



NEWSLETTER

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2021.08

立方要闻周报

Weekly News By Lifang & Partners NO.3

知识产权 Intellectual Property

国家版权局发布2021年度十批重点作品版权保护预警名单

National Copyright Administration's 10th Batch of Works under Special Protection in 2021

最高人民法院发布第28批指导性案例，均为涉知产领域案件

New Supreme People's Court Guiding Cases - All Relate to IP

OPPO与Sisvel达成和解，结束全球专利诉讼

OPPO and Sisvel Settle Global Patent Dispute

通用汽车起诉福特汽车使用“BlueCruise”名称侵权

GM Sues Ford over “BlueCruise” Trademarks

电影《爱情公寓》“借壳”上映，一审判赔430万元

RMB 4.3m Awarded in Love Apartment Litigation

亚马逊因违反欧盟数据保护条例被重罚7.46亿欧元

Amazon Fined € 746m for GDPR Breaches

南非发布全球首个将人工智能列为发明人的专利

South Africa 1st to Issue Patent to AI Inventor

东京奥运会：索尼获得反盗版法院令

Tokyo Olympics: Sony Obtains High Court Order to Prevent Piracy

竞争法 Competition Law

恢复相关市场竞争状态第一案：市场监管总局对腾讯未依法申报作出处罚决定

China's First Case of Restoring Competition in the Relevant Market: SAMR Issues the Gun-jumping Penalty Decision against Tencent

国务院办公厅印发全国深化“放管服”改革分工方案，加强反垄断执法

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怡安、韦莱韬悦终止300亿美元并购交易

Aon and Willis Towers Watson Terminate USD 30 Billion Merger Deal

美法院同意FTC对Facebook的重新起诉延期

The Court Grants FTC Extension to Refile Facebook Suit

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

《个人信息保护法》将迎来三审

PIPL Comes into the Third Review

最高法出台人脸识别纠纷司法解释

The Supreme Court Issues a Judicial Interpretation on Face Recognition Disputes

工信部召开重点互联网企业贯彻落实《数据安全法》座谈会

MIIT Holds a Symposium on Implementing the *Data Security Law* for Key Internet Enterprises

工信部发布2021年第7批关于侵害用户权益行为的APP通报

MIIT Notifies the 7th batch of APP Infringing Users' Rights and Interests in 2021

广东省检察院公布个人信息保护公益诉讼典型案例

Guangdong Procuratorate Release Typical Cases of Public Interest Litigation in Personal Information Protection

山东省人大常委审议《山东省大数据发展促进条例（草案）》

The Standing Committee of the Shandong NPC Reviews the *Shandong Provincial Regulations on Promoting Big Data Development (Draft)*

卢森堡数据保护局因违反GDPR对亚马逊处以巨额罚款

CNPD Imposes a Huge fine on Amazon for Non-complying with GDPR

EDPB要求爱尔兰监管机构就WhatsApp隐私案作出最终决定



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EDPB Requires IE SA to Adopt the Final Decision Regarding WhatsApp Ireland

俄罗斯因违反数据本地化对WhatsApp提起诉讼

Russia Brings a Litigation on WhatsApp in Violation of Data Localization

美众议院提出新的《儿童隐私保护法案》

The U.S House of Representatives Introduces the Updated “Kids PRIVCY Act”

美参议院发布《数据安全法案》

The U.S Senate Introduces the SAFE DATA Act

EDPS就申根评估发表意见

EDPS Publishes Opinions on Schengen Evaluations

澳大利亚数据保护机构认定优步（Uber）侵犯个人隐私

Uber Found to Have Interfered With Privacy by OAIC

知识产权 Intellectual Property

国家版权局发布2021年度第十批重点作品版权保护预警名单

近日，国家版权局公布2021年度第十批重点作品版权保护预警名单，名单中只涉及东京奥运会相关节目，相关网络服务商应对版权保护预警名单内的重点作品采取以下保护措施：直接提供内容的网络服务商未经许可不得提供版权保护预警名单内的作品；提供存储空间的网络服务商应当禁止用户上传版权保护预警名单内的作品；相关网络服务商应当加快处理版权保护预警名单内作品权利人关于删除侵权内容或断开侵权链接的通知。

名单明确其有关权利人是国际奥委会和中央广播电视总台，获得该节目信息网络传播权的网络服务商是中央广播电视总台、中国移动咪咕、腾讯和快手。

来源：国家版权局

National Copyright Administration's 10th Batch of Works under Special Protection in 2021

Recently, the National Copyright Administration released a list containing the 10th batch of works under special copyright protection in 2021. The list relates only to the Tokyo Olympic Games and makes it clear that the beneficiaries of special protection are the International Olympic Committee, China Media Group, China Mobile, Migu, Tencent, and Kuaishou. Most of the beneficiaries are service providers that have obtained network transmission rights for the Games.

Tang Zhaozhi, CPC Central Committee Publicity Department Copyright Administration Bureau Deputy Director, said at the *"Coordination Committee on Rights Early Warning and Copyright Protection of the 2020 Tokyo Olympic Games"* in Beijing on the day the list was issued that a key task of the *"Sword Net 2021"* campaign was to protect the copyright of sports events programs.

Source: State copyright Administration

最高人民法院发布第28批指导性案例，均为涉知产领域案件

7月30日，最高人民法院发布了第28批指导性案例（指导案例157-162号），均为知识产权领域案件，涵盖专利、商标、著作权、不正当竞争、植物新品种等领域，这6件指导性案例在实用艺术品保护、职务发明判断、方法专利侵权判断、植物新品种保护范围、虚假宣传行为界定、商标法第十五条情形认定等法律疑难点上确立了具有指导性的审判规则，可以为全国各地审判机构在审判类似案件时提供参照作用。

来源：最高人民法院

New Supreme People's Court Guiding Cases - All Relate to IP

On 30 July 2021, the Supreme People's Court issued the 28th batch of Guiding Cases (Guiding Cases 157-162), all intellectual property cases involving patents, trademarks, copyright, unfair competition, new plant varieties, and other matters. The six Guiding Cases guide the lower courts on their handling

of disputes involving practical art protection, service inventions, method patent infringement, the protection scope of new plant varieties, the definition of false publicity, Article 15 of the Trademark Law, and other matters. Guiding Cases serve as a reference for courts across China trying similar cases.

Source: [Supreme People's Court](#)

OPPO与Sisvel达成和解，结束全球专利诉讼

近日，OPPO宣布与Sisvel达成和解，双方将结束全球范围内所有未决诉讼争议。这意味着OPPO与Sisvel结束长达两年的专利纠纷，达成许可协议。

OPPO与Sisvel之间的专利纠纷多年前已拉开帷幕。2018年OPPO正式进军欧洲市场，次年，Sisvel就相继在英国、荷兰、意大利等地大规模向OPPO发起专利侵权诉讼。2019年4月，Sisvel在英国针对小米、OPPO等国内厂商发起专利侵权诉讼。同年6月，Sisvel在荷兰海牙起诉OPPO、一加、小米专利侵权。

来源：集微网

OPPO and Sisvel Settle Global Patent Dispute

Recently, OPPO announced a settlement with Sisvel that will end all pending litigations between the parties worldwide. The settlement ends their two-year patent dispute and means that OPPO and Sisvel have reached a licensing deal.

In 2018, OPPO officially entered the European market and, in 2019, Sisvel launched a series of patent infringement lawsuits against OPPO in the United Kingdom, the Netherlands, Italy, and other places. For instance, in April 2019, Sisvel filed a patent infringement lawsuit in the UK against Xiaomi, OPPO and other Chinese manufacturers. While in June 2019, Sisvel filed a patent infringement lawsuit against OPPO, OnePlus and Xiaomi in the Netherlands.

Source: [ijiwei.com](#)

通用汽车起诉福特汽车使用“BlueCruise”名称侵权

通用汽车(GM.US)已对福特汽车(F.US)提起诉讼，指控福特汽车使用“BlueCruise”作为其脱手驾驶辅助技术的名称涉嫌商标侵权及不正当竞争。

通用汽车在2012年宣布，将使用SuperCruise作为其脱手驾驶辅助系统的名称，并且自2017年以来，一直在使用这一名称营销其系统。而通用汽车持有多数股权的Cruise于2013年成立。

福特汽车方面则称通用汽车的指控“毫无根据，且非常草率”。福特汽车在一份声明中称：“几十年来，司机已经了解了何为巡航控制(CruiseControl)，每个汽车制造商都提供这一功

能，‘Cruise’一词已经成为了这种功能的普遍缩写，因此福特才选择BlueCruise这一名称。”

来源：智通财经

GM Sues Ford over “BlueCruise” Trademarks

General Motors has filed a lawsuit against Ford containing allegations of trademark infringement and unfair competition involving the “BlueCruise” trademarks.

GM announced in 2012 that it would use SuperCruise as the name of its driver assistance system and has been marketing the system under that name since 2017. GM is also a majority stakeholder in Cruise, a self-driving ride-hail service founded in 2013.

For its part, Ford has called GM’s allegations baseless and reckless. In a public statement, Ford said that “Every automaker offers it, and ‘cruise’ is common shorthand for the capability. That’s why BlueCruise was chosen as the name for the Blue Oval’s next evolution of Ford’s Intelligent Adaptive Cruise Control”.

Source: Wisdom Finance

电影《爱情公寓》“借壳”上映，一审判赔430万元

近日，北京知识产权法院一审审结原告联凡计算机技术（上海）有限公司（简称原告）诉被告上海高格影视制作有限公司、上海电影（集团）有限公司、腾讯影业文化传播有限公司、大地时代文化传播（北京）有限公司、北京合瑞影业文化有限公司、汪远（简称六被告）侵犯商标权及不正当竞争纠纷一案，判令上述六被告停止涉案不正当竞争行为、消除影响并赔偿原告经济损失400万元及合理开支30万元。

北京知识产权法院认为：六被告未经原告授权，使用“爱情公寓”作为涉案电影的名称并进行宣传发行，损害了原告的竞争利益，构成不正当竞争，应当承担相应的民事责任。此外，本案中电影名称及人物名称不能起到区分服务来源的作用，故原告关于涉案行为侵犯其注册商标专用权的主张不能成立。

来源：京法网事

RMB 4.3m Awarded in Love Apartment Litigation

Recently, the Beijing Intellectual Property Court concluded the first instance dispute between Lianfan Computer Technology (Shanghai) Co Ltd, Shanghai GaoGe Film and Television Production Co Ltd, Shanghai Film (Group) Co Ltd, Tencent Film Culture Communication Co Ltd, Dadi Times Culture Communication (Beijing) Co Ltd, and Beijing Herui Film Culture Co Ltd (Collectively, the “Plaintiffs”) and Wang Yuan (Collectively, the “Defendants”). The disputes concerned the infringement of trademark rights and unfair competition by the Defendants, whom the Court ordered to stop their unfair competition, eliminate the impact of their actions, and compensate the Plaintiff for economic losses of RMB 4 million plus reasonable expenses of RMB 300,000.

The Beijing Intellectual Property Court held that the Defendants used “Love Apartment” as the name of their film and then publicised and distributed it without Plaintiff’s authorisation. This damaged the competitive interests of Plaintiff and constituted unfair competition. As such, the Defendants should bear corresponding civil liabilities for unfair competition. However, the film and character names did not distinguish a source of services, so the Plaintiff’s trademark infringement claims were rejected.

Source: [Beijing France Internet service](#)

亚马逊因违反欧盟数据保护条例被重罚7.46亿欧元

根据亚马逊7月30日公开的监管备案文件，7月16日，卢森堡国家数据保护委员会裁定亚马逊对其用户数据保护不力，违反了欧盟《一般数据保护条例》(GDPR)，由此对亚马逊处以7.46亿欧元的罚款。

2018年5月，被视为“世界最严”的欧盟《一般数据保护条例》开始生效。条例规定，如果保护用户数据不利，轻者可被罚一千万欧元或前一年全球营业收入的2%，重者可被罚两千万欧元或前一年全球营业收入的4%(罚款额均为“两值中取大者”)。此次亚马逊被重罚，系迄今欧盟对违反《一般数据保护条例》企业开出的最重罚单；由于亚马逊将其欧洲总部设在卢森堡，目前由卢森堡当局负责监管亚马逊在欧盟市场的数据保护事宜。

除被罚7.46亿欧元，监管备案文件显示，卢森堡国家数据保护委员会还要求亚马逊进行“整改”，但未披露更多详情。亚马逊则在文件中表示，卢森堡国家数据保护委员会的结论“毫无根据”，亚马逊将全力为自己辩护。

来源：中国新闻网

Amazon Fined €746m for GDPR Breaches

According to regulatory filing documents released by Amazon on 30 July, the National Data Protection Commission of Luxembourg ruled on 16 July that Amazon failed to protect its user’s data and violated the EU’s General Data Protection Regulations (GDPR) and fined Amazon €746 million. The Luxembourgish authorities are responsible for supervising Amazon’s data protection in the EU because Amazon’s EU headquarters are in Luxembourg.

Regarded by some as the most stringent data protection law in the world, the EU’s GDPR came into force in May 2018. Under GDPR, less severe infringements can lead to fines of €10 million or 2% of a firm’s global operating revenue for the previous year, whichever amount is higher. More severe infringements can lead to fines of up to €20 million or 4% of a firm’s global operating revenue for the previous year, whichever amount is higher. Amazon was fined for severe infringements and given the heaviest fine to date for GDPR violations.

In addition to being fined €746 million, the regulatory filing documents showed that the Luxembourg National Data Protection Commission also asked Amazon to revise its business practices but did not specify more. Amazon expressed their disagreement with the Commission’s conclusions and said that it would appeal.

Source: [China News Network](#)

南非发布全球首个将人工智能列为发明人的专利

近日，南非宣布授予一项由人工智能（AI）发明的专利权，这也是全球第一个承认由人工智能创造的专利。这项工作是由英国萨里（University of Surrey）大学领导的团队完成的，之前由该大学教授Ryan Abbott领导的国际律师和研究人员曾试图在英国、欧洲和美国专利局申请专利，但都遭到了拒绝。但在一些地方上诉正在进行中。

来源：[中国保护知识产权网](#)

South Africa 1st to Issue Patent to AI Inventor

South Africa recently granted an invention patent to an Artificial Intelligence (AI). This is the first patent in the world to recognise an AI as its inventor.

The patent was obtained as part of a project led by Professor Ryan Abbott of the University of Surrey in the UK. The project team includes international lawyers and researchers. They previously tried and failed to obtain patents in the UK, EU and US. However, appeals against refusals to grant patents are pending in some jurisdictions.

Source: [Intellectual Property Protection in China](#)

东京奥运会：索尼获得反盗版法院令

从国际奥委会获得印度、巴基斯坦、斯里兰卡、尼泊尔等国奥运赛事的独家转播权后，索尼为保障其权利，向德国高等法院递交了一项申请，旨在限制40多个网站和30多个多元化系统和有线电视运营商可能发布盗版内容的行为。7月19日，法院发布临时禁令，禁止首批47名被告“以任何方式通过互联网在其网站上协助托管、实时传输、复制、分发、向公众提供和（或）向公众传播原告拥有版权的任何电影作品、内容、节目或赛事。该禁令还涵盖了可能会规避禁令的镜像或代理网站。这些网站也被预先包含在内。此外，30家服务提供商被命令阻止用户访问47个“流氓”网站，包括他们可能部署的帮助用户访问内容的任何镜像或代理网站。法院下达的单方临时命令的有效期将持续到2021年9月29日。

来源：[中国保护知识产权网](#)

Tokyo Olympics: Sony Obtains High Court Order to Prevent Piracy

Sony acquired exclusive rights from the International Olympic Committee to broadcast the Tokyo Olympic Games in India, Pakistan, Sri Lanka, Nepal, Bangladesh, Bhutan, and the Maldives. To prevent piracy, Sony asked the Delhi High Court to ban over 40 websites and more than 30 multi-system and cable operators from distributing pirated content. The Court handed down an interim order on 19 July 2021, upholding Sony's request.

Source: [China Intellectual Property Right Protection Net](#)

竞争法 Overseas News

恢复相关市场竞争状态第一案：市场监管总局对腾讯未依法申报作出处罚决定

2021年7月24日，国家市场监督管理总局（“市场监管总局”）公布了对腾讯控股有限公司（“腾讯”）收购中国音乐集团股权未依法申报案的处罚决定，对腾讯处以人民币50万元的罚款并要求腾讯及其关联公司采取相关措施恢复市场竞争状态，如不得与上游版权方达成排他性协议；不得通过高额预付金等方式变相提高竞争对手成本等。本案为中国反垄断法实施以来对违法实施经营者集中采取必要措施恢复市场竞争状态的第一起案件。（[查看更多](#)）

China's First Case of Restoring Competition in the Relevant Market: SAMR Issues the Gun-jumping Penalty Decision against Tencent

On July 24, 2021, the State Administration for Market Regulation (“SAMR”) announced its penalty decision for a gun-jumping case in which Tencent Holdings Limited (“Tencent”) acquired China Music Group’s equity without notifying. The SAMR imposed Tencent a fine of CNY 500,000 and required Tencent and its affiliates to take relevant measures to restore the market competition, such as not entering into exclusive agreements with upstream copyright holders; and not raising competitors' costs by means of high prepayments, etc. This case is China’s first case in which the party of gun-jumping is required to take necessary measures to restore the market competition. ([More](#))

国务院办公厅印发全国深化“放管服”改革分工方案，加强反垄断执法

2021年7月20日，国务院办公厅印发《全国深化“放管服”改革着力培育和激发市场主体活力电视电话会议重点任务分工方案》（“《分工方案》”）。《分工方案》指出，应切实维护公平竞争的市场秩序，对包括国企、民企、外企在内的各类市场主体一视同仁，清理纠正地方保护、行业垄断、市场分割、行政垄断等不公平做法。（[查看更多](#)）

The General Office of the State Council Issues Division Work Plan to Strengthen Anti-monopoly Law Enforcement

On July 20, 2021, the General Office of the State Council issued a Division Work Plan which pointed out that it is necessary to maintain a fair and competitive market order effectively, treat all kinds of market players which include state-owned enterprises, private enterprises and foreign enterprises equally, and clean up and rectify local protection, industry monopoly, market segmentation, administrative monopolies and other unfair practices. ([More](#))

甲状腺片剂定价过高，CMA对制药公司处以1亿英镑罚款

2021年7月29日，英国竞争和市场管理局（“CMA”）在官网发布新闻称，其对Advanz不合理高价行为处以1亿英镑罚款。经调查，CMA发现Advanz在2009年到2017年间，将治疗甲状腺疾病的碘塞罗宁片剂价格从20英镑提升至248英镑，价格提升幅度超过1110%。价格的上涨并不是由

于创新或必要的投资，该种药品产量基本稳定，生产成本也没有显著增加，CMA称，此次罚款向制药行业提出了警告，违反反垄断法后果严重。（[查看更多](#)）

CMA Fines the Pharmaceutical Company Euro 100 Million for Overpricing of Liothyronine Tablets

On July 29, 2021, the UK Competition and Markets Authority (“CMA”) issued a news release on its website stating that it imposed a Euro 100 million fine on Advanz for unreasonably high prices. Following an investigation, the CMA found that Advanz increased the price of liothyronine tablets for the treatment of thyroid hormone deficiency from Euro 20 to Euro 248 between 2009 and 2017, an increase of more than 1110%. The price increase was not due to innovation or necessary investment, while production of the drug was largely stable and production costs did not increase significantly, the CMA said that the fine served as a warning to the pharmaceutical industry that violations of antitrust laws have serious consequences. ([More](#))

美各州就针对Facebook的反垄断案提起上诉

2021年7月28日，美国各州检察长就此前被驳回的反Facebook垄断案向华盛顿特区地区法院提起上诉。各州称Facebook因拒绝与某些应用程序实现互操作而违反了《谢尔曼法》第2条，该主张此前被州法庭驳回，因其行为发生在五年多前。随着各州和联邦监管机构持续起诉科技巨头，众议院正考虑立法以赋予执法机构更大权力。（[查看更多](#)）

U.S. States Appeal Antitrust Case against Facebook

On July 28, 2021, U.S. State Attorneys Generals filed an appeal in the District Court in Washington, D.C., of a previously dismissed anti-Facebook monopoly case. The states claim that Facebook violated Section 2 of the Sherman Act by refusing to interoperate with certain applications, which was previously dismissed by state courts because its actions occurred more than five years ago. As state and federal regulators continue to sue the tech giant, the House of Representatives is considering legislation to give law enforcement agencies more power. ([More](#))

怡安、韦莱韬悦终止300亿美元并购交易

2021年7月26日，怡安、韦莱韬悦宣布终止300亿美元并购。2021年6月16日，美国司法部提起民事反垄断诉讼，要求禁止怡安以300亿美元的价格收购韦莱韬悦，以防世界保险行业的三巨头合并为二巨头。怡安和韦莱韬悦之间的竞争可以帮助美国消费者以更低的价格得到医疗和退休福利咨询等重要服务，允许两家合并会导致消费者选择的减少、价格的提升以及服务质量的降低。（[查看更多](#)）

Aon and Willis Towers Watson Terminate USD 30 Billion Merger Deal

On July 26, 2021, Aon and Willis Towers Watson announced the termination of their USD 30 billion merger. On June 16, 2021, the U.S. Department of Justice filed a civil antitrust lawsuit seeking to enjoin Aon from acquiring Willis Towers Watson to prevent the three giants of the world's insurance industry from merging into a duopoly. Competition between Aon and Willis Towers Watson could help U.S.

consumers get important services such as health care and retirement benefits advice at lower prices, while allowing the two to merge would result in fewer choices, higher prices and lower quality of service for consumers. ([More](#))

美法院同意FTC对Facebook的重新起诉延期

2021年7月26日，美国哥伦比亚特区地区法院同意了联邦贸易委员会（“FTC”）的诉讼延期申请。此前，在FTC诉Facebook案中，该法院因前者未能证明Facebook在个人社交网络服务市场中拥有垄断力量而驳回该反垄断诉讼，并确定FTC重新申诉的最后期限为7月29日。FTC于本月23号提出延期申请，并表示Facebook并不反对延期，法院同意申请后将最后期限延至8月19日。
([查看更多](#))

The Court Grants FTC Extension to Refile Facebook Suit

On July 26, 2021, the U.S. District Court for the District of Columbia granted the Federal Trade Commission's (“FTC”) motion for the extension of the lawsuit. Previously, in FTC v. Facebook case, the court dismissed the antitrust suit because FTC failed to prove that Facebook had monopoly power in the market for personal social networking services and set a deadline of July 29 for FTC to refile its complaint. The FTC filed a motion for an extension on the 23rd of this month, stating that Facebook did not object to the extension, and the court granted the motion and extended the deadline to August 19. ([More](#))

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

《个人信息保护法》将迎来三审

2021年7月27日上午，十三届全国人大常委会第九十八次委员长会议在北京人民大会堂举行。会议决定，十三届全国人大常委会第三十次会议8月17日至20日在北京举行，并审议个人信息保护法草案等法律草案和议案，这意味着《个人信息保护法》将迎来三审，并极有可能于8月下旬正式通过。此前，《个人信息保护法（草案）》的二审稿主要针对广大人民群众反映的个人信息被过度收集、使用及相关规则不透明等突出问题进行了修改和完善。([查看更多](#))

PIPL Comes into the Third Review

On July 27, 2021, the 98th Chairman's Meeting of the Standing Committee of the 13th National People's Congress was held at the Great Hall of the People during the morning in Beijing. It was determined at the meeting that the 30th Session of the Standing Committee of the 13th National People's Congress will be held in Beijing from August 17 to 20, and draft provisions and proposals, including the *Personal Information Protection Law (Draft)* (“**PIPL Draft**”), will be deliberated, which means the PIPL is coming into the third-round review and likely to be passed in late August. Previously, the second draft of the PIPL mainly revised and improved the prominent problems such as excessive collection and use of personal information and the transparency of relevant rules. ([More](#))

最高法出台人脸识别纠纷司法解释

2021年7月28日，最高人民法院召开新闻发布会，发布《最高人民法院关于审理使用人脸识别技术处理个人信息相关民事案件适用法律若干问题的规定》（“《规定》”），并答记者问。发言人表示，人脸信息属于敏感个人信息中的生物识别信息，社交属性最强、最易采集，并具有唯一性和不可更改性，一旦被泄露和滥用将对个人的人身和财产安全造成极大危害，甚至会威胁公共安全。发言人从适用范围、合同角度、人格权和侵权责任角度对《规定》中的重点问题进行了介绍，表明《规定》从举证责任分配、界定财产损失范围和民事公益诉讼等方面加强了对人脸信息的司法保护。同时，《规定》坚持最有利于未成年人原则，并关注“小区使用人脸识别门禁系统”和“APP捆绑授权、强制索取个人信息”等问题，旨在加强个人信息司法保护的统一法律适用工作，全力配合《个人信息保护法》落地。（[查看更多](#)）

The Supreme Court Issues a Judicial Interpretation on Face Recognition Disputes

On July 28, 2021, the Supreme People's Court held a press conference to issue the *Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Civil Cases Related to the Use of Face Recognition Technology to Process Personal Information* ("Provisions"), and answered questions from reporters. The spokesman said that face information is a kind of biometric information which belongs to sensitive personal information, with strongest social attributes, being most vulnerable to collect, and of uniqueness and non-modifiability. Once the information leaked and abused, it will cause great harm to the personal and property safety, and even threaten public security. The spokesman introduced the key issues of the *Provisions* from the perspective of scope of application, contract, personality rights, and tort liability, indicating that the *Provisions* strengthen the judicial protection of individuals in terms of the distribution of the burden of proof, the definition of the scope of property losses, and civil public interest litigation. At the same time, the *Provisions* adhere to the principle of best interest of minors, and pay attention to issues such as "community's use of facial recognition access control systems" and "APP's bound authorization and compulsory acquisition of personal information", aiming to strengthen the uniform application of law for the judicial protection of personal information and fully assisting the implementation of the *Personal Information Protection Law*. ([More](#))

工信部召开重点互联网企业贯彻落实《数据安全法》座谈会

2021年7月28日，工业和信息化部（“工信部”）网络安全管理局委托中国互联网协会组织召开重点互联网企业贯彻落实《数据安全法》座谈会。会议强调，要做好重点互联网企业数据安全保护工作，深入贯彻落实《数据安全法》，切实加强数据安全保护。一是认真学习贯彻法律明确的监管体制机制、主体责任、保护义务等，将保护数据安全作为企业生产经营的底线和红线；二是强化大型互联网企业责任担当，切实履行数据保护义务，企业要加强组织领导，建立全生命周期的数据安全管理体系和机制，开展风险监测和应急处置，加强重要数据安全风险评估和出境管理；三是共同构建协同共治的行业数据安全监管体系。（[查看更多](#)）

MIIT Holds a Symposium on Implementing the Data Security Law for Key Internet Enterprises

On July 28, 2021, the Network Security Administration of the Ministry of Industry and Information Technology ("MIIT") delegated the Internet Association of China to organize and hold a symposium for key Internet enterprises to implement the the *Data Security Law*. The meeting emphasized that it is necessary to do a good job in the data security protection of key Internet enterprises, thoroughly implement the *Data Security Law*, and effectively strengthen the data security protection. First, these Internet enterprises should conscientiously study and implement the supervision system and mechanism, main responsibility, and protection obligations stipulated by law, to protect data security as the bottom line and red line of enterprises' production and operation activities; second, it is necessary for large Internet enterprises to strengthen the principal responsibility, earnestly fulfill the obligation of data protection, strengthen the organization and leadership, establish a full life-cycle data security management system and mechanism, conduct risk monitoring and emergency response, and strengthen important data safety risk assessment and export management; third, it is recommended to jointly build a collaborative industrial data security supervision system. ([More](#))

工信部发布2021年第7批关于侵害用户权益行为的APP通报

2021年7月28日，工信部信息通讯管理局发布通报称，前期对APP开屏弹窗信息骚扰用户问题进行了集中整治，近期针对这些问题“回头看”时，依然发现部分企业“有令不行、有禁不止”，存在问题整改不彻底、将整改过的问题改回原样、采取技术手段对抗和针对不同地区差异化整改的情况。检测发现，QQ阅读、乐视视频等14款APP未严格落实整改要求，工信部要求上述APP应在8月3日前完成彻底整改工作。逾期不整改的或整改不到位的，工信部将依法依规组织开展相关处置工作。（[查看更多](#)）

MIIT Notifies the 7th batch of APP Infringing Users' Rights and Interests in 2021

On July 28, 2021, the Information and Communications Administration of MIIT issued a notice stating that, it launched a centralized rectification of pop-up messages that harass users in APP opening in the early stage. In the recent review, some enterprises were found knowingly violating relevant rules, incompletely rectifying problems, relapsing, taking technical means to fight against the authority, and making differentiated rectification for different regions. The test found that 14 apps, including QQ Reading and Letv Video, did not strictly implement the rectification requirements. The MIIT required the above apps to complete the rectification thoroughly before August 3, otherwise the authority shall organize and carry out the relevant disposal work legally. ([More](#))

广东省检察院公布个人信息保护公益诉讼典型案例

2021年7月30日，广东省检察院公布4件广东省个人信息保护检察公益诉讼典型案例。案件一涉及住宅小区擅自安装并使用“人脸信息识别系统”，使业主个人信息存在被不法分子获取、利用的风险；案件二针对银行工作人员在业务活动中泄露客户账户信息、严重侵害客户个人信息安全权益的行为；案件三针对房地产销售处非法采集、使用消费者人脸识别信息的市场乱象；

案件四针对在互联网上非法获取、出售公民个人信息，损害社会公共利益的行为。（[查看更多](#)）

Guangdong Procuratorate Release Typical Cases of Public Interest Litigation in Personal Information Protection

On July 30, 2021, the Guangdong Provincial Procuratorate released four typical cases of procuratorial public interest litigation in personal information protection in Guangdong Province. Case 1 involves the unauthorized installation and use of "face information recognition system" in the residential community, exposing the personal information of resident under the risk of acquisition and utilization by criminals; Case 2 refers to the disclosure of customers' account information by bank staff in business activities, which seriously infringes on the security rights and interests of customers' personal information; Case 3 refers to the market chaos of illegal collection and utilization of consumers' face recognition information; and Case 4 involves the illegal acquisition and sale of citizens' personal information on the Internet to the detriment of public interests. ([More](#))

山东省人大常委会审议《山东省大数据发展促进条例（草案）》

2021年7月27日，山东省十三届人大常委会第二十九次会议对《山东省大数据发展促进条例（草案）》（“《条例（草案）》”）进行审议。从数据资源的利用角度，《条例（草案）》规定了数据资源统筹管理行政主体；划分了公共数据和非公共数据，并进行一体规范；规定数据资源实行目录管理，并编制“三个清单”。从数据安全角度，《条例（草案）》规定，实行数据安全责任制，数据安全责任按照谁采集谁负责、谁持有谁负责、谁管理谁负责、谁使用谁负责的原则确定；明确网信、公安等部门的数据安全监管主体责任；明确自然人、法人和其他组织开展涉及个人信息的数据活动时，提出不得泄露、篡改或者非法提供涉及个人信息的数据、不得过度处理等要求。（[查看更多](#)）

The Standing Committee of the Shandong NPC Reviews the *Shandong Provincial Regulations on Promoting Big Data Development (Draft)*

On July 27, 2021, the 29th meeting of the 13th Standing Committee of the NPC of Shandong Province deliberated the *Shandong Provincial Regulations on Promoting Big Data Development (Draft)* (the “*Draft of Regulations*”). From the perspective of the utilization of data resources, the *Draft of Regulations* stipulate the administrative subjects of the overall management of data resources; divide public and non-public data, and make an integration of data regulation; stipulate the catalog management of data resources, and compile "three lists". From the perspective of data security, the *Draft of Regulations* stipulate to implement the data security responsibility system in which the data security responsibility shall be determined according to the principle of “who collects is responsible, who holds is responsible, who manages is responsible, and who uses is responsible”; clarify the main responsibility of data security supervision of the departments of cyber and information and public security; and prohibit individuals, legal persons and other organizations from leaking, tampering with or illegally providing data involving personal information and overprocessing these data when engaging in data practices involving personal information. ([More](#))

卢森堡数据保护局因违反GDPR对亚马逊处以巨额罚款

2021年7月30日，据报道，卢森堡数据保护局（“CNPD”）宣布亚马逊违反了欧洲《通用数据保护条例》（“GDPR”），CNPD最终按照亚马逊全球收入的4%，对其处以8.87亿美元的巨额罚款。亚马逊此次直接受到顶格罚款，并创下罚款纪录，这也是GDPR正式实施以来的最高罚款数额。CNPD裁决源于一家法国隐私组织在2018年提起的一项集体诉讼，其指控亚马逊在未经用户同意的情况下处理数据。根据GDPR，所有公司在处理欧盟公民数据时都必须获得用户的事先同意，否则将不能收集和处理。处罚决定均由CNPD一手作出，因亚马逊的欧盟总部位于卢森堡。（[查看更多](#)）

CNPD Imposes a Huge fine on Amazon for Non-complying with GDPR

On July 30, 2021, as reported, the Luxembourg Data Protection Agency (“CNPD”) announced Amazon had interfered with the EU General Data Protection Regulation (“GDPR”), for this reason, the CNPD issued a huge fine to Amazon, calculating 4% of Amazon’s total global revenue, it fined Amazon \$887 million. And this wave of Amazon was directly subject to the highest ceiling fines and therefore set a record of fines. This is also the highest amount of fines officially implemented by the GDPR. The source of this ruling came from a collective legal action initiated by a French privacy organization in 2018, which accused Amazon of processing data without user consent. According to the GDPR, all companies must obtain the user’s prior consent when processing EU citizen data, otherwise, the data will neither be collected nor processed. All of this was decided by Luxembourg because Amazon’s EU headquarters is located in Luxembourg. ([More](#))

EDPB要求爱尔兰监管机构就WhatsApp隐私案作出最终决定

2021年7月28日，欧洲数据保护委员会（“EDPB”）发布公告称，在最近一次全体会议上，EDPB根据GDPR第65条通过了一个争端解决决定，这一具有约束力的决定旨在处理作为主要监管机构的爱尔兰监管机构和其他有关监管机构就前者对WhatsApp爱尔兰有限公司作出的决定草案所未达成的共识。此前，爱尔兰监管机构主动就WhatsApp爱尔兰有限公司是否遵守GDPR第12、13和14条规定的透明度义务进行了调查后，发布了决定草案。其他监管机构对该草案提出了反对意见，其中包括认定违反GDPR的行为、相关的特定数据是否被视为个人数据及其后果、以及预设救济措施的适当性。爱尔兰监管机构未采纳其他监管机构的反对意见，其将这些反对意见递交给EDPB，由此启动了本争议解决程序。EDPB决定，爱尔兰监管机构应最迟在EDPB通知其决定后一个月内，在EDPB决定的基础上通过其最终决定，并致函数据控制者（WhatsApp IE），不得无故拖延。（[查看更多](#)）

EDPB Requires IE SA to Adopt the Final Decision Regarding WhatsApp Ireland

On July 28, 2021, the European Data Protection Board (“EDPB”) issued a circular stating that, during its latest plenary session, the EDPB adopted a dispute resolution decision on the basis of Art. 65 GDPR. The binding decision seeks to address the lack of consensus on certain aspects of a draft decision issued by the Irish (IE) SA as lead supervisory authority regarding WhatsApp Ireland Ltd. (“WhatsApp IE”) and the subsequent objections expressed by a number of concerned supervisory authorities (“CSAs”).

Previously, the IE SA issued the draft decision following an own-volition inquiry into WhatsApp IE, concerning whether WhatsApp IE complied with its transparency obligations pursuant to Art. 12, 13 & 14 GDPR. The CSAs subsequently issued objections concerning, among others, the identified infringements of the GDPR, whether specific data at stake were to be considered personal data and the consequences thereof, and the appropriateness of the envisaged corrective measures. The IE SA was unable to reach consensus, having considered the objections of the CSAs, and consequently indicated to the Board it would not follow the objections. Accordingly, the IE SA referred them to the EDPB for determination, thereby initiating the dispute resolution procedure. The EDPB requires the IE SA shall adopt its final decision, addressed to the controller, on the basis of the EDPB decision, without undue delay and at the latest one month after the EDPB has notified its decision. ([More](#))

俄罗斯因违反数据本地化对WhatsApp提起诉讼

2021年7月31日，据报道，俄罗斯针对Facebook旗下WhatsApp提起行政诉讼，因其未能将俄罗斯用户数据进行本地化。此前一天，俄罗斯一法院就因谷歌违法个人数据立法对其罚款4百万卢布，并基于相同原因对Facebook和Twitter开启行政诉讼。这些案件是俄罗斯和科技巨头之间斡旋的冰山一角，俄罗斯经常因社交媒体巨头未能删除被禁内容而对其罚款，并试图迫使外国科技公司在俄罗斯开设办事处。根据法庭文件，WhatsApp可能被罚款100万至600万卢布。（[查看更多](#)）

Russia Brings a Litigation on WhatsApp in Violation of Data Localization

On July 31, 2021, Russia launched administrative proceedings against Facebook's WhatsApp for a failure to localize data of Russian users on Russian territory, as reported. A day earlier, a Russian court fined Google 3 million roubles for violating personal data legislation and registered administrative proceedings against Facebook and Twitter for the same offence. The cases are part of a wider spat between Russia and Big Tech, with Moscow routinely fining social media giants for failing to remove banned content and seeking to compel foreign tech firms to open offices in Russia. WhatsApp could be fined between 1 million and 6 million roubles according to the court documents. ([More](#))

美众议院提出新的《儿童隐私保护法案》

2021年7月29日，美国众议员凯西·卡斯特（Kathy Castor）提出了更新的《儿童隐私保护法案》，以强化《儿童在线隐私保护法案》（“COPPA”）。此法案以COPPA的优势为基础，扩大了对儿童和青少年的隐私保护，并采纳英国的《适龄设计规范》的关键要素，具体包括：禁止企业向儿童及青少年投放定向广告；将儿童和青少年的最佳利益作为设计的首要考量因素；处理未成年（18周岁以下）的信息前获得“选择加入”的单独同意；扩展信息保护类型；提供用户友好的隐私政策；要求进行隐私和安全影响评估；限制向第三方进行信息披露等等。（[查看更多](#)）

The U.S House of Representatives Introduces the Updated “Kids PRIVCY Act”

On July 29, 2021, U.S. Rep. Kathy Castor introduced the updated “Kids PRIVCY Act” to strengthen the Children’s Online Privacy Protection Act (“COPPA”). The bill builds on COPPA’s strengths and expands privacy protections for children and teenagers, and incorporates key elements of the UK’s Age-Appropriate Design Code, including a ban on companies from providing targeted advertisements to children and teenagers, direction to operators to make the best interests of children and teenagers a primary design consideration, a requirement for opt-in consent for all individuals under 18, an expansion of protecting types of information, a requirement for user-friendly privacy policies, a requirement for a privacy and security impact assessment, and a limit on disclosure to third parties, etc.. ([More](#))

美参议院发布《数据安全法案》

2021年7月27日，美国参议员提出了《建立美国框架以确保数据访问、透明度和问责法案》（“《数据安全法案》”），该法案将为美国人提供更多的数据选择和控制权，并指导企业在数据操作中更加透明和更加负责。该法案还将加强联邦贸易委员会（“FTC”）的权力，并提供额外资源来执行该法案。该法案是在美国网络攻击和数据泄露盛行并影响在线数据安全的背景下提出的，旨在让美国人能够控制“虚拟自我”和在企业的收集和使用信息过程中拥有更大的话语权。《数据安全法案》主要包括三大方面和若干具体措施，即通过允许用户访问、更正、删除和迁移其数据等措施为美国人提供更多的对其数据的选择和控制权；通过要求企业对高风险数据处理活动进行隐私影响评估等措施增强企业数据操作的透明度和主体责任；通过授权FTC新规则制定权来扩大敏感数据种类等措施加强FTC对技术潜在有害变化的反应能力，并让企业对滥用消费者数据行为负责。（[查看更多](#)）

The U.S Senate Introduces the SAFE DATA Act

On July 27, 2021, the U.S. Senators introduced the *Setting an American Framework to Ensure Data Access, Transparency, and Accountability Act* (“SAFE DATA Act”). The legislation would provide Americans with more choice and control over their data and direct businesses to be more transparent and accountable for their data practices. The bill would also enhance the Federal Trade Commission’s (“FTC”) authority and provide additional resources to enforce the Act. The bill was introduced in the context of prevailing cyberattacks and data leaks in the US affecting online data security, which aims at let the Americans be able to control their “virtual you” and give Americans a larger say in how companies are collecting and using their information. The SAFE DATA Act mainly includes three aspects and several specific measures, including providing Americans with more choice and control over their data by requiring businesses to allow consumers to access, correct, delete, and port their data, etc.; directing businesses to be more transparent and accountable for their data practices by requiring businesses to conduct privacy impact assessments of data processing activities that may present a heightened risk of harm to consumers, etc.; strengthening the FTC’s ability to respond to potentially harmful changes in technology and hold businesses accountable for misusing consumers’ data by authorizing the FTC to develop new rules to expand categories of sensitive data, etc. ([More](#))

EDPS就申根评估发表意见

2021年7月27日，欧盟数据保护委员会（“EDPS”）就欧盟委员会提议的条例发表意见，该条例旨在建立一种评价和检测机制，以核实与“申根协定”有关的权利和义务是否被落实（“申根评估”）。申根地区包含多数欧盟成员国和个别非成员国，旨在加强数百万人的迁徙自由，其中包含诸如边境管理、申根签证、数据保护等措施。委员会的议案废除了欧盟1053/2013号条例，并确立了简化申根评估程序以提高效率等目标。EDPS表示，基本权利保护是“申根协定”的基石，其中便包含个人数据保护。其建议，改革后的“申根评估”应继续提供由数据保护专家专门进行的数据保护评估；同时，拟议条例还应界定参与“申根评估”的欧盟机构的角色和责任，以确保法律确定性和EDPS在此背景下执行监督任务的独立性。（[查看更多](#)）

EDPS Publishes Opinions on Schengen Evaluations

On 27 July 2021, the European Data Protection Supervision (“EDPS”) published his Opinion on the European Commission’s proposed Regulation establishing an evaluation and monitoring mechanism to verify whether the rights and obligations related to Schengen are applied (“Schengen evaluations”). The Schengen area includes most EU Member States and several non-EU countries, and enhances the freedom of movement for millions of individuals, which include measures on border management, the Schengen visa and data protection, for example. The Commission’s proposal, repealing Regulation (EU) 1053/2013, has several objectives, such as streamlining the verification procedures of the Schengen evaluations to increase their effectiveness and efficiency. The EDPS suggests the one of Schengen’s key building blocks is the protection of fundamental rights, including the protection of personal data. And he recommends that the Schengen evaluations should continue to provide for evaluations dedicated to data protection, carried out by data protection experts, and the proposed Regulation should also demarcate the roles and responsibilities of the EUIs involved in the Schengen evaluations to ensure legal certainty, as well as guaranteeing the EDPS’ independence when he performs his supervisory tasks in this context. ([More](#))

澳大利亚数据保护机构认定优步（Uber）侵犯个人隐私

2021年7月23日，澳大利亚信息委员办公室（“OAIC”）认定优步公司（“Uber”）侵犯了约120万澳大利亚人的隐私。其发现，优步未能适当保护澳大利亚客户和司机的个人数据，这些数据在2016年的一次网络攻击中被获取。尽管优步要求攻击者销毁数据而且没有证据表明存在进一步滥用数据情况，但OAIC的调查侧重于优步是否有预防措施来保护澳大利亚人数据。经调查，优步公司未采取合理措施保护澳大利亚人的个人信息不受未经授权的访问，也未按要求销毁或脱敏数据，因而违反了《1988年隐私法案》；其也未采取合理行动、程序和制度，以确保遵守《澳大利亚隐私原则》。此事还引发了澳大利亚隐私法下跨国公司责任问题，这些公司将澳大利亚人的个人信息处理外包给其公司集团内的其他公司。在本案中，澳大利亚的个人数据在一个外包安排下被直接传输至一个美国本土服务器上，且该美国公司声称不受《1988年隐私法案》管辖。OAIC认为，澳大利亚人在向公司提供个人信息时，即使将个人信息转移到公司集团

内，也需要保证他们受到《1988年隐私法案》的保护。OAIC发布两项命令要求优步进行整改。
([查看更多](#))

Uber Found to Have Interfered With Privacy by OAIC

On July 23, 2021, the Office of the Australian Information Commissioner (“OAIC”) has determined that Uber Technologies, Inc. and Uber B.V. interfered with the privacy of an estimated 1.2 million Australians. It found the Uber companies failed to appropriately protect the personal data of Australian customers and drivers, which was accessed in a cyber attack in 2016. While Uber required the attackers to destroy the data and there was no evidence of further misuse, the investigation by OAIC focused on whether Uber had preventative measures in place to protect Australians’ data. OAIC found the Uber companies breached the Privacy Act 1988 by not taking reasonable steps to protect Australians’ personal information from unauthorised access and to destroy or de-identify the data as required. They also failed to take reasonable steps to implement practices, procedures and systems to ensure compliance with the Australian Privacy Principles. The matter also raises complex issues around the application of the Privacy Act to overseas-based companies that outsource the handling of Australians’ personal information to other companies within their corporate group. In this case, Australians’ personal information had been directly transferred to servers in the United States under an outsourcing arrangement, and the US-based company argued it was not subject to the Privacy Act. While, OAIC consists that Australians need assurance that they are protected by the Privacy Act when they provide personal information to a company, even if it is transferred overseas within the corporate group. OAIC issued two measures to order Uber make rectification. ([More](#))

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