



# NEWSLETTER

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## 国内要闻 Domestic News

### 首例涉及微信数据权益认定不正当竞争案宣判

2020年6月2日，杭州互联网法院就腾讯公司诉两家网络科技公司不正当竞争纠纷案作出一审判决，判令两被告停止涉案行为，赔偿经济损失及合理费用260万元，并消除影响。杭州互联网法院认为，本案被告通过被控软件擅自收集微信用户数据，存储于自己所控制的服务器内的行为不仅危及微信用户的数据安全，且对原告腾讯公司既有数据资源竞争权益构成了实质性损害，被告此种利用他人经营资源损人自肥的经营行为不仅有违商业道德且违反了相关法律规定，属于违反《反不正当竞争法》第二条规定的不正当竞争行为。本案系首例涉及微信数据权益认定的不正当竞争案。本案判决明确了网络平台对于其所控制的用户信息享有不同性质的数据权益，同时厘清了网络平台不同数据权益间的权利边界。（[查看更多](#)）

### Hangzhou Internet Court Rules the First Unfair Competition Dispute Involving Data Protection of WeChat

On 2 June 2020, the Hangzhou Internet Court published the judgment of an unfair competition dispute between Tencent and two technology companies, ruling two defendants to cease illegal behaviors, compensate Tencent with damages and reasonable expenses around CNY 2.6m, and eliminate the impact. The Hangzhou Internet Court concluded that the two defendants illegally collected the personal information of WeChat's users through software and stored such information on their own servers, which jeopardized the data security of WeChat's users and caused substantial harm to the competitive interests of Tencent's data resources. Such illegal behaviors conducted by the two defendants were in breach of business ethics and also did not comply with relevant provisions stipulated in *China's Law Against Unfair Competition*. This case is the first unfair competition case involving the definition of the data interest of WeChat. The judgment of this case clarified that internet platforms can enjoy different kinds of interests over the user's information controlled by such platforms, and also clarified the boundaries between different interests that internet platforms can enjoy. ([More](#))

### 上海自贸区临港新片区着力建设“信息飞鱼”全球数字经济创新岛

2020年6月2日，上海市人民政府发布新闻称，上海自贸区临港新片区（“临港新片区”）建100万平方米“信息飞鱼”全球数字经济创新岛。“信息飞鱼”将依托国际光缆登陆口，构建跨境数据中心、新型互联网交换中心，着力推进完成4项任务：（1）探索建设“新型数据监管关口”，推动数据跨境流动先行先试；（2）优先发展以5G/通讯、大数据和云计算为主的数字经济；（3）壮大发展智能研发、IC设计和软件信息等为主的数字产业；（4）积极布局人工智能、区块链、互联网经济等新兴前沿信息产业。据悉，临港新片区即将发布支持新基建、支持数字经济、支持科技创新等一揽子新政策，并将在“信息飞鱼”先行试点。（[查看更多](#)）

### Lingang Special Area of Shanghai Free Trade Zone to Build A Global Digital Economy Island

On 2 June 2020, Shanghai Municipal People's Government announced that Lingang Special Area of Shanghai Free Trade Zone will build a 247 acres global digital economy island. Relying on the landing

location of international optical cable, this island will establish a cross-border data center and an exchange center for new kinds of internet. Four primary missions are required to achieve on this island: (i) exploring to construct a new data supervision gate and promoting the cross-border flow of data; (ii) developing the digital economy over 5G/communication, big data and cloud computing; (iii) developing the digital industries over intelligent research, IC design and software information; (iv) proactively deploying the leading-edge information industries such as artificial intelligence, blockchain, internet economy. The Lingang Special Area will publish a package of policies to support new infrastructure, digital economy and technology innovation and such policies will be piloted on the global digital economy island. ([More](#))

## 海外动态 Overseas News

### 谷歌因在“无痕浏览模式”下跟踪用户互联网使用情况面临50亿美金集体诉讼

2020年6月2日，谷歌因涉嫌在用户使用“无痕浏览模式”（Incognito mode）的情况下跟踪数百万用户的互联网使用情况，非法侵犯了用户的隐私，于美国加州北部地区法院被提起集体诉讼。原告主张谷歌的行为使其能够掌握用户的朋友、爱好、最喜欢的食物、购物习惯，甚至是最难以启齿或者十分尴尬的私人信息。原告认为自2016年6月1日之后使用“无痕浏览模式”的用户都可以参与到该集体诉讼之中，并主张谷歌应当按照每人5000美金的赔偿标准对其违反联邦窃听法及加州隐私保护相关法律的行为进行赔偿。 ([查看更多](#))

### Google Faces USD 5b Class Action for Allegedly Tracking Users in Incognito Mode

On June 2, 2020, Google was sued in the U.S. District Court for Northern District of California in a proposed class action accusing Google of illegally invading the privacy of millions of users by pervasively tracking their internet use through browsers set in incognito mode. The claimants state Google's acts help it learn about users' friends, hobbies, favorite foods, shopping habits, and even the "most intimate and potentially embarrassing things." The claimants believed the proposed class included millions of Google users who since June 1, 2016 browsed the internet in incognito mode and sought at least USD 5,000 of damages per user for violations of federal wiretapping and California privacy laws. ([More](#))

### 澳大利亚信息专员办公室出台经营者个人数据收集指南

近日，澳大利亚信息专员办公室出台了经营者个人数据收集指南。此前，作为复工条件，企业需按照各州和地区的指示或命令收集客户及访客的联系信息。根据该指南，经营者只能在提前通知消费者之后才能收集其个人信息并且相关信息需要得到妥善保存。与此同时，这些个人信息只能提供给从事联系追踪活动的相关医疗机构并且该等信息需在使用后适时删除。 ([查看更多](#))

### OAIC Issues Guidance for Businesses Collecting Personal Information

Recently, Office of the Australian Information Commissioner (“OAIC”) issued a guidance of collecting personal information for businesses who were required by directions or orders of States and Territories to collect contact information of customers and visitors as a condition of their reopening. According to the guidance, businesses could only collect the personal information required after prior notice to the

individuals and securely store it. The information should only be provided to relevant health authorities who undertake contact tracing activities and properly destroyed when no longer needed. ([More](#))

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