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Zhejiang Province Notifies a List of 38 Apps that Collect Personal Information in Violation of Laws and Regulations

科技公司利用爬虫技术窃取2.1亿条简历数据，个人被判处7年有期徒刑，公司被处罚金4千万

A Technology Company Use Crawler Technology to Steal 210 million Resume Data: The Court Sentenced the Individual to 7 Years' Imprisonment, and the Company Fined 40 million Yuan

浙江网商银行未按规定保存客户身份资料和交易记录，被罚2,236.5万元

MyBank Fined RMB 22.365 million for Failure to Keep Customer Identity Information and Transaction Records as Required

美国证券交易委员会提出网络安全风险管理规则

SEC Proposes Cybersecurity Risk Management Rules and Amendments for Registered Investment Advisers and Funds



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美国参议员提出《2022年算法责任法案》，增设自动化决策系统透明度要求和问责机制

U.S. Senators Introduces Algorithmic Accountability Act of 2022 to Require New Transparency and Accountability for Automated Decision Systems

乌克兰总理签署电子通信监管法

Ukrainian President Signs Law on Electronic Communications Watchdog

因未披露生物识别信息，美国伊利诺伊州一麦当劳餐厅支付5000万美元和解金

Illinois McDonald's Restaurants Pays \$50M Settlement over Lack of Biometric Disclosures:

CNIL称谷歌分析向美国传输数据的行为违反了GDPR的规定

The CNIL Finds Use of Google Analytics Non-compliant with GDPR

CMA：批准谷歌删除第三方Cookie计划

CMA Approves Google's Proposal of Removal of Third-party Cookies

知识产权 Intellectual Property

国知局发布公告：3月1日起将不再发放纸质专利证书

China National Intellectual Property Administration: No more paper patent certificates to be issued from March 1, 2022

最高法院在专利侵权案中对和解协议（药品反向支付协议）作反垄断初步审查

The Supreme People's Court made a preliminary antitrust review of the settlement agreement (drug reverse payment agreement) in a patent infringement case

山东高院：擅自制造、销售近似立体商标的酒瓶构成侵权

The Shandong Higher People's Court: Unauthorized manufacturing and selling wine bottles similar to three-dimensional trademark constitutes infringement

小米商标案适用惩罚性赔偿，法院判赔3000万元

Punitive damages applied in the Xiaomi trademark case, the plaintiff was awarded damages of RMB 30 million



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“山特”商标侵权案，法院参考库存数量计算侵权获利

The court referred to the quantity of inventory to calculate infringement profit in "Shante" trademark infringement case

京瓷公司对Koki提起337诉讼

Kyocera filed 337 lawsuits against Koki

立方竞争法周报 Weekly Competition Law News

安徽省一供水企业因滥用市场支配地位被罚没近180万元

2022年2月10日，安徽省市场监督管理局（“**安徽省市监局**”）发布了针对凤阳县益民供水有限责任公司滥用市场支配地位案作出的行政处罚决定书。经查，当事人滥用其在凤阳县府城镇、临淮镇等区域内的公共供水服务的支配地位，限定有关单位只能从当事人处购买水表和二次供水设备，向临时用水户、房地产开发企业收取不正当的押金，排除、限制了市场竞争，损害了交易相对方的合法权益。安徽省市监局对凤阳县益民供水有限责任公司作出1769118.74元的处罚。（[查看更多](#)）

Anhui AMR Fines and Confiscates A Water Supply Company Nearly CNY 1.8 Million for Abusing Its Dominant Market Position

On February 10, 2022, Anhui Administration for Market Regulation (“**Anhui AMR**”) issued an anti-monopoly penalty on Fengyang County Yimin Water Supply Co., Ltd. for abusing its dominant market position. It was found that the company abused its dominant position in the water supply market in Fucheng Town, Linhuai Town, and other areas in Fengyang County, forcing the relevant parties to purchase water meters and secondary water supply equipment only from the company, charging improper deposits from temporary water users and real estate development enterprises, which excluded and restricted market competition and harmed the legitimate rights of the trade parties. Anhui AMR made a penalty of CNY 1,769,118.74 to the company. ([More](#))

海南自由贸易港知识产权法院公开宣判12件一审反垄断行政处罚系列案

2022年2月9日，海南自由贸易港知识产权法院（“**海南知产法院**”）对海南某工程有限公司等12家公司诉海南省市场监督管理局（“**海南省市监局**”）反垄断行政处罚案件进行公开宣判，维持了海南省市监局的处罚决定。此前，海南省市监局对这12家公司作出行政处罚，认定各原告与其他单位共同达成了垄断协议，遂责令各原告停止违法行为，处2018年度销售额百分之一罚款的行政处罚。各原告对上述行政处罚决定不服，分别向海南知产法院提起行政诉讼，请求撤销相应行政处罚。（[查看更多](#)）

Hainan IP Tribunal Delivers Decisions of Twelve Administrative Litigations on Anti-trust Penalties

On February 9, 2022, the Hainan Free Trade Port Intellectual Property Tribunal (“**Hainan IP Tribunal**”) delivered the decisions of twelve litigations concerning the disagreement with the anti-monopoly administrative penalties. These cases were brought by twelve companies against Hainan Administration for Market Regulation (“**Hainan AMR**”). The court held the anti-monopoly administrative penalties. Previously, the Hainan AMR imposed administrative penalties on twelve companies, on the ground that they had jointly entered into a monopoly agreement with others, and therefore ordered the companies to stop their illegal acts and imposed a fine of one percent of its sales for the year of 2018 respectively.

The companies were not satisfied with the above administrative penalty decisions and filed administrative lawsuits before the Hainan IP Tribunal, requesting the revocation of the corresponding administrative penalties. ([More](#))

山东省市监局纠正菏泽市应急管理局滥用行政权力排除、限制竞争行为

2022年2月7日，山东省市场监督管理局（“山东省市监局”）发布关于纠正菏泽市应急管理局滥用行政权力排除、限制竞争行为的通告。2020年11月6日，菏泽市应急管理局印发相关文件，要求申请办理烟花爆竹零售许可证的零售店（点）必须与辖区内批发企业签订连锁经营协议。这一规定构成滥用行政权力，排除、限制了竞争。调查期间，菏泽市应急管理局主动采取措施，对相关规定进行了修改并予以公示。（[查看更多](#)）

Shandong AMR Corrects Administrative Monopoly Behavior by Heze Emergency Management Bureau

On February 7, 2022, Shandong Administration for Market Regulation (“Shandong AMR”) issued a notice on correcting the administrative monopoly behavior by Heze Emergency Management Bureau. On November 6, 2020, Heze Emergency Management Bureau issued relevant document requiring the applicant for fireworks retail license must sign a chain management agreement with the wholesale enterprises in the Heze area, which constituted an abuse of administrative power, excluding and restricting the competition. During the investigation, the Heze Emergency Management Bureau proactively took measures to amend and publish the relevant document. ([More](#))

最高人民法院：对《关于强化互联网反垄断执法，防止资本干涉舆论的建议》的答复

2022年1月27日，最高人民法院发布了对全国人大提出的《关于强化互联网反垄断执法，防止资本干涉舆论的建议》的答复。最高人民法院指出，近年来，在办理互联网案件中，人民法院通过完善政策体系、健全管辖规则、妥善审理案件，推进了互联网司法建设。对出台涉互联网案件管辖规则司法解释的建议，最高人民法院表示，将继续完善互联网案件管辖规则，并将根据《反垄断法》修订情况，适时出台反垄断民事诉讼司法解释，明确反垄断民事案件裁判标准。（[查看更多](#)）

SPC's Response to the Proposal on Strengthening Internet Anti-Monopoly Enforcement and Preventing Capital from Interfering with Public Opinion Issued

On January 27, 2022, the Supreme People's Court (“SPC”) released its response to the National People's Congress’ *Proposal on Strengthening Internet Anti-Monopoly Enforcement and Preventing Capital from Interfering with Public Opinion*. SPC pointed out that in recent years, the People’s Courts have promoted the construction of internet justice when handling with internet cases, by enhancing the policy system, perfecting the rules of jurisdiction, and properly handling cases. In response to the proposal on issuing a judicial interpretation on the jurisdiction rules for internet cases, the SPC said it will continue to improve the jurisdiction rules and introduce the judicial interpretation on anti-monopoly civil litigation according to the amendment of the *Anti-Monopoly Law* to clarify the standards for adjudicating of anti-monopoly civil cases. ([More](#))

Facebook市值跌破6000亿美元，或因此规避美国反垄断审查

2022年2月8日，Facebook（现更名为Meta）的股价下跌2.1%，现市值为5993.2亿美元，为2020年5月以来首次低于6000亿美元。而6000亿美元恰好是美国众议院的一揽子竞争法案中针对“大型平台企业”（Covered Platform）的市值门槛。如果Facebook的市值保持在这一门槛之下，就可以避免这些法案为其交易设置额外的障碍，而其他大型科技公司，如亚马逊、谷歌、苹果等，则会受到这些规则的约束。（[查看更多](#)）

Facebook Market Cap Falls Below USD 600 Billion, Which Could Actually Help It Dodge New Antitrust Scrutiny

On February 8, 2022, Facebook, recently renamed Meta, closed with a market cap below USD 600 billion for the first time since May 2020. The stock fell 2.1%, bringing it to a market cap of USD 599.32 billion. The USD 600 billion market cap figure also happens to be the number House legislators picked as the threshold for a “covered platform” under a package of competition bills designed specifically to target Big Tech. If Facebook were to remain below that threshold, it could avoid the additional hurdles the bills would install for how it can conduct its business and make deals, while its larger peers like Amazon, Alphabet, and Apple become subject to the rules. ([More](#))

由于交易取消，CMA宣布终止对英伟达收购ARM案的调查

2022年2月8日，芯片半导体巨头英伟达宣布放弃收购ARM，英国竞争和市场管理局（“CMA”）随即宣布终止对该交易的反垄断调查。CMA原计划于2月召开听证会，对该交易进行深入调查。此前CMA曾出具过一份初步调查报告，认为英伟达和ARM的合并可能会导致半导体芯片市场上的竞争大幅减少。（[查看更多](#)）

CMA Cancels Its Investigation on the Takeover of Arm by NVIDIA

On February 8, 2022, since the Chip manufacturer NVIDIA had abandoned its proposed deal with Arm, the Competition and Markets Authority (“CMA”) therefore confirmed it intends to cancel its investigation into the merger. The abandonment came ahead of the planned main party hearings, where

the CMA inquiry group was set to scrutinize information relating to the deal as part of a formal process. The CMA once provided a report that the merged business would have the ability and incentive to harm the competitiveness in semiconductor chips and related products. ([More](#))

亚马逊被罚225万美元并永久关停第三方卖家计划

2022年1月26日，华盛顿州总检察长办公室宣布，因涉嫌价格操纵以及违反反垄断法，亚马逊同意在全美范围内终止其“Sold by Amazon”第三方卖家计划，并支付225万美元罚款。亚马逊在2018年至2020年期间提供了“Sold by Amazon”计划，通过该计划，第三方卖家与亚马逊达成协议，为平台上销售的产品设定了最低支付价格。如果售价超过商定的最低支付价格，亚马逊则会从中抽成。华盛顿州总检察长办公室表示，该项目违反了反垄断法，构成了价格操纵。

([查看更多](#))

Amazon Pays USD 2.25 Million and Stops Its “Sold by Amazon” Third-Party Seller Program

On January 26, 2022, the office of Attorney General of Washington State announced that Amazon will stop its “Sold by Amazon” third-party seller program and pay USD 2.25 million penalty for price-fixing. Amazon offered the “Sold by Amazon” program from 2018 through 2020 in which the sellers would receive a minimum payment for sales of their consumer goods. Consequently, if sales exceed the negotiated minimum payment, Amazon will split the surplus. The office of Attorney General of Washington State considered that the price-fixing program violates the antitrust law. ([More](#))

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

修订后《网络安全审查办法》开始施行

2022年2月15日，由国家互联网信息办公室等十三部门联合修订发布的《网络安全审查办法》（以下简称“《办法》”）正式开始施行。《办法》将网络平台运营者开展数据处理活动影响或者可能影响国家安全等情形纳入网络安全审查，并明确掌握超过100万用户个人信息的网络平台运营者赴国外上市必须向网络安全审查办公室申报网络安全审查。根据审查实际需要，增加证监会作为网络安全审查工作机制成员单位，同时完善了国家安全风险评估因素等内容。([查看更多](#))

Revised Cybersecurity Review Measures Comes into Force

On 15 February 2022, the Cybersecurity Review Measures (the Measures) jointly amended and issued by 13 ministries came into force. The Measures includes the situation that the data processing activities carried out by network platform operators affect or may affect national security into the network security review and makes it clear that network platform operators with personal information of more than 1 million users shall apply to the Network Security Review Office for network security review when they

are to be listed abroad. According to the actual needs of the review, CSRC is added as a member unit of the network security review mechanism, and the national security risk assessment factors are improved as well. ([More](#))

信安标委就《信息安全技术 移动互联网应用程序（App）生命周期安全管理指南（征求意见稿）》征求意见

2022年2月8日，全国信息安全标准化技术委员会公布国家标准《信息安全技术 移动互联网应用程序（App）生命周期安全管理指南》（以下简称“《指南》”）征求意见稿，并向社会公开征求意见。《指南》提供了移动互联网应用程序（App）生命周期安全管理的建议，适用于App开发者对App的开发、运营，也适用于移动应用分发平台厂商和移动智能终端厂商对App的管理，也可作为第三方机构对App进行安全检测时的参考，《指南》主要解决如下问题：（1）如何规避开发引入的恶意代码攻击、应用程序漏洞等风险；（2）如何规避应用程序管理不当造成的个人隐私和敏感数据泄露等风险；（3）及时发现侵害用户权益的行为，如私自收集个人信息、强制用户使用定向推送功能、过度索取权限、欺骗误导用户等；（4）如何采取措施避免安全漏洞导致信息传播危害的风险。 ([查看更多](#))

NISSTC Solicits Public Comments on Information Security Technology - Guideline for Mobile Internet Application (APP) Lifecycle Security Management (Exposure Draft)

On 8 February 2022, the National Information Security Standardization Technical Committee (NISSTC) issues the GB/T *Information Security Technology - Guideline for Mobile Internet Application (APP) Lifecycle Security Management (Exposure Draft)* (the Guideline) to solicit public comments. The Guideline provides suggestions on the lifecycle security management of mobile Internet applications (APP), which is applicable to the development and operation of APPs by APP developers, the management of APPs by mobile application distribution platform manufacturers and mobile intelligent terminal manufacturers, and can also be used as a reference for third-party organizations to conduct security testing of APPs. The Guideline mainly solves the following problems: (1) to avoid the risks of malicious code attacks and application vulnerabilities introduced by development; (2) to avoid the leakage risks of personal privacy and sensitive data caused by improper application management; (3) to timely discover acts that infringe the rights and interests of users, such as collecting personal information without consent, forcing users to use directional push function, over asking for permission, cheating and misleading users, etc.; (4) to take measures to avoid the risk of information dissemination harm caused by security vulnerabilities. ([More](#))

工信部再次公开征求对《工业和信息化领域数据安全管理办法（试行）》的意见

2022年2月10日，中华人民共和国工业和信息化部对《工业和信息化领域数据安全管理办法（试行）》（以下简称“办法”）再次征求意见，截止时间为2022年2月21日。《办法》旨在规范工业和信息化领域数据处理活动，包括对中华人民共和国境内开展的工业和信息化领域数据处理活动及其安全监管等。根据《办法》，工业和数据化领域数据包括工业数据、电信数据和无线电数据，工业和信息化领域数据处理者是指开展工业和信息化领域数据处理活动的工业企业、软件和信息技术服务企业、取得电信业务经营许可证的电信业务经营者和无线电频率、台（站）使用单位等工业和信息化领域各类主体等，《办法》对工业化和数据领域的数据安全分级分类、数据全生命周期安全管理、数据安全监测预警与应急管理以及数据安全检测、认证、评估管理等进行了规范。（[查看更多](#)）

MIIT Solicits Public Comments for Measures for the Administration of Data Security in the Field of Industry and Information Technology (Trial Version) for the Second Time

On 10 February 2022, the Ministry of Industry and Information Technology (MIIT) solicited public comments for *Measures for the Administration of Data Security in the Field of Industry and Information Technology (Trial Version)* (the Measures) for the second time, and the deadline is 21 February 2022. The Measures aims to regulate data processing in the field of industry and information technology, including data processing and security supervision in the field of industry and information technology carried out in China. According to the Measures, data in the field of industry and digitization include industrial data, telecommunication data and radio data. Data processors in the field of industry and information technology refer to industrial enterprises, software and information technology service enterprises that carry out data processing activities in the field of industry and information technology, licensed telecom business operators, radio frequency users, radio station users and other subjects in the field of industry and information technology. The Measures regulate the categorical and hierarchical protection system, data lifecycle security management, data security monitoring, early warning and emergency management, as well as data security detection, certification and evaluation management in the field of industry and digitization. ([More](#))

山东省通过《山东省公共数据开放办法》

2022年1月31日，山东省大数据局公布了《山东省公共数据开放办法》（以下简称“《办法》”）。《办法》将从2022年4月1日起开始实行，对山东省行政区域内的公共数据开放活动进行规范。《办法》规定了公共数据开放原则，包括：（1）遵循需求导向、创新发展、安全有序的原则；（2）公共数据以开放为原则，不开放为例外。《办法》规定了各方在公共数据开放中的义务，其中：（1）省人民政府应当建立公共数据开放管理制度，制定公共数据分类分级规则，并对公共数据开放活动进行绩效评价、风险评估，建设统一的公共数据开放平台；（2）公共数据提供单位应当通过统一的公共数据开放平台开放公共数据，并重点和优先开放与数字经济、公共服务、公共安全、社会治理、民生保障等领域密切相关的市场监管、卫生健康、自然资源、生态环境、就业、教育、交通、气象等数据，以及行政许可、行政处罚、企业公共信用信息等数据。此外，公民、法人和其他组织可以向公共数据提供单位申请获取有条件开放的公共数据。（[查看更多](#)）

Shandong Province Passes the Measures of Shandong Province on Opening Public Data

On 31 January 2022, the Big Data Bureau of Shandong Province announced *the Measures of Shandong Province on Opening Public Data* (the Measures), which will come into force as of 1 April 2022. The Measures regulates openness of public data within the administrative region of Shandong Province. The Measures stipulate the principles of public data openness, including: (1) Follow the principles of demand orientation, innovative development, safety and order; (2) Make public data be accessible in principle, with exception of non-openness. The Measures stipulate the obligations of all parties in the openness of public data, including (1) Government shall establish a public data opening management system, formulate public data categorical and hierarchical rules, conduct performance evaluation and risk evaluation of public data opening activities, and build a unified public data opening platform; (2) Public data providers shall open public data through a unified public data open platform, and give priority to the opening of data related to market supervision, health, natural resources, ecological environment, employment, education, transportation, meteorology and other data closely related to the digital economy, public services, public security, social governance, livelihood security and other fields, as well as administrative licensing, administrative punishment, enterprise public credit information and other data. In addition, citizens, legal persons and other organizations are able to apply to public data providers for conditional access to public data. ([More](#))

广东省就《广东省公共数据安全管理办法（征求意见稿）》公开征求意见

2022年2月7日，广东省政务服务数据管理局公布了《广东省公共数据安全管理办法（征求意见稿）》（以下简称“《办法》”）并公开征求意见。《办法》规定，广东省公共数据主管部门应当建立承载公共数据处理活动相关平台或者系统的登记备案制度，牵头制定公共数据分类分级指南，明确分类分级的原则和规则。《办法》以专章规定了全生命周期的数据安全，包括数据收集安全、数据存储安全、数据使用加工安全、数据传输安全、数据提供安全、数据公开安全。此外，《办法》还特别规定了公共管理和服务机构提供智能化公共服务，应当充分考虑老年人、残疾人等群体的需求，避免以数据安全为由对群众享受公共服务造成障碍。 ([查看更多](#))

Guangdong Province Solicits Public Comments for Measures of Guangdong Province for the Administration of Public Data Security (Exposure Draft)

On 7 February 2022, Guangdong Government Affairs Service Data Management Bureau announced *Measures of Guangdong Province for the Administration of Public Data Security (Exposure Draft)* (the Measures) to solicit public comments. The Measures stipulate that the managing department of public data in Guangdong Province shall establish a registration and filing system for platforms or systems carrying public data processing activities, take the lead in formulating guidelines for the classification and classification of public data, and clarify the principles and rules of categorical and hierarchical data protection. The Measures set a chapter to stipulate the data security management in the whole lifecycle,

including collection security, storage security, use and processing security, transmission security, provision security and disclosure security during data processing. In addition, the Measures also specify that when the public management and service organizations are providing intelligent public services, a full consideration shall be given to the need to the elderly, disabled people and other groups in order to avoid obstacles brought by data security to the enjoyment of public services. ([More](#))

浙江省通报38款违法违规收集个人信息App名单

2022年2月10日，浙江省App违法违规收集使用 个人信息专项治理工作组通报了38款违法违规收集个人信息的App清单，覆盖实用工具类、网上购物类、学习教育类等多种类别的App。根据通报，违规App主要存在的问题包括：（1）未公开收集使用个人信息的规则；（2）未经用户同意收集个人信息；（3）收集与提供的服务无关的个人信息；（4）存在引起个人信息泄露的安全漏洞等。针对检查发现的问题，相关App运营者应当于该通报发布之日起10个工作日内完成整改，逾期未完成整改的，浙江省App专项治理工作组将依法依规予以处置。（[查看更多](#)）

Zhejiang Province Notifies a List of 38 Apps that Collect Personal Information in Violation of Laws and Regulations

On 10 February, the special treatment working group of App illegal collection and use of personal information in Zhejiang Province reported a list of 38 Apps that collect personal information in violation of laws and regulations, covering various types of apps such as practical tools, online shopping, learning and education, etc. According to the notification, the main problems of the notified Apps include: (1) The notified App doesn't make the rules for collecting and using personal information public; (2) The notified App collects personal information without the user's consent; (3) The notified App collects personal information unrelated to the services provided; (4) There're security vulnerabilities that cause personal information disclosure. For the problems found in the inspection, App operators shall complete the rectification within 10 working days from the date of issuance of the notice. If the rectification is not completed within the time limit, the Zhejiang App special treatment working group will make punishment in accordance with the law and regulations. ([More](#))

科技公司利用爬虫技术窃取2.1亿条简历数据，个人被判处7年有期徒刑，公司被处罚金4千万

2022年2月8日，海淀检察院发布了海淀区检察院起诉的某科技（北京）有限公司（以下简称某科技公司）、王某某等人涉嫌侵犯公民个人信息罪一案，经北京市第一中级人民法院裁定维持原判，案件一审判决生效。某科技公司成立于2014年，主要经营招聘工具软件和大数据分析等业务。2015年至2019年间，该公司组建专门爬虫技术团队，在未取得求职者和平台直接授权的

情况下，秘密爬取国内主流招聘平台上的求职者简历数据。案件审查过程中，针对海量涉案公民简历数据，检察官提出具体指导意见，从涉案数据中发现具有爬虫特征的2.1亿余条个人信息。本案涉案人员多、涉案电子存储设备多、涉案数据量特别巨大、被告人作案手段呈现高技术化特征，针对这些问题海淀区检察院科技犯罪检察团队适时提前介入案件，并密切配合公安机关取证工作。最终，被告单位某科技公司被处罚金人民币四千万，被告人王某某被判处有期徒刑七年，罚金人民币一千万，其他被告人均被判处相应刑罚。本案对被告单位判处的罚金数额、对被告人判处的刑期和罚金数额，均系近年来全国同类案件判罚最重案例。（[查看更多](#)）

A Technology Company Use Crawler Technology to Steal 210 million Resume Data: The Court Sentenced the Individual to 7 Years' Imprisonment, and the Company Fined 40 million Yuan

On 8 February 2022, Haidian District Procuratorate released the case where a Beijing technology company (the Company) and WANG accused of infringing citizens' personal information. The first instance judgment was upheld by the Beijing First Intermediate People's Court and comes into effect. The Company was founded in 2014, mainly engaged in recruitment tool software and big data analysis. From 2015 to 2019, the Company established a special crawler technology team to secretly crawl the resume data of job seekers on the domestic mainstream recruitment platform without the direct authorization of job seekers and platforms. In the process of case review, the prosecutor put forward specific guidance for the massive resume data of citizens involved and found more than 210 million personal information with reptile characteristics from the data involved. The case involves many people, many electronic storage devices and a huge amount of data. The defendant's means of committing a crime is of high technology. In view of these problems, the scientific and technological crime team of Haidian District procuratorate timely engaged in the case in advance and closely cooperated with the public security organ in obtaining evidence. Finally, the Company was sentenced to a fine of 40 million yuan, the defendant WANG was sentenced to seven years' imprisonment and a fine of 10 million yuan, and the other defendants were sentenced to corresponding penalties. The amount of fine imposed on the defendant, the term of imprisonment and the amount of fine imposed on the defendant in this case are the heaviest cases of similar cases in China in recent years. ([More](#))

浙江网商银行未按规定保存客户身份资料和交易记录，被罚2,236.5万元

2022年1月29日，根据中国人民银行杭州中心支行发布的行政处罚信息显示，浙江网商银行股份有限公司因未按规定履行客户身份识别义务、未按规定保存客户身份资料和交易记录等违法行为，被处以警告，并处罚款2,236.5万元。与此同时，浙江网商银行的多名负责人也同时被罚，罚款金额在2万元至8万元不等。这不是第一家因违反个人信息保护义务而被罚款的银行，此前，中国农业银行崇左分行也因违规使用个人金融信息被罚约1142万元。（[查看更多](#)）

MyBank Fined RMB 22.365 million for Failure to Keep Customer Identity Information and Transaction Records as Required

On 29 January 2022, according to the announcement on the official website of Hangzhou central branch of the People's Bank of China (PBC), MyBank, a Chinese private bank, was warned and fined RMB 22.365 million for failure to keep customer identity information and transaction records as required. Meanwhile, several principals of MyBank were also fined, ranging from 20,000 yuan to 80,000 yuan. This is not the first bank to be fined for violating personal information protection obligations. In January 2022, Chongzuo branch of Agricultural Bank of China was warned and fined RMB 114.2 million for using personal financial information in violation of regulations and failing to keep the customer's identity data completely as required. ([More](#))

美国证券交易委员会提出网络安全风险管理规则

2022年2月9日，美国证券交易委员会（SEC）投票通过了一项与注册投资顾问、注册投资公司 and 业务发展公司网络安全风险管理相关的规则，和对管理投资顾问和基金披露的某些规则的修正案。拟议规则将要求顾问和基金采取实施书面网络安全政策和程序，以应对可能损害咨询客户和基金投资者的网络安全风险。拟议规则还将要求顾问以新的保密表格向SEC报告影响顾问或其基金或私人基金客户的重大网络安全事件。此外，该提案对顾问和基金提出新的记录保存要求，旨在提高网络安全相关信息的可用性，并帮助促进SEC的检查和执法能力。（[查看更多](#)）

SEC Proposes Cybersecurity Risk Management Rules and Amendments for Registered Investment Advisers and Funds

On 9 February 2022, The Securities and Exchange Commission (SEC) voted to propose rules related to cybersecurity risk management for registered investment advisers, and registered investment companies and business development companies (funds), as well as amendments to certain rules that govern investment adviser and fund disclosures. The proposed rules would require advisers and funds to adopt and implement written cybersecurity policies and procedures designed to address cybersecurity risks that could harm advisory clients and fund investors. The proposed rules also would require advisers to report significant cybersecurity incidents affecting the adviser or its fund or private fund clients to the Commission on a new confidential form. Additionally, the proposal would set forth new recordkeeping requirements for advisers and funds that are designed to improve the availability of cybersecurity-related information and help facilitate the Commission's inspection and enforcement capabilities. ([More](#))

美国参议员提出《2022年算法责任法案》，增设自动化决策系统透明度要求和问责机制

2022年2月3日，美国俄勒冈州参议员罗恩·怀登（Ron Wyden）、新泽西州参议员科里·布克（Cory Booker）和纽约州众议员伊薇特·克拉克（Yvette Clarke）共同提出了《2022年算法责任法案》（以下简称“法案”），这是一项具有里程碑意义的法案，为软件、算法和其他自动化系统增设透明度和监督要求，这些系统被用来对美国人生活的几乎每个方面做出关键决定。法案要求公司在使用自动决策系统做出关键决策时，对偏见、有效性和其他因素进行影响评估。它还首次在联邦贸易委员会建立了一个关于这些系统的公共存储库，并为委员会增加了75名工作人员进行执行工作。（[查看更多](#)）

U.S. Senators Introduces Algorithmic Accountability Act of 2022 to Require New Transparency and Accountability for Automated Decision Systems

On 3 February 2022, U.S. Senator Ron Wyden, D-Ore., with Senator Cory Booker, D-N.J., and Representative Yvette Clarke, D-N.Y., introduced the Algorithmic Accountability Act of 2022, a landmark bill to bring new transparency and oversight of software, algorithms and other automated systems that are used to make critical decisions about nearly every aspect of Americans' lives. The bill requires companies to conduct impact assessments for bias, effectiveness and other factors, when using automated decision systems to make critical decisions. It also creates, for the first time, a public repository at the Federal Trade Commission of these systems and adds 75 staff to the commission to enforce the law. ([More](#))

乌克兰总理签署电子通信监管法

2022年2月10日，乌克兰总统Volodymyr Zelensky签署了《关于国家管制委员会在电子通信、无线电频谱和乌克兰邮政服务领域的规定》。这项法律为乌克兰2022的电子通信的正常运作奠定了基础，履行了乌克兰在这一领域的联合协议下的义务，并融入了欧盟数字单一市场。这项法律出台后，新的监管机构将确保消费者和运营商/供应商之间的纠纷、基础设施使用权纠纷能够得到庭外解决，并且保证国家对这些活动的监督。值得一提的是，这一法律能够同时实施行政和经济制裁。（[查看更多](#)）

Ukrainian President Signs Law on Electronic Communications Watchdog

On 10 February 2022, Ukrainian President Volodymyr Zelensky has signed the law "On the National Commission for State Regulation in the Spheres of Electronic Communications, Radio Frequency Spectrum and the Provision of Postal Services of Ukraine," which the Verkhovna Rada approved on December 16, 2021. The law lays the foundation for the proper functioning from 2022 of the Law of Ukraine 'On Electronic Communications,' the fulfillment of obligations under the Association Agreement in this area and integration into the EU Digital Single Market. The new watchdog will ensure the out-of-court settlement of disputes between consumers and operators/providers, disputes over access to infrastructure, as well as the state supervision of their activities. In particular, it will be able to apply administrative and economic sanctions. ([More](#))

因未披露生物识别信息，美国伊利诺伊州一麦当劳餐厅支付5000万美元和解金

2022年2月3日，麦当劳同意向伊利诺伊州员工支付5000万美元的集体诉讼和解金，这些员工需要输入生物识别数据以登录餐厅系统。这些员工提起集体诉讼指控伊利诺伊州麦当劳餐厅违反了《州生物识别信息隐私法》，因其要求部分员工在未提供适当披露信息或未获得其同意的情况下输入生物识别信息。2018年12月31日或之前聘用的员工最高可获得375美元的和解金，而在此之后聘用的员工最高可获得190美元的和解金。（[查看更多](#)）

Illinois McDonald's Restaurants Pays \$50M Settlement over Lack of Biometric Disclosures:

On 3 February 2022, McDonald's agreed to pay \$50 million to its Illinois employees who entered biometric data to log into the restaurant's system as part of a class-action lawsuit. Class members alleged Illinois McDonald's restaurants violated the state Biometric Information Privacy Act by requiring some employees to enter biometric information without providing proper disclosures or obtaining their consent. Plaintiffs hired on or before Dec. 31, 2018, are eligible for up to \$375, while those hired after that date can receive up to \$190. ([More](#))

CNIL称谷歌分析向美国传输数据的行为违反了GDPR的规定

2022年2月10日，法国CNIL宣布，谷歌分析（Google Analytics，一种向在线销售网站等提供的服务）将收集到的数据传输到美国的行为目前没有受到充分监管。事实上，在没有就向美国传输数据做出充分性认证的情况下，只有为这种数据流动提供适当的保障，才能进行数据传输。尽管谷歌已经采取了其他措施来监管谷歌分析功能背景下的数据传输，这些措施不足以排除美国情报机构获取这些数据的可能性。CNIL指出，互联网用户的数据因此被转移到美国，违反了GDPR第44条规定。因此，CNIL命令网站在必要时停止使用谷歌分析功能或使用其他不涉及欧盟境外转移的工具，以满足GDPR的规定，该网站运营商有一个月的时间来进行上述调整。（[查看更多](#)）

The CNIL Finds Use of Google Analytics Non-compliant with GDPR

On 10 February 2022, the CNIL announced that the transfers of Google Analytics, a service that can be integrated by websites such as online sale sites in order to measure the number of visits by Internet users, of data collected to the United States currently not sufficiently regulated. Indeed, in the absence of an adequacy decision concerning transfers to the United States, the transfer of data can only take place if appropriate guarantees are provided for this flow in particular. Although Google has adopted additional measures to regulate data transfers in the context of the Google Analytics functionality, these are not sufficient to exclude the accessibility of this data for US intelligence services. The CNIL notes that the data of Internet users is thus transferred to the United States in violation of Articles 44 et seq. of the GDPR. The CNIL therefore ordered to the website manager to bring this processing into compliance with the GDPR, if necessary, by ceasing to use the Google Analytics functionality or by using a tool

that does not involve a transfer outside the EU. The website operator in question has one month to comply. ([More](#))

CMA: 批准谷歌删除第三方Cookie计划

2022年2月11日，英国竞争和市场管理局（CMA）接受了谷歌的修订提议，谷歌承诺从Chrome浏览器中删除第三方cookie（“隐私沙盒”方案）。CMA已经从谷歌获得了具有法律约束力的承诺，以解决对隐私沙盒的竞争担忧。CMA现在进入下一个阶段，它将监督谷歌确保隐私沙盒的开发方式有利于消费者。CMA竞争调查于2021年1月启动，原因是人们担心这一方案会导致在线广告支出进一步向谷歌集中，削弱竞争，并因此损害最终为在线广告费买单的消费者们。CMA担忧这一提案可能会削弱报纸等在线出版商在未来创造收入和继续制作有价值内容的能力，从而减少公众对新闻来源的选择。CMA对谷歌和市场参与者进行了深入调查，并开展了两次正式的公共咨询，最终消除了对限制竞争的担忧，接受了谷歌的最终承诺。谷歌方面还表示，这一承诺在全球范围内都有效。（[查看更多](#)）

CMA Approves Google's Proposal of Removal of Third-party Cookies

On 11 February 2022, The CMA accepted a revised offer from Google of commitments relating to its proposed removal of third-party cookies from the Chrome browser (known as the Privacy Sandbox proposals). The CMA has secured legally binding commitments from Google to address competition concerns over its Privacy Sandbox. CMA now moves into the next phase where it will supervise Google to ensure the Privacy Sandbox is developed in a way that benefits consumers. The Competition and Markets Authority's (CMA) competition investigation was launched in January 2021 over concerns that the proposals would cause online advertising spending to become even more concentrated on Google, weakening competition and so harming consumers who ultimately pay for the cost of online advertising. The CMA was also concerned that the proposals could undermine the ability of online publishers, such as newspapers, to generate revenue and continue to produce valuable content in the future - reducing the public's choice of news sources. The final commitments accepted by the CMA today are a result of an in-depth investigation and extensive engagement with Google and market participants, including 2 formal public consultations. They address the CMA's competition concerns and Google has also said that the commitments will be rolled out globally. ([More](#))

知识产权 Intellectual Property

国知局发布公告：3月1日起将不再发布纸质专利证书

2022年2月9日，国家知识产权局发布第四二七号公告，宣布为贯彻落实党中央、国务院关于数字政府改革建设的决策部署，增强数字政府效能，国家知识产权局将推行专利审查服务全面电

子化，实现专利审批“一网通办”。自2022年3月1日起，国家知识产权局不再接收专利电子申请的纸质专利证书请求，相关专利证书仅通过电子专利申请系统发放。

来源：国家知识产权局

China National Intellectual Property Administration: No more paper patent certificates to be issued from March 1, 2022

On February 9, 2022, China National Intellectual Property Administration announced that it will implement the electronic service of patent examination and conduct the "one-stop service" for patent approval. It will no longer accept paper patent certificate requests for electronic patent applications from March 1, 2022, and relevant patent certificates will only be issued through the electronic patent application system.

Source: China National Intellectual Property Administration

最高法院在专利侵权案中对和解协议（药品反向支付协议）作反垄断初步审查

近期，最高人民法院对“沙格列汀片”侵害发明专利权纠纷案作出终审裁定，准许了阿斯利康有限公司的撤回上诉申请。在裁定书中，最高院主动审查了具有“药品专利反向支付协议”外观的涉案协议是否涉嫌违反《反垄断法》。

在该案中，最高院首次明确药品反向支付协议可能为垄断协议的一种类型，同时明确了对于以不挑战专利权有效性为目的的“药品专利反向支付协议”是否违反《反垄断法》的审查标准，核心在于其是否涉嫌排除、限制相关市场的竞争。

该案的裁定对药品领域专利权人与仿制药申请人等相关主体的纠纷处理、交易合规等方面均具有重要启示意义。

来源：最高人民法院

The Supreme People's Court made a preliminary antitrust review of the settlement agreement (drug reverse payment agreement) in a patent infringement case

Recently, the Supreme People's Court made a final ruling on the patent dispute over “Saxagliptin tablet”, allowing the plaintiff withdraws its application for appeal. In the ruling, the court initiatively examined whether the settlement agreement violated the Anti-monopoly Law.

In the case, the court firstly clarified that a drug reverse payment agreement may be identified as a type of monopoly agreement, it also clarified the criteria for examining whether a "drug patent reverse payment agreement" violates the Anti-monopoly Law, the core is whether it is suspected of excluding or restricting competition in the relevant market.

The ruling has important implications for the dispute settlement and transaction compliance of the patent owners and generic drugs applicants in the pharmaceutical field.

Source: The Supreme People's Court

山东高院：擅自制造、销售近似立体商标的酒瓶构成侵权

山东省高级人民法院对法国轩尼诗公司与山东郓城信德包装有限公司侵害商标权纠纷一案作出二审判决，判决维持原判，此前，一审法院判决山东郓城信德包装有限公司停止侵权并赔偿法国轩尼诗公司经济损失及合理开支共计9万元。

二审法院认为，酒瓶与酒在用途、功能上密切相关，且消费对象、销售渠道具有重合性，对于相关公众而言，一般会认为酒与酒瓶是具有特定联系的商品，二者应认定构成类似商品。其次，立体商标中的酒瓶形状具有双重属性，即是盛酒的容器，也是商标标识，他人未经许可擅自制造、销售与立体商标酒瓶形状相同的酒瓶的，可以认定为制造、销售涉案立体商标标识的行为。

来源：山东省高级人民法院

The Shandong Higher People's Court: Unauthorized manufacturing and selling wine bottles similar to three-dimensional trademark constitutes infringement

Shandong Higher People's Court upheld the original judgement on the trademark infringement case between Hennessy and Shandong Yuncheng Xinde Packaging Company. Previously, the court of first instance ordering the defendant to stop the infringement and pay damages of RMB 90,000.

The court of second instance held that wine bottles and wine are closely related in use and function, and their consumption objects and sales channels are overlapping. For the relevant consumers, wine bottles and wine are generally regarded as commodities with specific connection, and should be identified as similar commodities. And the shape of wine bottle in the three-dimensional trademark has double properties, the container that holds the wine is also the trademark logo. If others manufacture and sell the wine bottle with the same shape as the three-dimensional trademark without permission, it can be regarded as manufacturing and selling of the three-dimensional trademark logo.

Source: Shandong Higher People's Court

小米商标案适用惩罚性赔偿，法院判赔3000万元

2021年12月31日，深圳市中级人民法院对小米科技诉深圳小米公司商标侵权及不正当竞争案，一审判决被告停止商标侵权及不正当竞争行为，消除影响并赔偿原告经济损失及合理维权费用共计3000万元。

法院认为，深圳小米公司构成恶意侵权，应适用惩罚性赔偿，法院结合涉案商标、字号的知名度、被告的使用方式、经营方式等，酌情认定原告的商标和字号对被告获利的贡献率为50%，其中商标权的贡献率为30%，字号的贡献率为20%。且被告故意侵权，侵权行为时间长、范围

广、规模大、侵权获利巨大，且同时实施多种侵权行为，属于情节严重，应适用三倍惩罚性赔偿。

来源：广东省深圳市中级人民法院

立方短评：本案中，法院对如何确定品牌贡献率进行了较为详细的论述，认为需考虑品牌知名度，品牌所处市场的竞争大小，权利人对品牌运营的重视与投入等因素予以酌定，明确了电商平台销售具备竞争强的特点，同时亦会导致品牌运营投入增大。并通过判断侵权行为对相关公众的影响，认定被告的商标侵权对获利的贡献率高于字号仿冒不正当竞争行为。本案体现出法院尽力让赔偿数额更能反映原告权益的市场价值和被告侵权行为性质和情节的价值追求，对同类案件具备一定参考意义。

Punitive damages applied in the Xiaomi trademark case, the plaintiff was awarded damages of RMB 30 million

On December 31, 2021, Shenzhen Intermediate People's Court in the first instance of the Xiaomi trademark infringement case, ordering the defendant to stop trademark infringement and unfair competition acts, eliminate the impact and pay damages of RMB 30 million.

The court held that the defendant constituted malicious infringement and punitive damages should be applied. Based on the popularity of the plaintiff's trademark and brand name, the defendant's use and business mode, etc., and the court determined that the contribution of the plaintiff's trademark and brand name to the defendant's profit was 50%, of which the contribution of the trademark right was 30% and the contribution of the brand name was 20%.

Based on the fact the defendants intentionally carried out numerous large-scale infringements and the profits of infringement were very large. The court finally decided to apply three times punitive damages.

Lifang & Partners comments: The court discussed in detail how to determine the contribution rate of a brand, considering the brand's popularity, the competition in the relevant market, and the right holder's emphasis on and investment in brand operation, and clarified that sales on e-commerce platforms are highly competitive, which also leads to increased investment in the operation of the brand. And by determining the impact of the infringement on the relevant public, it was concluded that the defendant's trademark infringement contributed more to the profit than the counterfeiting of the brand name. This case reflects the court's efforts to make the amount of damages more reflective of the pursuit of value of the market value of the plaintiff's rights and the nature and circumstances of the defendant's infringement, which has certain reference significance for similar cases.

Source: Shenzhen Intermediate People's Court

“山特”商标侵权案，法院参考库存数量计算侵权获利

广东省高级人民法院对山特电子（深圳）有限公司与佛山市菱冠电子科技有限公司、长

沙铭威电子科技有限公司、叶耀雄、深圳市中星启明电子科技有限公司、北京诚信天地科技有限公司侵害注册商标专用权及不正当竞争纠纷案作出二审裁判，撤销一审判决，判决佛山市菱冠电子科技有限公司、深圳市中星启明电子科技有限公司、叶耀雄立即停止侵权行为并赔偿原告经济损失及合理费用475万元，北京诚信天地科技有限公司赔偿经济损失及合理费用25万元。

二审法院审理认为侵害商标权及不正当竞争行为成立，在计算被告侵权获利时，二审法院认为，虽然网站显示的库存数量不等于产品的实际销售量，网站显示的单价也不等于产品的实际成交价，但原告在一、二审中均申请法院调查被诉侵权产品的销售数量，在相关销售数据为被告掌握且其未能提交任何审计报告等获利数据的情况下，原告已竭尽举证能力多方举证证明被诉产品的营业额和利润率，其获利计算方式具有一定的合理性和科学性。因此库存数量和销售单价可作为销售数量的参考。

来源：广东省高级人民法院

The court referred to the quantity of inventory to calculate infringement profit in "Shante" trademark infringement case

Guangdong Higher people's court made a second trial ruling on the "Shante" trademark infringement case, revoked the first-instance judgment, ordered three defendants to pay damages of RMB 4.75 million, and one of the other defendants to pay damages of RMB 250,000.

The court of second instance held that the defendants constituted trademark infringement and unfair competition, also held that although the quantity of inventory shown on the website is not equal to the actual sales volume, and the price online is not equal to the actual transaction price, the plaintiff applied to the court to investigate the sales volume of the infringing products in both the first and second trials. In the situation of the relevant sales data is in the possession of the defendant and it doesn't submit any profit data, the plaintiff has exhausted its ability to prove the turnover and profit rate of the product, its profit calculation method has a certain degree of reasonableness and scientific. Therefore, the quantity of inventory and the price of sales can be regarded as a reference for the quantity of sales.

Source: Guangdong Higher People's Court

京瓷公司对Koki提起337诉讼

1月21日，美国某上诉法院推翻对日立（Hitachi）牌和Metabo牌的射钉枪的进口禁令，并将案件发回ITC重新审理。该禁令由在京瓷顺高工业工具公司向美国国际贸易委员会（USITC）提起。该两品牌的射钉枪都由日本Koki公司生产。美国联邦巡回区上诉法院认为，ITC在其早先对这个案件的裁决中犯了多个错误，应当重新处理。

来源：中国知识产权律师网

Kyocera filed 337 lawsuits against Koki

On January 21, a US Court of Appeals overturned the import injunction on nail guns of Hitachi and Metabo and remanded the case to the ITC for retrial. The injunction was filed with the US International Trade Commission (USITC) by Kyocera Senco Industrial Tools, Inc. The two brands of nail guns are manufactured by Koki Holdings America Ltd. The court held that the ITC had made multiple errors in its earlier ruling in the case and should be remanded for retrial.

Source: [China Intellectual Property Lawyers Network](#)

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