



# NEWSLETTER

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Shanghai Police Conducted the China's First Criminal Copyright Infringement Case by Sabotaging Technical Protection Measures



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Geely was Awarded RMB 7 million against WM Motor for Infringing Trade Secrets on Automobile

“水中贵族”诉“茶中贵族”侵权，“百岁山”获认驰名商标，予以跨类保护

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专利无效决定被撤销，奥克斯诉格力索赔1.6亿可能面临反转

As the Patent is Invalidated, AUX's Favorable Judgement of Award for RMB167 Million against Gree may Face Reversal

达成和解！亿光撤回对中国电器的专利诉讼

Everlight Electronics Withdraws its Patent Lawsuit against CE and the Two Parties Reach a Settlement

加拿大版权保护期将延长20年，于12月30日起生效

Canada Extends Copyright Protection for Another 20 years, Effective from December 30, 2022

美国国际贸易委员会（ITC）裁定苹果手表侵犯AliveCor专利

ITC Ruled that Apple Watches Infringe AliveCor Patents

美国监督机构：美国专利商标局PTAB在司法裁决中应提高透明度

US Supervisory Agency: Increased Transparency Needed in Oversight of Judicial Decision-Making

## 立方竞争法周报 Weekly Competition Law News

### 河北省召开反垄断和反不正当竞争执法工作新闻发布会

2022年12月30日，河北省政府召开反垄断和反不正当竞争执法工作新闻发布会。2022年，河北省执法部门重点关注行政机关、行业协会、教育培训、医疗卫生、工程建设、公用事业、交通运输、保险等行业领域，全年共检查企业984家，核实垄断线索9条。执法部门全年审查新出台政策措施7569件，修改调整38件。今年，河北省建立了由39个部门参与的省公平竞争政策实施领导小组，统筹协调全省反垄断、反不正当竞争和公平竞争审查等工作。（[查看更多](#)）

### Hebei Province Holds a Press Conference on Anti-Monopoly and Anti-Unfair Competition Law Enforcement

On December 30, 2022, the Hebei Provincial Government held a press conference on anti-monopoly and anti-unfair competition law enforcement. In 2022, Hebei law enforcement departments focused on administrative authorities, industry associations, education, medical and health care, engineering construction, public utilities, transportation, insurance and other industries, investigated a total of 984 companies and followed 9 monopoly leads. Law enforcement agencies reviewed 7,569 new policies and measures throughout the year, and revised and adjusted 38 of them. In 2022, Hebei Province established a leading group for the implementation of the provincial-wide fair competition policy involving 39 departments to coordinate the province's anti-monopoly, anti-unfair competition and fair competition review work. ([More](#))

### 广西永福县供水公司滥用支配地位被罚31万

2022年12月29日，国家市场监督管理总局（“市场监管总局”）公布了广西壮族自治区市场监督管理局（“广西市监局”）作出的行政处罚决定书。经调查，本案相关市场为桂林市永福县城市公共自来水供水服务市场，当事人在相关市场中拥有支配地位，没有正当理由，限定用户只能与其进行交易，排除、损害了市场竞争。当事人曾以存在从轻处罚情节和公司无力支付罚款为由作出书面陈述和申辩，但未被接受。2022年11月14日，广西市监局决定责令当事人停止违法行为，并处以其2020年销售额3%的罚款，计312010.65元。（[查看更多](#)）

### Guangxi Yongfu County Water Supply Company Fined CNY 310,000 for Abusing its Dominant Position

On December 29, 2022, the State Administration for Market Regulation (“SAMR”) announced the administrative penalty decision issued by the Guangxi Zhuang Autonomous Region Administration for Market Regulation (“Guangxi AMR”). According to investigation, the relevant market in this case is the urban public tap water supply service market in Yongfu County, Guilin City. The party concerned has a dominant position in the relevant market, and without justifiable reasons, it restricts users to only trade with it, which eliminates and damages market competition. The party had made written statements and defenses on the grounds that there were extenuating circumstances and that the company was unable to pay the fine, but were later rejected. On November 14, 2022, the Guangxi AMR ordered the party con-

cerned to stop the illegal behavior, and imposed a fine of 3% of its 2020 sales, totaling CNY 312,010.65. ([More](#))

### 市场监管总局附条件批准大韩航空公司收购韩亚航空株式会社

2022年12月26日，市场监管总局宣布附条件批准大韩航空公司收购韩亚航空株式会社。该案自2021年1月15日起申报，2022年4月26日正式立案。经审查，市场监管总局认为该交易会在17座城市双向航线间的定期航空客运服务市场以及中韩两国间的航空货运服务市场产生横向重叠，进一步提高市场集中度和集中后实体的市场控制力，消除竞争，增加竞争者价格协调的动机和能力。为解决竞争担忧，经营者承诺归还部分航线时刻，配合韩国国土交通部归还部分航权，确保在部分航线上的年供应保持2019年水平，续签航空客运协议，保障航空客运辅助服务，并作出合规承诺，承诺期为10年。 ([查看更多](#))

### SAMR Clears Korean Air's Acquisition of Asiana Airlines, Subject to Conditions

On December 26, 2022, SAMR announced conditional approval of Korean Air's acquisition of Asiana Airlines. The case was notified to SAMR on January 15, 2021, and officially filed on April 26, 2022. After review, SAMR concerned that the transaction would have generated horizontal overlaps in the scheduled air passenger service market between the two-way routes of 17 cities and the air cargo service market between China and South Korea, which would further increase market concentration and market control of the merged entity, eliminate competition, and increase the incentive and ability of competitors to coordinate prices. In order to address competition concerns, the operator promised to return some flight slots, cooperate with the Korean Ministry of Land, Infrastructure and Transport (MOLIT) to return some air rights, ensure that the annual supply on some routes maintains the level of 2019, renew the air passenger transport agreement, guarantee air passenger transport auxiliary services and make compliance commitments. The commitments will remain in force for 10 years. ([More](#))

### 知网运营企业滥用市场支配地位遭罚8760万

2022年12月26日，市场监管总局发布公告，对同方知网（北京）技术有限公司、同方知网数字出版技术股份有限公司和《中国学术期刊（光盘版）》电子杂志社有限公司作出处罚决定。三家公司共同运营学术平台知网（CNKI），经调查，三家公司滥用了中国境内中文学术文献网络数据库服务市场中的支配地位，自2014年以来，实施了限定交易和不公平高价销售中文学术文献网络数据库服务行为，排除、限制了相关市场竞争。最终，市场监管总局决定，责令知网运营企业停止独家合作和不公平高价行为，并对当事企业处以2021年度中国境内销售额5%的罚款，计8760万元。 ([查看更多](#))

### CNKI Fined CNY 86.7 Million for Abuse of Dominant Market Position

On December 26, 2022, SAMR issued an announcement to impose penalties on Tongfang Knowledge Network (Beijing) Technology Co., Ltd., Tongfang Knowledge Network Digital Publishing Technology Co., Ltd., and *China Academic Journals (CD) Electronic Magazine Co., Ltd.* The three companies joint-

ly operate the academic platform China National Knowledge Infrastructure (CNKI). According to investigation, the three companies abused their dominant positions in the online database service market of Chinese academic literature in Mainland China. Since 2014, they had implemented restricted transactions and unfairly high-priced sales of Chinese academic literature online database, which excluded and restricted relevant market competition. SAMR decided to order CNKI operating companies to stop exclusive cooperation and unfairly high prices, and imposed a fine of 5% of the companies' sales in China in 2021, totaling CNY 87.6 million. ([More](#))

## 诺华将支付2.45亿美元和解金以结束仿制药反垄断诉讼

2022年12月29日，据媒体报道，诺华（Novartis）将支付2.45亿美元和解金以结束反垄断集体诉讼。该集体诉讼源于诺华公司2011年与远藤国际制药公司（Endo International）旗下的Par制药公司（Par Pharmaceutical）签订的许可协议，该协议被指控构成非法的反向支付协议，意在延迟推出更便宜的诺华产品Exforge的仿制药在美国上市的时间，Exforge主要用于治疗高血压，通过降低血压减小中风风险。诺华表示，将支付2.45亿美金与直接购买者、间接购买者和零售商达成和解协议，此项和解还需要得到曼哈顿联邦法官的批准，此外诺华还将寻求解决所有针对公司的未决索赔。 ([查看更多](#))

## Novartis Settles Antitrust Cases Over Exforge Drug Generics

On December 29, 2022, according to news report, Novartis AG said it will pay USD 245 million to end antitrust litigation. The class-action litigation stemmed from a 2011 licensing agreement between Novartis and Endo International's Par Pharmaceutical unit. Novartis and Par were accused of entering an illegal "reverse payment" agreement to delay launches of less expensive, generic versions of Exforge, which treats hypertension to lower blood pressure and reduce the risk of strokes. The settlements with so-called direct purchasers, indirect purchasers and retailers require approval by a federal judge in Manhattan, and will resolve all outstanding claims against the company over the matter, Novartis said. ([More](#))

## 谷歌就印度对安卓案反垄断决定提起上诉

2022年12月29日，据媒体报道，谷歌将对印度反垄断监管机构的决定提起上诉，该决定命令谷歌改变在安卓（Android）平台上的做法，并对谷歌的反竞争行为处以1.62亿美元的罚款。印度竞争委员会曾在十月表示，谷歌利用其在安卓在线搜索和应用商店等市场中的支配地位保护旗下的Chrome、YouTube等应用在移动网络浏览器和在线视频托管市场中的地位。 ([查看更多](#))

## Google To Appeal India Antitrust Ruling On Android

On December 29, 2022, according to news report, Google said it will appeal the Indian antitrust watchdog's ruling that ordered the tech giant to change its approach to its Android platform and imposed a fine of USD 162 million for anti-competitive practices. The Competition Commission of India had said in October that Google leveraged its dominant position in markets such as online search and app store

for Android to protect the position of its apps like Chrome and YouTube in mobile web browsers and online video hosting. ([More](#))

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

### 最高院发布4起指导性案例

2022年12月26日，最高人民法院发布第35批共4件指导性案例，均为公民个人信息保护刑事案件。该批案例分别涉及人脸识别信息、居民身份证信息、微信等社交媒体账号、手机验证码等刑法保护的公民个人信息范围、性质。其中，指导性案例192号《李开祥侵犯公民个人信息刑事附带民事公益诉讼案》明确了使用人脸识别技术处理的人脸信息以及基于人脸识别技术生成的人脸信息均具有高度的可识别性，能够单独或者与其他信息结合识别特定自然人身份或者反映特定自然人活动情况，属于刑法规定的公民个人信息。该批指导案例对于明确类案裁判规则，依法保护公民个人信息具有重要的指导意义。 ([查看更多](#))

### SPC Released Four Guiding Cases

On 26 December 2022, the Supreme People's Court (the "SPC") released the 35th batch of four guiding cases, all of which are criminal cases on the protection of citizens' personal information. These cases involve the scope and nature of citizens' personal information as protected by the *Criminal Law*, such as face recognition information, ID card information, social media accounts such as WeChat, and mobile phone verification codes. Among them, guiding case No. 192 entitled *Li Kaixiang's Infringement of Citizens' Personal Information with Civil Public Interest Litigation Collateral to the Criminal Case* clarifies that face information processed and generated using facial recognition technology is highly identifiable. Such information is capable of identifying a specific natural person or reflecting information on the activities of a specific natural person either independently or in combination with other information, and therefore constitutes a citizen's personal information as stipulated in the *Criminal Law*. This batch of guiding cases has important guiding significance for clarifying the rules for judging similar cases and protecting citizens' personal information according to law. ([More](#))

### 中国银保监会发布《银行保险机构消费者权益保护管理办法》

2022年12月30日，中国银保监会制定并发布了《银行保险机构消费者权益保护管理办法》（以下简称《管理办法》），自2023年3月1日起施行。《管理办法》共8章，57条。其中规定，银行保险机构收集消费者个人信息应当向消费者告知收集使用的目的、方式和范围等规则，并经消费者同意，法律法规另有规定的除外。银行保险机构处理消费者个人信息，应当坚持合法、正当、必要、诚信原则，切实保护消费者信息安全权等。 ([查看更多](#))

## **CBIRC Promulgated *the Administrative Measures for the Protection of Consumers' Rights and Interests by Banking and Insurance Institutions***

On 30 December 2022, the China Banking and Insurance Regulatory Commission (“CBIRC”) promulgated *the Administrative Measures for the Protection of Consumers' Rights and Interests by Banking and Insurance Institutions* (the “Administrative Measures”), effective from 1 March 2023. The Administrative Measures consist of eight chapters and 57 articles. The Administrative Measures stipulate that when collecting consumers' personal information, banking and insurance institutions shall inform consumers of the purposes, methods, scope and other rules of the collection and use of such information, and shall obtain the consent of consumers, unless otherwise provided by laws and regulations. Banking or insurance institutions shall adhere to the principles of legitimacy, appropriateness, necessity and good faith when processing the personal information of consumers to effectively protect consumers' right to information security. ([More](#))

### **国家邮政局：进一步加强邮政快递领域个人信息保护**

2022年12月28日，国家邮政局召开局长办公会议，审议并原则通过《<“十四五”邮政事业发展规划>任务分工方案》《关于推进新时代邮政普遍服务高质量发展的意见》《快递市场管理办法(修订草案)》及《寄递服务用户个人信息保护要求》《明信片》两个行业标准。会议强调，要进一步加强邮政快递领域个人信息保护和治理，进一步发挥标准工作对行业高质量发展的促进和支撑作用，进一步强化各类标准特别是产业联动类标准的有效供给，切实抓好已出台标准的落地实施。 ([查看更多](#))

### **SPB: Further Strengthening the Protection of Personal Information in the Postal Express Delivery Field**

On 28 December 2022, the State Post Bureau (“SPB”) held a directors' executive meeting, deliberated and adopted in principle *the Plan for Division of Tasks in the 14th Five-Year Development Plan for Postal Undertakings, the Opinions on Promoting the High-quality Development of Universal Postal Services in the New Era and the Administrative Measures for the Express Delivery Market (Revised Draft)*, as well as two industrial standards *the Requirements on Protecting the Personal Information of Postal and Delivery Service Users* and *Postcards*. The meeting stresses the need to further strengthen the protection and governance of personal information in the postal express delivery field, and further give play to the role of standards work in promoting and supporting the high-quality development of the industry, and further enhance the effective preparation of various standards, especially those of a cross-industry linkage nature, and earnestly implement the already-issued standards. ([More](#))

### **工信部公开征求对《工业和信息化部关于进一步提升移动互联网应用服务能力的通知（征求意见稿）》的意见**

根据2022年12月27日工业和信息化部网站公告，工业和信息化部依据行业管理职责，组织起草了《工业和信息化部关于进一步提升移动互联网应用服务能力的通知（征求意见稿）》（以下简称《意见稿》）。工信部就此向社会公开征求意见，截止时间为2023年1月10日。《意见



稿》明确，向用户推荐下载APP 应遵循公开、透明原则，真实、准确、完整地明示开发者信息、产品功能、

隐私政策、权限列表等必要信息，并同步提供明显的“取消”选项，经用户确认同意后方可下载安装。在用户浏览页面内容时，未经用户同意或主动选择，不得自动或强制下载APP，或以折叠显示、主动弹窗、频繁提示等方式强迫用户下载、打开APP。《意见稿》还规定，除基本功能软件外，APP应可便捷卸载，不得以空白名称、透明图标、后台隐藏等方式恶意阻挠用户卸载。（[查看更多](#)）

### ***MIIT Seeks Public Comments on the Circular of the Ministry of Industry and Information Technology on Further Enhancing the Service Capacity of Mobile Internet Applications (Draft for Comment)***

According to an announcement on the official website dated as of 27 December 2022, the Ministry of Industry and Information Technology (“MIIT”) has, in accordance with its administrative duties in the industry, organized the drafting of *the Circular of the Ministry of Industry and Information Technology on Further Enhancing the Service Capacity of Mobile Internet Applications (Draft for Comment) (the "Draft")*. The MIIT is seeking public comments thereon until 10 January 2023. The Draft provides that in accordance with the principles of openness and transparency, when recommending downloading of APPs, essential information such as the developer, product functions, privacy policies, list of authorizations should be truthfully, accurately and completely disclosed, and an option to “cancel” should be provided in a conspicuous way. No APPs should be installed unless user consent is confirmed. Further, the Draft makes it clear that when users browse webpage contents, no APPs shall be downloaded automatically or in a forced manner without user consent, nor shall users be forced to download or open any application by way of folded display, active pop-up window, frequent reminder or otherwise. In addition, except for software with basic functions, APPs shall be capable of being uninstalled with ease, and methods such as blank name, transparent icon or background concealment that may maliciously obstruct users from uninstalling APPs are prohibited. ([More](#))

### **《贵州省数据流通交易管理办法（试行）》发布**

2022年12月26日，为规范数据流通交易运行，培育数据要素市场，贵州省大数据发展管理局发布《贵州省数据流通交易管理办法（试行）》（以下简称《办法》）。《办法》自印发之日起施行。《办法》适用于贵州省行政区域内进行的数据流通交易及相关活动。《办法》共九章，四十二条，包括总则、部门职责、交易场所、交易标的、交易主体、交易流程、安全管理、监督管理以及附则。《办法》鼓励多元化数据流通交易，强化政务数据供给，推动公共企事业单位数据流通交易，激发社会数据流通交易活力，培育数据流通交易产业生态。（[查看更多](#)）

### ***Release of the Administrative Measures of Guizhou Province for Data Circulation and Trading (for Trial Implementation)***

On 26 December 2022, in order to regulate the operation of data circulation trading and foster the data element market, the Guizhou Big Data Development Administration issued *the Administrative*

*Measures of Guizhou Province for Data Circulation and Trading (for Trial Implementation)* (the "Measures"). The Measures shall come into force as of the date of promulgation. The Measures shall apply to data circulation and trading transactions and related activities carried out within the administrative region of Guizhou Province. The Measures consist of 42 articles in nine chapters, including the General Provisions, Responsibilities of Departments, Trading Venues, Trading Objects, Trading Subjects, Trading Processes, Security Management, Supervision and Administration and Supplementary Provisions. The Measures encourage diversified data circulation and trading, intensifying the supply of data on government affairs, promoting the data circulation and trading of public institutions and public institutions, stimulating the vitality of data circulation and trading in society, and cultivate the industrial ecology of data circulation and trading. ([More](#))

### 《厦门经济特区数据条例》3月1日起实施

2022年12月27日，福建省厦门市十六届人大常委会第九次会议表决通过了《厦门经济特区数据条例》（下简称《条例》），《条例》将于2023年3月1日起实施。《条例》以促进数据应用和发展为基本定位，聚焦数据流通利用、数据安全保护、数据权益保护三大环节，在满足安全要求的前提下，对公共数据授权运营、数据要素市场培育发展等进行探索，赋能数字经济和社会发展。另外，《条例》强化了个人信息保护，对公共场所和特定区域收集使用的个人图像、身份识别信息作出严格限定。 ([查看更多](#))

### Data Regulations for the Xiamen Special Economic Zone to be Implemented on 1 March 2023

On 27 December 2022, the *Data Regulations for the Xiamen Special Economic Zone* (the "Regulations") were adopted at the 9th Session of the Standing Committee of the 16th People's Congress of Xiamen City of Fujian Province recently. The Regulations will take effect on 1 March 2023. The Regulations are basically oriented to promote the application and development of data, focusing on three major areas, namely, data circulation and utilization, management of data security, and protection of data rights and interests. To the extent that requirements on security are satisfied, exploration will be made in respect of the authorized operation of public data and the cultivation and development of the data element market, in a bid to empower the development of the digital economy and society. In addition, the Regulations further strengthen the protection of personal information and impose strict limits on the collection and use of personal images and identification information in public places and within certain areas. ([More](#))

### 浙江省网信办查处173款侵犯个人信息合法权益的APP

根据浙江省网信办2022年12月27日发布信息，近期，浙江省网信办依据《个人信息保护法》《APP违法违规收集使用个人信息行为认定方法》等法律法规规定，依法查处“诺言”等173款违法违规APP。经查，“诺言”等173款APP存在频繁索要非必要权限、未告知相关个人信息处理规则、违反必要原则收集、未经用户同意收集使用个人信息等问题，依法责令限期50日完成整改，逾期未完成整改的，依法予以下架处置。 ([查看更多](#))

## 173 APPs Infringing the Legitimate Rights and Interests of Personal Information Investigated and Punished by the CAZ

According to the information released by the Cyberspace Administration of Zhejiang (the “CAZ”) Province on 27 December 2022, the CAZ has recently investigated and punished 173 illegal APPs including the “nuoyan” in accordance with applicable laws and regulations including the Personal Information Protection Law and the Methods for Identifying Illegal Collection and Use of Personal Information by Apps. Upon investigation, these 173 APPs, including the “nuoyan”, are involved in activities including frequently asking for non-necessary authorizations, failing to inform users of the relevant rules for handling personal information, and collecting information in violation of the principle of necessity, or collecting and using personal information without users' consent. The APP operators are ordered to complete the rectification within 50 days; if they fail to complete the rectification within the time limit, they shall be removed from shelves according to the law. ([More](#))

### 爱尔兰数据保护委员会开始调查Twitter违规行为

2022年12月23日，爱尔兰数据保护委员会（下称“DPC”）根据《2018年数据保护法》第110条发起了一项主动调查，起因是在多个国际媒体均报道了一起Twitter用户个人数据包泄露事件。据报道，泄露数据涉及全球约540万推特用户的个人数据，通过这些数据可以将Twitter账号映射到相关数据主体的电子邮件地址和/或电话号码。DPC与Twitter就该起个人数据泄露事件进行了沟通，DPC认为Twitter可能已涉嫌违反GDPR相关规定。 ([查看更多](#))

### Ireland Data Protection Commission Launches Inquiry into Twitter Concerning Datasets

On 23 December 2022, the Data Protection Commission (‘the DPC’) in Ireland launched an own-volition inquiry pursuant to section 110 of the Data Protection Act 2018 (‘the Act’) in relation to multiple international media reports, which reported that one or more collated datasets of Twitter user personal data were leaked. These datasets were reported to contain personal data relating to approximately 5.4 million Twitter users worldwide. The datasets were reported to map Twitter IDs to email addresses and/or telephone numbers of the associated data subjects. The DPC corresponded with Twitter about the personal data leakage incident, and DPC believed that Twitter may have violated relevant GDPR regulations. ([More](#))

### 荷兰数据保护局发布关于监督算法的声明

2022年12月22日，荷兰数据保护局发布了一份关于对算法进行监督的声明。具体而言，荷兰数据保护局规定，在荷兰中央政府于2021年12月15日达成协议后，将检查算法的透明度、歧视和任意性。荷兰数据保护局还指出，该局已经根据《通用数据保护条例》对非法处理个人数据的算法进行了监督。此外，声明还说明了算法监管员的职责，包括识别和分析不同部门的风险和影响，并促进不同算法监管组织之间的合作。 ([查看更多](#))

## AP Issues Announcement on Supervision of Algorithms

On 22 December 2022, the Dutch data protection authority (“AP”) issued a statement regarding the supervision of algorithms. More specifically, the AP provided that, following the agreement reached on 15 December 2021 by the Dutch Central Government, algorithms will be checked for transparency, discrimination, and arbitrariness. AP already supervises the algorithms when unlawfully processing personal data, under the General Data Protection Regulation (“GDPR”). In addition, the statement outlines that the role of the algorithm supervisor includes the identification and analysis of risks and effects across different sectors, and facilitates cooperation between different organizations that have supervision over algorithms. ([More](#))

## 知识产权 Intellectual Property

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### 2023年1月1日起正式启用尼斯分类第十二版2023文本

根据世界知识产权组织的要求，尼斯联盟各成员国将于2023年1月1日起正式使用《商标注册用商品和服务国际分类》（即尼斯分类）第十二版2023文本。申请日为2023年1月1日及以后的商标注册申请，在进行商品服务项目分类时适用尼斯分类新版本，申请日在此之前的商标注册申请适用尼斯分类原版本。以尼斯分类为基础，国家知识产权局对《类似商品和服务区分表》作了相应调整，并将尼斯分类与《类似商品和服务区分表》的修改内容一并予以公布。

来源：国知局

### 12th Edition of the Nice Classification 2023 will be Applied From January 1, 2023

According to the requirements of the World Intellectual Property Organization, the member states of the Nice Union will officially use the 2023-text of the twelfth edition of the International Classification of Goods and Services for the Purpose of the Registration of Marks from January 1, 2023. Applications for trademark registration filed on January 1, 2023 or later shall be subject to the new Nice Classification for the classification of goods and services, while applications for trademark registration filed before such dates shall be subject to the original Nice Classification. Based on the Nice Classification, the China National Intellectual Property Administration (the "CNIPA") made corresponding adjustments to the Table of Distinction of Similar Goods and Services, and promulgated the Nice Classification and the revised the Table of Distinction of Similar Goods and Services.

Source: CNIPA

### 中国首例破坏技术防护措施类侵犯著作权刑事案件告破

近期，上海市公安局食药环侦总队侦破首例销售盗版医学软件和非法破解工具案，15名犯罪

嫌疑人因涉嫌侵犯著作权罪，被依法采取刑事强制措施。据悉，该案是中国首例破坏技术防护措施类侵犯著作权刑事案件。2021年12月，上海市公安局食药环侦总队接到多家医学影像领域头部企业反映，这些企业旗下CT机、核磁共振等设备故障的报修量和投诉量畸高，初步判断是由于使用盗版软件和非法破解工具所致。警方随即成立专案组开展立案侦查。经研判，警方发现一批对外销售盗版软件和非法破解工具的可疑网店，并锁定了破解、复制软件犯罪团伙利用非法破解工具提供医疗设备维修服务的犯罪嫌疑人。2022年7月，上海警方抓获犯罪嫌疑人15名，查获盗版软件存储设备30余台、非法破解工具700余个，涉案金额1000余万元人民币。

来源：中国新闻网

### **Shanghai Police Conducted the China's First Criminal Copyright Infringement Case by Sabotaging Technical Protection Measures**

Recently, the Shanghai Public Security Bureau conducted the first case of selling pirated medical software and illegal cracking tools. It is the first criminal copyright infringement case involving sabotage of technical protection measures in China. In December 2021, the Shanghai Public Security Bureau has received reports from a number of leading enterprises in the field of medical imaging. These enterprises have received a large number of reports and complaints for maintenance regarding the malfunction of the CT machines and the MRI (the "magnetic resonance imaging") equipment. Police found a number of suspicious online stores selling pirated software and illegal cracking tools, and identified the suspects of the criminal gang of cracking and copying software to provide medical equipment repair services. In July 2022, the police arrested 15 criminal suspects and seized more than 30 storage devices of pirated software and more than 700 illegal cracking tools, with the case-related amount of more than RMB10 million.

Source: China News

### **吉利起诉威马侵害商业秘密一审胜诉，获赔700万元**

2018年，浙江吉利控股集团有限公司（下称“吉利控股”）以“侵害商业秘密”为由，诉至上海市高级人民法院，要求威马赔偿21亿元并承担相关诉讼费用。上海市高级人民法院做出一审判决，责令威马停止使用用于EX5车型上的5个汽车零部件图纸，并赔偿吉利700万元。法院经过比对双方图纸中的零部件尺寸、标注位置等信息，有5个被判定为实质性相似。威马并没有说清楚这5个图纸的来源。法院认定这5个图纸相关信息均属于吉利。威马汽车方面称，该案件判决尚未生效，威马方已经上诉，且停用图纸对公司没有实质性影响或影响不大。

来源：财经汽车

### **Geely was Awarded RMB 7 million against WM Motor for Infringing Trade Secrets on Automobile**

In 2018, Zhejiang Geely Holding (Group) Co., Ltd. (the "Geely" ) filed a lawsuit with Shanghai High People's Court citing "infringement upon trade secrets", requesting WM Motor to pay the damages of

RMB 2.1 billion and undertake related litigation costs. The Court made the judgment of first instance, ordering WM Motor to stop using the drawings of five auto parts used for the EX5 model, and ordering it to pay the damages of RMB7 million for Geely. By comparing the information such as dimensions of parts and labeled locations of five drawings of both parties, the Court found that five drawings were substantially similar. WM Motor could not justify the source of these five drawings. The Court held that the relevant information in the five drawings belonged to Geely. According to WM Motor, the verdict in the case has not yet come into effect, WM Motor has appealed, and the judgement has no or little effect on the company.

Source: [Autohome](#)

### “水中贵族”诉“茶中贵族”侵权，“百岁山”获认驰名商标，予以跨类保护

北京市高级人民法院就景田（深圳）食品饮料集团有限公司（下称“景田公司”）与广东百润茶业有限公司（下称“百润公司”）、连凯软件（北京）有限公司侵害商标专用权及不正当竞争纠纷案作出二审判决，法院认定百润公司已侵犯景田公司的案涉“百岁山”驰名商标权益。

法院认为，百润公司使用的“茶中贵族百岁山”等广告宣传语中的“百岁山”，与涉案“百岁山”商标在文字构成、读音、含义上完全相同，仅在字体上存在细微差异，已构成对涉案“百岁山”商标的复制摹仿。百润公司使用的“正山小种红茶”等茶叶商品，与涉案“百岁山”商标赖以知名的“矿泉水”商品虽不属同一种或类似商品，但在功能用途、消费群体等方面存在较强关联，百润公司生产销售涉案被诉侵权产品及相关广告宣传行为，足以造成相关公众的混淆误认，使消费者误认为二者存在某种联系，从而使涉案的“百岁山”商标的权利人景田公司的权益受到损害。景田公司提交的证据足以证明“百岁山”商标在“矿泉水”商品上经大量持续广泛的宣传使用已为相关公众所熟知，并具有多次作为驰名商标保护的记录。故法院认定“百岁山”商标构成驰名商标。

来源：北京市高级人民法院

### "Water Aristocrat" V. "Tea Aristocrat": the Recognized Well-known Trademark "Ganten" Shall be Granted Cross-class Protection

The Beijing High People's Court made a second instance judgment on the case of infringement on trademarks and unfair competition disputes, and the court held that the defendant had infringed the plaintiff's "Ganten" well-known trademark.

The court held that the "Ganten" in the advertisement and publicity slogans such as "Tea Aristocrat Ganten" used by the defendant were exactly the same as the "Ganten" trademark involved in this case in terms of word composition, pronunciation and meaning with only slight difference in the font style, thus constituting a reproduction and imitation of the "Ganten" trademark. Although the tea product of the defendant and the "Water Aristocrat" product on which the "Ganten" trademark is based are not the same or similar product, they are closely related in terms of function and purpose, consumer and other aspects. The defendant's production and sales of infringing products and related advertising activities

are enough to cause confusion and misunderstanding among the relevant public, so that consumers mistakenly believe that there is a certain connection between the two, thus damaging the rights and interests of the obligee of the "Ganten" trademark involved. The evidence submitted by the plaintiff is sufficient to prove that the trademark "Ganten" has been widely publicized and used in a large number of "Water Aristocrat" products, and has been well known by the relevant public, and has a record of being protected as a well-known trademark for many times. Therefore, the court determined that the "Ganten" trademark constitutes a well-known trademark.

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

## 专利无效决定被撤销，奥克斯诉格力索赔1.6亿可能面临反转

12月28号，北京知识产权法院一审撤销ZL00811303.3的无效决定；并认为该专利权利要求1、2得不到说明书支持，不符合专利法二十六条4款的规定，应予以无效。奥克斯诉格力索赔1.6亿可能面临反转。

2018年，奥克斯从东芝购买一件压缩机专利（专利号为ZL00811303.3，下称涉案专利），随后奥克斯向宁波市中级人民法院主张格力的2款空调侵犯该涉案专利的专利权，2021年12月，宁波市中级人民法院一审就奥克斯起诉格力两案作出分别赔偿9600万、7060万，合计约1.67亿元的判决。随后，格力对该压缩机专利提起无效请求，国家知识产权局于2021年9月2日针对涉案专利，作出无效决定，该决定维持ZL00811303.3的独立权利要求1、2有效，仅宣告权利要求3以及权利要求10中引用权利要求3的技术方案无效。

来源：[北京知识产权法院](#)

## As the Patent is Invalidated, AUX's Favorable Judgement of Award for RMB167 Million against Gree may Face Reversal

On December 28, the Beijing Intellectual Property Court cancelled the invalidation decision of ZL 00811303.3 in the first instance, and held that claims 1 and 2 of the patent shall be invalidated for failing to be supported by the description, and failing to comply with the provision of Article 26.4 of the Patent Law. AUX's RMB160 million lawsuit against Gree may face reversal.

In 2018, AUX purchased a patent for compressors (Patent No. ZL 00811303.3)(the "Patent") from TOSHIBA. Then AUX claimed to Ningbo Intermediate People's Court that Gree's two air conditioners exploited the patent right of the patent involved. In December 2021, Ningbo Intermediate People's Court made a judgment in the first instance on the damages of RMB96 million and RMB70.6 million respectively in the case of AUX suing Gree, totaling about RMB167 million. Subsequently, Gree filed an invalid request for the compressor patent, and the China National Intellectual Property Administration made an invalid decision on September 2, 2021 for the patent involved, which maintains the validity of independent claims 1 and 2 of ZL00811303.3, and only declares that the technical solution of claim 3 and the technical solution of claim 3 quoted in Claim 10 are invalid.

Source: [Beijing IP court](#)

## 达成和解!亿光撤回对中国电器的专利诉讼

据台媒《经济日报》报道，由于双方达成未来将合作的共识，亿光于12月30日宣布撤回对中国电器股份有限公司的专利诉讼。

据悉，亿光电子11月上旬，向中国台湾知识产权及商业法院提起专利侵权诉讼，控告特力屋股份有限公司、展展照明股份有限公司及中国电器股份有限公司所贩卖的灯泡、灯管及吸顶灯等系列LED产品侵害亿光中国台湾专利，继该公司撤回对特力屋公司的专利诉讼之后，今日亿光再宣布也对中国电器撤回专利诉讼

此前11月下旬，亿光已撤回对特力屋的专利诉讼，并重申针对市场上不法的侵权行为，亿光将采取法律行动，绝不宽待，以捍卫亿光尊重知识产权的一贯立场。

据悉，和展展照明的专利诉讼双方也正积极接触、协调中。

来源：集微网

## Everlight Electronics Withdraws its Patent Lawsuit against CE and the Two Parties Reach a Settlement

It is reported that Everlight Electronics announced on December 30 that it withdrew its patent litigation against China Electric Manufacturing Corporation (the "CE") due to the parties reaching a settlement and cooperation agreement.

It is reported that in November, the Everlight Electronics filed a patent infringement lawsuit with the Taiwan, China Intellectual Property and Commercial Court, accusing the bulbs, tubes, ceiling lamps and other series of LED products sold by HOLA Co., Ltd., Zhanzhan Lighting Co., Ltd. and the CE of infringing the Everlight Electronics's Taiwan, China patents. After the company withdrew its patent lawsuit against HOLA, the Everlight Electronics announced that it also withdrew its patent lawsuit against the CE.

At the end of November, the Everlight Electronics had withdrawn its patent litigation against the HOLA and reiterated that it would take legal action against illegal infringement in the market. It is reported that both parties of the patent litigation with Zhanzhan Lighting are also actively contacting and coordinating.

Source: jiwei

## 加拿大版权保护期将延长20年，于12月30日起生效

近日，加拿大政府官网发布一项理事会命令，根据加拿大联邦政府向议会众议院提交的2022年预算案第281条，加拿大将文学、戏剧、音乐以及艺术作品的版权保护期限，从原有的作者去世后50年延长至70年，该规定将于2022年12月30日生效。此外，加拿大《版权法修正法案》还



规定，对于遗作和合作作品，版权期限也可延长至作者或最后一位在世的合著者去世后70年。

来源: [Government of Canada](#)

## Canada Extends Copyright Protection for Another 20 years, Effective from December 30, 2022

Recently, the official website of the Canadian government issued a Council Order. According to Section 281 of the 2022 Budget submitted by the Canadian federal government to the House of Representatives, Canada will extend the term of copyright protection for literary, dramatic, musical and artistic works from 50 years after the death of the original author to 70 years, which will take effect on December 30, 2022. In addition, the Copyright Law Amendment Act of Canada also stipulates that the copyright period of posthumous works and co authored works can be extended to 70 years after the death of the author or the last living co-author.

Source: [Government of Canada](#)

## 美国国际贸易委员会（ITC）裁定苹果手表侵犯AliveCor专利

近日，美国国际贸易委员会（ITC）裁定，苹果公司带有心电图功能的苹果手表（Apple Watch）侵犯了医疗设备制造商AliveCor的专利。ITC表示，应禁止进口侵权手表，但在美国专利和商标局（USPTO）在本月裁定AliveCor的专利无效的另一场纠纷中上诉结束之前，ITC不会实施禁令。

AliveCor去年指控苹果侵犯了与KardiaBand相关的三项专利，KardiaBand是一款苹果手表配件，可监测用户心率、检测异常情况并执行心电图以识别心房颤动等心脏问题。2018年，苹果在其智能手表中推出了自己的心电图功能后，AliveCor停止了该设备的销售。AliveCor去年向ITC表示，苹果从第4代苹果手表开始抄袭其技术，并通过操作系统的不兼容，而将AliveCor赶出市场。

来源: [路透社](#)

## ITC Ruled that Apple Watches Infringe AliveCor Patents

Recently, Apple Inc's (AAPL.O) Apple Watches with an electrocardiogram (ECG) function infringe patents belonging to medical device maker AliveCor Inc, the U.S. International Trade Commission affirmed. The ITC said imports of the infringing watches should be banned, but that it would not enforce a ban until appeals were finished in a separate dispute before the U.S. Patent and Trademark Office (USPTO), where a panel found AliveCor's patents invalid earlier this month. AliveCor accused Apple last year of infringing three patents related to its KardiaBand, an Apple Watch accessory that monitors a user's heart rate, detects irregularities and performs an ECG to identify heart problems like atrial fibrillation. AliveCor stopped selling the device in 2018 after Apple launched its own ECG feature in its smartwatches. AliveCor told the ITC last year that Apple copied its technology starting in Series 4 Apple Watches and drove AliveCor out of the market by making its operating system incompatible with the KardiaBand.

Source: reuters

## 美国监督机构：美国专利商标局PTAB在司法裁决中应提高透明度

近日，美国政府问责局发布了针对美国专利商标局（USPTO）专利审判和上诉委员会PTAB的历时一年调查后的最终报告。

美国政府问责局（Government Accountability Office, GAO）此次针对PTAB撰写报告的原因是：自美国发明法案（AIA）于2012年颁布以来，PTAB程序的一些参与者对PTAB管理层或美国专利商标局局长是否利用其监督权来影响法官的决策提出了担忧。

GAO向美国专商局提出四项建议，以提高透明度，包括在最终政策中具体说明PTAB管理层和美国专商局局长在内部监督流程中的作用以及要求法官纳入管理意见的情况。GAO还建议PTAB采取额外措施，提高利益相关者对监督实践的认识。美国专商局同意并正在计划或采取行动实施这些建议

来源：美国政府问责局网站[www.gao.gov](http://www.gao.gov)

## US Supervisory Agency: Increased Transparency Needed in Oversight of Judicial Decision-Making

Recently, the US Government Accountability Office (GAO) released its final report on a year-long investigation into the US Patent and Trademark Office's (USPTO) Patent Trial and Appeal Board (PTAB). Since the enactment of the America Invents Act (AIA) in 2012, some participants in the PTAB process have raised concerns about whether the PTAB's management or the US Patent and Trademark Office's (PTO) director are using their oversight authority to influence judges' decisions.

GAO made four recommendations to PTAB to improve transparency, including specifying in the final policy the roles of PTAB management and the Commissioner in the internal oversight process and requiring judges to include management opinions. GAO also recommended that PTAB take additional steps to increase stakeholder awareness of oversight practices.

Source: [www.gao.gov](http://www.gao.gov)

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