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Boston Federal District Court: Singular Computing Sues Google for AI Technology Patent Infringement, Awarding \$1.67 Billion in Damages

立方竞争法周报 Weekly Competition Law News

国务院反垄断反不正当竞争委员会印发《关于行业协会的反垄断指南》

2024年1月10日，国务院反垄断反不正当竞争委员会印发《关于行业协会的反垄断指南》（“《指南》”）。《指南》共26条，自2024年1月12日起施行，《指南》进一步细化了行业协会组织达成横向/纵向垄断协议的具体种类、组成达成/实施垄断协议的具体情形，明确了行业协会应当避免的可能为达成、实施垄断协议提供便利性条件的行为等内容，同时要求加强行业协会反垄断合规建设。（[查看更多](#)）

Anti-Monopoly and Anti-Unfair Competition Committee of State Council Issues Anti-Monopoly Guidelines for Industry Associations

On January 10, 2024, the Anti-Monopoly and Anti-Unfair Competition Committee of the State Council issued the *Anti-Monopoly Guidelines for Industry Associations* (“*Guidelines*”). There are 26 articles in the *Guidelines*, which comes into effect on January 12, 2024. The *Guidelines* further refines the specific types of horizontal/vertical monopoly agreements reached under the organization of industry associations and the specific circumstances constituting the reaching/implementing of a monopoly agreement, clarifies the behaviours that may provide facilitating conditions for the reaching and implementing of a monopoly agreement and should be avoided by industry associations, etc., and at the same time calls for the enhancement of industry associations’ anti-monopoly compliance construction. ([More](#))

粤港两地同步发放《粤港企业竞争合规指导手册》

2024年1月10日，广东省市场监督管理局（“广东省市监局”）与香港特别行政区竞争事务委员会在粤港两地同步发放《粤港企业竞争合规指导手册》（“《手册》”）。《手册》是粤港两地竞争执法机构提升粤港澳大湾区一体化的创新举措，分别介绍和比较了内地《反垄断法》与香港《竞争条例》的法律制度及实施机制，并结合典型案例对粤港企业提出了竞争合规的管理建议。（[查看更多](#)）

Guangdong and Hong Kong Simultaneously Issues Competition Compliance Manual for Businesses

On January 10, 2024, the Guangdong Provincial Administration for Market Regulation (“Guangdong AMR”) and the Hong Kong Competition Commission co-published the *Competition Compliance Manual for Businesses* (“*Manual*”) simultaneously. The *Manual* is an innovative measure taken by the competition law enforcement agencies of Guangdong and Hong Kong to enhance the integration of the Guangdong-Hong Kong-Macao Greater Bay Area. It introduces and compares the legal systems and implementation mechanisms of the *Anti-Monopoly Law* in the mainland and the *Competition Ordinance* in Hong Kong, and puts forward competition compliance management suggestions for enterprises in Guangdong and Hong Kong based on typical cases. ([More](#))

多省召开全省市场监管工作会议

2024年1月6日至9日，湖北省、江西省、江苏省全省市场监管工作会议（“会议”）分别在武汉、南昌、南京召开。上述会议分别按照省委、省政府和国家市场监管总局的决策部署，回顾总结2023年工作，部署2024年重点任务。在反垄断与竞争法方面，上述会议均强调深化竞争监管与执法，共建全国统一大市场。（[查看更多](#)）

Provincial Market Supervision Work Conferences Held in Three Provinces

From January 6 to 9, 2024, the provincial market supervision work conferences (“Conferences”) of Hubei Province, Jiangxi Province, and Jiangsu Province were held in Wuhan, Nanchang, and Nanjing respectively. The above-mentioned Conferences reviewed and summarized the work in 2023 and deployed key tasks for 2024 in accordance with the decisions and arrangements of the provincial party committee, the provincial government and the State Administration for Market Regulation. In terms of antitrust and competition law, the above-mentioned conferences emphasized the deepening of competition supervision and law enforcement and joint building of a unified national market. ([More](#))

法国竞争管理总局附条件批准Intermarche收购Casino集团61家门店

2024年1月11日，法国竞争管理总局（Autorité de la concurrence）发布公告，宣布附条件批准法国著名零售商Intermarche收购Casino集团经营的61家食品零售门店，条件为Intermarche重新出售三家门店，以解决潜在的竞争问题。Intermarche最初于5月宣布其有意收购Casino集团的61家门店，并于7月正式向法国竞争管理总局提交了收购计划。法国竞争管理总局仔细审查了拟议收购计划，经过全面评估后，批准了收购，但条件是剥离三家门店，以减轻对零售业竞争的不利影响。（[查看更多](#)）

French Regulator Conditionally Approves Intermarche’s Acquisition of 61 Casino Stores

On January 11, 2024, the French Competition Authority (Autorité de la Concurrence) issued a notice, announcing conditional approval of the prominent French retailer Intermarche’s acquisition of 61 food retail stores operated by Casino Group on the condition that Intermarche would re-sell three stores to resolve potential competition concerns. Intermarche initially announced its intention to acquire Casino Group’s 61 stores in May and formally submitted its acquisition plan to the French Competition Authority in July. The French Competition Authority scrutinized the proposed acquisition and, after thorough evaluation, granted clearance, contingent upon the divestiture of three stores to mitigate any adverse effects on competition in the retail sector. ([More](#))

惠普因涉嫌垄断墨盒面临消费者集体诉讼

2024年1月8日，据媒体报道，来自伊利诺伊州、纽约州和密苏里州等各州的11名消费者向伊利诺伊州北区联邦地区法院提起集体诉讼，指控惠普（HP）在设计其打印机时拒绝接受其他制造商的替换墨盒，从事反竞争行为。原告认为，惠普未能告知客户，在不只使用惠普品牌的墨水

的情况下，自动的软件更新可能会禁用某些打印机。这一缺乏透明度的做法导致打印机无法使用，迫使消费者购买其原本不会选择的惠普品牌墨盒，从而迫使消费者支付惠普品牌墨盒的较高价格，为其垄断替换墨水市场提供了有利条件。（[查看更多](#)）

HP Faces Class Action Lawsuit over Alleged Ink Cartridge Monopoly

On January 8, 2024, according to media reports, eleven consumers hailing from various states, including Illinois, New York, and Missouri filed a proposed federal class action on Friday in the Federal District Court for the Northern District of Illinois, alleging HP engaged in anti-competitive behaviour by designing its printers to reject replacement ink cartridges from other manufacturers. The plaintiffs argue that HP failed to inform customers that automatic software updates could disable certain printers unless exclusively using HP-branded ink. This alleged lack of transparency resulted in non-functional printers, coercing consumers into purchasing HP-branded ink cartridges that they would not have otherwise chosen, which created an environment conducive to monopolizing the replacement ink market. ([More](#))

印度竞争委员会因涉嫌共谋调查全球快递巨头

2024年1月7日，据媒体报道，印度竞争委员会（CCI）已开始对全球快递巨头在印度的物流公司进行调查，包括德国DHL、美国联合包裹服务公司（UPS）和联邦快递（FedEx），调查重点是有关折扣和关税方面的共谋行为。CCI的调查始于2022年10月，主要针对上述物流公司收取的机场服务费。印度出版商联合会（Federation of Indian Publishers）向CCI投诉了上述物流公司共同决定收费标准并控制客户折扣的行为，声称这些公司的高管在公司集体决定向客户收费之前，交换了与机场快递和仓储服务的数量、收费和折扣有关的商业敏感信息。（[查看更多](#)）

Indian CCI Investigates Global Delivery Giants for Alleged Collusion

On January 7, 2024, according to media reports, the Competition Commission of India (CCI) initiated an investigation into the domestic units of global delivery giants, including Germany's DHL, United States-based United Parcel Service (UPS), and FedEx, and the focus of the investigation was on collusion regarding discounts and tariffs. The CCI's investigation began in October 2022 and was mainly focused on the fees charged by the abovementioned logistics companies for airport services. The Federation of Indian Publishers has complained to the CCI about the collective determination of charges and control of customer discounts by the abovementioned logistics companies, claiming that executives from these companies exchanged commercially sensitive information related to volumes, charges, and discounts on courier and storage services provided at airports before charging. ([More](#))

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

财政部印发《关于加强数据资产管理的指导意见》

2024年1月11日，财政部发布公告，印发《关于加强数据资产管理的指导意见》。数据资产，作为经济社会数字化转型进程中的新兴资产类型，正日益成为推动数字中国建设和加快数字经济

济发展的重要战略资源。财政部就加强数据资产管理提出意见。总体目标为构建“市场主导、政府引导、多方共建”的数据资产治理模式，逐步建立完善数据资产管理制度基本原则。包括坚持确保安全与合规利用相结合、坚持权利分置与赋能增值相结合、坚持分类分级与平等保护相结合和坚持有效市场与有为政府相结合等。主要任务包括依法合规管理数据资产、明晰数据资产产权关系、完善数据资产相关标准和加强数据资产使用管理等。（[查看更多](#)）

Ministry of Finance Issues Guiding Opinions on Strengthening the Management of Data Assets

On 11 January 2024, the Ministry of Finance (MOF) issued a notice, publishing the *Guiding Opinions on Strengthening the Management of Data Assets*. Data assets, as an emerging asset type in the process of digital transformation of the economy and society, is increasingly becoming an important strategic resource for promoting the construction of digital China and accelerating the development of the digital economy. The MOF has put forward opinions on strengthening data asset management. The overall goal is to build a data asset governance model that is “market-led, government-led, and constructed by multi-parties”, and to gradually establish and improve the basic principles of the data asset management system. The basic principles of the data asset management system are to ensure safety and compliance, to separate rights and empower value-added, to classify and protect data on an equal footing, and to combine an effective market with an effective government. The main tasks include managing data assets in accordance with the law, clarifying the relationship between the rights and responsibilities of data assets, improving the standards related to data assets, and strengthening the management of the use of data assets. ([More](#))

中国首例涉数据抓取交易不正当竞争纠纷案广东宣判

2024年1月16日，据媒体报道，广东省高级人民法院（“广东高院”）对微梦公司诉简亦迅公司及深圳分公司不正当竞争纠纷案二审公开宣判，驳回上诉，维持原判：全额支持微梦公司诉请赔偿经济损失2000万元。微梦公司诉称，简亦迅公司非法调用微博服务器向用户端传输数据的API(应用程序编程接口)，抓取了大量微博后台数据予以存储，并通过其经营的iDataAPI网站对外售卖，构成不正当竞争。广东高院审理认为，微梦公司对依法依规持有的微博数据享有自主管控、合法利用并获取经济利益的权益，简亦迅公司通过不断变换IP地址、微博用户账号等方式向微博服务器发出数据请求，骗取了微博服务器向用户端传输数据的专用数据接口的调用权限，获取了其本无权调用的大量微博后台数据，并予以直接转卖获利，有违公平、诚信原则和商业道德，扰乱了数据市场竞争秩序，严重损害了微梦公司和消费者合法权益，构成反不正当竞争法第二条规定的不正当竞争行为。（[查看更多](#)）

China's First Unfair Competition Dispute Case Involving Data Capture Transactions Announced in Guangdong

On 16 January 2024, according to media reports, the Guangdong High People's Court (“Guangdong High Court”) announced the judgement on the second instance of the unfair competition dispute case between Beijing Weimeng Chuangke Network Technology Co., Ltd. (“Weimeng”) and Guangzhou Jianyixun Information Technology Co., Ltd. and its Shenzhen Branch (“Jianyixun”). The appeal was dismissed and the original judgment was upheld, and Weimeng was fully supported in its claim for eco-

conomic losses of CNY 20 million. Weimeng claimed that Jianyixun illegally called the API (Application Programming Interface) of the Weibo server to transmit data to the client, captured a large amount of Weibo backend data, stored and sold it to external parties through the iDataAPI website it operated, which constituted illegal Fair competition. The Guangdong High Court held that Weimeng has the right to independently control, legally utilize and obtain economic benefits from Weibo data held in accordance with laws and regulations. Jianyixun has continuously changed IP addresses, Weibo user accounts, etc. to the Weibo server. By issuing a data request, it defrauded the Weibo server of the calling authority of the special data interface that transmits data to the user, obtained a large amount of Weibo background data that it did not have the right to call, and directly resold it for profit, which violated the principles of fairness, good faith and business ethics, disrupted the order of competition in the data market, seriously harmed the legitimate rights and interests of Weimeng and consumers, and constituted unfair competition as stipulated in Article 2 of the Anti-Unfair Competition Law. ([More](#))

河北、云南、青海、上海、内蒙、江苏、四川等7省市数据局揭牌成立

2024年1月10日至2024年1月15日，据媒体报道，新一轮机构改革逐步在省级层面落地：多个省级数据局纷纷挂牌，全国各省市数据要素市场化加速推动。1月10日，江苏省数据局率先正式挂牌，紧随其后，11日，四川省数据局在成都挂牌；同日，内蒙古自治区政务服务与数据管理局揭牌成立。14日，上海数据局传出揭牌成立消息。15日，云南省、青海省、河北省3个省数据局宣布正式揭牌。（[查看更多](#)）

Data Bureaus of Hebei, Yunnan, Qinghai, Shanghai, Inner Mongolia, Jiangsu and Sichuan Inaugurated

From 10 January 2024 to 15 January 2024, according to media reports, a new round of institutional reform was gradually implemented at the provincial level: multiple provincial data bureaus were inaugurated one after another, and the marketisation of data factors in provinces and municipalities across the country is accelerating. On 10 January, the Jiangsu Provincial Data Bureau was the first to be officially inaugurated. Immediately afterward, on the 11th, the Sichuan Provincial Data Bureau was inaugurated in Chengdu; on the same day, the Inner Mongolia Autonomous Region Government Services and Data Management Bureau was inaugurated. On the 14th, the news of the inauguration of the Shanghai Data Bureau was announced. On the 15th, three provincial data bureaus in Yunnan, Qinghai and Hebei provinces announced their official inauguration. ([More](#))

上海发布《上海市推进IPv6技术演进“智网上海”行动计划（2024-2025）》

2024年1月9日，上海市互联网信息办公室发布公告，发布由上海市通信管理局、中共上海市委网络安全和信息化委员会办公室、上海市发展和改革委员会制定的《上海市推进IPv6技术演进“智网上海”行动计划（2024-2025）》（“《行动计划》”）。《行动计划》提出将高标准全面建成“IPv6+”创新之城，构建形成基于“IPv6+”的新型网络基础设施智能底座，IPv6单栈试点范围和场景不断扩展，“IPv6+”标准制定、技术研发和产业链协同体系初步形成，重点行业“IPv6+”融合应用水平大幅提升，IPv6安全防护能力显著增强，基于IPv6的下一代互联网产业生态基本构建，为上海全面建设数字经济、数字生活、数字治理的城市数字化转型筑牢“新基座”。（[查看更多](#)）

Shanghai Releases “Smart Internet Shanghai” Action Plan to Promote the Evolution of IPv6 Technology (2024-2025)

On 9 January 2024, the Shanghai Internet Information Office issued a notice, releasing the “Smart Internet Shanghai” Action Plan to Promote the Evolution of IPv6 Technology (2024-2025) (“Action Plan”), formulated by the Shanghai Municipal Communications Administration and the Cybersecurity and Information Office of CPC Shanghai Municipal Committee. The Action Plan proposes to build an “IPv6+” innovation city with high standards and build a new smart network infrastructure foundation based on “IPv6+”, expanding the scope and scenarios of the IPv6-only pilot. “IPv6+” standard setting, technology research and development, and industrial chain coordinated mechanism is initially formed. The level of “IPv6+” integration and application in key industries is greatly improved, IPv6 security capability is significantly enhanced, and IPv6-based next-generation Internet industry ecology is basically constructed, so as to build the “new foundation” for the digital transformation of Shanghai’s digital economy, digital life and digital governance. ([More](#))

网信部门查处一批生活服务类违法违规平台账号

2024年1月8日，国家互联网信息办公室（“国家网信办”）发布公告，“清朗·生活服务类平台信息内容整治”专项行动启动以来，网信部门结合网民举报的问题线索，对聊天交友、网络购物、搜索引擎、求职招聘等20类生活服务平台开展多轮排查，坚决查处违法违规网站平台和账号，有力遏制违法不良信息利用生活服务平台传播扩散，为广大网民营造健康向上的网络环境。截至目前，累计清理违法不良信息790万余条，处置账号170万余个，关闭网站562家，下架应用程序201个。通报的典型违规行为包括：平台为线下违法活动引流、传播违法不良信息、传播违规营销信息、发布封建迷信信息、搜索环节呈现违法信息、招募网络水军。([查看更多](#))

CAC Investigates and Punishes Batch of Illegal Platform Accounts Related to Life Services

On 8 January 2024, the Cyberspace Administration of China (CAC) issued an announcement, announcing that since the launch of the special action “Qinglang Life Service Platform Information Content”, based on the problem clues reported by netizens, the cyberspace department has conducted multiple rounds of inspections of 20 types of life service platforms, including dating, online shopping, search engines, and job recruitment, and have resolutely punish illegal website platforms and accounts, effectively curbing the dissemination and proliferation of illegal and undesirable information using life service platforms, and creating a healthy and uplifting network for netizens. So far, more than 7.9 million pieces of illegal and undesirable information have been cleared, more than 1.7 million accounts have been disposed of, 562 websites have been closed, and 201 applications have been removed from the shelves. Typical violations notified include attracting traffic for offline illegal activities, spreading illegal and undesirable information, spreading illegal marketing information, publishing feudal superstitious information, presenting illegal information in search links, and recruiting troll armies. ([More](#))

国家网信办发布第三批深度合成服务算法备案信息

2024年1月5日，根据《互联网信息服务深度合成管理规定》，国家网信办公开发布第三批境内深度合成服务算法备案信息。根据算法备案清单，本次通过备案的129个算法分属97家公司，其

中既有阿里、百度、网易等知名互联网公司，也包括不少各自行业领域内的明星企业，例如东方财富、贝壳、唯品会、哔哩哔哩等。具体信息可通过互联网信息服务算法备案系统进行查询。（[查看更多](#)）

CAC Releases Third Batch of Registration Information for Deep Synthesis Service Algorithms

On 5 January 2024, the CAC developed and released the third batch of registration information for domestic deep synthesis service algorithms in accordance with the *Internet Information Service Deep Synthesis Management Provisions*. According to the registration list, the 129 algorithms that have been registered this time belong to 97 companies, including well-known Internet companies such as Alibaba, Baidu, and NetEase, as well as many star companies in their respective industries, such as East Money, Shell, Vipshop, Bilibili, etc. Detailed information can be searched through the Internet Information Service Algorithm Registration System. ([More](#))

欧盟《数据法案》正式生效

2024年1月11日，欧盟《数据法案》正式生效。《数据法案》由欧盟委员会于2022年2月提出，是欧盟数据战略一揽子计划的一部分。根据欧洲的统计数据，80%的工业数据从未被使用过。欧盟希望通过制定使用和访问数据等的新规则，促进更多数据被利用。预计到2028年，《数据法案》将使更多数据重新被使用，并为欧盟成员创造2700亿欧元（约2.1万亿人民币）的额外GDP。《数据法案》使得消费者和企业都将受益，例如创造了使用数据相关服务的新机会、可以更好地访问设备收集和产生的数据、有了防止非法数据传输的新的保障措施等。（[查看更多](#)）

EU Data Act officially Enters into Force

On 11 January 2024, the European Data Act officially entered into force. The Data Act was initially proposed by the European Commission in February 2022 as part of the EU Data Strategy package. According to European statistics, 80% of industrial data is never used. The EU hopes to promote more data utilization by formulating new rules on the use and access of data. The Data Act is expected to create EUR 270 billion (CNY 2.1 trillion) of additional GDP for EU Member States by 2028 by addressing the legal, economic and technical issues that lead to data being underused. Both consumers and businesses will benefit from the Data Act, by creating new opportunities to use data-related services, better access to data collected and generated by devices, and new safeguards against illegal data transfers, etc. ([More](#))

韩国个人信息保护委员会公布5,000个App的检查结果

2024年1月11日，据媒体报道，个人信息保护委员会（PIPC）公布了其对5,000个App进行《个人信息保护法》（PIPA）合规性检查的结果。PIPC指出，与上一年相比，2023年PIPA的合规率提高了10.7%。基于39个检查项目的情况，PIPC指出，不遵守单项要求会导致App被视为不符合PIPA的要求。从2023年3月到2023年10月，PIPC特别指出了出现不合规项的主要领域，其中包括：隐私政策中对第三方告知的相关说明不充分；销毁程序的相关说明不充分；缺乏数据主体

行使权利程序的指引。PIPC表示，大多数被检测的App在收集和使用个人信息时都遵守了事先同意的要求，并获得了个人或者单独同意。最后，PIPC表示，将在进一步核查后对重大违规行为进行调查，并计划提供指导。（[查看更多](#)）

South Korea PIPC Releases Results of Processing Inspections of 5,000 Apps

On 11 January 2024, the Personal Information Protection Commission (PIPC) released the results of its inspections of 5,000 apps for compliance with the Personal Information Protection Act (PIPA). The PIPC stated that compliance with the PIPA has increased by 10.7% in 2023 in comparison to the previous year. Based on the results of 39 inspection items, the PIPC stated that noncompliance with a single requirement resulted in the app being considered noncompliant with the PIPA. From March 2023 to October 2023, the PIPC highlighted major areas of noncompliance including, among other things: insufficient description of third-party notifications in privacy policies; and lack of guidance on procedures to exercise data subject rights. The PIPC stated that most apps that were inspected complied with the prior consent requirement and obtained individual and specific consent when collecting and using personal information. Lastly, the PIPC stated that major violations would be investigated after further verification and that it plans to provide guidance. ([More](#))

欧洲数据保护监管机构要求进一步说明欧盟与日本就跨境数据流动问题进行谈判的原因

2024年1月10日，据媒体报道，欧洲数据保护监管机构（EDPS）就签署和缔结欧盟与日本经济合作协定（EPA）关于数据自由流动的修订议定书发布了第3/2024号意见（“《意见》”）。《意见》指出，欧盟理事会曾在2023年7月12日授权欧盟委员会就在EPA中加入跨境数据流动条款的问题进行谈判，并于2023年10月达成一致。此外，《意见》指出修订议定书主要对欧盟和日本之间的跨境数据流动进行了规定。但是，考虑到欧盟委员会已对日本个人数据保护进行了充分性认定，《意见》建议进一步解释为什么在存在充分性决定的前提下，仍有必要就跨境数据流动进行进一步谈判。此外，《意见》认为修订议定书给欧盟在与欧盟贸易协定有关的个人数据保护方面的立场带来了法律上的不确定性，并有可能与欧盟数据保护法产生冲突。（[查看更多](#)）

EDPS Seeks Clarifications on Reasons for Negotiations on Cross-Border Data Flows Between EU and Japan

On 10 January 2024, the European Data Protection Supervisor (EDPS) issued its Opinion 3/2024 on the signing and conclusion of the protocol amending the agreement between the EU and Japan for an Economic Partnership (“EPA”) regarding the free flow of data (“*Opinion*”). In this regard, the *Opinion* recalls that, on July 12, 2023, the Council of the EU authorized the European Commission to negotiate the inclusion of provisions on cross-border data flows in the EPA, which was agreed later in October 2023. Further to the above, the *Opinion* notes that the protocol exclusively concerns cross-border data flows between the EU and Japan, pointing out, however, that Japan has already been granted an adequacy finding by the Commission. As such, the *Opinion* recommends further explaining why, despite this adequacy decision, further negotiations on cross-border data flows were considered to be necessary. In addition, the *Opinion* takes the view that the protocol creates legal uncertain-

ty as to the EU's position on the protection of personal data in connection with EU trade agreements and risks creating friction with EU data protection law. ([More](#))

FTC针对X-Mode Social和Outlogic收集和出售位置数据的行为发布禁令

2024年1月9日，美国联邦贸易委员会（FTC）宣布禁止X-Mode Social, Inc.及其继受公司Outlogic, LLC.分享或出售任何敏感位置数据，以解决FTC对该公司在尚未获得消费者知情同意的情况下出售敏感位置数据、违反了《联邦贸易委员会法》的指控。FTC认为，X-Mode没有任何政策，将敏感位置数据从其出售的原始位置数据中删除。此外，X-Mode没有对下游使用其销售的精准位置数据的行为采取合理或适当的防护措施，导致消费者的敏感个人信息处于危险之中。（[查看更多](#)）

FTC Order Prohibits Data Broker X-Mode Social and Outlogic from Selling Sensitive Location Data

On 9 January 2024, the Federal Trade Commission (FTC) announced that it would prohibit X-Mode Social, Inc. and its successor Outlogic, LLC. from sharing or selling any sensitive location data to settle allegations that the company sold sensitive location data without first obtaining informed consent from consumers in violation of the Federal Trade Commission Act. FTC believes that X-Mode did not have any policies in place to remove sensitive locations from the raw location data it sold. In addition, X-Mode did not implement reasonable or appropriate safeguards against downstream use of the precise location data it sold, putting consumers, sensitive personal information at risk. ([More](#))

法国数据保护局就《传输影响评估指南》草案征求意见

2024年1月8日，法国数据保护局（CNIL）发布非强制性适用的《传输影响评估指南（草案）》（Transfer Impact Assessment Guide），并就此向公众征求意见，为传输影响评估（TIA）的进行提供指导。CNIL认为，数据控制者或者数据处理者在将数据传输至欧洲经济区以外的地区前，需要进行TIA。但如果数据出境目的国属于欧盟委员会充分性决定范畴下所定义的国家，则数据传输方无需履行TIA相关义务。TIA旨在帮助数据传输方对数据接收地的数据保护水平及监管实践情况进行评估，保证对数据传输提供与欧盟相关法律同等水平的保护。（[查看更多](#)）

CNIL Invites Public Comments on Draft Transfer Impact Assessment Guide

On 8 January 2024, the French Data Protection Authority (CNIL) published a draft version of the Transfer Impact Assessment (TIA) Guide for non-mandatory applications, on which it seeks public comment, to provide guidance on the conduct of a Transfer Impact Assessment. The CNIL considers that a TIA is required to be carried out by a data controller or a data processor before transferring data outside the European Economic Area (EEA). The CNIL believes that a TIA is required before a data controller or data processor transfers data outside the EEA, but that a data transferor does not need to comply with the obligations of a TIA if the country of destination of the data falls within the scope of the European Commission's adequacy decision. The purpose of the TIA is to help the data transferor assess the level of data protection and the regulatory practices in the place of receipt of the data and to ensure that the data transfer is afforded the same level of protection as under EU law. ([More](#))

知识产权 Intellectual Property

最高院案例：首例AI应用专利侵权案，涉及待证事实取证的认定

近日，最高人民法院就北京同创信通科技有限公司与山西晋南钢铁集团有限公司等侵害发明专利权纠纷案作出判决，判决驳回上诉，维持原一审法院作出的驳回原告北京同创信通科技有限公司诉讼请求判决。据悉，该案涉及一种建立废钢等级划分神经网络模型方法”发明专利，为我国首例AI应用专利侵权案。

本案对涉及待证事实取证的认定具有一定参考意义。人民法院依据当事人申请进行现场勘验或责令其他当事人提交证据的前提是申请人应初步证明申请现场勘验的待证事实与案件事实存在一定的关联性，且当事人已经提供的证据可以初步证明其主张的待证事实存在较大可能性，同时，申请人也已穷尽合理合法的取证手段仍不能取得相关证据。本案中，上诉人（原审原告）主张被上诉人（原审被告）实施侵害涉案专利权的行为，应当就其主张的侵权事实承担举证证明责任，但上诉人提供的文章、相关网页新闻以及公证书不足以证明该事实，上诉人指控被上诉人专利侵权的事实依据不足，原审中上诉人未尽到申请人民法院调查取证的初步证明责任，故法院对其提出的调查取证申请不予准许。

来源：最高人民法院

SPC Case: First Case of AI-Related Patent Infringement, Involving Determination of Facts for Evidence Pending Verification

Recently, the SPC issued judgment on the patent infringement dispute between Beijing Tongchuang Xintong Technology Co., Ltd. and Shanxi Jinnan Iron and Steel Group Co., Ltd., among others. The judgment upheld the first instance judgement that rejected the plaintiff's litigation claims. It is reported that the case involves a patent for the invention titled "Method for Establishing a Neural Network Model for Classifying Scrap Steel Grades," marking the first AI application patent infringement case in China.

This case is of significance for the determination of the facts related to evidence collection. The Court's prerequisite for conducting on-site inspections or ordering the submission of evidence based on the plaintiff's application is that, the plaintiff must preliminarily prove a certain connection between the facts to be proven on-site, and the facts of the case. Additionally, the evidence provided by the plaintiff shall preliminarily demonstrate a high probability of the existence of the facts to be proven. Meanwhile, the plaintiff must have exhausted reasonable and legal means of collecting evidence, and still cannot obtain relevant evidence. In this case, the plaintiff claimed that the defendant had committed infringing acts on the patent rights in question. The burden of proof for the infringement facts alleged by the plaintiff rests with the plaintiff. However, the articles, relevant webpage news, and notarized documents provided by the plaintiff are insufficient to prove the alleged infringement. The factual basis for the plaintiff's accusation of patent infringement by the defendant is insufficient. The plaintiff failed to fulfill the preliminary proof responsibility of applying to the court for investigation and evidence collection;

therefore, the court did not grant approval for the plaintiff's application for investigation and evidence collection.

Source: Supreme People's Court

北京案例：新浪诉抖音不正当竞争案二审判决，赔偿2000万

近日，北京知识产权法院就北京抖音信息服务有限公司（原审被告，以下简称“抖音”）与北京微梦创科网络技术有限公司（原审原告，以下称“新浪”）不正当竞争纠纷案作出二审判决。判决驳回上诉，维持原一审法院作出的抖音赔偿新浪经济损失及合理开支的判决。

法院认为，首先，涉案微博内容系独立于单个用户原始数据价值的数据集合，增强新浪在市场竞争中的竞争能力或竞争优势，故新浪对涉案微博内容享有的竞争性利益；其次，抖音通过不正当的手段争夺新浪的用户，攫取了新浪的重要经营资源，损害了新浪的经营利益，削弱了新浪的竞争优势，并且扰乱了市场竞争秩序，损害了消费者利益，构成不正当竞争行为；最后，综合考虑双方平台的规模与用户数量、涉案用户的影响力与涉案内容的阅读量、新浪因用户流失造成的损失、涉案内容的替代效果、抖音拒不提交所获收益的证据及被诉行为仍在持续等因素，并结合新浪提出的信息流广告收入的计算方式，在法定赔偿最高限额之上酌情确定赔偿金额为2000万元。

来源：北京知识产权法院

Beijing Court Case: Second-instance Judgment in Sina vs. Douyin Unfair Competition Lawsuit, Awarding RMB 20 Million RMB in Damages

Recently, the Beijing Intellectual Property Court issued a second-instance judgment on the unfair competition dispute between Beijing Douyin Information Service Co., Ltd. (the original defendant) and Beijing Weimeng Chuangke Network Technology Co., Ltd. (the original plaintiff). The court upheld the original judgment of the economic damages and reasonable expenses.

The court held that, firstly, the plaintiff content involved constitutes a dataset independent of the original data value of individual users, enhancing plaintiff's competitiveness or competitive advantage in the market. Therefore, The plaintiff enjoys competitive interests in the involved plaintiff's content. Secondly, the defendant, through unfair means, competed for plaintiff's users, taking advantage of plaintiff's crucial operational resources, damaging plaintiff's business interests, weakening its competitive advantage, disrupting the market competition order, harming consumer interests, and constituting unfair competition. Finally, considering factors such as the scale and user base of both platforms, the influence of involved users, the readership of the involved content, the damages incurred by plaintiff due to user attrition, the substitutability of the involved content, defendant's failure to submit evidence of the income obtained, and the ongoing nature of the accused behavior, the court, in combination with plaintiff's proposed calculation method for information flow advertising revenue, discretionarily determined the damages amount to be RMB 20 million, exceeding the statutory maximum damages limit.

Source: Beijing Intellectual Property Court

湖北案例：首例AI大模型品牌维权案

近日，湖北省武汉市中级人民法院就阿里云计算有限公司诉被告1、被告2侵害商标权及不正当竞争纠纷一案作出判决，判决被告1、被告2停止侵犯涉案注册商标专用权的行为及虚假宣传的不正当竞争行为，并承担经济损失及合理费用共计230360元。据悉，该案是我国首例AI大模型品牌维权案。

法院认为，原告系“通义”商标专用权人，是阿里大模型统一品牌，原告开发通义千问APP于2023年10月31日正式上线。被告1在其运营的某大型软件资源平台中提供“通义千问”“通义听悟”软件的下载服务，属于在网络上提供可下载的计算机应用软件、手机应用软件，该行为所涉商品和服务类别与案涉商标核定使用的商品或服务相同或类似，构成商标性使用；同时，容易造成相关公众的混淆，导致相关公众误以为涉案软件系由原告提供，或被告1与原告具有授权、合作等特定联系。综上，认定被告冒用原告注册商标名义提供非官方APP下载服务，构成商标侵权及不正当竞争。

来源：湖北省武汉市中级人民法院

Hubei Court Case: First Instance of AI Large Model Brand Protection Case

Recently, Wuhan Intermediate People's Court issued a judgment in the case of Alibaba Cloud Computing Co., Ltd. suing Defendant 1 and Defendant 2 for infringement of trademark rights and unfair competition. The court ruled that Defendant shall cease infringing the exclusive rights of the registered trademarks involved and engaging in unfair competition through false advertising. They were also ordered to bear the total economic damages and reasonable expenses amounting to RMB 230,360 . It is noted that this case is the first AI large model brand protection case in China.

The court determined that the plaintiff is the holder of the "Tongyi" trademark exclusive rights, which is a unified brand for Alibaba's large models. The plaintiff officially launched the APP "Tongyi Qianwen" on October 31, 2023. The defendant provided download services for "Tongyi Qianwen" and "Tongyi Tingwu" software on a large software resource platform it operated, involving downloadable computer application software and mobile application software on the internet. This conduct falls within the same or similar category of goods or services as the ones specified in the registered trademark, constituting trademark use. Additionally, it is likely to cause confusion among the relevant public, leading them to mistakenly believe that the implicated software is provided by the plaintiff or that the defendant has a specific connection such as authorization or collaboration with the plaintiff. In conclusion, the court determined that the defendant falsely used the plaintiff's registered trademark to provide unofficial APP download services, constituting trademark infringement and unfair competition.

Source: Intermediate People's Court in Wuhan, Hubei Province

陕西案例：西安首例因网络传播盗版电子书构成侵犯著作权罪

近日，陕西省西安市碑林区人民法院就被告人秦某胜、秦某强涉嫌侵犯著作权罪作出判决，分别判处两位被告人有期徒刑十个月，宣告缓刑一年，并处罚金10万元。

法院认为，被告人秦某强与被告人秦某胜商议运营盗版小说网站，被告人秦某强购买域名并搭建盗版小说网站，使用网上下载的应用程序从不特定网络小说平台采集、复制他人文字作品，在其盗版小说网站上向公众传播；2022年5月至2022年12月间，被告人秦某胜、秦某强运营该盗版小说网站，通过网络传播他人文字作品并以植入色情广告的方式从广告商处非法获利。被告人秦某胜、秦某强搭建的盗版小说网站中的小说，侵犯被害单位享有著作权的作品数量超500部。案发后，被告人向被害单位退赔损失人民币180万元。宣判后，二被告人当庭表示认罪服判。

来源：陕西省西安市碑林区人民法院

Shaanxi Court Case: First Case of Copyright Infringement through the Online Distribution of Pirated E-books

Recently, the Beilin District People's Court in Xi'an, Shaanxi Province, issued a judgement in the case of defendants, who were accused of copyright infringement. Each defendant was sentenced to ten months in prison, with probation for one year, and a fine of RMB 100,000.

The court found that the defendants conspired to operate a pirated novel website. The defendant purchased a domain name and built a pirated novel website, where he collected and copied the literary works of others from unspecified online novel platforms using downloaded applications. They disseminated these pirated works to the public on their website. Between May 2022 and December 2022, the defendants operated the pirated novel website, illegally profiting from advertisers by disseminating others' literary works through online channels and incorporating explicit advertisements. The number of copyrighted works infringed upon in the novels hosted on the pirated website created by the defendants exceeded 500. Following the incident, the defendants reimbursed the victimized entity a total of RMB 1.8 million for losses. Both defendants admitted guilt and accepted the judgement.

Source: Beilin District People's Court, Xi'an, Shaanxi Province

不列颠哥伦比亚省最高法院：始祖鸟起诉阿迪达斯商标侵权，法院颁布禁令

近日，不列颠哥伦比亚省最高法院就Arc'teryx（以下称“始祖鸟”）诉阿迪达斯商标权侵权一案颁布临时法庭禁令，要求阿迪达斯在温哥华基斯兰诺社区的Terrex商店（阿迪达斯旗下专业户外运动品牌）必须遮盖部分招牌。

2023年1月，阿迪达斯在西第四大道2235号开设了一家专卖店，紧邻西第四大道2201号的始祖鸟专卖店。两家公司都销售户外服装。在新店Kitsilano中，阿迪达斯使用了其商标“performance系列”的三道杠符号，后跟Terrex字样。对此，始祖鸟的所有者AmerSports向不列颠哥伦比亚省最高法院提起诉讼，指控阿迪达斯商标侵权。该公司希望法院下达禁令，强迫阿迪达斯遮盖所有Terrex标志并赔偿损失。法官Nigel Kent裁定始祖鸟胜诉，因为阿迪达斯尚未注册其Terrex品牌商标，但他表示必须对更广泛的案件进行审理。他还缩小了命令的适用范围，使其仅适用于Kitsilano商店。法官认为，三道杠加Terrex的图像与Arc'teryx商标的图像放在一起时，两者之间的相似性和混淆的可能性显而易见，同时，一旦开庭审理，该项禁令将被取消。

来源: CTV NEWS

The Supreme Court of British Columbia: Archaeopteryx Files Trademark Infringement Lawsuit Against Adidas, Court Issues Injunction

Recently, the Supreme Court of British Columbia issued a temporary court injunction in the case of Arc'teryx (referred to as "Archaeopteryx") filing a lawsuit against Adidas for trademark infringement. The court ordered the defendant to cover certain signage in the Terrex store (an outdoor sports brand under Adidas) located in the Kitsilano community of Vancouver.

In January 2023, the defendant opened a retail store at 2235 West 4th Avenue, in close proximity to the plaintiff's dedicated store at 2201 West 4th Avenue. Both companies specialize in outdoor clothing. In the new Kitsilano store, the defendant used its trademark "performance series" three-stripe symbol, followed by the word "Terrex." In response, the owner of the plaintiff, Amer Sports, filed a lawsuit in the Supreme Court of British Columbia, accusing Adidas of trademark infringement. The company sought a court order for the defendant to cover all Terrex signs and damages. Justice Nigel Kent ruled in favor of the plaintiff noting that the defendant had not yet registered its Terrex brand trademark. However, he indicated that further proceedings were necessary. He also narrowed the scope of the order, applying it only to the Kitsilano store. The judge found the similarity and potential confusion between the imagery of the three stripes and Terrex of the defendant and the trademark of the plaintiff evident. Moreover, he mentioned that once the case goes to trial, the injunction would be subject to cancellation.

Source: CTV NEWS

波士顿联邦地区法院: Singular Computing诉谷歌侵犯人工智能技术专利, 索赔达16.7亿美元

近日, 波士顿联邦地区法院就Singular Computing诉谷歌侵犯人工智能技术专利纠纷一案开庭审理。庭审中, 原告Singular Computing公司要求谷歌赔偿16.7亿美元, 因谷歌用于驱动人工智能技术的处理器涉嫌侵犯了其专利。

Singular的律师向陪审团表示, 谷歌在与Singular创始人Joseph Bates的多次会晤中抄袭了其技术。2010至2014年期间, Bates与谷歌分享了其计算处理创新技术, 但谷歌在Bates不知情的情况下抄袭了其专利技术。据称, Bates的创新已被集成到谷歌的张量处理单元中, 用于支持Google 搜索、Gmail、Google翻译和其他Google服务中的人工智能功能。根据诉讼披露的内部邮件, 谷歌现任首席科学家Jeff Dean曾写信谈及Bates的想法可能非常适合谷歌正在开发的内容。谷歌的另一名员工也在一封电子邮件中称, 自己深受Bates想法的影响。但谷歌的律师反驳称, 设计芯片的谷歌员工从未见过Bates, 芯片是谷歌独立设计的, 与Singular的专利完全不同。据悉, 在庭审前, 谷歌表示Singular曾要求获得高达70亿美元的赔偿。但庭审过程中, Singular 的律师表示, 谷歌应支付 16.7 亿美元。

来源: DatacenterDynamics

Boston Federal District Court: Singular Computing Sues Google for AI Technology Patent Infringement, Awarding \$1.67 Billion in Damages

Recently, the Boston Federal District Court commenced a trial in the dispute where Singular Computing has filed a lawsuit against Google, alleging infringement of patents related to artificial intelligence (AI) technology. During the trial, the plaintiff is seeking damages amounting to \$1.67 billion, claiming that Google's processors used for driving AI technology have violated its patents.

The plaintiff's attorneys informed the jury that the defendant allegedly copied its technology during multiple meetings with the founder of the plaintiff, Joseph Bates. Between 2010 and 2014, Bates shared his innovative computing processing technology with the defendant, but the lawsuit contends that Google, without Bates' knowledge, plagiarized the patented technology. It is alleged that Bates' innovation has been integrated into the defendant's tensor processing units, supporting AI functionalities in Google services such as Google Search, Gmail, Google Translate, and others. Internal emails disclosed in the lawsuit reveal that Google's Chief Scientist, Jeff Dean, once wrote about how Bates' ideas might be very suitable for the content Google was developing. Another Google employee mentioned in an email that they were deeply influenced by Bates' ideas. However, Google's lawyers countered these claims by stating that the employees designing the chip had never met Bates, and the chip was independently designed by Google, completely distinct from Singular's patents. It is reported that prior to the trial, Google stated that Singular had initially demanded compensation of up to \$7 billion. Nevertheless, during the trial proceedings, Singular's lawyers asserted that Google shall pay \$1.67 billion.

Source: [DatacenterDynamics](#)

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