



# NEWSLETTER

LIFANG & PARTNERS 立方观评



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CSRC Issued 2 Financial Industry Standards, Including *Specification for Supervision Data Acquisition of Futures Companies—Part 1: General Information and Brokerage Business*

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CoComelon Wins Bulk of Copyright Claims in USA, \$23.4 Million From Jury

快时尚巨头之战：H&M起诉Shein侵犯版权



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Fast Fashion Giants' War: H&M Sues SHEIN over Copyright Infringement

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

### 上海市市监局发布首份并购审查年度报告

2023年8月3日，上海市市场监督管理局（“上海市市监局”）发布首份并购审查年度报告。报告指出，2022年8月1日至2023年8月1日期间，上海市市监局在国家市场监督管理总局（“市场监管总局”）的指导下开展并购审查试点工作，共收到委托审查案件137件，占总局委托地方市场监管部门审查案件45%，占同期全国申报简易案件18%。上海市市监局发布36批无条件批准案件公示，从申报到审结最快16天，从受理到审结最快11天。并购案件涉及的相关市场中电动汽车充电服务市场占比最高，为28%；股权投资基金管理市场次之，为5%，并购案件涉及的总交易金额近2000亿元。（[查看更多](#)）

### Shanghai AMR Issues Its First Annual Report on Merger and Acquisition Reviews

On August 3, 2023, the Shanghai Municipal Administration for Market Regulation (“Shanghai AMR”) releases its first annual report on merger and acquisition (M&A) reviews. The report indicates that from August 1, 2022, to August 1, 2023, under the guidance of the State Administration for Market Regulation (SAMR), the Shanghai AMR conducted a pilot program for M&A reviews. A total of 137 cases were entrusted for review, accounting for 45% of the cases entrusted by the SAMR to local market regulatory departments, and 18% of the nationwide reported simplified cases during the same period. The Shanghai AMR issued 36 batches of cases that were unconditionally approved and made public. The fastest turnaround time from prior notification to conclusion was 16 days, and the quickest from acceptance to conclusion was 11 days. The electric vehicle charging service market accounted for the highest proportion of the involved markets in M&A cases, at 28%. It was followed by the equity investment fund management market at 5%. The total transaction amount involved in the M&A cases was nearly CNY 200 billion. ([More](#))

### 湖南省市监局发布《湖南省经营者集中反垄断合规指引》

2023年8月2日，湖南省市场监督管理局（“湖南省市监局”）发布了《湖南省经营者集中反垄断合规指引》（“《指引》”）。《指引》旨在引导经营者落实经营者集中反垄断合规主体责任，提高经营者集中反垄断合规意识和管理水平，进一步提升经营者集中反垄断审查效能，便利经营者集中申报，推动公平竞争政策实施。《指引》详细介绍了经营者集中审查制度的各项规定，说明了我国反垄断领域重点规制的经营者集中情况，以及申报、商谈、立案、初步审查、进一步审查、审查等各环节的规定，强调了违反规定可能承担的法律后果。《指引》不具有强制性，经营者可根据自身情况，参照《指引》建立经营者集中反垄断合规管理制度。（[查看更多](#)）

### Hunan AMR Issues Guidelines for Anti-Monopoly Compliance of Concentration of Undertakings in Hunan Province

On August 2, 2023, the Hunan Provincial Administration for Market Regulation (“Hunan AMR”) issued the *Guidelines for Antitrust Compliance in Concentration of Undertakings in Hunan Province*

(“Guidelines”). The Guidelines aim to guide undertakings in implementing their responsibilities regarding antitrust compliance in concentration of undertakings, enhance awareness and management capabilities related to antitrust compliance in concentration of undertakings, further improve the efficiency of antitrust review for concentration of undertakings, facilitate prior notification of concentration of undertakings, and promote the implementation of fair competition policies. The Guidelines provide a detailed introduction to the various provisions of the concentration of undertakings review system, explain the status quo of concentration of undertakings which is the Regulatory focus of anti-monopoly law, and outline the procedures for prior notification, negotiation, filing, preliminary review, further review, and final review of concentration of undertakings. It emphasizes the legal responsibilities that may be borne for violations of these regulations. The Guidelines are not mandatory, so undertakings can establish their own systems for antitrust compliance in concentration of undertakings based on their own circumstances referring to the Guidelines. ([More](#))

### 市场监管总局发布反垄断法实施十五周年系列文章

2023年8月1日，国家市场监督管理总局发布系列反垄断文章，纪念反垄断法实施十五周年。文章共六篇，涉及行业协会反垄断监管、公平竞争审查、民生领域反垄断、建设全国统一大市场、高质量地方竞争等重要议题。其中，市场监管总局反垄断总监许新建在《砺剑为民护公平 赋能发展启新程》一文中将反垄断法实施十五年来的发展概括为法治为基、公平为要、机制为纲、执法为民、创新为领、竞争为核六个关键词，强调反垄断执法机构要当好公平竞争制度的建设者、市场公平竞争的保护者、消费者利益的维护者、全国统一大市场的捍卫者、贸易和投资自由化便利化的推动者，在推进中国式现代化建设中贡献反垄断力量。（[查看更多](#)）

### SAMR Releases Series of Articles on Fifteenth Anniversary of Implementation of Anti-Monopoly Law

On August 1, 2023, the SAMR issued a series of anti-monopoly articles to commemorate the fifteenth anniversary of the implementation of the Anti-Monopoly Law. The articles consist of six pieces, covering important topics such as anti-monopoly supervision of industry associations, fair competition review, anti-monopoly in the field of people's livelihood, the construction of a unified national market, and high-quality local competition. Among them, Xu Xinjian, the Director-General of the Anti-Monopoly Bureau of the SAMR, in the article titled *Upholding Fairness for the People, Empowering Development for a New Journey*, summarized the development of the past fifteen years of anti-monopoly law implementation into six key concepts: rule of law as the foundation, fairness as the essence, mechanism as the backbone, law enforcement for the people, innovation as the guide, and competition as the core. He emphasized that anti-monopoly law enforcement agencies should serve as builders of the fair competition system, protectors of market fairness and competition, defenders of consumer interests, guardians of the unified national market, and promoters of trade and investment liberalization and facilitation, contributing anti-monopoly efforts to the advancement of China's modernization. ([More](#))

### 市场监管总局约谈牧原、温氏、双胞胎、正大四家生猪养殖企业

2023年7月31日，市场监管总局约谈牧原食品股份有限公司（“牧原”）、温氏食品集团股份有限公司（“温氏”）、双胞胎（集团）股份有限公司（“双胞胎”）、正大投资股份有限公司



（“正大”）四家生猪养殖企业。2023年6月20日，牧原、温氏、双胞胎、正大四家企业作为发起人，签署《互不挖人公约》，倡议不挖人、不拆台等。市场监管总局认为这一公约违反《反垄断法》精神，要求四家企业立即采取有效措施，消除行为危害后果；深刻吸取教训，排查反垄断合规风险；加强合规管理，完善合规制度建设。（[查看更多](#)）

### **SAMR Summons Four Pork Farming Companies: Muyuan, Wens, Twin Brothers and CP Investment for Discussion**

On July 31, 2023, the SAMR summoned four pork farming companies for a regulatory talk: Muyuan Foods Co., Ltd. (“Muyuan”), Wens Foodstuffs Group Co., Ltd. (“Wens”), Twin Group Co., Ltd. (“Twin”), and CP Investment Co., Ltd. (“CP Investment”). On June 20, 2023, these four companies, as initiators, signed the *Non-Poaching Agreement* to advocate refraining from employee poaching and undermining each other. The SAMR considered this agreement to be in violation of the spirit of the anti-monopoly law and demanded that the four companies promptly take effective measures to eliminate the consequences of their actions. They were also required to deeply learn from this incident, identify and rectify anti-monopoly compliance risks, enhance compliance management, and improve compliance system development. ([More](#))

### **FTC和DOJ延长有关HSR表格修改的公众意见征询期**

2023年8月4日，美国联邦贸易委员会（FTC）和司法部（DOJ）反垄断部门宣布将拟议修改的并购前申报表格和相关说明以及实施《哈特-斯科特-罗迪诺法案》（Hart-Scott-Rodino (HSR) Act）的并购前申报规则的公众意见征询期延长至2023年9月27日。上述拟议修改于今年6月由FTC和DOJ宣布，旨在使二者能在等待期（通常为30日）内更有效地审查交易，以寻找潜在的竞争问题。（[查看更多](#)）

### **FTC and DOJ Extend Public Comment Period Regarding HSR Form Modification**

On August 4, 2023, the Federal Trade Commission (FTC) and the Department of Justice (DOJ) anti-trust division announced an extension of the public comment period for the proposed revisions to the pre-merger notification forms and related instructions, as well as the implementation of the Hart-Scott-Rodino (HSR) Act's pre-merger notification rules. The new deadline for public comments is September 27, 2023. These proposed revisions were initially announced by the FTC and DOJ in June of this year. The aim is to enhance the efficiency of reviewing transactions within the waiting period (typically 30 days) to better identify potential competition concerns. ([More](#))

### **FTC回应Cooper Companies放弃收购Cook Medical生殖健康业务**

2023年8月1日，FTC发布公告，回应库博集团（Cooper Companies Inc.）放弃以8.75亿美元收购库克医疗（Cook Medical Holdings, LLC）的生殖健康业务。FTC在回应中表示，该交易的终止确保了生殖健康市场的竞争，保护患者免受更高费用的影响，并保持市场的创新激励，并对与澳大利亚和英国的竞争机构的合作表示感谢。（[查看更多](#)）

## FTC Responds to Cooper Companies Abandoning Acquisition of Cook Medical's Reproductive Health Business

On August 1, 2023, the FTC issued an announcement in response to Cooper Companies Inc. ("Cooper Companies") abandoning its \$875 million acquisition of the reproductive health business of Cook Medical Holdings, LLC. ("Cook Medical") In its response, the FTC stated that the termination of this transaction ensures competition in the reproductive health market, safeguards patients from the impact of higher costs, maintains incentives for market innovation, and expresses gratitude for collaboration with competition authorities in Australia and the United Kingdom. ([More](#))

## 德国将全面修订反垄断法以确保更公平的竞争

2023年8月1日，据媒体报道，德国执政联盟已经同意对该国反垄断法进行大修。修订后的法律将赋予德国联邦卡特尔局（FCO）更多权力，以确保更公平的竞争，并在市场受到扰动时保护规模较小的经济参与者。这些改革意味着在价格意外上涨时，FCO可以采取行动，追回企业通过反垄断违规获得的任何利润。此外，反垄断监管机构有权在极端违规情况下拆分企业。反垄断法的彻底改革是确保德国公平竞争、特别是保护小型经济参与者方面向前迈出的重要一步。在获得新的监管权后，FCO将采取适当的措施以应对企业试图扰乱市场秩序的行为。（[查看更多](#)）

## Germany Will Comprehensively Revise Its Antitrust Laws to Ensure Fairer Competition

On August 1, 2023, according to media reports, the governing coalition in Germany has agreed to make significant revisions to the country's antitrust law. The revised law will grant more power to the German Federal Cartel Office (FCO) to ensure fairer competition and protect smaller economic participants in the market when disturbances occur. These reforms mean that in cases of unexpected price increases, the FCO can take action to help companies claw back any profits gained by companies through antitrust violations. Additionally, the antitrust regulatory authority has the right to split up companies in cases of extreme violations. The thorough reform of antitrust laws represents an important step forward in ensuring fair competition in Germany, particularly in safeguarding small-scale economic participants. With the acquisition of new regulatory powers, the FCO will take appropriate measures to address actions by companies attempting to disrupt market orders. ([More](#))

## 劲量和沃尔玛就操纵价格垄断诉讼进行辩护

2023年8月1日，据媒体报道，劲量（Energizer Holdings, Inc.）和沃尔玛（Walmart Inc.）正面临拟议的集体诉讼，被控合谋人为地提高一次性电池的批发和零售价格，违反美国反垄断法。二者已请求法官驳回该诉讼，辩称本案原告未能提供任何事实依据来支持其主张，其行为完全符合合理性、单方的商业行为，并不存在共谋。原告表示，沃尔玛是劲量最大的客户，二者设计了一个方案，以减缓价格下降并确保两家公司都能够为劲量产品收取高于竞争价格的价格。目前，原告请求补偿和三倍损害赔偿，并请求法院指令沃尔玛和劲量采取积极措施消除其先前非法行为的持续影响。（[查看更多](#)）



## Energizer and Walmart Defend Themselves in Price Manipulation Monopoly Lawsuit

On August 1, 2023, according to media, Energizer Holdings, Inc. (“Energizer”) and Walmart Inc. (“Walmart”) are facing a proposed class-action lawsuit alleging that they conspired to artificially raise the wholesale and retail prices of disposable batteries, thereby violating US antitrust laws. Both companies have requested the judge to dismiss the lawsuit, arguing that the plaintiffs failed to provide any factual basis to support their claims. They contend that their actions were entirely rational and unilateral business decisions, and there was no conspiracy involved. The plaintiffs assert that Walmart is Energizer’s largest customer, and the two companies devised a scheme to slow down price decline and ensure that both companies could charge prices above competitive rates for Energizer products. Currently, the plaintiffs are seeking compensation and triple damages, along with a court order directing Walmart and Energizer to take proactive measures to eliminate the ongoing impact of their alleged prior illegal conduct. ([More](#))

## 欧盟委员会对皮尔·卡丹及Ahlers的服装分销和许可发表异议声明

2023年7月31日，欧盟委员会（European Commission）发布公告，已告知皮尔·卡丹（Pierre Cardin）及其许可人Ahlers其初步审查意见，认为二者限制了皮尔·卡丹许可服装的跨境销售以及向特定客户的销售，违反了欧盟反垄断规定，向二者发送了异议声明。皮尔·卡丹是一家法国时装品牌，将其商标许可给其他公司进行服装制造和分销。德国服装制造商Ahlers是欧洲经济区（EEA）此类许可最大的许可方。欧盟委员会担忧皮尔·卡丹和Ahlers在过去十多年中达成了反竞争协议，协调限制其他皮尔·卡丹被许可人及其客户线下和线上销售皮尔·卡丹许可服装。目前，欧盟委员会初步认定皮尔·卡丹和Ahlers之间协调的最终目标是确保Ahlers在其与皮尔·卡丹的授权协议所涵盖的EEA拥有绝对的地域保护。（[查看更多](#)）

## European Commission Sends Statement of Objections to Pierre Cardin and Ahlers over Distribution and Licensing Practices for Clothing

On July 31, 2023, the European Commission released a statement notifying Pierre Cardin and its licensee, Ahlers, of its preliminary view. The European Commission believes that both parties have restricted cross-border sales of licensed Pierre Cardin garments and sales to specific customers, thereby violating EU antitrust regulations. A Statement of Objections has been sent to both parties. Pierre Cardin is a French fashion brand that licenses its trademark to other companies for clothing manufacturing and distribution. Ahlers, a German clothing manufacturer, is the largest licensor of such licenses in the European Economic Area (EEA). The European Commission is concerned that Pierre Cardin and Ahlers have engaged in anti-competitive agreements over the past decade, coordinating to restrict offline and online sales of Pierre Cardin licensed garments by other licensees and their customers. Currently, the European Commission preliminarily determines that the ultimate goal of coordination between Pierre Cardin and Ahlers is to ensure absolute territorial protection for Ahlers in the EEA under its authorization agreement with Pierre Cardin. ([More](#))

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

### 国家网信办就《个人信息保护合规审计管理办法》（征求意见稿）公开征求意见

2023年8月3日，国家互联网信息办公室发布关于《个人信息保护合规审计管理办法（征求意见稿）》（以下简称“《征求意见稿》”）公开征求意见的通知，意见反馈截止时间为2023年9月2日。

《征求意见稿》明确，个人信息保护合规审计是指对个人信息处理者的个人信息处理活动是否遵守法律、行政法规的情况进行审查和评价的监督活动。处理超过100万人个人信息的个人信息处理者，应当每年至少开展一次个人信息保护合规审计；其他个人信息处理者应当每二年至少开展一次个人信息保护合规审计。个人信息处理者自行开展个人信息保护合规审计，可根据实际情况，由本组织内部机构或者委托专业机构按照本办法要求开展。履行个人信息保护职责的部门在履行职责中，发现个人信息处理活动存在较大风险或者发生个人信息安全事件的，可以要求个人信息处理者委托专业机构对其个人信息处理活动进行合规审计。个人信息处理者按照履行个人信息保护职责部门要求委托专业机构开展个人信息保护合规审计的，应当在90个工作日内完成个人信息保护合规审计；情况复杂的，报经履行个人信息保护职责的部门批准后可适当延长。同时，《征求意见稿》还提供了附件《个人信息保护合规审计参考要点》为合规审计提供指导。（[查看更多](#)）

### ***Administrative Measures for Compliance Audit of Personal Information Protection (Draft for Comments) Issued by CAC Open for Public Comments***

On 3 August 2023, Cyberspace Administration of China (the “CAC”) issued a notice that *the Administrative Measures for Compliance Audit of Personal Information Protection (Draft for Comments) (the “Draft”)* are open for public comments until 2 September 2023.

The Draft specifies that compliance audit of personal information protection refers to the supervision activities that examine and evaluate whether personal information processors comply with laws and regulations regarding the processing of personal information. Personal information processors who handle personal information of over 1 million individuals shall conduct a compliance audit of personal information protection at least once a year, while other personal information processors shall conduct it at least once every two years. When personal information processors conduct compliance audits of personal information protection on their own initiative, they can conduct it either internally or entrust professional organizations in accordance with the requirements of these measures. Departments responsible for personal information protection, while performing their official duties, can require personal information processors to entrust professional organizations to conduct compliance audits of their personal information processing activities if significant risks or personal information security incidents are identified. If personal information processors are required by the departments responsible for personal information protection to entrust professional organizations to conduct compliance audit, they shall complete the audit within 90 working days. If the situation is complex, an appropriate extension may be granted after approval by the departments responsible for personal information protection. Additionally, the

Draft provides the attachment *Reference Points for Compliance Audit of Personal Information Protection* as guidance for compliance audits. ([More](#))

## 国家网信办就《移动互联网未成年人模式建设指南（征求意见稿）》公开征求意见

2023年8月2日，国家互联网信息办公室公布《移动互联网未成年人模式建设指南（征求意见稿）》并面向社会公开征求意见，意见反馈截止日期为2023年9月2日。

该指南将全面升级“青少年模式”为“未成年人模式”，推动模式覆盖范围由App扩大到移动智能终端、应用商店，实现软硬件三方联动，并方便用户一键进入模式，为未成年人营造安全健康的网络环境。指南规定了各类移动智能终端、移动互联网应用程序、移动互联网应用程序分发服务平台的未成年人模式应满足的基本要求、功能要求和管理要求，适用于移动智能终端提供者、应用程序提供者以及应用程序分发平台提供者等相关主体开展未成年人模式的研发和应用。具体而言，移动智能终端、应用程序以及应用程序分发平台应根据不同年龄阶段的未成年人身心发展特点，通过评估产品的类型、内容与功能等要素，为不同年龄阶段用户提供适合其身心发展的信息和服务。（[查看更多](#)）

### ***Guidance for the Construction of Mobile Internet Modes for Minors (Draft for Comments) Issued by CAC Open for Public Comments***

On 2 August 2023, the CAC issued the *Guidance for the Construction of Mobile Internet Modes for Minors (Draft for Comments)* (the 'Draft Guidance'), which is open for public comments until 2 September 2023.

The Draft Guidance comprehensively upgrades the current Youth Mode to Minors Mode and aims to expand the coverage from apps to mobile smart terminals and application stores. It aims to achieve the coordination of software, hardware and services, allowing users to easily access the mode by way of "one click", which creates a safe and healthy online environment for minors. The Draft Guidance stipulates the basic requirements, functional requirements and management requirements that the minor mode of various mobile smart terminals, mobile internet applications and mobile internet application distribution platforms shall meet. The Draft Guidance is applicable for relevant entities to develop and apply minor mode, including providers of mobile smart terminals and application providers, application distribution platform providers, etc. Specifically, mobile smart terminals, applications and application distribution platforms shall provide information and services suitable for the physical and mental development of users at different age stages based on the assessment of factors such as product type, content and function, taking into account physical and mental development of minors at different age stages. ([More](#))

## 信安标委《网络安全标准实践指南——生成式人工智能服务内容标识要求（征求意见稿）》公开征求意见

全国信息安全标准化技术委员会（以下简称“信安标委”）2023年8月8日发布消息称，其秘书

处组织编制了《网络安全标准实践指南——生成式人工智能服务内容标识要求（征求意见稿）》（以下简称“《要求（征求意见稿）》”），意见反馈截止于2023年8月11日。《要求（征求意见稿）》旨在落实《生成式人工智能服务管理暂行办法》相关要求，指导有关单位利用生成式人工智能技术提供生成文本、图片、音频、视频等内容服务时对内容进行标识，给出了内容标识的实践指引。（[查看更多](#)）

### ***Guidance for Network Security Standards Practice: Requirements for Content Identification of Generated AI Services (Draft for Comments) Issued by National Information Security Standardization Technical Committee Open for Public Comments***

On 8 August 2023, the National Information Security Standardization Technical Committee issued the *Guidance for Network Security Standards Practice: Requirements for Content Identification of Generated AI Services (Draft for Comments)* (the “Draft Requirements”), which is open for public comments until 11 August 2023. The Draft Requirements aim to implement relevant requirements of the *Interim Measures for Management of Generated Artificial Intelligence Services* and provide guidance to relevant entities on how to label content when providing content services such as generated text, images, audio, video, etc. with generative artificial intelligence technology, providing practical guidelines for content identification. ([More](#))

### **证监会发布《期货公司监管数据采集规范 第1部分：基本信息和经纪业务》等2项金融行业标准**

2023年7月28日，中国证券监督管理委员会发布《期货公司监管数据采集规范 第1部分：基本信息和经纪业务》《证券公司核心交易系统技术指标》2项金融行业标准，自公布之日起施行。其中，《期货公司监管数据采集规范 第1部分：基本信息和经纪业务》规定了期货公司基本信息、经纪业务相关的监管数据采集范围和数据要素业务口径。（[查看更多](#)）

### ***CSRC Issued 2 Financial Industry Standards, Including Specification for Supervision Data Acquisition of Futures Companies— Part 1: General Information and Brokerage Business***

On 28 July 2023, China Securities Regulatory Commission (the “CSRC”) issued *Specification for Supervision Data Acquisition of Futures Companies— Part 1: General Information and Brokerage Business* and *Technical Indicators for Core Trading Systems of Securities Companies*. These standards take effect from the date of announcement. Among them, *Specification for Supervision Data Acquisition of Futures Companies— Part 1: General Information and Brokerage Business* stipulates the scope of supervision data acquisition and the business dimensions of data elements related to basic information and brokerage business of futures companies. ([More](#))

### **我国牵头提出的国际标准《网络安全 设备与服务建立可信连接的安全建议》正式发布**

据信安标委2023年8月3日消息，2023年7月，我国牵头提出的国际标准ISO/IEC 27071:2023



《网络安全 设备与服务建立可信连接的安全建议》正式发布。我国2名专家担任该国际标准提案的编辑和联合编辑。

ISO/IEC 27071给出了设备和服务建立可信连接的框架和安全建议，包括对硬件安全模块、信任根、身份、身份鉴别和密钥建立、环境证明、数据完整性和真实性等组件的安全建议。该国际标准适用于基于硬件安全模块在设备和服务之间建立可信连接的场景，例如移动支付、车联网、工业物联网等，有助于提升数据从设备中采集到服务的全过程的安全性。（[查看更多](#)）

### ***International Standard Security Recommendations for Establishing Trusted Connections of Network Security Devices and Services Proposed by China Has Been Officially Released***

According to the announcement of the National Information Security Standardization Technical Committee on 3 August 2023, the international standard ISO/IEC 27071 *Security Recommendations for Establishing Trusted Connections of Network Security Devices and Services* proposed by China has been officially released in July 2023. Two Chinese experts served as the editors and co-editors of this international standard proposal.

ISO/IEC 27071 provides the framework and security recommendations for establishing trusted connection of devices and services, including security recommendations for components such as hardware security modules, root of trust, identity, identity authentication, key establishment, environment attestation, data integrity and authenticity. This international standard is applicable to circumstances where trusted connections are established between devices and services based on hardware security modules, such as mobile payment, connected vehicles, industrial IoT, etc. It helps enhance the overall security of data collection from devices to services throughout the entire process. ([More](#))

### **百行征信因违反信用信息采集、提供、查询被央行处罚**

2023年8月4日，中国人民银行官网发布一则行政处罚信息显示，百行征信有限公司被处以警告和罚款51.5万元，违法行为如下：1.违反征信机构管理规定；2.违反信用信息采集、提供、查询及相关管理规定。同时对该公司两名责任人员分别罚款7.1万元。（[查看更多](#)）

### **Baihang Credit Was Fined by PBC for Violating Credit Information Collection, Provision, and Inquiry Regulations**

On 4 August 2023, the People's Bank of China issued an administrative penalty notice stating that Baihang Credit was fined RMB 515,000, for violation of regulations on credit reporting agency management and violation of regulations on credit information collection, provision, and inquiry. Additionally, two responsible individuals of the company were fined RMB 71,000 respectively. ([More](#))

### **上海64家商场示范推出“纯净版”停车码**

2023年7月31日，上海市网信办发布了推出“纯净版”停车码的商场名单（共64家）。此前，上海市网信办、市市场监管局根据市消保委前期暗访移交线索，先后对“合生汇”“又一



城”等商场开展现场检查并约谈企业指导整改。上海市网信办明确提出，商场或停车场地运营者要推出“纯净版”停车缴费二维码，确保不收集任何个人信息。若以停车费优惠、会员积分等名义张贴商场会员码或公众号二维码，必须有充分提示并仅收集与相关服务有关的个人信息，切实保障消费者的知情权、选择权和个人信息合法权益。（[查看更多](#)）

## **64 Shopping Malls in Shanghai Introduced the “Pure Version” Parking Code**

On 31 July 2023, Shanghai Cyberspace Administration released a list of shopping malls (a total of 64) that will introduce “pure version” parking codes. Previously, based on clues provided by Shanghai Consumer Protection Committee during their undercover investigations, Shanghai Cyberspace Administration and Shanghai Municipal Market Supervision Bureau conducted on-site inspections of shopping malls including Hopson One and You Yi Cheng and held discussions with various businesses at these malls for guidance and rectification measures. Shanghai Cyberspace Administration specified that shopping malls or parking lots shall introduce “pure version” parking payment QR codes to ensure that they do not collect any users’ personal information. If shopping mall membership codes or public account QR codes are posted in the name of parking fee discounts or membership points, they shall provide sufficient notice and only collect personal information related to the relevant services, effectively safeguarding consumers’ rights to be informed, rights of choice and legitimate rights and interest of personal information. ([More](#))

## **国际船舶制造巨头宾士域集团因网络攻击可能损失8500万美元**

据2023年8月3日报道，美国船舶制造巨头宾士域集团的首席执行官上周向投资者透露，公司因一次网络安全事件将蒙受高达8500万美元（约合人民币6.1亿元）的损失。6月13日，宾士域集团宣布遭受了一次网络攻击，其系统和部分设施受到影响。官方并未确认这是一次勒索软件攻击，但他们表示在专家和执法部门处理该事件期间，已被迫停止部分地区的运营。（[查看更多](#)）

## **Cyberattack May Cost Marine Industry Giant Brunswick Corporation USD 85 Million**

According to reporting on 3 August 2023, a cybersecurity incident will cost the Brunswick Corporation as much as \$85 million, the company’s CEO told investors last week. The billion-dollar boating manufacturing firm announced a cyberattack on 13 June that impacted their systems and some of their facilities. Brunswick officials did not confirm that the incident was a ransomware attack but said they were forced to stop operations in some locations while experts and law enforcement dealt with the incident. ([More](#))

## **因网站配置错误 法国汉堡王网站敏感数据遭泄露**

据2023年8月2日报道，Cybernews研究团队发现，法国汉堡王由于网站配置错误而向公众泄露了敏感信息。这些泄露的信息一旦落入恶意行为者手中，则会成为其对汉堡王连锁店实施网络攻击的工具。由于此次遭遇信息泄露的是求职网站，因此那些在法国汉堡王求职的人可能会受到

影响。据报道，早在2019年法国汉堡王就曾因为类似网站配置错误，导致儿童个人身份信息遭泄露。（[查看更多](#)）

## Fast Food Giant Burger King Put Their Systems and Data at Risk by Exposing Sensitive Credentials to the Public due to a Misconfiguration

According to reporting on 2 August 2023, recently, the Cybernews research team uncovered that Burger King in France exposed sensitive credentials to the public due to a misconfiguration on their website. In the hands of malicious actors, the leaked credentials could have served as a tool to craft a cyberattack against the chain's systems. As the affected website served for job applications, people who sought employment at Burger King in France might have been potentially affected. Previously in 2019, due to a similar misconfiguration, the France branch reportedly leaked personally identifiable information (PII) of children who bought Burger King menus. ([More](#))

## 知识产权 Intellectual Property

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### 上海知产法院：智能积木类玩具组件不受外观设计专利权保护

近日，上海知识产权法院对一起涉智能积木类玩具侵害外观设计专利权纠纷案作出一审判决，驳回原告B公司的全部诉讼请求。

本案争议焦点为，被告Q公司的Make-U系列积木产品组件是否能够落入涉案专利权保护范围。法院认为，涉案专利为一般产品的外观设计专利，保护对象是记载在专利图片上的整体外观设计，不涉及对组件的保护。而且，被诉侵权组件模型与涉案专利外观设计在整体视觉效果上具有实质性差异，未落入涉案外观设计专利权的保护范围。

综上，上海知产法院作出驳回原告全部诉讼请求的一审判决。

来源：[上海知产法院](#)

### Shanghai IP Court: The Components of the Intelligent Building Blocks are Not Protected by the Design Patent

The Shanghai IP Court recently issued a first-instance judgement on design patent infringement for intelligent building blocks, and dismissed all claims made by the plaintiff.

The case concerns whether the components of Q's Make-U series of building blocks fall within the patent protection scope of the patent at issue. The court recognizes that the patents in question are design patents for general products, serving to protect the overall design, and the components shall not be protected. Moreover, the accused infringing products are significantly different from the design of the patent, as well as the overall visual impact, falling outside the patent's scope of protection.

Source: [Shanghai IP Court](#)

## 现有设计抗辩：只能援引一项现有设计，或一项与惯常设计的简单组合

近日，北京市高级人民法院就永康市小菜丫厨具有限公司等与宁波卡特马克智能厨具股份有限公司侵害外观设计专利权纠纷作出二审判决。被告小菜丫公司需停止侵害原告享有的涉案外观设计专利权，并销毁库存被诉侵权产品及生产模具，同时赔偿原告经济损失及合理支出共计300万元。

二审法院认为，被诉侵权产品与涉案专利整体视觉效果近似，两者构成在相同种类产品上的近似外观设计，被诉侵权产品落入了涉案专利的保护范围。被诉侵权人主张的涉案产品实施的设计构成现有设计，应仅主张一项现有设计或者一项现有设计与该产品的惯常设计的简单组合。法院审查认为小菜丫公司提出的现有设计抗辩缺乏依据，对此不予支持。

综上，北京高院判决驳回上诉，维持原判。

来源：北京市高级人民法院

## Prior Design Defense: Only One Existing Design or a Simple Combination of Common Designs can be Quoted

The Beijing High Court recently issued a second-instance judgement on the dispute over design patent infringement between Ningbo Carter Mark Intelligent Kitchen Ware Ltd. (Plaintiff) and Yongkang Xiaocaiya Kitchen Ware Ltd. (Defendant). The defendant was ordered stop the infringement acts. Additionally, the Defendant shall demolish all existing infringing products and production molds, with damages of RMB 3 million.

The court affirms that the infringing product is similar to the patent, constituting similar design on the similar products, and falls within the scope of the patent. The claim by the Defendant that the accused design on the product in dispute is an existing design, shall be restricted to either a single existing design, or a simple combination of an existing design and the common design of the product.

Source: Beijing High Court

## 广州知产法院：网络游戏作为类电作品保护的实质性相似认定应着眼于游戏视听表达

2023年6月25日，广州知识产权法院就上海网之易吾世界网络科技有限公司与广州华多网络科技有限公司、广州虎牙信息科技有限公司、广东太平洋互联网信息服务有限公司著作权侵权及不正当竞争纠纷案作出二审判决。二审判决撤销广州市天河区人民法院（2018）粤0106民初13437号民事判决，驳回上诉人上海网之易吾世界网络科技有限公司的全部诉讼请求。

关于涉案两款网络游戏是否构成实质性相似，广知院认为，在认定涉案游戏作品构成类电作品的前提下，需要根据类电作品的独创性所在来确定其著作权保护范围，不能以游戏元素的相似

性直接推定游戏试听画面构成实质性相似，应着眼于游戏视听表达来判断游戏整体画面是否实质性相似。

来源：广州知识产权法院

### **Guangzhou IP Court: Substantial Similarity Determination for the Protection of Cyber Games as Cinematographic Works Shall Focus on the Audiovisual Expression of the Game**

On June 25, 2023, the Guangzhou IP Court issued a second instance judgement in the copyright infringement and unfair competition dispute between Shanghai Wangzhiyiwu World Network Technology Ltd. (Plaintiff) against Guangzhou Huya Network Technology Ltd. and others (Defendants). The second instance court overruled the first instance judgement, and dismissed all the claims of the Plaintiff.

The court stated that the game work in question is considered an cinematographic work. Therefore, when deciding whether the game work is substantially similar, it is essential to ascertain where the originality of an electrical work lies, then determine the scope of copyright protection. And rather than using the similarity of the game elements to directly assume that the audio-visual screen of the game constitutes a substantial similarity, we should focus on the audio-visual expression of the game to make an overall judgement.

Source: Guangzhou IP Court

### **老字号商标的从严限定保护：浙江“宝芝林”诉厦门“宝芝林”**

2023年7月25日，广东省深圳市中级人民法院就浙江宝芝林中药科技有限公司与宝芝林（厦门）生物科技有限公司、深圳市本草说科技有限公司、南阳市汉宛艾业有限公司侵害商标权及不正当竞争纠纷案作出二审判决。二审判决撤销广东省深圳市南山区人民法院（2021）粤0305民初23715号民事判决，驳回浙江宝芝林中药科技有限公司的全部诉讼请求。

法院认为，综合相关因素考虑，被诉标识的使用并不易使公众对商品的来源产生误认或认为商品的来源与权利人具有特定联系，也不会割裂权利人注册商标与其服务或商品之间的联系，不会减弱权利人注册商标的识别功能，即不容易导致混淆的，则权利人不应以其享有注册商标专用权为由，限制被诉侵权人合理善意使用被诉标识的行为以获得市场空间，故被诉行为不构成侵犯注册商标专用权。

来源：深圳市中级人民法院

### **Zhejiang Baozhilin v. Xiamen Baozhilin: The Protection of the Traditional and Famous Trademarks with Strict Limitations**

On July 25, 2023, the Shenzhen Intermediate People's Court issued a second instance judgment of trademark infringement and unfair competition dispute between Zhejiang Baozhilin Traditional Chinese Medicine Technology Ltd. (Plaintiff) and Xiamen Baozhilin Biotechnology Ltd. and others



(Defendants). The second instance court overruled the first instance judgement, and rejected all claims of the plaintiff.

The court concluded that the use of the accused mark will not mislead the public for the source of the products, or they are correlated. Moreover, the use of the accused mark would not break the connection between the trademark of the Plaintiff and its services or goods, nor would it diminish the identifying function of the Plaintiff's trademark. Thus, the trademark owner should not limit the Defendants' reasonable and good faith use of the accused logo to gain market space. Therefore, the accused acts does not infringe on the trademark.

Source: Shenzhen Intermediate People's Court

### 冒用“故宫博物院”名称并进行虚假宣传案宣判

近日，石景山法院审结了原告故宫博物院与被告某酒业公司、北京某商贸公司不正当竞争纠纷一案。法院一审判决认定二被告涉案行为构成擅自使用原告名称及虚假宣传的不正当竞争，判令二被告分别赔偿原告经济损失、合理支出380余万元和150余万元，共计530余万元，并登报声明，为原告消除影响。

法院认为，未经原告授权或许可，被告仍在其生产的酒产品上标注“故宫博物院监制”字样，必然会使公众误认为该产品与原告故宫博物院存在密切联系，明显属于借助原告知名度获取不正当的竞争优势和商业利益，同时也对原告声誉及经营利益造成损害，构成不正当竞争。同时，没有证据证明北京某商贸公司向某酒业公司询问过监制事宜或要求某酒业公司提供新的授权文件，其主观上明显存在过错，故法院对其免除责任的相关抗辩不予采纳。

来源：北京石景山法院

### The Unauthorized Use of the Name "Forbidden City Museum" for Promotion Constitute Unfair Competition

The Shijingshan Court recently concluded an unfair competition case between the Forbidden City Museum (Plaintiff), against a wine company and others (Defendants). The court found that Defendants are using Plaintiff's name for promotion without authorization, constituting unfair competition, and awarded damages of RMB 5.3 million. Additionally, the court ordered that the Defendants shall publish a statement to eliminate the impact.

The court found that Defendants produced wine products with the label "Supervised by the Forbidden City Museum" without the plaintiff's authorization, which could mislead the public that the product has a close connection with the Plaintiff, which is to make use of the plaintiff's popularity to gain competitive advantage and commercial benefits, and may harm the Plaintiff's reputation and business interests, and constituted unfair competition.

Source: Shijingshan Court, Beijing



## “犟骨头”案：店铺装潢如何才能受到反不正当竞争法保护

近日，北京知识产权法院就天津七惑和他的朋友餐饮管理有限公司与北京外屋地餐饮有限公司侵害商标权及不正当竞争纠纷案作出二审判决。被告外屋地公司需赔偿七惑公司经济损失3万元，维权支出的律师费5000元，并在被诉线下店铺中持续十五日刊登声明为七惑公司消除影响。

二审法院认为，在认定店铺装潢是否经过七惑公司持续、稳定使用及宣传使其与七惑公司产生稳定关系时，不应对构成元素是否相同或近似进行单独比对，应考虑装潢在整体上是否具有独特风格从而形成整体营业形象。

本案中，虽七惑公司主张其经营的不同门店元素选取自特定元素库，在其门店亦存在类似的元素，但七惑公司提交的证据不足以证明该装潢经过其使用推广在消费者中已产生显著特征，已形成稳定、统一的装潢整体形象，从而使消费者将其装潢与七惑公司相对应。

来源：北京知识产权法院

## The "Jianggutou" Case: Protecting Store Furnishings Under Unfair Competition Law

The Beijing Intellectual Property Court has recently issued a second-instance judgement on a dispute of trademark infringement and unfair competition between Tianjin Qi Huo with His Friends Catering Management Company Ltd. (Plaintiff), against Beijing Waidiwu Catering Company Ltd. (Defendant). Defendant was ordered to pay damages of RMB 30,000. Moreover, it was ordered to post a notice in its offline stores for fifteen days to mitigate the influence.

According to the court, to assess whether Plaintiff had continuously and stably used the store decoration and whether the publicity had created a stable relationship with Plaintiff, one should examine whether the decoration, as a whole, had a distinctive style forming an overall business image.

Plaintiff claimed that the elements used in its stores were carefully selected from a specific library of elements, and similar elements do exist in its stores. However, Plaintiff's evidences are insufficient to prove that the decoration had resulted in a distinctive feature among consumers or that it had created a stable and uniform overall decoration image that consumers associated specifically with Plaintiff.

Source: Beijing IP Court

## 宝宝巴士在美被判侵犯CoComelon版权，赔偿超1.6亿元

近日，CoComelon在与其中中国竞争对手BabyBus Co.Ltd.（宝宝巴士股份有限公司）的版权诉讼中胜诉。陪审团裁决，宝宝巴士公司因盗用视频需赔偿CoComelon方2340万美元（约合人民币1.67亿元）。

2020年，总部位于英国的Moonbug收购了拥有1.62亿订阅者的CoComelon。Cocomelon专门制作传统童谣和原创儿童歌曲的3D动画视频。Moonbug Entertainment Ltd.指控 BabyBus创作的Super JoJo歌曲在某些情况下实际上是CoComelon歌曲的逐帧复制品。宝宝巴士在庭审前承认侵犯了CoComelon的7部作品，但对其他35部作品的侵权指控提出异议。

宝宝巴士公司认为，Moonbug试图保护的许多元素都是非原创的，或者是该类型的固有特征，不应该被其所专有。Cocomelon的律师在一份新闻稿中表示，陪审团最终发现，宝宝巴士公司故意侵犯了Moonbug的“数十项”版权。陪审团的裁决包括“1760万美元的实际损害赔偿和未支付的利润，以及580万美元的法定损害赔偿”。

来源: [Bloomberglaw](#)

## CoComelon Wins Bulk of Copyright Claims in USA, \$23.4 Million From Jury

Recently, CoComelon convinced a jury to award it \$23.4 million from Chinese competitor BabyBus Co. Ltd. for ripping off its videos.

UK-based Moonbug acquired CoComelon, which has 162 million subscribers, in 2020. Cocomelon specializes in producing 3D animated videos of traditional nursery rhymes and original kids' songs. Moonbug Entertainment Ltd. accused BabyBus of creating Super JoJo songs that were in some cases virtually frame-by-frame copies of CoComelon songs. Babybus conceded that it infringed seven CoComelon works before trial, but contested alleged infringement of 35 other works.

BabyBus argued many of the elements Moonbug sought to protect were unoriginal or inherent features in the genre. The jury found that BabyBus willfully infringed "dozens" of Moonbug's copyrights, the Cocomelon owner's law firm, Tyz Law Group PC, said in a press release. The jury's award includes "\$17.6 million in actual damages and disgorged profits, as well as \$5.8 million in statutory damages electible in the alternative," the firm said.

Source: [Bloomberg Law](#)

## 快时尚巨头之战：H&M起诉Shein侵犯版权

近日，屡陷侵权纠纷的Shein公司再被起诉，瑞典零售商Hennes & Mauritz(H&M)公司在香港起诉Shein公司侵犯其版权和商标，要求赔偿损失，立即下架并停止销售这些商品。

H&M在一份声明中证实了这一诉讼。H&M发言人表示：“我们在香港对Shein提起的版权侵权诉讼正在进行，这是正确的。我们认为Shein在多个案例中侵犯了我们的设计，因此提起诉讼。由于这仍是一个正在进行的案件，我们选择不作进一步评论。”

该诉讼以Shein母公司Zoetop Business公司以及Shein Group公司为被告，香港是 Shein 香港公司前所有者Zoetop Business的所在地。H&M集团申请禁令，以阻止Shein侵犯其版权和商标设计。

H&M认为Shein的产品与其产品在设计上非常相似，坚定认为Shein存在抄袭行为。该诉讼还提到了“Shein未经授权大量复制版权作品的规模非常大。” Shein每天发布多达6000种新款式。

来源: [WWD\(WOMEN'S WEAR DAILY\)](#)

### **Fast Fashion Giants' War: H&M Sues SHEIN over Copyright Infringement**

Recently, Chinese e-commerce giant Shein is being sued by Swedish retailer Hennes & Mauritz, better known as H&M, for copyright infringement in a case filed against its Hong Kong-based owners. This isn't the first time that SHEIN has been sued.

H&M confirmed the lawsuit in a statement to WWD. "It is correct that we have an ongoing copyright infringement lawsuit toward Shein filed in Hong Kong. We believe that Shein in multiple cases has infringed on our designs and have therefore filed this lawsuit. As it is still an ongoing case, we choose not to comment further," a spokesperson said.

The suit takes aim at Shein parent company Zoetop Business Co., as well as Shein Group Ltd., as defendants. Hong Kong is home to Zoetop Business, the former owner of Shein Hong Kong. H&M Group filed for an injunction to stop Shein from infringing on its copyright and trademarked designs. Shein's garments were too close for comfort for H&M, which said the designs bore a "striking resemblance between the products, showing they must have been copied" in the filing. The suit also cited the "sheer scale of [Shein's] unauthorized substantial reproduction of the copyright works." Shein releases up to 6,000 new styles per day.

Source: [WWD \(WOMEN'S WEAR DAILY\)](#)

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 [www.lifanglaw.com](http://www.lifanglaw.com)

 Email: [info@lifanglaw.com](mailto:info@lifanglaw.com)

 Tel: +8610 64096099

 Fax: +8610 64096260/64096261