



# NEWSLETTER

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

### 国家网信办等三部门联合发布《互联网弹窗信息推送服务管理规定》

2022年9月9日，国家互联网信息办公室（以下简称国家网信办）、工业和信息化部、国家市场监督管理总局联合发布《互联网弹窗信息推送服务管理规定》（以下简称《规定》），自2022年9月30日起施行。《规定》明确，互联网弹窗信息推送服务，是指通过操作系统、应用软件、网站等，以弹出消息窗口形式向互联网用户提供的信息推送服务；互联网弹窗信息推送服务提供者，是指提供互联网弹窗信息推送服务的组织或者个人。《规定》要求，互联网弹窗信息推送服务提供者应当落实信息内容管理主体责任，建立健全信息内容审核、生态治理、数据安全和个人信息保护、未成年人保护等管理制度。（[查看更多](#)）

### CAC and Three Other Departments Jointly Issue *Administrative Provisions on Internet Pop-up Window Information Push Services*

On 9 September 2022, the Cyberspace Administration of China (“CAC”), the Ministry of Industry and Information Technology, and the State Administration for Market Regulation jointly issued the *Administrative Provisions on Internet Pop-up Window Information Push Services* (the “Provisions”), which shall come into effect on 30 September 2022. The Provisions clarified that Internet pop-up window information push service refers to the information push service provided to Internet users in the form of pop-up message windows through operating systems, application software, websites, etc.; and that Internet pop-up information push service provider refers to the organization or individual who provides Internet pop-up information push service. The Provisions required that Internet pop-up information push service providers shall strictly implement the primary responsibility of information content management, and shall establish and improve the management system of information content audit, ecological governance, data security and personal information protection, and protection of minors. ([More](#))

### 国家网信办就《网信部门行政执法程序规定》公开征求意见

2022年9月8日，国家互联网信息办公室对《互联网信息内容管理行政执法程序规定》进行修订，形成了《网信部门行政执法程序规定（征求意见稿）》（以下简称《征求意见稿》），并向社会公开征求意见，意见反馈截止日期为2022年10月8日。《征求意见稿》共五章56条，对依法应由网信办管辖的网络信息内容、网络安全、数据安全、个人信息保护等行政处罚案件的管辖、处罚程序、执行与结案等内容进行了规定。（[查看更多](#)）

### CAC Issues Provisions on Administrative Enforcement Procedures for Cyberspace Departments

On 8 September 2022, the CAC issued the *Provisions on Administrative Enforcement Procedures for Cyberspace Departments (Draft for Comments)* (“Draft”) by revising the *Administrative Enforcement Procedures for the Administration of Internet-based Information Contents*, with the deadline for feedback being 8 October 2022. The Draft consisted of five chapters and 56 articles, providing the jurisdiction, punishment procedures, enforcement, and closure of administrative penalty cases involving network information content, network security, data security, and personal information protection, which fall under the jurisdiction of the CAC in accordance with the law. ([More](#))

## 中国网络安全产业联盟就《数据安全和个人信息保护社会责任指南》公开征求意见

2022年9月8日，中国网络安全产业联盟（CCIA）数据安全工作委员会组织制定的《数据安全和个人信息保护社会责任指南》（以下简称《指南》）联盟技术规范已经完成征求意见稿，并向社会公开征求意见，意见反馈截止日期为2022年9月30日。《指南》为组织理解数据安全和个人信息保护社会责任和实施相关活动提供指南，适用于处理数据的组织，还适用于第三方评价组织在履行数据安全和个人信息保护社会责任的水平。（[查看更多](#)）

### **CCIA Seeks Public Comments on *Social Responsibility Guidelines for Data Security and Personal Information Protection***

On 8 September 2022, the Alliance Technical Specification on *Social Responsibility Guidelines for Data Security and Personal Information Protection* (the “Guidelines”), which was organized and prepared by the Data Security Committee of the China Cybersecurity Industry Alliance (“CCIA”), were publicized for public comment, with the deadline for feedback being 30 September 2022. The Guidelines provided guidance for organizations to understand the social responsibility for data security and personal information protection and to implement related activities, and is applicable to organizations that process data, as well as for third parties to evaluate the level of organizations in fulfilling their social responsibility for data security and personal information protection. ([More](#))

## 上海市人民政府办公厅印发《上海市加快智能网联汽车创新发展实施方案》

2022年9月5日，上海市人民政府公布了《上海市加快智能网联汽车创新发展实施方案》（下称《方案》）。《方案》分为总体要求、重点任务、保障措施三部分，在数据安全、数据使用等方面明确了完善网络及数据安全、软件升级等测试和评价技术。《方案》要求，完善智能网联汽车系统验证及应用服务，构建“可兼容、可移植、可维护”的软件功能安全测评和信息安全测试验证平台；支持智能网联汽车与保险实现数据跨部门交互；打造多级云控基础平台，实时汇集全市智能网联汽车基础设施、交通运行基础数据，服务高精度地图应用、数字孪生、交通运行优化、应急事件调度等应用场景等要求。（[查看更多](#)）

### **General Office of Shanghai Municipal People's Government Issues *Implementation Plan for Accelerating the Innovative Development of Intelligent Connected Vehicles in Shanghai***

On 5 September 2022, the General Office of Shanghai Municipal People's Government issued the *Implementation Plan for Accelerating the Innovative Development of Intelligent Connected Vehicles in Shanghai* (the “Plan”). The Plan is divided into three parts: general requirements, key tasks, and safeguard measures, and specified the improvement of network and data security, software upgrades, and other testing and evaluation technologies in the areas of data security and data use. The Plan required that the system verification and application services of intelligent network-connected vehicles be improved, and a "compatible, portable and maintainable" software function safety assessment and information security testing and verification platform be built; The Plan shall also support the cross-sectoral interaction of data between intelligent connected vehicles and insurance; create a multi-level cloud-controlled infrastructure platform to collect the basic data of the city's intelligent connected vehicles and

traffic operation in real-time, and serve application scenarios such as high-precision map application, digital twin, traffic operation optimization and emergency dispatch. ([More](#))

### 《浦东新区人工智能企业数据安全和算法合规指引(试行)》发布

2022年9月3日, 2022世界人工智能安全高端对话在上海世博中心举办, 此次会议探讨的内容是元宇宙浪潮下如何确保数据安全、合规。会上, 《浦东新区人工智能企业数据安全和算法合规指引(试行)》(简称《指引》)作为创新成果之一首次公布, 并从发布之日起试行。《指引》全面引导和规范人工智能企业数据处理活动和算法研发应用, 为企业合理开发、利用数据资源, 确保数据安全, 提高合规治理能力提供指南。([查看更多](#))

### Guidelines on Data Security and Algorithm Compliance for Artificial Intelligence Enterprises in Pudong New Area (for Trial Implementation) Was Announced

On 3 September 2022, the 2022 World AI Security High-End Conference was held at the Shanghai World Expo Centre. The conference explored how to ensure data security and compliance under the meta-universe wave. At the conference, the *Guidelines on Data Security and Algorithm Compliance for Artificial Intelligence Enterprises in Pudong New Area (for Trial Implementation)* (“the Guidelines”) were announced for the first time as one of the innovations and was trial implemented from the date of publication. The Guidelines comprehensively guided and regulated data processing activities and algorithm development and application in AI enterprises, and provided guidance for enterprises to reasonably develop and utilize data resources, ensure data security and improve compliance governance. ([More](#))

### 2022年中国系统重要性银行名单公布, 19家银行入选

2022年9月9日, 中国人民银行(以下简称央行)、中国银行保险监督管理委员会(以下简称银保监会)联合发布2022年我国系统重要性银行名单。名单认定19家国内系统重要性银行, 其中有商业银行6家, 股份制商业银行9家, 城市商业银行4家。根据官方解释, 系统重要性是指金融机构因规模较大、结构和业务复杂度较高、与其他金融机构关联性较强, 在金融体系中提供难以替代的关键服务, 一旦发生重大风险事件而无法持续经营, 可能对金融体系和实体经济产生不利影响的程度。下一步央行、银保监会将按照《系统重要性银行附加监管规定(试行)》的要求, 持续做好系统重要性银行附加监管工作。([查看更多](#))

### List of China's Systemically Important Banks for 2022 Announced, 19 Banks Selected

On 9 September 2022, the People's Bank of China (“PBC”) and the China Banking and Insurance Regulatory Commission (“CBIRC”) jointly released the list of systemically important banks in China for 2022. The list identified 19 domestic systemically important banks, including six state-owned commercial banks, nine joint-stock commercial banks, and four urban commercial banks. According to the official explanation, systemic importance refers to the extent to which a financial institution, due to its large scale, high structural and operational complexity, strong correlation with other financial institutions, and the provision of key services that are difficult to replace in the financial system, may have an adverse impact on the financial system and the real economy if a major risk event occurs and the oper-

ation is not sustainable. PBC and the CBIRC will continue their work on additional supervision of systemically important banks in accordance with the requirements of the *Regulations on Additional Supervision of Systemically Important Banks (for Trial Implementation)*.[\(More\)](#)

## 上海、浙江等六地网信办发布关于接受数据出境安全评估申报咨询的通知

《数据出境安全评估办法》2022年9月1日起正式施行，要求数据处理者向境外提供数据的出境情形适用安全评估时，应当通过所在地省级网信部门向国家网信部门申报数据出境安全评估，随后国家互联网信息办公室编制发布了《数据出境安全评估申报指南（第一版）》。2022年9月1日至2022年9月9日期间，为了指导和帮助开展数据处理活动的组织和个人规范、有序申报数据出境安全评估，上海、浙江、江苏、天津、河北、北京等六地网信办陆续公开了申报咨询电话，其中，江苏省还特别出台了《江苏省数据出境安全评估申报工作指引（第一版）》。[\(查看更多\)](#)

地点	数据出境安全评估申报咨询电话
北京	010-67676912
上海	64743030-2711
江苏	025-63090194、86292793
浙江	0571-81051250
天津	022-88355322
河北	0311-87909716

## Cyberspace Administrations of Six Provinces Including Shanghai and Zhejiang Issue Notice on Accepting Consultations on Applications for Security Assessment of Cross-border Data Transfer

The Measures on Security Assessment of Cross-border Transfer of Data came into effect on 1 September 2022, requiring data processors to apply for security assessment of cross-border data transfer to the CAC through the provincial cyberspace administration of their location, and subsequently, CAC released the *Guidelines for the Application for Security Assessment of Cross-border Transfer of Data (First Edition)*. During the period from 1 September 2022 to 9 September 2022, in order to guide and help organizations and individuals conducting data processing activities to apply for security assessment of cross-border data transfer in a standardized and orderly manner, cyberspace administrations of six provinces including Shanghai, Zhejiang, Jiangsu, Tianjin, Hebei, and Beijing, have successively made public their application consultation telephone numbers, among which, Jiangsu Province has also issued, in particular, the "Guidelines for Application for Security Assessment of Cross-border Data Transfer in Jiangsu Province (First Edition)".[\(More\)](#)

Province	declaration consultation telephone numbers
Beijing	010-67676912
Shanghai	64743030-2711
Jiangsu	025-63090194、86292793
Zhejiang	0571-81051250
Tianjin	022-88355322
Hebei	0311-87909716

### 北京通管局通报：41款问题App，涉考研帮、Keep等

2022年9月5日，北京市通信管理局（以下简称北京通管局）组织第三方检测机构对北京地区APP开展技术检测工作。经检测，2022年8月共发现41款APP存在侵害用户权益和安全隐患等问题，其中涉及考研帮、keep等APP，发现相关APP存在未经用户同意收集使用个人信息、Janus签名机制漏洞、应用签名未校验风险、动态调试攻击风险、强制用户使用定向推送功能等问题。北京通管局要求相关APP运营企业立即进行整改并于9月15日前提交整改报告。逾期仍整改不到位的，北京通管局将依法依规予以处置。（[查看更多](#)）

### Beijing Communication Administration Informs: 41 Problematic Apps, Involving Kaoyanbang, Keep

On 5 September 2022, the Beijing Communications Administration (BCA) organized a third-party testing agency to carry out technical testing of APPs in Beijing. After testing, a total of 41 APPs were found to have problems such as infringement of users' rights and security risks in August 2022, which involved Kaoyanbang, Keep and other APPs, and the relevant APPs were found to have problems such as collection and use of personal information without users' consent, the vulnerability of Janus signature mechanism, risk of application signature not being verified, risk of dynamic debugging attack, and forcing users to use targeted push function. The BCA requested the relevant APP operators to immediately rectify and submit rectification reports before 15 September. If the rectification is still not in place after the deadline, BCA will deal with these Apps in accordance with the law. ([More](#))

### 民生银行海口分行因未按照规定履行客户身份识别义务被罚款227万元

2022年9月5日，中国人民银行海口中心支行公布的行政处罚显示，中国民生银行海口分行因未按照规定履行客户身份识别义务等违法行为被警告，并被罚款227万元。与此同时，时任民生银行海口分行副行长李志斌对未按照规定履行客户身份识别义务、未按照规定报告可疑交易报



告负有责任，被罚款4.5万元；时任民生银行海口分行内控合规部总经理米渊对未按照规定报告可疑交易报告负有责任，被罚款1.3万元。（[查看更多](#)）

### **Minsheng Bank Haikou Branch Was Fined RMB2.27 Million for Failing to Comply with Customer Identification Obligations as Required**

On 5 September 2022, the administrative penalties announced by the Haikou Central branch of the PBC showed that China Minsheng Bank Haikou Branch was warned and fined RMB2.27 million for violations such as failing to perform customer identification obligations in accordance with the regulations. At the same time, Li Zhibin, then Vice President of the Haikou Branch of Minsheng Bank, was fined RMB45,000 for being responsible for failing to perform customer identification obligations and reporting suspicious transaction reports in accordance with the regulations, and Mi Yuan, then General Manager of the Internal Control and Compliance Department of the Haikou Branch of Minsheng Bank, was fined RMB13,000 for being responsible for failing to report suspicious transaction reports in accordance with the regulations. ([More](#))

### **Meta因侵犯儿童隐私违反GDPR被罚逾4亿欧元**

2022年9月5日，因Meta旗下社交网络Instagram儿童数据处理不当，爱尔兰数据监管机构决定对其处以4.05亿欧元(约合28亿人民币)的罚款。爱尔兰数据保护委员会发现Instagram允许13岁至17岁的用户在该平台上操作商业账号，并显示用户的电话号码和电子邮件地址。此外，在该平台运行的用户注册系统下，13至17岁用户的账号默认设置为“公开”。这是根据《通用数据保护条例》对一家公司开出的第二高的罚单，仅次于2021年7月对亚马逊处以的7.46亿欧元罚款。（[查看更多](#)）

### **Meta to Appeal \$400M GDPR Fine for Mishandling Teen Data**

On 5 September 2022, The Irish Data Protection Commission fined Meta-owned social media platform Instagram €405 million (approximately RMB 2.8 billion) for violations of the General Data Protection Regulation. The Irish Data Protection Commission found Meta allowed children between the ages of 13 and 17 to create business accounts on Instagram. Those business accounts' settings reportedly facilitated the publication of users' phone numbers and email addresses. In addition, the default setting for these children between the ages of 13 and 17 were set at "public" on the account registration system. The fine is the second-highest under the GDPR after a €746 million penalty against Amazon. ([More](#))

### **美国国税局意外泄露12万纳税人个人信息**

2022年9月2日，美国国税局（IRS）承认，它在其网站上错误公布了约12万纳税人的机密信息。这些泄露的数据来自免税实体（包括个人退休账户）使用的990-T报税表格。美国国税局意外泄露的信息包括个人退休账户中的姓名、联系信息和有关收入的财务信息，但并不包括社会安全号码、完整的个人收入信息、详细的财务账户数据和其它可能影响纳税人信用的敏感信息。目前，美国国税局表示已经从其网站删除了相关数据，并将在未来几周内向受影响的纳税人发送通知。（[查看更多](#)）

## IRS Admits It Exposed Confidential Information of 120, 000 Taxpayers Online

On 2 September 2022, IRS admits it exposed the confidential information of 120, 000 taxpayers online who filed a form 990-T as part of their tax returns. The data leak exposed information including names, contact information, and reported income for those IRAs. However, the IRS states that the data did not include social security numbers, individual tax returns, or detailed account-holder information. The IRS states that the data has been removed and that they will send notifications to affected taxpayers in the coming weeks.[\(More\)](#)

## 英国：ICO发布隐私增强技术指南草案

2022年9月7日，英国信息专员办公室（ICO）发布了隐私增强技术指南草案（Draft Guidance On Privacy-Enhancing Technologies, PETs）。草案旨在帮助组织通过将数据保护设计方法付诸实践来释放数据的潜力。具体而言，作为ICO匿名化和假名化指南草案的组成部分，草案阐述了隐私增强技术的使用，风险和益处以及当前可用的类型，以及该技术能如何帮助组织开展数据保护合规。据ICO称，草案于2022年9月7日至8日在德国波恩举行的2022年七国集团数据保护和隐私监管机构圆桌会议之前得以发布，ICO将在会上介绍其关于隐私增强技术的工作，并鼓励通过国际协议支持负责任和创新地使用该技术。[（查看更多）](#)

## UK: ICO Publishes Draft Guidance on Privacy-enhancing Technologies

On 7 September 2022, The Information Commissioner's Office (“ICO”) published *Draft Guidance on Privacy-enhancing Technologies* (“PETs”). In particular, the draft guidance is intended to help organisations unlock the potential of data by putting Data Protection by Design into practice. Specifically, constituting a part of the ICO's anonymisation and pseudonymisation series, the draft guidance addresses the use of PETs, particularly how PETs can help with data protection compliance, the corresponding risks and benefits, and the types of PETs currently available.

According to the ICO, the draft guidance has been published ahead of the 2022 roundtable of G7 data protection and privacy authorities taking place in Bonn, Germany from 7 to 8 September 2022, where the ICO will present its work on PETs and encourage international agreement for the support of responsible and innovative use of PETs.[\(More\)](#)

## 知识产权 Intellectual Property

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### 国知局发布《关于全面推行驳回复审案件网上申请的通告》

为进一步提升商标评审电子化水平，加强行政与司法有效衔接，推动商标评审绿色发展，国家知识产权局商标局将全面推行商标代理机构驳回复审案件网上申请。通告内容包括：一、自2022年11月1日起，商标代理机构办理驳回复审业务，原则上应通过商标网上服务系统提交电子申请，不再提交纸质材料。二、本通告发出之日起至11月1日为全面推行商标代理机构代理驳回复审案件网上申请的“过渡期”，商标代理机构做好各项准备工作，尚无商标网上服务系统账户的代理机构请尽快申请注册。

来源：国家知识产权局

## **CNIPA Issued the Notice on the Full Implementation of the Online Application for Refusal Review Cases**

Trademark Office of China National Intellectual Property Administration (CNIPA) will fully implement the online application of trademark agencies for refusal review cases. The contents of the notice include: 1. Since November 1, 2022, trademark agencies handling the refusal review, shall submit electronic applications through the trademark online service system, instead of submitting paper materials. 2. From the date of issuance of this notice to November 1<sup>st</sup>, 2022, is the "transition period" for the full implementation of the online application of trademark agencies for refusal review cases. Trademark agencies shall do all the preparatory work, and agencies that have no online service account of trademarks shall apply for registration as soon as possible.

Source: CNIPA

## **最高法：现有证据能否作为判定被诉侵权产品侵权与否的依据**

日前，西门子公司（下称西门子）将苏州汇川有限公司（下称苏州汇川）诉至江苏省苏州市中级人民法院，一审责令苏州汇川赔偿西门子经济损失600万元以及合理费用20万元，二审驳回上诉，维持原判。

最高人民法院认为，在专利侵权判定的司法实践中，对被诉侵权产品、设备等实物进行勘验仅是查明其实施的技术方案并进行侵权比对的有效手段之一，即便在缺少实物进行验证的情况下，只要现有证据材料能够客观、真实地反映被诉侵权产品所实际实施的技术方案，就可以之作为被诉侵权技术方案并用于进行侵权与否的判定。

来源：最高人民法院

## **SPC: the Existing Evidence as the Basis for Judging the Patent Infringement of the Accused Infringing Products**

The Supreme People's Court (SPC) made a second-instance judgment which upheld the court of first instance that the defendant shall pay damages of RMB 6 million to Siemens (China) Ltd.

SPC held that in the judicial practice of patent infringement judgment, inspecting the accused infringing products, equipment and other physical objects is only one of the effective means to identify the technical solutions implemented and making comparison. Even in the absence of physical verification, as long as the existing evidence can truly reflect the technical solutions actually implemented on the accused infringing products, they can be used as the accused infringing technical solutions, and used to decide whether the infringement is established .

Source: SPC

## **首例算法推荐生效判决：爱奇艺诉某知名平台短视频侵权获赔百万**

北京爱奇艺科技有限公司（下称爱奇艺）享有电视剧《老九门》在境内的独占信息网络传播权。某知名短视频平台APP中存在大量关于电视剧《老九门》的侵权视频片段，该平台明知、

应知涉案侵权内容，仍通过各类推荐行为向用户提供涉案侵权视频的在线播放及下载服务。爱奇艺认为，该行为严重侵害其合法权益，诉至法院。

法院认为，某短视频平台公司将各类热播影视作品按照主题、内容主动进行选择、整理、分类推荐，并通过设置视频分类、智能索引、话题编辑等方式推荐涉案侵权视频，且电视剧《老九门》具有相当高的知名度，可认定某短视频平台公司构成“应知”。爱奇艺在证据保全公证前已多次通知某短视频平台公司删除涉案侵权作品，并提供初步权属证据与侵权作品明细，某短视频平台公司仍未予以删除，可认定某短视频平台公司构成“明知”。因此，某短视频平台公司存在主观过错，对被诉侵权视频的信息网络传播起到帮助作用，应当承担侵权责任。

来源：[江苏省高级人民法院](#)

### **The First Effective Judgment of Algorithm Recommendation: iQIYI Sued a Well-known Platform for Short Video Infringement**

Beijing iQIYI Science & Technology Co., Ltd. (iQIYI) enjoys the exclusive information network communication right of a famous TV series in China. There are a large number of infringing video clips on the TV series in a well-known short video platform APP (the Defendant). iQIYI filed suit to the court.

The court held that the TV series involved was quite well-known, and before the notarization of evidence preservation, iQIYI had repeatedly notified the defendant to delete the infringing works, and provided preliminary ownership evidence and details of the infringing works. But the Defendant failed to delete. Therefore, the Defendant assisted the information network dissemination of the accused infringing video, and shall bear the liability of infringement.

Source: [Jiangsu High People's Court](#)

### **北京知产法院：利用具有攀附他人商誉的表述，构成虚假宣传**

近日，北京知识产权法院就聚联智汇水务科技有限公司与北京兴业新兴管道有限公司侵害商标权及不正当竞争纠纷案作出判决，责令被告停止侵权、赔偿损失。

法院认为，在双方存在直接或间接竞争关系的情况下，侵权行为人对生产经验、经营资质、生产能力、职工人数、占地面积、认证证书等内容进行虚假宣传，同时，利用具有攀附权利人多年经营累积的良好商誉的表述，容易导致相关市场上的消费者对双方之间的关系产生错误认识，其行为有违诚实信用原则以及公认的商业道德，构成虚假宣传的不正当竞争行为，应当承担相应的民事责任。

来源：[北京知识产权法院](#)

### **BIPC: Using Expressions That Hitchhiking the Goodwill of Others Constitutes False Commercial Promotion**

Recently, the Beijing Intellectual Property Court (BIPC) made a judgment on the dispute over trademark infringement and unfair competition, which ordered the defendant to stop the infringement and award the damages.

BIPC held that, in the case of direct or indirect competition between the two parties, the infringer falsely publicized the production experience, business qualifications, production capacity, number of employees, floor space, certification certificate and other contents. At the same time, it can easily mislead the public by making use of the expression of the good reputation accumulated by the Plaintiff who has been operating for many years. The act of the Defendant constituted false promotion, and damaged the reputation of the Plaintiff.

Source: Beijing Intellectual Property Court

### 腾讯诉荔枝 App 侵犯《三体》音频著作权，获赔 500 万元

近日，上海知识产权法院对深圳市腾讯计算机系统有限公司起诉广州荔支网络技术有限公司（下称荔枝），侵犯《三体》著作权一案作出二审判决，驳回上诉，维持一审责令被告赔偿经济损失500万元。

法院认为，根据涉案《独家合作协议》的约定，授权方在授权期限之内仅许可被授权方对授权作品录制成音频作品，且仅将授权作品著作权之信息网络传播权在音频作品业务范围内授予被授权方；完成后音频作品以任何形式进行使用，包括录制现场直播/复制/信息网络传播等；侵权行为包括未经授权方和被授权方许可将授权作品录制成音频作品或将未经许可录制的音频作品在任何领域（包括但不限于信息网络）进行复制/发行/传播。

根据上述协议，荔枝平台的主播录制《三体》音频并上传至荔枝平台，使公众可以在其个人选定的时间和地点获得作品，属于侵害作品复制权、信息网络传播权的行为。

来源：上海知识产权法院

### Awarded Damages of RMB 5 Million: Tencent Suing Litchi App for Infringing the Audio Copyright of the Famous Novel Three Body Problem

Recently, Shanghai Intellectual Property Court made a second-instance judgment on the case that Tencent suing Litchi App for infringing the copyright of *The Three Body Problem*, which rejected the appeal, upheld the first instance and ordered the defendant to compensate for damages of RMB 5 million.

The court held that, according to the agreement in the *Exclusive Cooperation Agreement* signed by Tencent and the author of *Three Body Problem*, Tencent has exclusive rights on the audio work of *Three Body Problem*, which was published on the Penguin FM, the audio platform of Tencent.

However, many anchors on the platform of the Defendant produced the audio of *The Three Body Problem* and uploaded on the platform of the Defendant, which is an act of infringement on Tencent, and the court made such judgment.

Source: Shanghai Intellectual Property Court

### 日本制纸起诉大王制纸专利侵权，索赔3300万日元并申请禁令

近日，日本制纸株式会社(Nippon Paper Industries Co.,Ltd.)旗下子公司Nippon Paper Crecia（下称Crecia）向东京地方法院提起诉讼，称竞争对手大王制纸株式会社（Daio paper corporation）侵犯了其卷筒卫生纸相关专利。同时，Crecia正寻求针对大王制纸生产和销售长款卷筒卫生纸的禁

令，并要求对方赔偿3300万日元(约162.5万元人民币)的经济损失。涉案专利技术可使卫生纸保持柔软，并使卷筒卫生纸长度增加三倍左右。而较长的卷筒卫生纸在日本更受欢迎，因为其占用更少的存储空间，且使用时间更持久。截至目前，大王制纸拒绝就这一起诉讼置评，称尚未收到书面诉讼文件。

来源：NHK WORLD-JAPAN

### **Nippon Paper Crecia Suing Daio paper corporation for Patent Infringement**

Nippon Paper Crecia (Plaintiff) filed a patent infringement suit against Daio Paper (Defendant) before the Tokyo District Court. The subsidiary of the major paper producer is seeking an injunction against Defendant's production and sale of long toilet paper rolls. Plaintiff is also seeking JPY 33 million, for damages. The company is accusing Defendant infringing on patents for manufacturing technology that keeps toilet paper soft while rolling it longer than conventional types. Demand for the longer rolls has been rising and the product now accounts for 35 percent of toilet paper sales at Plaintiff and 40 percent at Defendant.

Defendant declined to comment about the lawsuit, saying it had yet to receive a written complaint.

Source: NHK WORLD-JAPAN

### **极星与雪铁龙商标纠纷和解：前者产品曾在法国遭禁售**

2019年9月，法国汽车制造商雪铁龙汽车公司（下称雪铁龙）起诉总部位于瑞典的电动汽车品牌极星，状告极星商标侵权。雪铁龙方面认为极星的Logo与雪铁龙的“人字形品牌”设计以及雪铁龙前子品牌DS汽车的标识非常相似，这可能会使购车者混淆。雪铁龙声称极星的行为构成了商标侵权及不正当竞争，要求法院禁止极星使用其LOGO并赔偿32万欧元（约合252万元人民币）。今年7月12日，法国最高法院终于做出了裁决，由于雪铁龙的LOGO已沿用了上百年，在法国可谓家喻户晓，极星所用的箭形LOGO很容易让人联想到雪铁龙。法院裁定极星向雪铁龙赔偿15万欧元（约117万元人民币），并要求极星在半年内，不得在法国境内使用其LOGO。

最终，两家公司达成一项和解协议，双方可在全球范围内使用其注册商标，同时允许极星在法国市场销售相关汽车产品，但双方并未透露协议的具体条款及细节。

来源：TRACEDNEWS

### **Between Citroën and Polestar, Reconciliation Reached on Trademark Infringement**

In September 2019, Citroën sued Polestar for trademark infringement. Citroën held that the Logo of Polestar is very similar to Citroën's "herringbone brand" design and the logo of its former sub-brand DS, which may mislead car buyers. Claiming that Polestar's behavior constitutes trademark infringement and unfair competition, Citroën asked the court to prohibit Polestar from using its LOGO and compensate 320,000 euros (about RMB 2.52 million). On July 12th this year, the French Supreme Court finally made a ruling. As the LOGO of Citroën has been used for hundreds of years, it is a household name in France. The arrow LOGO used by Polestar is easily reminiscent of Citroën. The court ruled that Polestar paid damages of 150,000 euros (about RMB 1.17 million) and asked Polestar not to use its LOGO in France within half a year. In the end, the two companies reached a settlement

agreement, in which both parties can use their registered trademarks worldwide and allow Polestar to sell related automobile products in the French market. However, the two parties did not disclose the specific terms and details of the agreement.

Source: TRACEDNEWS

### 辉瑞、BioNTech在英寻求撤销CureVac的新冠疫苗专利侵权索赔

成立于2000年的CureVac是mRNA技术领域领先的生物制药公司，是世界上第一家成功将mRNA用于医疗目的的公司。辉瑞公司创建于1849年，是一家总部位于美国纽约的生物制药公司。BioNtech最初与辉瑞合作是为了开发基于mRNA的流感疫苗，但在2020年初疫情开始时，转向了新型冠状病毒疫苗。

今年7月，CureVac对BioNTech使用mRNA技术提起了专利诉讼，要求该公司及其两家子公司就侵犯其知识产权的行为进行赔偿。辉瑞和BioNTech随后向美国地方法院提起诉讼，要求法院判决他们没有侵犯CureVac持有的美国专利。路透社近日报道称，根据上周五的一份监管文件，辉瑞及其德国合作伙伴BioNTech已向英格兰和威尔士高等法院提起诉讼，寻求判决他们基于mRNA技术的新冠肺炎疫苗不侵犯CureVac的欧洲专利。

来源: Pfizer Inc.

### Pfizer and Biontech Are Seeking to Revoke Curevac's Patent Infringement Claim of Covid-19 Vaccine

In July this year, CureVac filed a patent lawsuit against BioNTech's use of mRNA technology, demanding that the company and its two subsidiaries compensate for the infringement of its intellectual property rights. Pfizer and BioNTech then filed a lawsuit in the U.S. District Court, asking the court to decide that they did not infringe the U.S. patent held by CureVac. According to the report, according to a regulatory document last Friday, Pfizer and its German partner BioNTech have filed a lawsuit in the High Court of England and Wales, seeking to judge that their COVID-19 vaccine based on mRNA technology does not infringe CureVac's European patent.

Source: Pfizer Inc.

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