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## 立方要闻周报

### Weekly News By Lifang & Partners NO.13

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## 知识产权 Intellectual Property

### 中国知局无效审理部：“扫一扫”专利有效

2021年10月11日，国家知识产权局公布三份“无效宣告请求审查决定书”。决定书宣布，对无效宣告请求人支付宝（中国）网络技术有限公司、苹果电子产品商贸（北京）有限公司、上海荣泰健康科技股份有限公司等三家公司，向国家知识产权局就徐蔚发明的“扫一扫”专利、权利人发码行实业（上海）有限公司、国家知识产权局授权的“采用条形码图像进行通讯的方法、装置和移动终端”（“扫一扫”）专利，提出的“无效宣告请求”进行了审查，经国家知识产权局无效审理部复审，2021年09月28日决定维持该专利权有效。

来源：[国知局复审和无效审理部](#)

### Patent Reexamination and Invalidation department of CNIPA: the patent of “Having a scan” is valid.

On October 11, 2021, CNIPA published three "Decisions on Examination of Request for invalidation". It was announced in the decisions that, the application for invalidation of the patent of “Method, device and mobile terminal for performing communication by adopting barcode image” (“Having a scan”), invented by Xu Wei, the patentee of which is Code Center Co. Ltd., requested by Alipay (China) Network Technology Co., Ltd., Apple Electronics Trading (Beijing) Co., Ltd. and Shanghai Rongtai Health Technology Corporation Limited, has been examined by CINPA. After examination of the Patent Reexamination and Invalidation department of CNIPA, it was decided to keep the patent right valid on September 28, 2021.

Source: [Patent Reexamination and Invalidation department of CNIPA](#)

### 科创板“锂电专利第一案”一审宣判

科创板锂电专利第一案迎来阶段性结果。容百科技2021年10月9日公告称，公司9月30日收到浙江省宁波市中级人民法院签发的《民事判决书》显示，尤米科尔公司（UMICORE）针对容百科技提起的“镍钴锰酸锂S6503”产品专利侵权诉讼，判决容百科技一审胜诉。这意味着，容百科技或将无需支付合计约6203.35万元的涉案费用。

来源：[上海证券报](#)

### The first-instance judgment of “the first case of lithium battery patent” in science and technology innovation board was pronounced.

The first case of lithium battery patent in science and technology innovation board ushered in a phased result. On October 9, 2021, Rongbai Technology announced that the Civil Judgment issued by Ningbo Intermediate People's Court on September 30, 2021, showed that UMICORE filed a lawsuit against Rongbai Technology for patent infringement of "lithium nickel cobalt manganate S6503", and ruled that Rongbai Technology won the first instance. It means that, Rongbai Technology may not need to pay the total costs of about 62.0335 million yuan involved in this case.

Source: Shanghai Securities News

### 主播未经著作权人许可演唱《小跳蛙》，斗鱼直播平台被判赔4.1万元

在未经著作权方授权的情况下，三年间，“冯提莫”等12名主播在斗鱼直播间演唱歌曲《小跳蛙》共计59次，直播平台也因此遭到歌曲的著作权人起诉。近日，北京知识产权法院审结上诉人武汉斗鱼网络科技有限公司与被上诉人北京麒麟童文化传播有限责任公司侵害著作权纠纷一案，判决撤销一审判决书，改判斗鱼公司赔偿麒麟童公司经济损失2.9万元及合理开支1.2万元。

来源：北京日报

### DouYu platform was ordered to pay a compensation of 41,000 yuan for the anchors of it sang "Little Jumping Frog" without the permission of the copyright owner.

Without the authorization of the copyright owner, 12 anchors such as "Timo Feng" sang the song "Little Jumping Frog" for 59 times in the DouYu Live Room in three years, and the live broadcast platform was sued by the copyright owner of the song. Recently, Beijing Intellectual Property Court concluded the case of copyright infringement dispute between Wuhan DouYu Network Technology Co., Ltd., the appellant, and Beijing Qilintong Culture Communication Co., Ltd., the appellee, and ruled that the first-instance judgment was revoked, and DouYu Company was ordered to compensate Qilintong Company for economic losses of 29,000 yuan and reasonable expenses of 12,000 yuan.

Source: Beijing Daily

### 长江存储与Xperi达成3D NAND技术专利许可

Xperi公司于2021年10月12日宣布，该公司已与长江存储签署了一项许可协议，该协议包括长江存储获得与Xperi的DBI混合键合技术相关的半导体知识产权的基础组合，以用于其3D NAND产品之中。据Xperi介绍，混合键合3D集成技术越来越多地用于各种半导体器件，例如传感器、存储器和逻辑器件，以增强性能和功能，同时减小尺寸和成本。在3D NAND应用中，DBI混合键合技术能够分解存储器阵列和逻辑电路，从而为每个应用提供最佳的晶圆工艺节点。

来源：Xperi

### Changjiang Storage and Xperi reached a patent license for 3D NAND technology.

Xperi announced on October 12, 2021 that it had signed a license agreement with Changjiang Storage, which included that Changjiang Storage would get a basic combination of semiconductor intellectual property rights related to Xperi's DBI hybrid bonding technology for use in Changjiang Storage's 3D NAND products. Xperi introduced that hybrid bonding 3D integration technology is increasingly widely used in various semiconductor devices such as sensors, memories and logic devices, to enhance performance and functionality while reducing size and cost. In 3D NAND applications, DBI hybrid bonding technology can decompose memory array and logic circuit, thus providing the best wafer process node for each application.

Source: Xperi

### “电子烟第一股”思摩尔在美提起“337调查”

2021年10月14日，思摩尔国际方面对《每日经济新闻》记者透露，公司日前已向美国国际贸易委员会（ITC）提起了“337调查”申请，指控美国、加拿大等地38家企业及个人侵犯其专利及商标权，请求ITC发布排除令和禁止令。这是中国企业首次独立作为原告通过“337调查”程序主动起诉海外企业。

来源：每日经济新闻

### "The first stock of e-cigarette", Smoore, filed a "337 investigation" in the United States.

On October 14, 2021, Smoore International revealed to the reporter of National Business Daily that the company had recently filed an application for "337 investigation" to the International Trade Commission (ITC) of the United States, accusing 38 enterprises and individuals in the United States, Canada and other places of infringing their patents and trademark rights, and requesting ITC to issue an exclusion order and injunction. This is the first time that a Chinese enterprise independently sued an overseas enterprise through the "337 investigation" procedure as a plaintiff.

Source: National Business Daily

### 亚马逊涉嫌利用平台数据来取得不正当竞争优势

据路透社援引内部文件报道，亚马逊在印度的自营团队涉嫌通过数据比对，“复制”生产其他商家的产品，并通过操纵搜索顺序促进这些产品的销售。至少有两名公司高管审阅过这项策略。目前亚马逊在美国、欧盟和印度都面临反垄断调查。

来源：同花顺财经

### Amazon is suspected of using platform data to gain unfair competitive advantage.

According to internal documents quoted by Reuters, Amazon's self-operated team in India is suspected of "copying" the products of other businesses through data comparison, and promoting the sales of these products by manipulating the search sequence. At least two company executives have reviewed this strategy. At present, Amazon is facing antitrust investigations in the United States, the European Union and India.

Source: Tonghuashun Finance

### 韩国国会通过专利法、商标法和外观设计保护法修正案

为了纠正申请人的错误并扩大其获得知识产权的机会，韩国国会通过了专利法、商标法和外观设计保护法修正案：

- 1、（通用）延长请求就驳回决定作出审理的期限，放宽请求恢复由于未提交文件或未支付费用而导致失效的权利的要求等。
- 2、（专利）仅就可以注册的部分建立单独的申请系统，即使驳回决定仍被维持。
- 3、（商标 / 外观设计）审查员依职权引入复审制度等。

修订后的法案预计在10月颁布，颁布6个月后开始执行。

来源: [www.kipo.go.kr](http://www.kipo.go.kr)

### **The Korean National Assembly passed amendments to the Patent Law, Trademark Law and Design Protection Law.**

In order to correct the applicant's mistakes and expand his access to intellectual property rights, the Korean National Assembly passed amendments to the Patent Law, Trademark Law and Design Protection Law:

1. (General) Extend the time limit for requesting to hear the rejection decision, and relax the requirements for requesting to restore the invalid rights due to non-submission of documents or non-payment of fees, etc.
2. (Patent) Establish a separate application system only for the part that can be registered, even if the rejection decision is still maintained.
3. (Trademark/Design) The examiner introduces the reexamination system ex officio.

The revised laws are expected to be promulgated in October, and will be implemented six months later.

Source: [www.kipo.go.kr](http://www.kipo.go.kr)

### **日本制铁起诉中国宝钢、丰田侵犯电动车专利侵权**

日本制铁公司（Nippon Steel Corp.）在2021年10月14日公布的一份声明中称，已向东京地方法院起诉丰田汽车和中国宝山钢铁有限公司专利侵权，日本制铁声称这两家公司侵犯了其在电动汽车上使用的无取向电工钢板的专利，要求两被告赔偿200亿日元（合计1.76亿美元）。此外，日本制铁还向法院提交了一份初步禁令，要求禁止丰田公司生产和销售据称侵犯其专利的电动汽车。

来源: [Nippon Steel Corporation](http://Nippon Steel Corporation)

### **Nippon Steel Corp. sued China Baosteel and Toyota for patent infringement.**

In a statement released on October 14, 2021, Nippon Steel Corp. said that it had sued Toyota and China Baosteel co., ltd. in Tokyo district court for patent infringement. Nippon steel Corp. claimed that the two companies infringed its patent for non-oriented electrical steel plates used in electric vehicles, and demanded compensation of 20 billion yen (totaling 176 million dollars) from the two defendants. In addition, Nippon Steel Corp. also submitted a preliminary injunction request to the court, demanding that Toyota should be prohibited from producing and selling electric vehicles that allegedly infringed its patent.

Source: Nippon Steel Corporation.

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

### 工信部加大整治力度，96款APP被下架，涉驴妈妈、喜茶GO等

据工信部网站15日消息，近期，工信部组织各省通信管理局，持续推进APP侵害用户权益专项整治行动，加大常态化检查力度。国庆前夕，重点对假日出行、民生服务类APP进行检测，并对未按要求完成整改的进行了公开通报。截至目前，尚有96款APP未按时限要求完成整改。此外，检测发现字节跳动“穿山甲”SDK、腾讯“优量汇”SDK、快手广告SDK问题较多，分别占问题总量比例的37.4%、29.9%、8.0%。

依据《网络安全法》等法律要求，工信部组织对上述96款APP进行下架，后续工信部将对反复出现问题的SDK依法从严处理。（[查看更多](#)）

### MIIT Requires 96 Apps to be Removed from the App Stores, Including the Lvma-ma, HEYTEA GO, Etc.

On October 15, the website of Ministry of Industry and Information Technology of the Peoples Republic of China (MIIT) published a news release saying that MIIT recently organized various provincial communications administrations to continuously promote rectification actions for APP infringement of users' rights and interests, and intensify regular inspections. On the eve of National Day, MIIT mainly inspected APPs related to holiday travel and people's livelihood service, and publicly notified those who failed to complete rectification as required. Up to now, there are still 96 APPs that have not completed the rectification within the time limit. In addition, it was found through the inspection that there were many problems with the Bytedance's "Pangolin" SDK, Tencent's "Youlianghui" SDK, and Kuaishou's Advertising SDKs, which accounted for 37.4%, 29.9%, and 8.0% of the total number of problems, respectively.

According to the *Cybersecurity Law* and other legislations, MIIT requires the 96 APPs mentioned above to be removed from the App Stores and will strictly deal with SDKs that have recurring problems in accordance with the laws in the future. ([More](#))

### 被人民网点名，富途、老虎证券紧急回应个人信息出境问题

10月15日上午，人民网撰文称，《个人信息保护法》实施在即，内地公民的个人信息出境问题或将成为跨境互联网券商的新考验。

文章指出，个人信息保护法的出台，对境内投资者数据跨境传输及使用提出了更高的合规性要求。因此，富途、老虎等跨境互联网券商在用户信息安全以及合法化、合规化方面存在风险。

随后，富途集团紧急回应，公司自成立以来就坚持用户数据安全是重中之重，一直严格遵守和践行相关法律法规，未来也会积极配合监管部门，努力并持续做好用户信息安全工作。老虎证券晚间亦做出回应称，2019年7月，集团在收到App专项治理工作组发出的意见后，立即成立特别行动小组，并已于2019年8月17日按照要求完成所有工作。（[查看更多](#)）

## **Futu and Tiger Securities Responded Urgently to the Issue of the Cross-border Transfer of Personal Information after being Mentioned by People.cn**

On October 15, an article by People.cn stated that the *Personal Information Protection Law (PIPL)* is coming into effect, and the issue of the cross-border transfer of the personal information of mainland citizens may become a new challenge for cross-border Internet stockbrokers. The article pointed out that the *PIPL* puts forward higher compliance requirements for the cross-border transfer and the use of domestic investors' data. Therefore, cross-border Internet stockbrokers such as Futu and Tiger Securities face risks in terms of user information security and legalization and compliance.

Subsequently, Futu responded immediately that since its establishment, it has insisted that user data security is the top priority, and it has been strictly abiding relevant laws and regulations. In the future, it will actively cooperate with regulatory authorities, and continue to ensure user information security. Tiger Securities also responded in the evening, stating that it had already established a special action group in July 2019 after receiving the opinions issued by the Personal Information Protection Task Force on Apps, and had completed all the work as required on August 17, 2019. ([More](#))

## **北京高院对字节跳动诉微梦创科设置唯一黑名单限制字节跳动公司抓取相关网页内容不正当竞争案作出二审判决**

2021年10月15日北京高院发布字节跳动公司诉微梦创科公司设置唯一黑名单限制字节跳动公司抓取相关网页内容被诉不正当竞争案二审判决书，认为微梦创科公司是在行使企业自主经营权范畴内的正当行为，并不构成不正当竞争，遂撤销一审判决。

源起：

2017年，字节跳动公司诉称，微梦创科公司出于恶意限制竞争的不正当目的，阻止字节跳动公司的网络机器人（ToutiaoSpider）抓取m.weibo.cn网站中对公众和其他所有网络机器人完全公开并可以自由访问的网站内容.....遂其向微梦创科公司索赔1亿元，并要求其停止不正当竞争等。（[查看更多](#)）

## **Beijing High People's Court Issued a Second-Instance Judgment for the Unfair Competition Case filed by ByteDance against Weibo Corp**

On October 15, 2021, Beijing High People's Court ("BHPC") made a second-instance judgment for the unfair competition case filed by *Bytedance against Weibo Corp* for Weibo's setting up a unique blacklist to restrict Bytedance from Crawling relevant web content. The court holds that Weibo's behaviour is a legitimate act within the scope of exercising its independent management right, and did not constitute unfair competition. Therefore, the first-instance judgment was revoked.



#### Background:

In 2017, ByteDance sued Weibo Corp, stating that Weibo Corp had prevented ByteDance's ToutiaoSpider from extracting the content of the website m.weibo.cn, which is fully open and freely accessible to the public and all other web robots, for the improper purpose of maliciously restricting competition. Therefore, it claimed a compensation of 100 million yuan from Weibo Corp and asks Weibo Corp to stop unfair competition, etc. ([More](#))

### 北京市网信办依法约谈处罚“金山毒霸”

10月15日，在国家互联网信息办公室指导下，北京市网信办针对“金山毒霸”应用软件弹窗推送诋毁革命烈士邱少云内容问题，依法严肃约谈“金山毒霸”主办方北京猎豹网络科技有限公司负责人，责令立即停止违法行为，暂停弹窗信息推送功能30日，进行全面深入整改。北京市网信办依据《中华人民共和国英雄烈士保护法》《中华人民共和国网络安全法》对“金山毒霸”应用软件违法行为进行行政立案处罚。“金山毒霸”网站负责人表示，将严格遵守国家相关法律法规，全面深入落实整改，认真履行主体责任，维护清朗网络空间。 ([查看更多](#))

### Cyberspace Administration of Beijing Admonished and Punished the "Kingsoft Antivirus"

On October 15, under the guidance of Cyberspace Administration of China(CAC), Cyberspace Administration of Beijing admonished the organizer of "Kingsoft Antivirus", Beijing Cheetah Network Technology Co. Ltd., in accordance with the law on the issue of the "Kingsoft Antivirus" app pop-up window pushing content that slandered the revolutionary martyr Qiu Shaoyun, and ordered it to immediately stop the illegal behavior, suspend the pop-up information pushing function for 30 days, and carry out comprehensive and in-depth rectification.

According to the *Protection of Heroes and Martyrs Law* and *Network Security Law*, the CAB imposed administrative penalties on the illegal acts of Kingsoft Antivirus. The person in charge of the website of Kingsoft Antivirus said that they will strictly comply with the relevant laws and regulations, fully implement the rectification, and seriously fulfill its main responsibility to maintain a clear cyberspace. ([More](#))

### 我国9省市出台大数据发展相关条例

随着数字经济的发展，数据作为新型生产要素，正深刻影响着国家经济社会的发展。为加强数据安全保护和监督管理制度建设，据报道，目前，天津、安徽、山东、海南、贵州等9个省市出台了与“数据发展”相关的条例（包括大数据条例、数据条例）。 ([查看更多](#))

### Nine Provinces Issued Regulations Related to The Development of Big Data

With the development of the digital economy, data, as a new type of production factors, is profoundly affecting the country's economic and social development. In order to strengthen data security protection and the construction of supervision and management system, it was reported that, at present, 9 provinces

including Tianjin, Anhui, Shandong, Hainan, Guizhou ,etc. have issued regulations related to data development. ([More](#))

## 2亿余条公民个人信息被非法买卖，泰州警方捣毁一犯罪团伙，抓获13人。

网络便利大众的同时，也滋生出一些新型犯罪，不法分子利用技术手段窃取、买卖公民个人信息，严重侵害了群众利益。9月24日至9月29日，泰州姜堰警方通过缜密侦查，组织警力奔赴全国多地开展收网行动，成功捣毁了一个涉嫌侵犯公民个人信息的犯罪团伙，一举抓获犯罪嫌疑人13名。该团伙非法售卖的公民个人信息达2亿余条。 ([查看更多](#))

## Taizhou Police Destroyed a Criminal Gang and Arrested 13 People for Illegally Trading of Over 200 Million Pieces of Personal Information

While the network facilitates the public, it also breeds some new crimes. Some lawbreakers use technical means to steal, buy and sell citizens' personal information, seriously infringing on the interests of the public. On September 24 to September 29, Taizhou Jiangyan police, through meticulous investigations and police operations across the country, successfully destroyed a criminal gang suspected of infringing on citizens' personal information, and arrested 13 criminal suspects. The gang illegally sold more than 200 million pieces of personal information of citizens. ([More](#))

## 挪威数据保护局：费尔德公司被罚款

挪威数据保护局通过挪威国家广播公司的一篇新闻报道了解到，费尔德公司将与通过收费站的车辆有关的数据传输给了中国的一个数据处理机构。

在此基础上，数据保护局开始调查费尔德公司是否建立了一定的流程并采取措施来确保向中国转移的数据的安全。

数据保护局的结论是，费尔德公司在一到两年内违反了该组织在《通用数据保护条例》(GDPR)下的若干基本责任。其中包括，他们没有将个人数据转移到中国的有效依据。

挪威数据保护局已对挪威收费公司Ferde AS罚款约50万欧元。 ([查看更多](#))

## The Norwegian Data Protection Authority: Ferde AS Fined

Through a news report on the Norwegian national broadcaster, NRK, the Norwegian Data Protection Authority learned that Ferde AS transfers data related to vehicles passing through toll collection points to a data processor in China. On this basis, the Data Protection Authority initiated an investigation into whether Ferde has established routines and measures to ensure satisfactory information security for the data transferred to China.

The Data Protection Authority's conclusion is that Ferde AS has breached several of the organization's basic responsibilities under the *General Data Protection Regulation (GDPR)* over a period of 1–2 years. Among other things, they did not have a valid basis for transferring personal data to China.

The Norwegian Data Protection Authority has fined the Norwegian toll company Ferde AS appr. EUR 500,000.[\(More\)](#)

### 汉堡国家数据保护机构：对Vattenfall欧洲销售有限公司的处罚

Vattenfall欧洲销售有限公司（Vattenfall）提供带有新客户奖金的电力供应合同。为了查明新的承包商过去是否已经是Vattenfall的客户，该公司将新客户数据与之前的客户数据进行了比较，这些数据是根据税法和商法保存的。这种检查的目的是为了防止客户经常签订这种带有奖金的合同，以至于这种吸引新客户的举措对公司不再有利可图。

汉堡国家数据保护机构随后对Vattenfall处以901,388.84欧元的罚款。该违法行为并不是指数据处理本身，而是在于其未充分履行透明义务。Vattenfall已经接受了该罚款。[\(查看更多\)](#)

### Hamburg DPA: Penalty Against Vattenfall Europe Sales GmbH

Vattenfall Europe Sales GmbH (Vattenfall) offers electricity supply contracts with a new customer bonus. In order to find out whether new contractors had already been Vattenfall customers in the past, the company carried out comparisons with customer data from previous years, which had been stored according to tax and commercial law. This check was intended to prevent customers from concluding such bonus contracts so regularly that this offer to attract new customers was no longer profitable for the company.

The Hamburg DPA subsequently imposed a fine of EUR 901,388.84 on Vattenfall. The established illegality does not refer to the data processing per se, but is limited to the insufficiently fulfilled transparency obligations. Vattenfall has accepted the fine. [\(More\)](#)

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