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知识产权 **Intellectual Property**

国务院印发《“十四五”国家知识产权保护和运用规划》

国务院日前印发《“十四五”国家知识产权保护和运用规划》。《规划》明确了“十四五”时期开展知识产权工作的指导思想、基本原则、主要目标、重点任务和实施保障措施，对未来五年的知识产权工作进行了全面部署。《规划》从加强组织领导、鼓励探索创新、加大投入力度、狠抓工作落实等四个方面保障实施，确保目标任务落到实处。

来源：新华社

The State Council issued the National Plan for the Protection and Application of Intellectual Property Rights in the 14th Five-Year Plan

The State Council has recently issued *National Plan for the Protection and Application of Intellectual Property Rights in the 14th Five-Year Plan (The Plan)*. *The Plan* specifies the guiding ideology, basic principles, main objectives, key tasks and implementation safeguards for intellectual property work during the 14th Five-Year Plan period, and makes comprehensive arrangements for intellectual property work in the next five years. *The Plan* guarantees implementation in four areas, including strengthening organisational leadership, encouraging exploration and innovation, increasing investment, and ensuring the implementation of work, so as to ensure that the objectives and tasks are put into practice.

Source: IPR daily

最高法：加大知识产权侵权损害赔偿力度和对侵权行为惩治力度

10月29日，最高人民法院发布《关于加强新时代知识产权审判工作为知识产权强国建设提供有力司法服务和保障的意见》。《意见》从工作要求、公正司法、提升效能、深化改革四个方面，就全面加强新时代知识产权审判工作提出20条政策措施。明确提出，要依法适用惩罚性赔偿，加大知识产权侵权损害赔偿力度和对侵权行为惩治力度，及时有效阻遏侵权行为。

来源：中国保护知识产权网

Supreme Court: Increased Punitive Damages for IPR Infringement and Punishment for Infringement

On October 29, the Supreme People's Court issued *the Opinions on Strengthening Intellectual Property Judicial Work in the New Era to Provide Powerful Judicial Services and Protection for the Construction of a Strong Intellectual Property State (The Opinions)*. *The Opinions* put forward 20 measures on comprehensively strengthening intellectual property adjudication in the new era in four aspects: work requirements, fair administration of justice, enhancing effectiveness and deepening reform. It was clearly proposed that punitive damages shall be applied in accordance with the law, and that damages for IPR infringement and punishment for infringement shall be increased to deter infringement in a timely and effective manner.

Source: [China Network for the Protection of Intellectual Property Rights](#)

公司改名“字节跳动”，法院：属不正当竞争

深圳字节跳动电子科技有限公司（下称“深圳字节”）成立于2019年，原名深圳市满源浩电子商务有限公司，2020年3月18日变更为现有名称。这家公司自称北京字节跳动科技有限公司（下称“北京字节”）的关联公司，并开发、运营了“赏头条”App。

法院认为，北京字节的企业字号“字节跳动”具有较高知名度，在全国范围内为公众所熟知，深圳字节作为晚于北京字节成立的同行业者，理应知晓其知名度，并在经营过程中合理避让。但该公司仍以“字节跳动”作为企业字号，法院因此认定其具有明显的攀附商誉故意，极易引起公众混淆误认，构成不正当竞争。

来源：[深圳晚报](#)

The Company Changed its Name to "Byte Dance", Court: Unfair Competition

Shenzhen Byte Dance Electronic Technology Co., Ltd (hereinafter referred to as "Shenzhen Byte") was established in 2019, formerly known as Shenzhen Mangyuanhao Electronic Commerce Co. The company changed its name to its current name on 18 March 2020. This company claims to be an affiliate of Beijing Byte Dance Technology Co Ltd (hereinafter referred to as "Beijing Byte Dance"), and has developed the "Appreciate Headlines" app.

The court held that Beijing Byte Dance's corporate name "Byte Dance" was popular and well known to the public nationwide, and Shenzhen Byte, as a company established later than Beijing Byte Dance, shall have been aware of its popularity and reasonably avoided it in the course of its business. However, the company still used the name "Byte Dance" as its business name, and the court therefore found that it had an obvious intention to hitchhike the reputation of Bytedance, which was likely to cause confusion and misleading the public, and constituted unfair competition.

Source: [Shenzhen Evening Paper](#)

小红书对识季app的不正当竞争与商标侵权行为提起诉讼，索赔3000万

近日，小红书对识季app的不正当竞争与商标侵权行为提起诉讼，要求对方立刻停止侵权行为，刊登道歉声明，并赔偿经济损失3000万元，上海市浦东新区法院已正式受理诉讼。

小红书方面表示，识季app未经许可扒窃盗取小红书平台的图片，严重侵犯了小红书用户的著作权。同时，识季app将从小红书平台扒窃的图片放在自己app上，提升自身竞争优势，扰乱市场秩序，构成不正当竞争行为。

来源：[DoNews](#)

Little Red Book Files Lawsuit for ¥30 Million for Unfair Competition and Trademark Infringement Against the Shiji App

Recently, Little Red Book, the Chinese famous App, filed a lawsuit against the unfair competition and trademark infringement of the Shiji app, demanding that Shiji immediately stop the infringement, publish an apology statement, and compensate for economic losses of RMB 30 million, and the People's Court of Shanghai Pudong New District has accepted the lawsuit.

Little Red Book claimed that the Shiji had stolen images from the Little Red Book platform without permission, which seriously infringed on the copyright of Xiaohongshu users. At the same time, the app placed the stolen images from the X Little Red Book platform on its own app to enhance its competitive advantage and disrupt the market order, which constituted unfair competition.

Source: DoNews

杭州微念申请李子柒商标被全部驳回

近日，李子柒正式起诉杭州微念品牌管理有限公司，此外，该公司申请的李子柒商标均被驳回，商标流程状态变更为无效、等待驳回复审等，国际分类涉材料加工、餐饮住宿等。据悉，杭州微念公司成立于2013年2月，2019年12月起，该公司接连申请多个李子柒商标。此前，李子柒接受央视采访时表示：“李子柒这三个字，我是挺想保护它的，甚至我是不想让它以后有太高的所谓的商业价值。”

来源：快科技

Hangzhou Weinnian's Trademark Application for Li Ziqi, the name of the Chinese celebrity, was Rejected

Recently, Li Ziqi formally sued Hangzhou Weinnian Brand Management Co., Ltd. In addition, the company's trademark applications for Li Ziqi were all rejected. It is reported that Hangzhou Weinnian was established in February 2013, and since December 2019, the company has applied for several Li Ziqi trademarks. Previously, Li Ziqi said in an interview with CCTV: "I indeed want to protect the word Li Ziqi, although I do not want it to be a name with too much commercial value in the future."

Source: Fast Tech

苹果公司诉争商标被多次驳回，因与雪豹商标近似

近日，苹果公司与国家工商行政管理总局商标评审委员会二审行政判决书公开。此前，苹果公司申请注册第7022460号“SNOW LEOPARD”商标，被商标局驳回，驳回理由为申请商标与江苏雪豹日化有限公司在类似商品上已注册的第1353814号“雪豹”商标近似。苹果公司不服商标局驳回通知，向商标评审委员会提出复审申请，再次被驳回。随后，苹果公司向北京市第一中级人民法院提起诉讼，法院认为应维持商标评审委员会驳回决定。

苹果公司不服，向北京市高级人民法院提起上诉。该法院认为，苹果公司申请商标“SNOW LEOPARD”可译为中文“雪豹”，能够形成对应关系，申请商标与引证商标使用在相同或类似商品上，消费者易对商品来源产生混淆误认，且苹果公司未提交有效证据证明申请商标通过使用在我国已经获得了较高的知名度，不会造成消费者混淆误认。因此，法院不予支持。本案裁判结果为驳回上诉，维持原判，且为终审判决。

来源：[财经网](#)

Apple's Trademark was Repeatedly Rejected for Similarity to the Snow Leopard Trademark

Recently, an administrative judgment of the second instance between Apple and t CNIPA was made public.

Apple applied for registration of the trademark No. 7022460 "SNOW LEOPARD" in 2008, which was rejected by the Trademark Office on the grounds that the applied trademark was similar to No. 1353814 "SNOW LEOPARD" registered by Jiangsu Snow Leopard Daily Chemical Co. "Ltd. on similar goods.

Apple was not satisfied with the Trademark Office's decision, and filed an application for re-examination with the Trademark Review and Adjudication Board, which was again rejected. Subsequently, Apple filed a lawsuit with the Beijing No.1 Intermediate People's Court, which held that the decision of the Trademark Review and Adjudication Board to reject the trademark shall be upheld.

Apple appealed to the Beijing High People's Court. The court held that Apple's application for the trademark "SNOW LEOPARD" could be translated into Chinese as "雪豹", which could form a correspondence, and that the application for the trademark was used on the same or similar goods as the captioned trademark, which could easily cause confusion and misunderstanding between consumers and the source of the goods. In addition, Apple did not submit effective evidence to prove that the application had gained a high reputation in China through the use of the trademark, which may not cause confusion and misunderstanding among consumers. Therefore, the Court did not support the appeal. The result of this case was that the appeal was dismissed and the judgment was upheld, and the judgment was final.

Source: [Caijing.Com](#)

韩国知识产权局在专利复审中引入专业审查员制度

韩国知识产权局（KIPO）知识产权复审和上诉委员会宣布，从10月21日起开始实行专业审查员制度，具有专业知识和经验的民间技术专家将参与专利复审。专家审查员可根据主审查员的要求提出解释或意见，以澄清与在审专利说明书有关的问题。该系统实施后，主审查员在听证会上可能会采纳民间技术专家的中立观点，以帮助其快速准确地作出判断。

来源：[韩国知识产权局官网](#)

KIPO Introduces Professional Examiner System in Patent Re-examinations

The Intellectual Property Review and Appeal Board of the Korea Intellectual Property Office (KIPO) has announced the introduction of a specialist examiner system from 21 October, whereby private tech-

nical experts with specialist knowledge and experience will participate in patent reviews. The expert examiners can provide explanations or opinions at the request of the main examiner to clarify issues relating to the patent specification under examination. With the implementation of the system, the lead examiner may adopt the neutral viewpoint of the civil technical expert at the hearing to help him/her make a quick and accurate judgment.

Source: KIPO

脸书同意向法国媒体出版商支付内容使用费

2019年，法国成为欧盟首个颁布关于媒体公司与新闻机构出版权（邻接权）指令的国家。该指令要求大型科技平台与寻求报酬的出版商展开谈判。日前，脸书宣布与法国全国性和地方性报纸联盟——法国新闻总联盟（APIG）达成了许可协议，将为用户分享新闻出版商的内容付费。这意味着“人们可以继续的脸书上自由上传和分享新闻故事，与此同时，出版合作伙伴的版权也能受到保护”。

来源: Biztech news

Facebook Agrees to Pay French Media Publishers for Content Usage

In 2019, France became the first country in the EU to enact a directive on the right to publish (neighbouring rights) for media companies and news organisations. The directive requires large tech platforms to enter into negotiations with publishers seeking remuneration. Recently, Facebook announced that it had reached a licensing agreement with the Alliance générale de la presse (APIG), the French national and local newspaper union, to pay users for sharing the content of news publishers. This means that "people will continue to be able to upload and share news stories freely on Facebook, while at the same time protecting the copyright of publishing partners".

Source: Biztech news

捷豹和大众就豪华SUV的专利纠纷达成和解

捷豹路虎汽车就专利纠纷与大众汽车达成和解，解决了在美国和德国用于豪华运动型多功能车的技术诉讼，该技术降低了缺少经验的驾驶员的越野驾驶难度。这场纠纷始于2020年11月，当时捷豹要求美国国际贸易委员会（ITC）阻止对大众的保时捷、兰博基尼、奥迪和大众SUV的进口，因为它们涉嫌使用了捷豹的地势响应专利技术。捷豹还在新泽西州、特拉华州和弗吉尼亚州的联邦法院提起了专利侵权诉讼。该和解是在阻止进口大众汽车的纠纷被列入审理清单前一周达成的。然而，和解条款并未在提交给联邦法院和ITC的文件中披露。

来源: 中国保护知识产权网

Jaguar and Volkswagen settle patent dispute over luxury SUV

Jaguar Land Rover has settled a patent dispute with Volkswagen(VW), resolving a lawsuit over technology used in the US and Germany for luxury sport utility vehicles that made off-road driving less difficult for inexperienced drivers. The dispute began in November 2020 when Jaguar asked the US International Trade Commission (ITC) to block imports of VW's Porsche, Lamborghini, Audi and VW SUVs for allegedly using Jaguar's patented terrain response technology. Jaguar also filed patent infringement lawsuits in federal courts in New Jersey, Delaware and Virginia. The settlement was reached a week before the dispute to prevent the importation of VW vehicles was listed for trial. However, the terms of the settlement were not disclosed in documents filed with the federal court and the ITC.

Source: Intellectual Property Protection in China

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

《个人信息保护法》正式实施，中消协提示：未经消费者同意经营者不得推送商业信息

作为一部保护公民个人信息的专门法律，11月1日，《个人信息保护法》正式实施。10月28日，中消协发布提示：未经消费者同意，经营者不得向消费者推送商业信息；小区物业、经营场所不能将人脸识别作为出入的唯一验证方式；快递单据等带有个人信息的单据和资料，使用完后应及时销毁，或是涂抹掉关键信息后再丢弃。（[查看更多](#)）

With the implementation of PIPL, CCA reminds that without the consent of consumers, operators should not push commercial information

As a special law to protect citizens' personal information, the Personal Information Protection Law (PIPL) has been formally implemented since November 1. On October 28, China Consumers Association (CCA) issued a reminder: without consumers' consent, operators should not push commercial information to consumers; residential property companies and business premises cannot use face recognition as the only way to verify access; courier documents and other documents with personal information should be destroyed in time after use, or discarded after erasing key information. ([More](#))

国家网信办就《互联网用户账号名称信息管理规定》征求意见

10月26日，为了规范对互联网用户账号名称信息的管理，保障公民、法人和其他组织的合法权益，维护良好网络生态，营造清朗网络空间，根据《中华人民共和国网络安全法》《中华人民共和国个人信息保护法》《互联网信息服务管理办法》《网络信息内容生态治理规定》等法律法规和国家有关规定，国家互联网信息办公室对2015年3月1日正式施行的《互联网用户账号名称管理规定》进行了修订，现向社会公开征求意见。（[查看更多](#)）

CAC is seeking public comments on the Regulations on the Management of Internet User Account Name Information

On October 26, in order to regulate the management of Internet user account name information, protect the legitimate rights and interests of citizens, legal persons and other organizations, and maintain a good network ecology and create a clear cyberspace, in accordance with the Cybersecurity Law, PIPL, Administrative Measures on Internet-based Information Services, Provisions on the Ecological Governance of Network Information Contents and other laws and regulations, the Cyberspace Administration of China (CAC) has revised the Regulations on the Management of Internet User Account Name Information which had come into effect on March 1, 2015, and is now seeking public comments thereon. ([More](#))

国家网信办就《数据出境安全评估办法（征求意见稿）》公开征求意见

10月29日，为了规范数据出境活动，保护个人信息权益，维护国家安全和社会公共利益，促进数据跨境安全、自由流动，依据《中华人民共和国网络安全法》《中华人民共和国数据安全法》《中华人民共和国个人信息保护法》等法律法规，国家互联网信息办公室起草了《数据出境安全评估办法（征求意见稿）》，现向社会公开征求意见。（[查看更多](#)）

CAC is seeking public comments on the Measures on Data Cross-border Transfer (Exposure Draft)

On October 29, in order to regulate the activities of data cross-border transfer, protect the rights and interests of personal information subject, safeguard national security and social and public interests as well as promote the safe and free cross-border flow of data, CAC has drafted the Measures for the Security Assessment on Data Cross-border Transfer in accordance with the Cybersecurity Law, Data Security Law, PIPL and other laws and regulations, and is now seeking public comments thereon. ([More](#))

苹果、支付宝、微信等已对《个人信息保护法》做出响应

11月1日，《个人信息保护法》正式实施，为个人信息加上“安全锁”。苹果于2021年10月29日向广大用户发送了一封邮件，告知用户其已为《个人信息保护法》做好准备。微信、支付宝等也已做出反应，微信增加了个人信息浏览和导出机制，设置了系统权限和授权管理入口以及个性化自主控制途径；支付宝则发布了一版简化的隐私权政策，用户更易读。

中国人民大学法学院教授张新宝表示，现阶段加强头部企业的外部独立监督，对营造个人信息保护的行业治理机制，提升个人信息保护的治理水平具有重要意义。（[查看更多](#)）

Apple, Alipay, WeChat, etc. have responded to the PIPL

Under the background that the PIPL would be formally implemented since November 1, Apple sent an email to users, informing them that Apple is ready for the PIPL on October 29, 2021. WeChat and Alipay have also responded: Wechat has added a mechanism for browsing and exporting personal information and has set up a portal for system permissions and authorization management as well as a way for personalized autonomy control; Alipay has released a simplified version of its privacy policy that is easier for users to read.

Zhang Xinbao, the professor at the Law School of Renmin University of China, said that strengthening the external independent supervision of head enterprises at this stage is important to create an industry governance mechanism for personal information protection and improve the governance level of personal information protection. ([More](#))

在数据大范围泄露后，FTC加强了对消费者财务信息的安全保障

10月27日，联邦贸易委员会宣布了一项新规则，该规则加强了金融机构为保护客户的财务信息而必须实施的数据安全保障措施。近年来，大范围的数据泄露和网络攻击对消费者造成了重大伤害，包括金钱损失、身份盗窃和其他形式的财务困境。联邦贸易委员会更新的保障规则要求非银行金融机构，如抵押贷款经纪人、机动车经销商和发薪日贷款机构开发、实施和维护一个全面的安全系统，以确保客户的信息安全。 ([查看更多](#))

FTC Strengthens Security Safeguards for Consumer Financial Information Following Widespread Data Breaches

The Federal Trade Commission announced a newly updated rule On October 27th that strengthens the data security safeguards that financial institutions are required to put in place to protect their customers' financial information. In recent years, widespread data breaches and cyberattacks have resulted in significant harms to consumers, including monetary loss, identity theft, and other forms of financial distress. The FTC's updated Safeguards Rule requires non-banking financial institutions, such as mortgage brokers, motor vehicle dealers, and payday lenders, to develop, implement, and maintain a comprehensive security system to keep their customers' information safe. ([More](#))

挪威DPA：超级技术公司被罚款

由于超级技术公司在没有任何法律依据的情况下对个人进行信用评级，挪威数据保护局对其处以12,500欧元的罚款。该公司还被命令根据第24条制定信用评级的书面程序。 ([查看更多](#))

Norwegian DPA: Ultra-Technology AS fined

The Norwegian Data Protection Authority has fined Ultra-Technology AS EUR 12,500 for performing a credit rating on a private individual without any legal basis. The company was also ordered to prepare written routines for credit ratings in accordance with Article 24. ([More](#))

全球隐私大会促进以人为本的隐私保护方法

上周，来自世界各地的数据保护和隐私专员在2021年全球隐私大会上（GPA）举行了虚拟会议，会议的主题是“隐私和数据保护：以人为本”。

与会者还通过了新的全球隐私大会两年战略计划，该计划旨在创建一个隐私和数据保护当局能够切实履行其任务的环境，以确保全球数据保护的高标准，并促进有效的监管合作。（[查看更多](#)）

GPA promotes human centric approach to privacy protection

Data protection and privacy commissioners from around the world met virtually last week at the 2021 Global Privacy Assembly (GPA) conference, which had as its theme “Privacy and Data Protection: A Human Centric Approach.”

Conference participants also adopted a new two-year strategic plan for the GPA that seeks to create an environment in which privacy and data protection authorities can practically fulfil their mandates to ensure high standards of data protection globally and promote and facilitate effective regulatory cooperation. ([More](#))

关于VTC全球隐私期望的联合声明

2020年7月，来自澳大利亚、加拿大、直布罗陀、中国香港特别行政区、中国、瑞士和英国的六个数据保护和隐私当局联合签署了一封致视频会议（VTC）公司的公开信。该公开信强调了对隐私保护是否跟上了疫情期间全球对VTC服务使用率迅速增加的担忧，并为VTC公司提供了一些解决关键隐私风险的指导原则。（[查看更多](#)）

Joint statement on global privacy expectations of VTC

In July 2020, six data protection and privacy authorities from Australia, Canada, Gibraltar, Hong Kong SAR, China, Switzerland and the United Kingdom jointly signed an open letter to video conferencing (VTC) companies. The letter highlighted concerns about whether privacy safeguards were keeping pace with the rapid increase in use of VTC services during the global pandemic, and provided VTC companies with some guiding principles to address key privacy risks. ([More](#))

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