



No. **171**

2020.09

立方竞争法周报

Weekly Competition Law News

NO.81

国内要闻 Domestic News

北京知产法院一审判决链家公司不构成滥用市场支配地位

BIPC Holds Lianjia Does Not Constitute Abuse of Dominance

河北省市监局将加强原料药、公用事业等领域反垄断执法和公平竞争审查工作

Hebei AMR to Strengthen Antitrust Enforcement in API and Public Utility Fields and Fair Competition Reviews

因收购中化物流股权未依法申报，君正能源遭市场监管总局处罚

SAMR Fines Junzheng Energy for Gun-jumping

上海高院：韩泰轮胎未滥用市场支配地位，亦未限定最低转售价格

Shanghai High Court Rules Hankook Tire Does Not Constitute Abuse of Dominance or Maintain Resale Price

海外动态 Overseas News

英国最高法院对华为与无线星球上诉案作出判决：无线星球不构成滥用市场支配地位

UK Supreme Court Holds Unwired Planet Does Not Constitute Abuse of Dominance

涉嫌与格伦马克制药等合谋固定仿制药价格，梯瓦制药遭美国司法部起诉

US DOJ Sues Teva Pharmaceuticals for Conspiring to Fix Prices for Generic Drugs with Competitors

美国法院裁定禁止苹果下架Epic计算机制图软件虚幻引擎

US Court Blocks Apple Move to Hamper Epic's Unreal Engine

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北京知产法院一审判决链家公司不构成滥用市场支配地位

2020年8月26日，北京知识产权法院发布新闻称，其已对王某诉北京链家房地产经纪有限公司（“链家公司”）等滥用市场支配地位纠纷案作出一审判决，判定链家公司在本案相关市场中不具有支配地位，链家公司等的相关行为不构成原告主张的滥用行为。北京知产法院还认为，本案市场界定方法的选择适用，应充分考虑房地产经纪服务行业中卖方市场和买方市场共存的双边市场特征、相关互联网行业跨界进入市场、线下与线上并存模式等因素对市场界定可能产生的影响。（[查看更多](#)）

BIPC Holds Lianjia Does Not Constitute Abuse of Dominance

On August 26, 2020, the Beijing Intellectual Property Court (“BIPC”) announced that it had made a judgment of an abuse of dominance dispute between Wang and Beijing Lianjia Real Estate Brokerage Co., Ltd. (“Lianjia”), ruling that Lianjia did not have market dominance, let alone abuse. According to BIPC, the methodology of market definition should fully consider the possible impact on market definition of the following factors, including the two-side market feature that sellers’ and buyers’ markets coexist in the real estate brokerage service industry, the market entry by internet service providers, the coexistence of offline and online modes, etc. ([More](#))

河北省市监局将加强原料药、公用事业等领域反垄断执法和公平竞争审查工作

2020年8月25日，河北省人民政府发布新闻称，河北省市场监督管理总局（“河北省市监局”）将加强反垄断执法和公平竞争审查工作。加大原料药、公用事业等民生领域反垄断执法力度，依法开展反行政垄断调查，做好企业合规指引，加快推进竞争执法人才库、反垄断专家库建设，提高反垄断执法水平。研究处置政策清理遗留问题，开展公平竞争审查抽查，严把新增政策措施关口，认真摸排影响营商环境的重要问题，营造公平竞争的政策环境。（[查看更多](#)）

Hebei AMR to Strengthen Antitrust Enforcement in API and Public Utility Fields and Fair Competition Reviews

On August 25, 2020, the People’s Government of Hebei Province announced that the Administration for Market Regulation of Hebei Province (“Hebei AMR”) will strengthen antitrust enforcement and fair competition reviews. Hebei AMR will strengthen the antitrust enforcement in the fields of people’s livelihood, such as APIs and public utilities, carry out investigations on anti-administrative monopoly in accordance with the law, provide guidance on enterprise compliance, accelerate the construction of competition enforcement talent pools and antitrust expert pools, and improve the level of antitrust enforcement. The Hebei AMR will also research and deal with remaining issues of policy cleanup, carry out fair competition reviews and spot checks, strictly control new policy measures, carefully identify important issues affecting the business environment, and create a fair competition policy environment. ([More](#))

因收购中化物流股权未依法申报，君正能源遭市场监管总局处罚

近日，国家市场监督管理总局（“市场监管总局”）发布了鄂尔多斯市君正能源化工有限公司（“君正能源”）收购中化国际物流有限公司（“中化物流”）40%股权未依法申报案的处罚决定书，对君正能源处以35万元罚款。根据调查，君正能源收购中化物流40%股权，取得控制权，达到经营者集中申报标准，但未提前申报。该行为违反了《反垄断法》的规定，构成未依法申报的经营者集中。（[查看更多](#)）

SAMR Fines Junzheng Energy for Gun-jumping

Recently, China's State Administration for Market Regulation (“SAMR”) released the sanction decision in which Ordos Junzheng Energy Chemical Co., Ltd. (“Junzheng Energy”) was fined CNY 350,000 for gun-jumping. SAMR found that Junzheng Energy acquired 40% of the shares of Zhonghua International Logistics Co., Ltd. (“Zhonghua Logistics”) and took control of Zhonghua Logistics without filing any notification before SAMR and therefore violated the *Anti-Monopoly Law*. ([More](#))

上海高院：韩泰轮胎未滥用市场支配地位，亦未限定最低转售价格

近日，上海市高级人民法院（“上海高院”）就武汉市汉阳光明贸易有限责任公司（“汉阳贸易公司”）诉上海韩泰轮胎销售有限公司（“韩泰轮胎”）垄断协议纠纷案作出二审判决，驳回汉阳贸易公司的全部诉讼请求。上海高院经审理认为，汉阳贸易公司并未能提供证据证明韩泰轮胎在本案涉及的相关市场内具有市场支配地位，不能认定韩泰轮胎实施了滥用市场支配地位的行为，同时，也无法认定韩泰轮胎达成并实施了限定最低转售价格协议。（[查看更多](#)）

Shanghai High Court Rules Hankook Tire Does Not Constitute Abuse of Dominance or Maintain Resale Price

Recently, the Shanghai High People's Court (“Shanghai High Court”) made a judgment on the monopoly agreement dispute between Wuhan Hanyang Bright Trading Co., Ltd. (“Hanyang Trading”) and Shanghai Hankook Tire Sales Co., Ltd. (“Hankook Tire”) and rejected Hanyang Trading's claims. The Shanghai High Court held that (i) Hanyang Trading failed to provide evidence to prove that Hankook Tire had a dominant position in the relevant market, and Hankook Tire did not abuse its dominance; (ii) Hankook Tire did not reach and implement an agreement of resale price maintenance. ([More](#))

海外动态 Overseas News

英国最高法院对华为与无线星球上诉案作出判决：无线星球不构成滥用市场支配地位

2020年8月26日，英国最高法院对华为与无线星球（Unwired Planet）上诉案作出判决，判定无线星球不构成滥用市场支配地位。英国最高法院确认，在未经通知或未与被指控的侵权人事先协商的情况下提起禁令之诉，违反了《欧盟运行条约》第102条的规定。但是，这种必需的通知和协商的性质取决于具体案情，并不强制要求遵循华为诉中兴案中确定的规则。英国最高法院认

为，本案重点在于无线星球表示自己愿意遵循法院认定的任何FRAND条款向华为授予许可。
([查看更多](#))

UK Supreme Court Holds Unwired Planet Does Not Constitute Abuse of Dominance

On August 26, 2020, The Supreme Court of the United Kingdom (“UK Supreme Court”) concluded an abuse of dominance dispute between Huawei and Unwired Planet, and held that Unwired Planet did not constitute abuse of dominance. The UK Supreme Court confirmed that bringing an action for a prohibitory injunction without notice or prior consultation with the alleged infringer would infringe the Article 102 of the *Treaty on the Functioning of the European Union*. However, the nature of the notice or consultation required would depend on the circumstances of the case, and there was no mandatory requirement to follow the protocol set out in the *Huawei v ZTE* case. The UK Supreme court held that what mattered was that Unwired Planet had shown itself to be willing to grant a license to Huawei on whatever terms the court decided were FRAND. ([More](#))

涉嫌与格伦马克制药等合谋固定仿制药价格，梯瓦制药遭美国司法部起诉

2020年8月25日，美国司法部宣布，其已向宾夕法尼亚州东区联邦地区法院起诉以色列梯瓦（Teva）制药美国分公司与同行合谋固定仿制药价格，本案是正在进行的联邦反垄断刑事调查的结果，该调查主要针对在仿制药行业固定价格等反竞争行为。作为第七家被指控参与合谋固定仿制药价格的公司，梯瓦制药美国分公司涉嫌分别与格伦马克（Glenmark）制药美国分公司等公司、塔罗（Taro）制药美国分公司和山德士（Sandoz）制药等公司合谋以提高仿制药价格。
([查看更多](#))

US DOJ Sues Teva Pharmaceuticals for Conspiring to Fix Prices for Generic Drugs with Competitors

On August 25, 2020, the Department of Justice (“DOJ”) announced that Teva Pharmaceuticals Co., Ltd., USA (“Teva”) has been charged with conspiring to fix prices for generic drugs in the United States District Court for the Eastern District of Pennsylvania. This case is the result of an ongoing federal antitrust investigation into price fixing and other anti-competitive conduct in the generic pharmaceutical industry. As the seventh company to be charged for its participation in conspiracies to fix prices for generic drugs, Teva was suspected of participating in three conspiracies to increase prices for generic drugs respectively with (i) Glenmark Pharmaceuticals Co., Ltd., USA and others; (ii) Taro Pharmaceuticals Co., Ltd., USA; and (iii) Sandoz Co., Ltd. and others. ([More](#))

美国法院裁定禁止苹果下架Epic计算机制图软件虚幻引擎

2020年8月25日，据路透社报道，美国加州北区地方法院法官于8月24日裁定，禁止苹果下架《堡垒之夜》游戏制作商Epic开发的计算机制图软件虚幻引擎（Unreal Engine），对Epic虚幻引擎进行了保护。Epic通过附属子公司提供该引擎相关服务，为数百款游戏和其他应用程序在苹果手机上的运行提供支持，这些应用程序的开发商对该引擎具有较强依赖。([查看更多](#))

US Court Blocks Apple Move to Hamper Epic's Unreal Engine

On August 25, 2020, the *Reuters* reported that on August 24, a federal judge from the United States District Court for the Northern District of California ruled that Apple was blocked from shutting down the computer graphics software Unreal Engine developed by Fortnite creator Epic, and the ruling safeguarded the Unreal Engine. Epic offers relevant services of Unreal Engine through an affiliate business. Hundreds of games and other Apps use Unreal Engine to power their Apps on Apple's iPhones, and these App makers have a strong independence on the engine. ([More](#))

为应对反垄断调查，苹果韩国子公司拟为小企业等提供8400万美元支持

2020年8月24日，据路透社报道，韩国公平贸易委员会（Korea Fair Trade Commission, “KFTC”）表示，苹果韩国子公司提出向小企业和消费者等提供价值1000亿韩元（约8402万美元）的支持项目等措施，以应对反垄断方面的担忧。KFTC将就苹果韩国子公司提出的措施公开征求意见，如补救措施合理，KFTC将决定结案，且不会认定苹果是否存在任何违法行为。（[查看更多](#)）

Apple Korea Proposes USD 84m to Support Small Businesses Under Antitrust Probe

On August 24, 2020, the *Reuters* reported that the Korea Fair Trade Commission (“KFTC”) announced that Apple South Korean unit has proposed measures to address antitrust concerns and offered to provide KRW 100 billion (USD 84.02m) worth of support programmes for small businesses, consumers and others. KFTC will close the case without concluding whether Apple did anything illegal if it finds the proposed remedies reasonable after collecting public opinion. ([More](#))

立方律师事务所编写《立方观评》的目的仅为帮助客户及时了解中国法律及实务的最新动态和发展，上述有关信息不应被看作是特定事务的法律意见或法律依据，上述内容仅供参考。



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