforehand about the deposit of cookies, in particular about the purposes of these cookies and the means of refusing them. When users visited the "Amazon.fr" site after clicking on an ad published on another website, the same cookies were deposited but without any banner being displayed. The Council of State confirmed the two violations of Article 82 of the French Data Protection Act sanctioned by the CNIL: the deposit of cookies without prior consent and the failure to inform users.

Finally, the Council of State considers that the amount of the fine imposed by the CNIL is not disproportionate to the seriousness of the breaches, the scope of the processing and the financial capacity of the company. ([More](#))

加拿大拟进行《人工智能和数据法》立法

2022年6月16日，加拿大联邦政府提出了C-27号法案，也被称为《2022年数字宪章实施法》。如果通过，这套法律将：

- 使加拿大第一个人工智能（AI）立法生效，即《人工智能和数据法》（AIDA）。
- 改革加拿大隐私法，用《消费者隐私保护法》取代《个人信息保护和电子文件法》。
- 建立一个专门针对隐私和数据保护的法庭。

AIDA旨在保护加拿大人免受人工智能系统所造成的利益侵害和数据杀熟。该法案要求人工智能系统的责任人制定管理匿名数据的措施、进行影响评估以确定人工智能系统是否具有“高影响”（由法案定义的阈值）、以及留存相关记录。如果人工智能系统被评估为“高影响”，则需履行进一步公开披露的义务。（[查看更多](#)）

Canada's Artificial Intelligence Legislation Is Here

On 16 June 2022, the Canadian federal government introduced Bill C-27, also known as the Digital Charter Implementation Act 2022. If passed, this package of laws will:

- Implement Canada's first artificial intelligence (AI) legislation, the Artificial Intelligence and Data Act (AIDA).
- Reform Canadian privacy law, replacing the Personal Information Protection and Electronic Documents Act with the Consumer Privacy Protection Act.
- Establish a tribunal specific to privacy and data protection.

The AIDA requirements are designed to protect Canadians from the harms and biased outputs AI systems are capable of generating. The AIDA requires individuals and legal entities who are “responsible for” an AI system to: Establish measures to manage anonymized data; Conduct an impact assessment to determine if the AI system is “high-impact” (a threshold that will eventually be defined by regulations); Maintain general records. If an AI system is assessed as “high-impact”, there are further requirements, including public disclosure. ([More](#))

MCG Health公司因数据泄露被卷入多起集体诉讼

2022年6月28日，据报道称，MCG Health公司因数据泄露而被卷入了多起集体诉讼。该漏洞影响了至少十个医疗保健组织，包括Indiana University Health, Lenoir Health Care, Phelps Health, and Jefferson County Health Center等机构。该公司已经于6月10日向美国卫生和公共服务部（HHS）的民权办公室报告了该事件，此次事件影响的人数达793,283。一些受影响的医疗保健组织在该日期前已经自行向HHS报告了泄露事件。MCG Health公司向缅因州总检察长发出的泄露通知表明，未经授权的第三方可能在攻击中获得了多达110万患者受保护的健康信息。

MCG Health公司并表示，公司于2022年5月25日发现有关的文件被入侵者从其系统中删除，其中包括姓名、社会安全号码、医疗代码、邮政地址、电话号码、电子邮件地址、出生日期和性别信息。泄露的通知函已于2022年6月10日发送给受影响的个人，并且公司已向受影响的个人提供了两年的免费信用监控和身份盗窃保护服务。

到目前为止，MCG Health 公司已在华盛顿西区地方法院因数据泄露被卷入至少五起诉讼。这些诉讼都提出了类似的索赔要求，并指控公司违反了《华盛顿州消费者保护法》的有关规定。

[\(查看更多\)](#)

Multiple Class Action Lawsuits Filed Against MCG Health Over Data Breach

On 28 June 2022, according to the news, multiple class action lawsuits have been filed against MCG Health over a data breach. The breach has affected at least ten healthcare organizations, including Indiana University Health, Lenoir Health Care, Phelps Health, and Jefferson County Health Center. The data breach was reported to the HHS' Office for Civil Rights on June 10 as affecting 793,283 individuals, but some affected healthcare organizations have self-reported the breach. The breach notification issued to the Maine Attorney General indicates the protected health information of up to 1.1 million patients was potentially obtained by an unauthorized third party in the attack.

MCG Health said it discovered on 25 May 2022, that files had been removed from its systems that included names, Social Security numbers, medical codes, postal addresses, telephone numbers, email addresses, dates of birth, and genders. Notification letters were sent to affected individuals on 10 June, 2022, and 2 years of complimentary credit monitoring and identity theft protection services have been offered to affected individuals.

So far, at least five lawsuits have been filed against MCG Health in the District Court for the Western District of Washington over the data breach. The lawsuits make similar claims and allege a violation of the Washington Consumer Protection Act. [\(More\)](#)

多个国际数据保护机构联合发布关于撞库攻击的指南

2022年6月30日，加拿大隐私专员办公室和其他几个国际数据保护和隐私监管机构联手发布了有关“撞库攻击”的指南，以应对日益严重的针对个人信息的全球网络威胁。撞库攻击是指利用用户在不同平台多个帐户重复使用的相同用户名、电子邮件地址和密码的趋势来进行攻击的方式。这种做法使得网络攻击者利用一个网站上的数据泄露来访问多个其他在线网站上的用户帐户。

户。加拿大、直布罗陀、泽西岛、瑞士、土耳其和英国的数据保护机构，在全球隐私大会国际执法合作工作组的指导下共同制定了该指南，以帮助个人和商业组织识别、预防这种恶意行为。此次面向商业组织发布的指南，支持组织识别其拥有的个人数据的撞库威胁，并概述了他们可以采取的用于降低个人数据风险的措施。

指南包括了个人可以采取的应对撞库攻击的步骤，包括：

- 账户持有人确保避免使用可预测的密码，并尽可能采用多因素身份验证。
- 鼓励个人立即更改他们目前使用的密码，以及受相同或类似密码保护的任何其他帐户的密码，以防在线帐户遭到入侵。
- 敦促个人在发现任何与已被盗用或涉嫌被盗用的账户相关的财务信息时立即联系相关金融机构。（[查看更多](#)）

Several International Data Protection Authorities Jointly Release Guidance on Credential Stuffing Attacks

On 30 June, 2022, The Office of the Privacy Commissioner of Canada and several international data protection and privacy regulators have joined forces in releasing guidance on “credential stuffing attacks”, to combat a significant and growing global cyber threat to personal information.

A credential stuffing attack exploits the common tendency to re-use the same usernames, email addresses and passwords across multiple accounts. This practice allows cyber attackers to exploit a data breach at one website to gain access to user accounts on multiple other online sites.

Data protection authorities from Canada, Gibraltar, Jersey, Switzerland, Turkey, and the United Kingdom worked together under the umbrella of the Global Privacy Assembly’s International Enforcement Cooperation Working Group to develop the guidance to help individuals and commercial organizations identify this malicious behavior, prevent and protect against it. The guidance for commercial organizations supports them in identifying the threat of credential stuffing for the personal data in their possession and outlines measures they can take to mitigate the risk to personal data.

The guidance for individuals includes steps individuals can take including:

- a. Ensuring that account holders avoid using predictable passwords and that they employ multi-factor authentication where possible.
- b. Encouraging individuals to change their passwords immediately, along with those for any other accounts protected by the same or a similar password, should an online account be compromised.
- c. Urging individuals to immediately contact relevant financial institutions should they find any financial information linked to an account that has been compromised or is suspected of being compromised. ([More](#))

CNIL因能源巨头公司使用客户数据发送营销材料对其罚款100万欧元

2022年6月30日，法国国家信息与自由委员会（CNIL）公布了对能源巨头Totalenergies Electricite et Gaz France（以下简称“Total Energies”）的行政处罚决定。CNIL认为，Total

Energies没有为用户提供拒绝Total Energies以营销为目的处理个人信息的途径；没有履行数据处理告知义务且没有为用户提供查询信息的途径；没有响应用户查阅其个人资料、停止接听商业电话的要求；在规定的一个月期限内没有对用户行使权利的请求作出回应。CNIL最终对Total Energies处以100万欧元罚款。该罚款金额是基于违法行为的严重程度及公司在这一行为中是否有采取了任何合规措施所确定的。（[查看更多](#)）

CNIL Fines Energy Company for Using Customer Data to Send Marketing Materials


On 30 June 2022, France's data protection authority, CNIL issued a fine of 1 million euros against giant energy company Totalenergies Electricite et Gaz France and decided to make it public. CNIL fined Totalenergies Electricite et Gaz France for not allowing customers to object commercial prospecting; The essential information concerning the processing of customers' data was not communicated to the contacted persons, who were also not able to access more information; The company did not comply with the complainants' requests to access their personal data and to stop receiving commercial prospecting calls; The company did not respond to requests to exercise rights within the one-month period provided for in the texts. CNIL eventually fined Total Energies 1 million euros.


The amount of this fine was decided in the light of the breaches identified as well as all the measures taken by the company during the procedure to bring itself into compliance. ([More](#))

知识产权 Intellectual Property

“哈啰出行”诉“小靛出行”商标侵权及不正当竞争纠纷案一审判决生效

近日，杭州市滨江区人民法院审结一起涉“哈啰”单车的商标侵权及商品包装装潢不正当竞争纠纷案，判决被告停止侵权，去除共享电单车上的侵权图形标识以及改变车身颜色，并赔偿原告经济损失共计20万元。

法院认为，被告在其投放的“小靛出行”共享电单车上印制的商标“”在形状、设计元

素和实际使用颜色方面均与原告已注册图形商标“”的显著特征一致，属于在相同或者类似商品上使用与他人注册商标近似的商标，同时，原被告属于共享出行同行业经营者，被告在包装设计、整体色彩及装潢的组合、图案构图等方面，与原告方的包装、装潢均存在高度近似之处，构成不正当竞争。


来源：杭州市滨江区人民法院

Judgment of "Hello bike" v. "Xiao Liang Bike" Dispute over Trademark Infringement and Unfair Competition Effective

Recently, Hangzhou Binjiang District People's Court made a judgment on the dispute over trademark infringement and unfair competition in the packaging and decoration of the Hello bike. The court or-

dered the defendant to stop the infringement, remove the infringing mark and change the color of the shared bikes, and pay damages of RMB 200,000.

The court held that the shape, design elements and color of the mark “” used on the "Xiao Liang

bike" were consistent with the distinctive features of the plaintiff's registered graphic trademark “”, constituted trademark infringement. The plaintiff and defendant are operators in the same industry of sharing travel, the defendant used a packaging design, color and decoration that was highly similar to the plaintiff's, which constituted unfair competition.

Source: Hangzhou Binjiang District People's Court

“阿玛尼”商标侵权案，法院判赔100万元

广州市白云区人民法院对乔治·阿玛尼有限公司（GIORGIO ARMANI S.P.A.）诉广州利登表业有限公司等侵害商标权纠纷案作出判决，判决三被告停止侵权，连带赔偿原告经济损失及合理支出共计100万元。

法院认为，三被告生产并通过网络平台销售被诉侵权产品，使用 lidenamani.com、lidenamani.cn 两域名等行为侵害了原告三枚商标的注册商标专用权。在计算被告侵权获利时，由于被告侵权行为已达6年，而淘宝、京东等电子商务平台通常只能调取到近3年的销售数据，难以体现被告实际侵权获利。原告提出以侵权店铺商品评论数乘以销售价格计算销售额，作为被告侵权获利参考，获得了法院的支持。法最终院综合考虑涉案注册商标的知名度较高及数量较多，被告侵权恶意明显、侵权时间较长、侵权后果严重（被告经营店铺评论数及销售价格的乘积为5779340元）以及权利人为制止侵权行为所支付的合理开支等因素，酌情认定三被告共同赔偿数额为100万元。

来源：广州市白云区法院

The Court Awarded RMB 1 million in "Armani" Trademark Infringement Litigation

Guangzhou Baiyun District People's Court made a judgment on disputes over trademark infringement between GIORGIO ARMANI S.P.A. and Guangzhou Liden Watch Co., Ltd., et. al., ordering three defendants to stop the infringement and jointly pay damage of RMB 1 million.

The court held that the three defendants produced and sold the infringing products through the network platform, and used the domain names lidenamani.com and lidenamane.cn, which infringed on the plaintiff's trademarks.

In terms of defendant's profit from infringement, it is difficult to reflect the defendant's actual profit from infringement. The court considering the reputation of the plaintiff's trademarks, the defendant's malice, the long time of infringement and the serious consequences, and the reasonable expenses in stopping the infringement, the court awarded damages of RMB 1 million.

Source: Guangzhou Baiyun District Court

华润怡宝被认定驰名商标，获赔500万元

近日，上海市高级人民法院对华润怡宝饮料（中国）有限公司（怡宝公司）与上海洁士宝日化集团有限公司（洁士宝公司）侵害商标权及不正当竞争纠纷案作出二审判决，判决维持原判，此前一审判决被告停止侵权，赔偿经济损失500万元。

本案中，法院认定怡宝公司的两枚商标已构成驰名商标，并据此予以跨类保护。洁士宝公司在商业活动中大量突出地将怡宝等标识使用在化妆品这类日常消费品上，构成对怡宝公司驰名商标的侵害。洁士宝公司将“怡宝”作为企业字号使用、使用cestbon域名的行为构成不正当竞争。法院综合考虑涉案驰名商标的知名度、洁士宝公司的侵权恶意、洁士宝公司的宣传自认、同行业公司的利润率、洁士宝公司自行提供的经营收入数据等因素，判决被告赔偿经济损失500万元及合理开支137240元。

来源：上海市高级人民法院

“C'estbon” Were Recognized as Well-Known Trademarks and C'estbon Company Was Awarded More Than RMB 5 million in Compensation

Recently, Shanghai High People's Court made a second instance judgment on the dispute over trademark infringement and unfair competition between China Resources C'estbon Beverage Co., Ltd. (C'estbon Company) and Cestbon (Shanghai) Cosmetics Co., Ltd., upholding the first instance judgment. Previously, the first instance judgment ordered the defendant to stop the infringement and pay damages of more than RMB 5 million.

The court determined that the two trademarks of C'estbon Company are well-known trademarks. The defendant prominently used Cestbon on daily consumer products such as cosmetics in commercial activities, which constituted infringement on well-known trademark. And the defendant's use of Cestbon as a corporate name and domain name also constituted unfair competition. The court ruled the defendant shall pay RMB 5 million for economic losses, plus RMB 137,240 for reasonable expenses.

Source: Shanghai Higher People's Court

“爸爸炒料”服务商标侵权案，法院适用惩罚性赔偿判赔450余万元

成都中级人民法院审结一起涉及火锅品牌“爸爸炒料”的侵害商标权及不正当竞争纠纷案，判决被告停止侵权，赔偿经济损失及合理开支450余万元。

本案中，被告专门设立成都恋上爸爸炒料餐饮服务有限公司，并先后成立三个分公司，对“爸爸炒料”的店铺标识、装潢、服务名称等进行复制模仿，致使消费者认为被告开设的店铺系原告的加盟店或直营店。根据美团网出具的被控侵权店铺的营业额数据以及《2020中国餐饮业年度报告》公布的火锅行业平均净利率计算，上述店铺营收总额超2705万元，侵权获利总额达371万余元。

法院认为，被告被诉行为主观恶意明显且获利巨大，情节严重，依法应适用惩罚性赔偿。被告侵权获利由商标侵权及不正当竞争行为共同产生，且二者之间难以区分作用大小，可以以侵权获利的二分之一作为商标侵权行为惩罚性赔偿的计算依据，适用原告主张的一倍惩罚性赔偿，再加上因实施不正当竞争行为应赔偿的损失，计算赔偿总额为557万余元，已超过原告诉讼请求金额，故法院依法对原告提出的赔偿数额全予以全额支持。

来源：成都中级人民法院

"Dada stir-fry" Service Trademark Infringement: The Court Applied Punitive Damages and Awarded Damages of More Than RMB 4.5 million

Chengdu Intermediate People's Court made a judgment on the dispute over trademark infringement and unfair competition involving the hot pot brand "Dada stir-fry" and ordered the defendants to stop the infringement and pay damages of more than RMB 4.5 million.

The defendant specially set up Chengdu Lianshang Dada Fried food Service Co., LTD., and successively set up three stores to copy and imitate the store logo, decoration and service name of "Dada stir-fry", causing consumers to misunderstand that the stores were the plaintiff's franchises or direct stores. According to the turnover data of the stores issued by Meituan.com and the average net interest rate of the hotpot industry published in the *Annual Report of China's Catering industry in 2020*, the total revenue of the above stores exceeded RMB 27.05 million, and the total profit from infringement reached RMB 3.71 million.

The court held that the defendant was in obvious malice and had gained huge profit, therefore, punitive damages shall be applied. The double punitive damages claimed by the plaintiff's is applicable, plus the losses of unfair competition, the total damages is more than RMB 5.57 million, which has exceeded the amount claimed by the plaintiff. Therefore, the court fully supports the amount of damages proposed by the plaintiff.

Source: Chengdu Intermediate People's Court

“鳌拜”诉“熬拜”侵害商标权纠纷案：法院判赔80万元

近日，北京知识产权法院对上海腾鳌服饰有限公司（腾鳌公司）与天津倔鱼餐饮管理有限公司（倔鱼公司）、天津华雍科技有限公司（华雍公司）等侵害商标权纠纷一案作出二审判决，判决维持原判，此前一审判决被告停止侵权，赔偿经济损失80万元。

本案中，法院从字形、读音、混淆可能性等方面，认定被诉侵权标识“熬拜粥社”与权利商标“鳌拜”已经构成近似商标。虽然倔鱼公司、华雍公司主张其使用的标识已经获准注册，但在腾鳌公司公证取证当时，被诉侵权标识尚未获准注册，被诉侵权标识在二审期间获准注册的事实，并不影响倔鱼公司、华雍公司在被诉侵权标识未获准注册时，使用被诉侵权标识侵权他人注册商标专用权的认定。故认定倔鱼公司、华雍公司侵害了腾鳌公司的注册商标专用权。

来源：北京知识产权法院

"Aobai" v. "Aobai" Trademark Infringement Dispute: The Court Awarded Damages of RMB 800,000

Recently, Beijing Intellectual Property Court made a judgment on the dispute over trademark infringement between Shanghai Tenao Clothing Co., LTD and Tianjin Mudyu Catering Management Co., LTD., et. al., upholding the first instance judgment, which ordered the defendants stop the infringement and pay damages of RMB 800,000.

The court determined that the infringing mark "Aobai Porridge Club" and the trademark "Aobai" constituted similar trademarks from the aspects of font, pronunciation and confusion possibility. Although the defendants claimed that the mark they use has been approved for trademark registration, but at the time of notarization, the mark has not been registered, , therefore, the defendants' act before the registration of the mark constituted trademark infringement.

Source: Beijing Intellectual Property Court

韩国知识产权局：与融合技术相关的游戏专利申请数量正在迅速增加

韩国知识产权局（KIPO）分析了在世界五大专利局（IP 5）（韩国、美国、日本、中国和欧洲）申请的游戏相关专利，结果显示，在2015-2019五年间，游戏相关专利申请的数量以年均16%的速度增长。这种增长出现的原因是市场已经从《英雄联盟》向《守望先锋》等第一人称射击游戏，以及以《天堂》为代表的多人角色扮演等手游转变。

在包括韩国在内的所有IP 5国家中，游戏相关专利技术的申请数量都有所增加。与2011年相比，2019年向KIPO提交的游戏相关专利申请数量增加了1.3倍。向中国国家知识产权局（CNIPA）提交的游戏相关专利申请数量增加了9.9倍。2016年向CNIPA提交的与融合技术有关的游戏专利申请数量Y以及2017年提交的所有游戏相关专利申请数量，均超过了同年向美国专利商标局提交的同类专利申请数量，这意味着中国游戏厂商优先考虑资本实力，并着手积极争取知识产权。

来源：韩国知识产权局

KIPO: The Number of Game-Related Patent Applications Has Rapidly Increased Around the Convergence Technology

KIPO analyzed game-related patent applications fled in IP5 (South Korea, US, Japan, China and Europe).

As a result, the number of these applications increased by an annual average of 16% for the last 5 years (2015~2019). Such an increase is considered due to the market has been changed to a storm of a first-person shooting game, such as "Overwatch", and a mobile game, such as multiplayer role playing game represented by "Lineage", beyond "League of Legends".

Especially, the number of game-related patent applications which are connected to the convergence technology was about 200 by 2015 but were 440 in 2016 and 629 in 2017, showing an increase of 2~3 times or more and then steadily maintaining an increase.

The number of the game-related patent applications filed with KIPO increased in 2019 by 1.3 times, compared to 2011. The number of the game-related patent applications filed with the China National Intellectual Property Administration (CNIPA) rapidly increased by 9.9 times.

The number of the game-related patent applications filed with CNIPA passed the number of the game-related patent applications filed with USPTO, with respect to the games connected to the convergence technology in 2016 and the entire games in 2017. This means that Chinese game manufacturers give priority to the capital strength and have set out to aggressively secure IP rights.

Source: KIPO

ITC下达初步禁令：认定苹果公司侵犯了AliveCor的专利技术

6月27日，AliveCor公司宣布，美国国际贸易委员会（USITC）的行政法官发布了一项初步裁定，认定美国苹果公司的智能手表产品苹果手表（Apple Watch）侵犯了美国医疗设备公司AliveCor Inc. 的两个专利。

2021年4月，AliveCor在ITC起诉了苹果公司，指控苹果公司侵犯了其专利权，均涉及与监测心律失常相关的技术。并于2021年5月对苹果公司提起了反竞争投诉，ITC目前计划在2022年10月26日之前发布最终决定。

来源: [alivecor.com](https://www.alivecor.com)

ITC Administrative Law Judge Finds Apple Infringed AliveCor's Patented Technology

June 27, 2022 — AliveCor announced that Administrative Law Judge (ALJ), Cameron Elliot of the International Trade Commission (ITC) issued an Initial Determination finding that Apple infringed AliveCor's patented technology. If affirmed by the full ITC, the ALJ's finding of a violation could lead to the issuance of a limited exclusion order barring the import of infringing Apple Watches into the United States.

AliveCor filed its complaint with the ITC in April 2021 alleging that Apple infringed AliveCor's patented technology, and filed an anticompetition complaint against Apple in May 2021. The ITC is currently scheduled to issue a Final Determination by October 26, 2022.

Source: [alivecor.com](https://www.alivecor.com)

Enanta起诉声称：辉瑞的新冠病毒药物Paxlovid侵犯其专利权

Enanta Pharmaceuticals 是一家临床阶段的生物技术公司，其于近日宣布，其已向马萨诸塞州地区法院控告辉瑞公司，就辉瑞公司在制造、使用和销售COVID-19 抗病毒药物 Paxlovid™（nirmatrelvir 片剂；利托那韦片剂）过程中侵犯美国专利号1,358,953（‘953 专利）的行为寻求损害赔偿。

Enanta Pharmaceuticals不打算在本诉讼中寻求禁令或采取其他行动，因为可能阻碍 Paxlovid 的生产、销售或分销。

来源: enanta.com

Enanta Pharmaceuticals Files Patent Infringement Suit Against Pfizer

Jun. 21, 2022-- Enanta Pharmaceuticals, Inc., a clinical-stage biotechnology company dedicated to creating novel, small molecule drugs for viral infections and liver diseases, announced today that it has filed suit in United States District Court for the District of Massachusetts against Pfizer, Inc. seeking damages for infringement of U.S. Patent No. 11,358,953 (the '953 Patent) in the manufacture, use and sale of Pfizer's COVID-19 antiviral, Paxlovid™ (nirmatrelvir tablets; ritonavir tablets).

Enanta recognizes the importance of Paxlovid's availability to patients and does not intend to seek an injunction or take other action in this litigation that would impede the production, sale or distribution of Paxlovid. Enanta seeks fair compensation for Pfizer's use of a coronavirus 3CL protease inhibitor claimed in the '953 patent.

Source: enanta.com

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