



# NEWSLETTER

LIFANG & PARTNERS 立方观评



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## 知识产权 Intellectual Property

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Tiktok and Tencent Video Reach Copyright Cooperation

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网络平台“Digital Basel”涉嫌侵犯数千名艺术家的知识产权

Online Platform "Digital Basel" Allegedly Infringes the IPR of Thousands of Artists

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

### 水务集团滥用市场支配地位被罚约210万

2023年4月7日，国家市场监督管理总局（“市场监管总局”）发布了山东省市场监督管理局（“山东省市监局”）对日照市水务集团供水有限公司（“日照水务集团”）的行政处罚决定书。经调查，本案相关市场为日照市主城区城市公共自来水供水服务市场，日照水务集团在相关市场中具有市场支配地位。2019年以来，日照水务集团无正当理由向直饮水机经营者收取本应由其自身承担的管道接入、改造、水表井建设施工等工程费用，构成无正当理由附加不合理交易条件，增加了直饮水机经营者的经营成本，限制了不接受其不合理条件的直饮水机经营者进入直饮水机售水市场进行竞争，违反了《反垄断法》。山东省市监局于2022年12月15日作出处罚决定，处以2020年度销售额1%的罚款，共计2,185,672.14元。（[查看更多](#)）

### Rizhao WaterSupply Fined CNY 2.1 Million for Abuse of Market Dominance

On April 7, 2023, the State Administration for Market Regulation (SAMR) issued an administrative penalty decision against Rizhao WaterSupply Company Limited (“Rizhao WaterSupply”). The investigation found that Rizhao WaterSupply had a dominant market position in the urban public water supply market in Rizhao City, Shandong Province. Since 2019, the company has been charging unreasonable construction fees such as pipeline access fees, renovation fees and water meter well construction fees to the operators of direct drinking water machines without proper justification, resulting in increased operating costs for these businesses and limiting competition in the direct drinking water market. On December 15, 2022, the Shandong Provincial Administration for Market Regulation (Shandong AMR) imposed a fine of 1% of the company’s sales revenue in 2020, totaling CNY 2,185,672.14, for violating the *Anti-Monopoly Law*. ([More](#))

### 市场监管总局附条件批准万华化学收购烟台巨力

2023年4月7日，市场监管总局发布公告，附条件批准万华化学集团股份有限公司（“万华化学”）收购烟台巨力精细化工股份有限公司（“烟台巨力”）股权。本案于2022年8月9日第一次申报，经延长期限、撤回重报程序，仍处于初步审查阶段。经审查，本案相关市场为中国境内的烧碱市场和甲苯二异氰酸酯市场，集中双方存在横向重叠与纵向关系。市场监管总局认为，中国境内烧碱市场结构分散且集中双方力量有限，二者集中对该市场不具有排除、限制竞争效果，但对中国境内甲苯二异氰酸酯市场可能具有排除、限制竞争效果。市场监管总局决定附条件批准此项集中，要求集中双方和集中后实体履行在中国境内甲苯二异氰酸酯市场中的如下义务：（1）交易条件相当时，交割后向中国境内客户供应相关商品的年度均价不高于承诺日前二十四个月平均价格，并应主要原材料价格下降而下调；（2）除非有正当理由，保持或扩大国内相关商品产量并持续研发创新；（3）遵循公平、合理、无歧视原则向境内客户供应相关商品；以及（4）除非正当理由，不得强制客户排他性采购或进行搭售。（[查看更多](#)）

## SAMR Grants Conditional Approval for Wanhua Chemical's Acquisition of Yantai Juli

On April 7, 2023, the SAMR announced its conditional approval of Wanhua Chemical Group Co., Ltd. ("Wanhua Chemical")'s acquisition of Yantai Juli Fine Chemical Co., Ltd. ("Yantai Juli"). The acquisition was first filed on August 9, 2022, and has gone through an extended period and a withdrawn re-filing procedure, still at the preliminary review stage. The relevant markets involved in this case are China's domestic caustic soda market and toluene diisocyanate market, where the two parties have horizontal overlaps and vertical relationships. The SAMR considers that the caustic soda market in China is fragmented and the two parties involved have limited market power, and the concentration will not have the effect of excluding or restricting competition in this market. However, the acquisition may have the effect of excluding or restricting competition in China's domestic toluene diisocyanate market. Therefore, the SAMR has decided to conditionally approve the concentration and requires both parties and the combined entity to fulfill certain obligations in China's domestic toluene diisocyanate market, including: (1) supplying relevant products to domestic customers at an annual average price not higher than the average price of the 24 months before the commitment date when the transaction conditions are equivalent, and adjusting the price downward when the price of major raw materials drops; (2) maintaining or expanding domestic production of relevant products and continuing to innovate and develop; (3) supplying relevant products to domestic customers in accordance with the principles of fairness, reasonableness, and non-discrimination; and (4) not requiring customers to make exclusive purchases or engage in tying arrangements unless there are legitimate reasons. ([More](#))

## 庭审预告:江苏启东烟花爆竹垄断协议案开庭审理

2023年4月7日, 据中国庭审公开网显示, 江苏启东烟花爆竹垄断协议案将于2023年04月14日上午于苏州市中级人民法院知产庭开庭审理。被告包括启东市金大生烟花爆竹有限公司、启东市瑞晟烟花爆竹有限公司、启东市云礼烟花爆竹经营有限公司、启东市新权花炮有限公司、启东市供销日杂果品有限公司、启东市鹤城花炮有限公司和启东市烟花爆竹行业协会。 ([查看更多](#))

## Jiangsu Qidong's Firework and Firecracker Monopoly Agreement Case Goes to Trial

On April 7, 2023, according to the announcements on the China Court Trial Online website, the trial of the Jiangsu Qidong firework and firecracker monopoly agreement case will be held in the Intellectual Property Court of the Suzhou Intermediate People's Court on the morning of April 14th, 2023. The defendants include Qidong Jindasheng Fireworks and Firecrackers Co., Ltd., Qidong Ruisheng Fireworks and Firecrackers Co., Ltd., Qidong Yunli Fireworks and Firecrackers Management Co., Ltd., Qidong Xinquan Fireworks Co., Ltd., Qidong Supply and Marketing Daily Necessities and Fruit Co., Ltd., Qidong Hecheng Fireworks Co., Ltd., and Qidong Fireworks and Firecrackers Industry Association. ([More](#))

## 竞争政策协调司与欧盟竞争总司共同举办第25届中欧竞争政策周

近日, 市场监管总局竞争政策协调司与欧盟竞争总司共同在线举办第25届中欧竞争政策周研讨



会。双方围绕中欧反垄断案件内部审查机制、数字经济立法和执法最新动态、经营者集中审查经济分析方法、欧盟新能源汽车市场国家援助措施、全国统一大市场建设与公平竞争审查等议题进行了研究和讨论。双方表示，将持续加强反垄断领域交流合作，维护公平竞争秩序，促进经贸关系不断深化。（[查看更多](#)）

## **SAMR's Division of Competition Policy Coordination and the European Commission's DG COMP Jointly Hold the 25th China-EU Competition Week**

Recently, the SAMR's Division of Competition Policy Coordination and the Directorate-General for Competition (DG COMP) of the European Commission jointly held the 25th EU-China Competition Week Seminar online. Both sides discussed and researched topics such as internal review mechanisms for anti-monopoly cases in China and the EU, the latest developments in legislation and enforcement of digital economy, economic analysis methods for merger filing review, national aid measures for the EU's new energy vehicle market, and the construction of a unified national market and fair competition review. Both parties expressed their commitment to continue strengthening exchanges and cooperation in the field of anti-monopoly, maintaining a fair competition order, and promoting the deepening of economic and trade relations. ([More](#))

## **Ofcom提议转由CMA调查英国云服务市场竞争**

2023年4月5日，英国通信管理局（Office of Communications, “Ofcom”）发布公告，称正在考虑将英国云市场转交给英国竞争与市场管理局（CMA）做进一步调查。Ofcom的市场研究已经初步确定了一些使云客户难以切换和使用多个云供应商的特征和做法。Ofcom特别关注英国两家领先的云基础设施服务提供商——亚马逊网络服务（AWS）和微软，其总市场份额为60-70%。有证据表明，该市场总体竞争水平有限，客户在更新合同时可能面临价格上涨且难以在多个供应商之间通过混合配置出最优质的服务，小型云供应商更难赢得业务并与市场领导者竞争。公众可于2023年5月17日前对Ofcom的上述提议发表意见。（[查看更多](#)）

## **Ofcom Proposes to Refer UK Cloud Market for Investigation**

On April 5, 2023, the Office of Communications (Ofcom) in the UK announced that it is proposing to refer the UK cloud market to the Competition and Markets Authority (CMA) for further investigation. Ofcom market study uncovers practices and features that make it difficult for business customers to switch cloud provider or use multiple providers. Ofcom is particularly focused on two leading cloud infrastructure service providers in the UK, Amazon (AWS) and Microsoft, who have a combined market share of 60-70%. Evidence suggests that overall market competition is limited, and customers may face price increases when renewing contracts and are concerned about their ability to switch and use multiple providers where this limits their ability to mix and match the best quality services across different providers, while smaller cloud providers may struggle to win business and compete with market leaders. The public can provide feedback on Ofcom's interim findings and proposal by May 17, 2023. ([More](#))

## **CMA将限制摩托罗拉对政府应急服务部门专用网络的收费上限**

2023年4月5日，CMA发布公告，称将限制摩托罗拉（Motorola Inc.）对应急服务部门使用专用移动网络Airwave Network的收费上限。摩托罗拉提供的Airwave Network为警察、消防、救护和其他应急服务提供必要的安全通信专用移动网络，摩托罗拉目前为该必需通信服务的垄断供应商。经调查，CMA认定市场并未良性运行，致使摩托罗拉得以向代表应急服务部门协商合同的内政部收取远高于竞争水平的价格，最终导致纳税人支付更高成本。CMA根据2002年《企业法案》对服务设置价格上限，将摩托罗拉可收取的费用控制在运行良好、竞争激烈的市场中的价格水平，从而终结摩托罗拉每年超收约2亿英镑的局面。CMA将在2026年进行审查，但收费上限将延续至2029年底。（[查看更多](#)）

## **CMA Restricts How Much Motorola Can Charge the Emergency Services to Use the Airwave Network**

On April 5, 2023, the CMA announced that it would restrict how much Motorola can charge the emergency services to use the Airwave Network. Airwave Network provided by Motorola provides the essential dedicated mobile network that the police, fire, ambulance, and other emergency services use to communicate securely, and Motorola is currently the monopoly supplier of this essential communication service. A market investigation by the CMA has found that the market is not working well, which enabled Motorola to charge the Home Office, which represents emergency services, prices well above competitive levels, resulting in higher costs which are ultimately paid by taxpayers. The CMA, using its powers under the *Enterprise Act 2002*, has imposed a price cap to limit the price that Motorola can charge to a level that would apply in a well-functioning, competitive market, putting an end to the estimated £200m per year of over-charging. There will be a review in 2026, but the cap has been set to apply to the end of 2029. ([More](#))

## **欧盟委员会发布2022竞争政策报告**

2023年4月4日，欧盟委员会发布欧盟《2022竞争政策报告》（Report on Competition Policy 2022），概述了2022年欧盟竞争政策和执法的关键发展：（1）建立因应新冠和俄乌战争等外部经济和环境冲击的应对框架；（2）丰富和更新确保适应变化和未来发展的竞争规则：颁布《数字市场法案》及《外国补贴条例》，更新多项反垄断豁免条例、合并规则和指南，更新国家援助规则和指南，推动欧盟委员会竞争总局工作方法现代化；（3）努力推动重点领域的竞争政策执法，推动数字化转型及强大而有韧性的单一市场的建立，推动绿色经济；（4）积极塑造欧盟和全球竞争文化：定期开展具有建设性的机构间对话，发展多边关系和双边关系，积极参与国际竞争论坛。（[查看更多](#)）

## **European Commission Releases the Report on Competition Policy 2022**

On April 4, 2023, the European Commission published the *Report on Competition Policy 2022*, which outlines the key developments in EU competition policy and enforcement in 2022: (1) establishing a framework to respond to external economic and environmental shocks such as the COVID-19 pandemic

and the Russia-Ukraine war; (2) enriching and updating competition rules to ensure adaptation to change and future development, including the adoption of the *Digital Markets Act* and the *Foreign Subsidies Regulation*, updating several antitrust exemptions, merger rules and guidelines, updating state aid rules and guidelines, and promoting modernization of the working methods of the European Commission's DG COMP; (3) striving to promote competition policy enforcement in key areas, promoting digital transformation and the establishment of a strong and resilient single market, and promoting the green economy; (4) actively shaping a culture of competition in the EU and globally: conducting constructive inter-institutional dialogues on a regular basis, developing multilateral and bilateral relationships, and actively participating in international competition forums. ([More](#))

## 欧盟临时批准瑞银收购瑞信，豁免交易暂停义务

2023年4月4日，据媒体报道，欧盟委员会称瑞银集团（UBS，“瑞银”）收购瑞士信贷（Credit Suisse，“瑞信”）的交易已获临时批准，但瑞银仍需根据《欧盟并购条例》寻求最终批准。根据该条例，公司在完成交易前必须获得欧盟反垄断批准，否则可能面临最高达总营业额10%的罚款。欧盟委员会表示，应瑞银和瑞信请求，因满足《欧盟并购条例》第7（3）条规定的紧急状态下的克减要求，委员会附条件批准了豁免双方的交易暂停义务（standstill obligation）。（[查看更多](#)）

## UBS Has Received Provisional Approval from the European Commission to Finalize Its Purchase of Credit Suisse, Granted a Derogation from the Standstill Obligation

On April 4, 2023, according to the media, the European Commission reported that UBS has received provisional approval from EU antitrust regulators to finalize its purchase of Credit Suisse. However, UBS will still need to seek clearance under EU merger regulations. Under this regulation, companies are required to obtain EU antitrust approval before finalizing deals or risk facing fines of up to 10% of their combined turnover. The European Commission stated that upon request of UBS and Credit Suisse, the Commission had granted a derogation from the standstill obligation on the basis of Article 7(3) of the EU Merger Regulation since the requirements for a derogation were met. ([More](#))

## FTC命令因美纳剥离GRAIL

2023年4月3日，美国联邦贸易委员会（FTC）发布公告，已命令DNA测序供应商因美纳（Illumina, Inc.）剥离多癌早期检测（MCED）测试公司GRAIL（GRAIL, Inc.）。GRAIL开发无创早期检测液体活检测试，可使用DNA测序对无症状患者进行多种癌症筛查；因美纳则是下一代测序（NGS）平台的主要生产商，这些平台被用于分析MCED所测试的血液样本中的遗传物质。FTC认为因美纳收购GRAIL将削弱美国MCED测试市场的创新能力，同时提高价格、减少消费者选择并降低质量。（[查看更多](#)）

## FTC Orders Illumina to Divest GRAIL

On April 3, 2023, the Federal Trade Commission (FTC) of the United States issued a notice ordering a DNA sequencing provider, Illumina, Inc. (“Illumina”), to divest from the multi-cancer early detection



(MCED) testing company, GRAIL, Inc (“GRAIL”). GRAIL develops non-invasive early detection liquid biopsy tests that use DNA sequencing for screening various cancers in asymptomatic patients, while Illumina is a dominant producer of next-generation sequencing (NGS) platforms that are used to analyze genetic material in blood samples drawn for MCED tests. The Commission found that the acquisition would diminish innovation in the U.S. market for MCED tests while increasing prices and decreasing choice and quality of tests. ([More](#))

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

### 科技部发布关于公开征求对《科技伦理审查办法（试行）（征求意见稿）》意见的公告

2023年4月4日，科学技术部（以下简称“科技部”）发布关于公开征求对《科技伦理审查办法（试行）（征求意见稿）》（以下简称《征求意见稿》）意见的公告。意见反馈截止时间为2023年5月3日。《征求意见稿》适用于各领域科学研究、技术开发等科技活动的科技伦理审查工作，高等学校、科研机构、医疗卫生机构、企业等是科技伦理审查管理的责任主体。在审查内容及标准方面，《征求意见稿》要求，涉及人类研究参与者的科技活动，所制定的招募方案公平合理，生物材料的收集、储存和使用合法合规，个人隐私数据、生物特征信息等信息处理符合保护个人信息的有关规定；涉及数据和算法的科技活动，数据处理方案符合国家有关数据安全的规定，数据安全风险监测及应急处理方案得当；算法和系统研发符合公平、公正、透明、可靠、可控等原则。（[查看更多](#)）

### Announcement of the Ministry of Science and Technology on Seeking Public Comments on *the Measures for the Review of Science and Technology Ethics* (for Trial Implementation) (Draft for Comments)

On 4 April 2023, the Ministry of Science and Technology issued an announcement on seeking public comments on *the Measures for the Review of Science and Technology Ethics* (for Trial Implementation) (Draft for Comments). The deadline for submitting comments is 3 May 2023. The Draft for Comments applies to the ethical review of science and technology in scientific research, technological development and other scientific and technological activities in all fields, and institutions of higher education, scientific research institutions, medical and health institutions, enterprises, etc. are responsible for the administration of ethical review of science and technology. In terms of the contents and standards of the review, the Draft for Comments requires that for scientific and technological activities involving participants in human research, the recruitment plan formulated shall be fair and reasonable, the collection, storage and use of biological materials shall be in compliance with applicable laws and regulations, and the processing of personal privacy data, biometric information and other information shall comply with the relevant provisions on the protection of personal information; for scientific and technological activities involving data and algorithms, the data processing plan shall comply with the relevant regulatory provisions of the State on data security, and the data security risk monitoring and emergency response plan shall be appropriate; and the research and development of algorithms and systems shall abide by the principles of fairness, impartiality, transparency, reliability and controllability. ([More](#))

## 《快递电子运单》和《通用寄递地址编码规则》两项国家标准正式实施

据国家邮政局2023年4月7日发布消息，国家市场监督管理总局（国家标准委）批准发布的《快递电子运单》（GB/T 41833-2022）和《通用寄递地址编码规则》（GB/T 41832-2022）两项国家标准于近日正式实施。《快递电子运单》强化了个人信息保护，禁止显示完整的个人信息，推荐对个人信息进行全加密处理，规范个人信息相关内容的读取权限，隐藏及加密信息内容仅限于快递企业及其授权的第三方、相关管理部门，使用相关设备合法读取。（[查看更多](#)）

## The Two National Standards of *Express Electronic Waybill* and *Universal Delivery Address Coding Rule* Officially Implemented

According to a report released by the State Post Bureau on 7 April 2023, the two national standards approved by the State Administration for Market Regulation, namely the *Express Electronic Waybill* (GB/T 41833-2022) and the *Universal Delivery Address Coding Rule* (GB/T 41832-2022), have been officially implemented recently. The *Express Electronic Waybill* strengthens personal information protection by prohibiting the display of complete personal information, recommending full encryption of personal information, and regulating the reading permission of personal information related content. Specifically access to hidden and encrypted information content is limited to express delivery companies and third parties authorized by such companies as well as relevant administrative authorities, which are permitted to read such content by using relevant equipment in a legally compliant manner. ([More](#))

## 首项数字化供应链国际标准在国际电联正式发布

据工业和信息化部2023年4月7日发布消息，数字化供应链国际标准ITU-T Y.4910 Maturity model of digital supply chain for smart sustainable cities（《数字化供应链成熟度模型》）在国际电信联盟（ITU）正式发布。该标准基于我国数字化供应链国家标准《数字化供应链 成熟度模型》（20221957-T-339）研制，给出了五个等级的数字化供应链成熟度模型，可帮助各级政府、相关行业组织等摸清供应链数字化水平，锁定供应链薄弱环节，逐级打造数字化供应链体系，服务实体经济高质量发展。（[查看更多](#)）

## The First International Standard for Digital Supply Chain Was Officially Released by the ITU

According to a report released by the Ministry of Industry and Information Technology on 7 April 2023, the International Standard for Digital Supply Chain, *ITU-T Y.4910 Maturity Model of Digital Supply Chain for Smart Sustainable Cities*, has been officially released by the International Telecommunication Union (ITU). This standard is based on the national standard for digital supply chain in China, *Maturity model of digital supply chain for smart sustainable cities* (20221957-T-339), and provides five levels of digital supply chain maturity models. It can help governments at all levels, relevant industry organizations, and others understand the level of supply chain digitization, identify weak links in the supply chain, gradually build a digital supply chain system, and serve the high-quality development of the real economy. ([More](#))

## 北京市开展智能网联汽车高精度地图审图工作

2023年3月31日，北京市规划和自然资源委员会面向各导航电子地图制作测绘资质单位，印发了《北京市规划和自然资源委员会关于开展北京市智能网联汽车高精度地图审图工作的通知》（京规自发〔2023〕78号）（以下简称“《通知》”），开展北京市智能网联汽车高精度地图（含高级辅助驾驶地图，或高辅地图）审图工作。《通知》要求采用国家认定的地理信息保密处理技术进行保密技术处理后的地图数据，方可申请审图。申报单位需要提供送审地图数据及说明（包括但不限于地图显示软件或工具说明文件、数据来源、数据覆盖范围、数据量、数据存储方式、涉密内容处理原则、涉密内容处理实例等内容）、地图数据产品说明（包括但不限于产品功能、使用方式等）、地图数据应用管理措施说明（包括但不限于安全应急响应机制，突发情况处理响应时间等）等申报材料，同时，需向北京市规划和自然资源委员会送交送审地图产品的电子数据及存储设备。（[查看更多](#)）

## Beijing Carries Out High-definition Map Review Work for Intelligent Connected Vehicles

On 31 March 2023, the Beijing Municipal Commission of Planning and Natural Resources (the "Commission") issued the *Notice of the Beijing Municipal Commission of Planning and Natural Resources on Conducting High-definition Map Review Work for Intelligent Connected Vehicles in Beijing (the "Notice")* to various entities qualified for the production and surveying of navigation electronic maps, to carry out the high-definition map review work for intelligent connected vehicles in Beijing (including ADAS maps). The Notice requires the use of nationally recognized geographic information confidentiality processing technology to process map data before applying for map review. Applicants need to provide map data and descriptions (including but not limited to description files of map display software or tools, data sources, data coverage, data volume, data storage method, principles for handling confidential content, examples for handling confidential content, etc.), description of map data products (including but not limited to product functions, use methods, etc.), description of management measures for map data applications (including but not limited to safety emergency response mechanism, response time for handling emergencies, etc.) and other application materials. At the same time, the electronic data and storage equipment of map products shall be submitted to the Commission for review. ([More](#))

## 上海网信办从严处置假冒仿冒“自媒体”账号3.5万余个

据网信上海2023年4月7日发布消息，上海网信办正在深入开展“清朗·从严整治‘自媒体’乱象”专项行动。经查，部分平台上有账号假冒仿冒党政机关、企事业单位、新闻媒体，以及无专业资质假冒仿冒专业领域人士。相关违规“自媒体”账号均已被平台从严处置。专项行动开展以来，上海网信办已督促哔哩哔哩、小红书、喜马拉雅等属地重点网站平台处置3.5万余个假冒仿冒“自媒体”账号。各网站平台对典型违规案例进行公开曝光，进一步净化平台网络生态。（[查看更多](#)）

## SCA Severely Punished More Than 35,000 Fake and Imitated We-Media Accounts

According to a report released by the Shanghai Cyberspace Administration (the “SCA”) on 7 April 2023, the SCA is currently carrying out the special action of "Clear and Strict Rectification of the Chaotic Situation in 'We-media'". Upon investigation, it was found that there are accounts on some of the platforms that engage in imitating and counterfeiting party and government offices, enterprises, public institutions and news media, as well as imitating and counterfeiting professionals without professional qualifications. The relevant illegal "we-media" accounts have been severely punished by the platforms. Since the launch of the special action, the SCA has urged bilibili, Redbook, Himalaya and other key website platforms to deal with more than 35,000 fake or counterfeit "we-media" accounts. All the websites and platforms are urged to expose typical cases of irregularities to the public to further purify the ecology of platform networks. ([More](#))

## 上海市正式启动《支持高级别自动驾驶的5G车联网网络性能和建设验收》标准编制

2023年3月31日，上海市通信管理局（以下简称“上海通管局”）组织召开《支持高级别自动驾驶的5G车联网网络性能和建设验收》标准编制启动会。会上，上海通管局介绍了本次标准编制的工作背景，希望通过5G车联网标准的编制，填补国内5G车联网相关行标地标空白、以标准引领本市无人驾驶车路协同设施建设，进一步推动本市智能网联汽车创新应用和产业集聚发展。下一步，上海通管局将会同本市相关部门，推动《支持高级别自动驾驶的5G车联网网络性能和建设验收》标准尽快出台，为全市智能网联汽车创新应用和无人驾驶产业发展贡献“上海标准”。([查看更多](#))

## Shanghai Officially Launches the Preparation of the Performance and Construction Acceptance of 5G Vehicle Internet Network Supporting High Level Autonomous Driving Standard

On 31 March 2023, the Shanghai Communications Administration (the “SCA”) held a meeting for launching the preparation of the *Performance and Construction Acceptance of 5G Vehicle Internet Network Supporting High Level Autonomous Driving* standard. At the meeting, the SCA introduced the background of the preparation of the standard, and expressed the hope that with the preparation of the 5G standards for vehicle networking, the gap of relevant national 5G vehicle networking standards will be filled in, and that the standards will guide the development of cooperative vehicle infrastructure systems for driverless vehicles in Shanghai, so as to further promote the innovative application of intelligent connected vehicles and the development of cluster industries in Shanghai. The next step is that the SCA will, in concert with the relevant authorities in Shanghai, promote the introduction of standards as soon as possible, and contribute Shanghai-originated standards to the innovative application of intelligent connected vehicles and the development of the driverless vehicle industry in Shanghai. ([More](#))

## 浙江网信办通报3月执法处置情况

2023年3月，浙江网信持续加大执法力度，依法依规约谈网站账号48个，关闭网站7家，注销网站备案70家，对3家网站作出警告的行政处罚。网信部门及属地重点平台总计受理处置网民



举报4.5万件，对66家无备案或虚假备案的网站移交浙江省通信管理局作进一步处置。（[查看更多](#)）

## **Zhejiang Cyberspace Administration Publicizes the Situation of Law Enforcement in March**

In March 2023, the Zhejiang Cyberspace Administration continued to intensify law enforcement efforts, interviewed 48 accounts on websites, shut down seven websites, cancelled 70 website record-filing, and imposed administrative penalties in the form of warning on three websites. The cyberspace administration offices and key platforms in their jurisdictions accepted and handled a total of 45,000 complaints lodged by netizens, and transferred 66 websites without record-filing or fraudulently filed to the Zhejiang Communications Administration for further handling. ([More](#))

## **广东省通信管理局通报69款未按要求完成整改APP**

据广东省通信管理局（以下简称“广东通管局”）2023年4月7日消息，广东通管局持续开展APP隐私合规和数据安全专项整治行动，共监测到315款APP存在侵害用户权益和安全隐患问题，截至目前，尚有69款APP未完成整改，涉及问题包括“违规收集个人信息”、“强制用户使用定向推送功能”以及“APP强制、频繁、过度索取权限”等。广东通管局要求被通报的APP应在4月15日前完成整改及反馈工作。逾期不整改的，将依法依规采取下一步处置措施，切实维护APP用户合法权益和网络安全秩序。（[查看更多](#)）

## **Guangdong Communications Administration Publicizes 69 APPs Failing to Complete Rectification as Required**

According to the Guangdong Communications Administration on 7 April 2023, the Guangdong Communications Administration has continuously carried out special rectification actions on the privacy compliance and data security of APPs and identified a total of 315 APPs that infringe upon user rights and interests and pose security risks. So far, 69 APPs have not completed the rectification, involving problems such as "illegal collection of personal information", "forcing users to use the targeted push function" and "forced, frequent and excessive requests for authorizations by Apps". The relevant APPs are required to implement the rectification by 15 April. If no rectification has been made within the time limit, the Guangdong Communications Administration shall deal with these APPs in accordance with applicable laws and regulations to effectively safeguard the legitimate rights and interests of APP users and preserve order in network security. ([More](#))

## **TMX Finance Corporate Services宣布数据泄露影响482万人**

2023年3月30日，TMX Finance Corporate Services, Inc.（“TMX”）在获悉未经授权的一方能够访问并可能删除存储在公司计算机网络上的保密消费者数据后，向缅因州州检察长提交了一份数据泄露事件通知。根据该通知，此次事件导致未经授权方获得客户姓名、社会保险号、出生日期、护照号、驾照号、联邦/州身份证号、税号、金融账户信息，以及电话号码、地址和电子邮件地址等其他信息。在确认客户数据被泄露后，TMX开始向所有受最近数据安全事件影响的

个人发送数据泄露通知函。根据缅因州州检察长提供的信息，这次数据安全事件涉及482万人的个人数据。（[查看更多](#)）

## TMX Announces Data Breach Affecting 4.8 Million People

On 30 March 2023, TMX Finance Corporate Services, Inc. (“TMX”) filed a notice of data breach with the Attorney General of Maine after learning that an unauthorized party was able to access and potentially remove confidential consumer data stored on the company’s computer network. Based on the company’s official filing, the incident resulted in an unauthorized party gaining access to consumers’ names, Social Security numbers, dates of birth, passport numbers, driver’s license numbers, federal/state identification card numbers, tax identification numbers, financial account information, as well as other information such as phone numbers, addresses, and email addresses. After confirming that consumer data was leaked, TMX began sending out data breach notification letters to all individuals who were impacted by the recent data security incident. According to the Maine Attorney General, the TMX data breach affected 4.8 million individuals. ([More](#))

## 知识产权 Intellectual Property

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### 抖音和腾讯视频达成版权合作

4月7日上午，抖音官方微信公号发布消息称，近期抖音和腾讯视频达成合作，双方将围绕长短视频联动推广、短视频二次创作等方面展开探索。抖音称，腾讯视频将向抖音授权其享有信息网络传播权及转授权权利的长视频，并明确了二创方式、发布规则。未来，抖音集团旗下抖音、西瓜视频、今日头条等平台用户都可以对这些作品进行二次创作。合作将为优质短视频内容创作与传播提供充分保障，为用户创造更好的使用体验。

来源：抖音

### Tiktok and Tencent Video Reach Copyright Cooperation

On April 7, the WeChat official account of Tiktok announced that Tiktok and Tencent Video had recently reached cooperation, and the two sides would explore the joint promotion of short and long videos and the re-creation of short videos. Tiktok said that Tiktok would be licensed by Tencent Video to enjoy the right of information network dissemination and the right to sub license long videos, and it also clarified the method and release rules of re-creation. In the future, users of Tiktok Group's Tiktok, Watermelon Video, Toutiao and other platforms can re-create these works. The cooperation will provide sufficient guarantees for the creation and dissemination of high-quality short video content, and create a better user experience for users.

Source: Tiktok

## 珠海冠宇侵犯电极片专利，赔偿宁德新能源3000万元

4月6日，珠海冠宇发布公告公布了与ATL专利纠纷的新进展。2022年1月份，ATL起诉珠海冠宇侵犯其4项专利的诉讼。公告显示，近日珠海冠宇收到福州中院作出的《民事判决书》和《民事裁定书》。判决书判定：珠海冠宇的电芯产品侵犯了ATL子公司东莞新能源、宁德新能源的ZL201410782528.9号专利（一种电极片及含有该电极片的锂离子电池），珠海冠宇应赔偿经济损失和为制止侵权行为而支出的合理费用共计3000万元，并负担案件受理费中的18万元。珠海冠宇对此表示，一审判决结果尚未生效，其将提起上诉。

来源：珠海冠宇

## Zhuhai CosMX Shall Pay Damages of RMB 30 Million to ATL for Infringing Patent

On April 6, 2020, Zhuhai CosMX Battery Co., Ltd. (Zhuhai CosMX) released a public notice to publicize the latest developments in its patent dispute with Amperex Technology Limited (ATL). In January 2022, ATL filed a lawsuit against Zhuhai CosMX for infringing 4 patents. According to the public notice, Zhuhai CosMX has recently received the Civil Judgment and Civil Ruling from Fuzhou Intermediate People's Court. The judgment found that Zhuhai CosMX's battery products infringed the patent of ATL subsidiary Dongguan Amperex Technology Co., Limited and Contemporary Amperex Technology Co., Limited (CATL) (a kind of electrode piece and the lithium ion battery containing the electrode piece), and Zhuhai CosMX shall pay the damages of RMB 30 million, and bear RMB180, 000 of the court fees. Zhuhai CosMX indicated that the first-instance judgment had not taken effect and would appeal.

Source: Zhuhai CosMX

## 最高院审结首起植物新品种确权行政案件

近日，最高人民法院知识产权法庭审结了首起植物新品种确权行政案件，明确申请品种权保护的品种因销售丧失新颖性的判断标准，判决认定育种者为委托制种目的交付繁殖材料并约定回购的行为不属于导致品种丧失新颖性的销售行为。

法院认为，销售行为是否存在是判断申请品种具备新颖性的重要事实。根据植物新品种保护条例第十四条的规定，导致申请植物新品种权保护的品种丧失新颖性的销售是指行为人为交易目的将品种繁殖材料交由他人处置，放弃自身对该繁殖材料的处置权的行为。育种者为委托他人制种而交付申请品种繁殖材料，同时约定制成的品种繁殖材料返归育种者，因育种者实质上保留了对该品种繁殖材料的处置权，除非法律另有规定，不会导致申请品种丧失新颖性。对于委托制种回购的事实，涉案受托人虽然在一定时期内持有、使用了品种繁殖材料，但其无权对繁殖材料进行处置，作出不符合委托生产合同约定的其他行为，因此，委托人并没有放弃对申请品种“强硕68”繁殖材料的处置权，委托制种并回购的事实不属于销售品种繁殖材料的行为。致

泰种业公司在本案提交的现有证据不足以证明“强硕68”丧失新颖性，故二审判决驳回上诉，维持原判。

来源：最高人民法院

## SPC Concludes the First Administrative Case Concerning the Affirmation of New Plant Variety Rights

Recently, the Intellectual Property Court of the Supreme People's Court (SPC) has concluded the first administrative case concerning the affirmation of new plant variety right, defining the standards for judging the loss of novelty of a variety applied for the protection of variety right due to sale. The court ruled that the act of delivery of propagating materials by breeders for the purpose of commissioned seed production, and repurchase as agreed does not constitute the sale resulting in loss of novelty of the variety.

The court held that the existence of an act of sale was an important fact for determining the novelty of the variety. According to Article 14 of the Regulations on the Protection of New Plant Varieties, the sale of a variety that results in the loss of novelty of the variety under application for the protection of the right of new plant variety refers to the act whereby the feisor, for the purpose of trade, hands over the propagating materials of the variety to others for disposal, and waives its own right to dispose of the said propagating materials. Where the breeder delivers the propagating materials of the variety in question for the purpose of entrusting another party to produce seeds, and they agree that the propagating materials produced shall be returned to the breeder, the breeder reserves the right to dispose of the propagating materials in question. Unless otherwise provided for in laws, the novelty of the variety in question shall not be lost. With regard to the fact of repurchase of the commissioned seed production, although the trustee involved held and used the propagating materials of varieties in a certain period, it has no right to dispose of the propagating materials and commits other acts inconsistent with the commissioned production contract. Therefore, the Client did not waive its right to dispose the propagating materials of the variety "Qiangshuo 68" in application, and the fact of commissioned seed production and repurchase did not belong to the sale of the propagating materials of varieties. As the existing evidence submitted by the plaintiff in this case was insufficient to prove that "Qiangshuo 68" lost its novelty, the appeal was rejected and the original judgment was sustained in the second instance.

Source: SPC

## 最高院：诉争发明创造是否属于离职员工在原单位完成的职务发明创造的判断

最高人民法院就浙江春风动力股份有限公司与赛格威科技有限公司等专利权权属纠纷案作出二审判决，驳回上诉，维持原判。一审法院认定，驳回浙江春风动力股份有限公司的诉讼请求。

法院认为，除非有证据表明离职员工在原单位承担的本职工作或被分配的任务具体指向该零配件，或有证据表明诉争专利发明创造与原单位的相关技术方案存在明显的承继关系，且相关技术资料存在被离职员工接触的可能性，否则不能仅以离职员工曾经在原单位参与和汽车项目研发有关的工作，就当然地认为新单位以离职员工作为发明人就某一汽车零配件提出的专利申请及由此获得授权的专利权属于离职员工在原单位作出的职务发明创造。如果按照过于宽泛思路



对涉及职务发明创造的权利归属进行认定，势必相当于认为离职员工只要在离开原单位1年内作出的涉及任一汽车零部件的发明创造都应当当然地认定为原单位的职务发明创造，由此获得的专利权都当然地归属原单位，这种思路无异于实质性剥夺了离职员工独立发挥职业技能进行技术创新的机会，不适当地限缩了员工基于个人职业规划重新作出择业选择的正常流动空间，进而导致在原单位、离职员工以及离职员工新任职单位三者之间出现明显的利益失衡，显然并不足取。因此本案中，在案证据不足以认定诉争专利与陈忠良、隆永波在春风动力公司承担的本职工作或分配的任务“有关”。

来源：最高人民法院

### **SPC: Judgment on Whether the Invention is a Service Invention Completed by the Employee in the Original Employer**

The Supreme People's Court (SPC) made a judgment of second instance on a patent ownership dispute case, and upheld the original judgment. The court of first instance held that the claim of the plaintiff shall be dismissed.

The court held that unless there is evidence to prove that the employee leaving the original employer's own work or assigned tasks specifically point to the spare parts, or there is evidence to prove that there is an obvious succession relationship between the disputed invention -creation and the relevant technical solution of the original employer, and there is a possibility that the relevant technical materials are contacted by the employee leaving his/her original employer, it shall not be deemed as a service invention made by the employee leaving the original employer based on the fact that the employee has participated in the research and development of the automobile project at the original employer. If the ownership of a service invention is identified according to an overly broad idea, it will be deemed that any invention involving any automobile spare parts made by a departing employee within one year from his/her original employer shall be identified as the service invention of his/her original employer as a matter of course, and the patent rights obtained therefrom shall all belong to his/her original employer as a matter of course. This idea is tantamount to depriving the departing employee of the opportunity to independently exert his/her professional skills for technical innovation, unduly restricting the normal flow space for the employee to make a new choice of occupation based on his/her personal career planning, and thus causing obvious imbalance of interests among the original employer, the departing employee and the new employer of the departing employee, which is obviously not sufficient. Therefore, in this case, the evidence in the case is insufficient to determine that the disputed patent is "relevant" to the job or assignment of the employee who has left his/her original employer.

Source: SPC

### **“比价销售”不正当竞争案判赔450万余元**

美克国际家居用品股份有限公司（以下简称“美克美家”）起诉北京百川联合科技发展有限公司（以下简称“百川公司”）商标侵权及不正当竞争，并合计索赔500万元。

美克美家诉称，百川公司店铺内多款在售家具产品的价格标签与美克美家商品进行比价。法院认为，百川公司大量采用与美克公司产品进行比价的方式进行宣传和销售，在具体比价中，

或者仅仅对比了价格；或者在突出显示价格对比的同时附着不明显的二维码，且缺乏必要的说明；或者仅仅泛泛指向对方同类产品进行比价。上述比价均未就双方商品的质量、尺寸、原材料、生产工艺、售后服务等情况进行全面披露，即使部分商品所标价格属实，亦不能完整反映对比商品的全部信息。其行为方式属于典型的不披露或不完整披露、有选择的片面披露比价信息，容易使消费者被其低廉的价格所误导，误认为其相同商品价格优于美克公司，或误认为美克公司产品存在质劣价高的情况，对美克公司商誉产生负面评价，构成虚假宣传和商业诋毁，违反了反不正当竞争法第八条及第十一条的规定。法院认定被告赔偿美克美家经济损失450万元。

来源：最高人民法院

### **Over RMB 4.5 million Awarded in an Unfair Competition Case Involving "Selling by Comparing Prices"**

Markor International Home Furnishings Co., Ltd. (Markor) sued Beijing Baichuan United Technology Development Co., Ltd. ( Baichuan ) for trademark infringement and unfair competition, and claimed a total of RMB 5 million.

Markor complains that the price tag of many pieces of furniture products on sale in the store of Baichuan Company is compared with the price of Markor's products. The court held that Baichuan promoted and sold a large number of products by way of price comparison with the products of Markor, and either only compared the prices in the specific price comparison, or attached non-obvious QR codes while highlighting the price comparison, and lacked necessary explanations, or only generally pointed to the similar products of the other party for price comparison. None of the above price ratios fully disclose the quality, size, raw materials, production process, after-sale service and other information of the products of both parties. Even if the prices of some products are true, they cannot fully reflect all the information of the comparative products. Its act is typical of non-disclosure, incomplete disclosure or selective and one-sided disclosure of price information, which is likely to mislead consumers into believing that the price of the same commodity is superior to that of Markor, or that Markor's products are of high quality and low price, resulting in negative evaluation of Markor's goodwill, which constitutes false promotion and commercial defamation and violates the provisions of Articles 8 and 11 of the Anti-unfair Competition Law. The court found that the defendant shall pay the damages of RMB 4.5 million yuan.

Source: SPC

### **北京知识产权法院：向招标人发送侵权警告函是否构成商业诋毁的认定**

北京知识产权法院就北京直真科技股份有限公司（下称原告）与亿阳信通股份有限公司、北京亿阳信通科技有限公司（下称被告）不正当竞争纠纷案作出二审判决，判定被告向涉案受函人声明，消除不正当竞争行为给原告造成的不良影响。

法院认为，在招标异议程序中向特定人即招标人发送侵权警告函，也可能构成商业诋毁。相关投诉不应因在程序上属于招标异议程序而必然具有正当性，相较于面向不特定公众而言，面向

招标人这一特定交易对象发送侵权警告函的影响更大，应更为慎重。判断警告函所指的侵权内容是否构成虚假或误导性信息，不应仅仅以侵权诉讼是否发生作为判断标准，而应当综合考量侵权指控成立的可能性、警告人掌握和提交的证据情况、警告函的具体表述方式以及接受对象的判断能力和法律风险大小等因素。被告在向中国移动公司提交的多次函件乃至本案诉讼中，亦未进一步提交证据对其主张加以证明，可见其警告事项缺乏事实依据。本院认为，经营者对司法未决事项发送侵权警告函，本应保持审慎义务，如采用“涉嫌”等中立词汇，但被告却采用“故意侵犯”“侵权事实清楚”“必定会受到法律的制裁”等肯定性不利语言，已经超出合理范围，属于明显缺乏事实依据的虚假陈述，容易误导被警告者及相关公众，对原告的正常经营造成实质性影响，损害了原告的商业信誉，违反了反不正当竞争法第十一条的规定。

来源: 北京知识产权法院

### **Beijing IP Court: Determination of Whether the Sending of a Warning Letter to the Tenderer Constitutes Commercial Denigration**

Beijing Intellectual Property Court made a second-instance judgment in an unfair competition dispute case, deciding that the defendant shall make a statement to the recipient of the case to eliminate the adverse effects of unfair competition on the plaintiff.

The court held that sending a infringement warning letter to a particular person in the bid objection procedure, i.e. the tenderer, could also constitute commercial denigration. The relevant complaint shall not be necessarily justified due to the procedural nature of the bid invitation objection procedure. Compared with the non-specific public, the impact of sending infringement warning letters to the specific transaction object of the tenderer is greater and more prudent. When judging whether the infringing content referred to in the warning letter constitutes false or misleading information, the judgment criteria shall not be based solely on whether the infringement lawsuit has occurred, but shall take into account factors such as the possibility of establishment of infringement allegation, evidence mastered and submitted by the warning party, the specific expression method of the warning letter, the judgment ability of the recipient and the magnitude of legal risks etc. The defendant did not further submit evidence to prove its claim in the multiple letters submitted to China Mobile and even in the proceedings of this case, which shows that the warning was not based on facts. The court held that business operators should have remained prudent in sending infringement warning letters to judicial pending matters, such as adopting neutral words such as "suspected", but the defendant used such affirmative and adverse language as "intentional infringement", "clear infringement facts" and "legal sanctions are bound to be imposed", which has gone beyond the reasonable scope and is a false statement obviously lacking in factual basis, which is likely to mislead the person being warned and the relevant public, cause substantial impact on the normal operation of the plaintiff, damage the commercial reputation of the plaintiff and violate the provisions of Article 11 of the Anti-unfair Competition Law.

Source: Beijing IP Court

### **网络平台“Digital Basel”涉嫌侵犯数千名艺术家的知识产权**

网络平台“Digital Basel”称自己与巴塞尔艺术展（Art Basel）存在关联。其在未经众多艺术家授权的情况下提供艺术家作品数字版本的非同质化通证（NFT）。在收到巴塞尔艺术展与卓纳



画廊（David Zwirner Gallery）等画廊参展商的勒令停止通知函后，Digital Basel关闭平台。巴塞尔艺术展在一份电子邮件中表示：“该平台与巴塞尔艺术展没有任何关联，也没有得到巴塞尔艺术展的认可，这是一个明显的品牌侵权案件。”

来源: [cryptosaurus](#)

## **Online Platform "Digital Basel" Allegedly Infringes the IPR of Thousands of Artists**

The "Digital Basel" refers to itself as associated with Art Basel. It provides NFTs for digital versions of artist's works without authorization from many artists. Digital Basel shuts down platform after receiving cease and desist letter from exhibitors at Art Basel and the David Zwirner Gallery. "This platform is not affiliated with or endorsed by Art Basel in any way, and this is a clear case of brand infringement." Art Basel said in an emailed statement.

Source: [Cryptosaurus](#)



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