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立方要闻周报

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立方竞争法周报 Weekly Competition Law News

市场监管总局发布《中国反垄断执法年度报告（2022）》

SAMR Releases Annual Report of Anti-Monopoly Law Enforcement in China (2022)

国新办举行建设全国统一大市场政策发布会

SCIO Holds Policy Briefing on Building Unified National Market

最高院明确一审人民法院可以向最高院请示反垄断法律适用问题

SPC Clarifies Court of First Instance May Ask SPC for Instructions on Application of Anti-Monopoly Law

市场监管总局公布五起垄断案件处罚决定

SAMR Announces Five Anti-Monopoly Penalty Decisions

欧盟委员会对Booking拟收购ETraveli发表异议声明

European Commission Sends Booking Statement of Objections over Proposed Acquisition of ETraveli

欧盟附条件批准威望迪收购拉加代尔

European Commission Conditionally Clears Acquisition of Lagardère by Vivendi

德国监管者点赞Meta更透明的数据收集计划

FCO Likes Meta Plan for 'More Transparent' Data Collection

CMA将卡特尔举报奖金提高至25万英镑

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No.350

2023.6

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

国家互联网信息办公室发布《近距离自组网信息服务管理规定（征求意见稿）》

The Cyberspace Administration of China Issued the *Close-range Ad Hoc Network Information Service Management Regulations (Draft for Comments)*

国务院办公厅印发2023年度立法工作计划，《网络数据安全条例》、《人工智能法》在列

The General Office of the State Council Issued the *2023 Legislative Work Plan, Including the Regulations on the Administration of Network Data Security and the Artificial Intelligence Law*

中国证券业协会印发《证券公司网络和信息安全三年提升计划（2023-2025）》

The China Securities Association Issued the *Three-Year Improvement Plan for Network and Information Security of Securities Companies (2023-2025)*

国家密码管理局发布《商用密码检测机构管理办法(征求意见稿)》《商用密码应用安全性评估管理办法(征求意见稿)》

The State Cryptography Administration Issued the *Administrative Measures for Commercial Cipher Codes Testing Institutions (Draft for Comments)* and the *Administrative Measures for Security Assessment of Commercial Cipher Codes Applications (Draft for Comments)*

中国科技部发布《人类遗传资源管理条例实施细则》

The Ministry of Science and Technology of China Issued the *Implementation Rules for the Management of Human Genetic Resources*

南昌市网信办依法对某股份有限公司作出行政处罚

Nanchang Cyberspace Office Imposed Administrative Punishment on a Company in Jiangxi

我国首例汽车企业全业务场景数据出境安全评估获批

China's First Full Business Scenario Cross-border Data Transfer Security Assessment for Automotive Enterprises Approved

美国联邦通信委员会对违法拨打自动语音电话者处以5百万美元的罚款

USA: FCC Issues \$5 Million Fine for Illegal Robocalling



No.350

2023.6

知识产权 Intellectual Property

《万国觉醒》获赔1000万，法院定义“换皮抄袭”

Rise of Kingdoms Awarded Damages of RMB 10million: the Court Defines “Skin change plagiarism”

全国首例以“曾用企业名称”认定不正当竞争的涉外侵权案件

Former Enterprise Name was Protected against Copycat, Foreign Entity was First Protected in China

投标人滥用诉权、恶意举报竞争对手构成商业诋毁的不正当竞争

Bidder Abuse of the Right to Sue, Malicious Reporting Competitors constitute Unfair Competition of Commercial Defamation

“十字盾牌”等3枚商标遭两公司恶意侵权，法院全额判赔300万元

Three Trademarks, Including "Cross Shield" Maliciously Infringed by Two Companies: the Court Awarded 3 Million for the Full Amount

“卫斯理”=倪聪：看知名人物的笔名、艺名等特定名称主张姓名权保护的考量

Consideration of Claiming Name Right Protection for Specific Names such as Pseudonyms and Stage Names of Well-known Figures

判赔80万元：擅在汽车配件上使用“奔驰”商标构成侵权

Awarded RMB 800,000 in Damages: Unauthorized Use of "Mercedes-Benz": Use on Auto Parts Constitutes Trademark Infringement

韩国国会通过《外观设计保护法》修正案

Korean National Assembly Passes Amendments to the Design Protection Act

高智发明公司针对8项美国汽车专利向Volvo提起侵权诉讼

Intellectual Ventures Sues Volvo over Patents on Day of Infringement Notice, Points Western District of Texas to Overlap with General Motors Litigation

英国法院判决Optis诉苹果案FRAND费率

Mr. Justice Marcus Smith has Made His Optis v. Apple FRAND Determination: Only \$5M Per Year for Global Standard-essential Patent License Covering All Apple Products, Even Hypothetical Apple Car

立方竞争法周报 Weekly Competition Law News

市场监管总局发布《中国反垄断执法年度报告（2022）》

2023年6月9日，国家市场监督管理总局（“市场监管总局”）发布《中国反垄断执法年度报告（2022）》（“《报告》”）。根据《报告》，2022年，市场监管总局完成了《反垄断法》的首次修改，加快完善反垄断配套立法；依法办结各类垄断案件187件，罚没金额7.84亿元，审结经营者集中案件794件，其中附加限制性条件批准5件；举办了首届中国公平竞争政策宣传周和第九届中国公平竞争政策国际论坛。（[查看更多](#)）

SAMR Releases Annual Report of Anti-Monopoly Law Enforcement in China (2022)

On June 9, 2023, the State Administration for Market Regulation (“SAMR”) released the *Annual Report of Anti-Monopoly Law Enforcement in China (2022)* (“Report”). According to the Report, in 2022, the SAMR completed the first amendment of the *Anti-Monopoly Law* and speeded up the legislation of supporting anti-monopoly regulations; handled and completed 187 monopoly cases in accordance with the law, confiscated and fined CNY 784 million, and cleared 794 merger filing cases, 5 of which were approved with additional restrictive conditions; held the first China Fair Competition Policy Publicity Week and the 9th International Forum on Fair Competition Policy of China. ([More](#))

国新办举行建设全国统一大市场政策发布会

2023年6月5日，国务院新闻办公室（“国新办”）举行国务院政策发布会，国家发展和改革委员会、商务部、市场监管总局相关官员出席会议，介绍建设全国统一大市场部署总体工作方案和近期举措并答记者问。会议提到，自相关政策印发以来，市场监管总局在破除地方保护和行政性垄断上持续发力。下一步，市场监管总局将加快推动《公平竞争审查条例》制定工作，组织开展妨碍全国统一大市场和公平竞争的政策措施专项清理，深入开展民生领域反垄断执法专项行动。（[查看更多](#)）

SCIO Holds Policy Briefing on Building Unified National Market

On June 5, 2023, the State Council Information Office (“SCIO”) held a State Council policy briefing, and relevant officials from the National Development and Reform Commission, the Ministry of Commerce, and the SAMR attended the briefing. The officials introduced the overall work plan and recent measures for building a unified national market and answered relevant questions from reporters. The officials mentioned that since the issuance of relevant policies, the SAMR has continued to make efforts to break down local protection and administrative monopoly. In the next step, the SAMR will accelerate the formulation of the *Regulations on the Review of Fair Competition*, organize a special clean-up of policies and measures that obstruct the unified national market and fair competition, and carry out special actions to enforce the anti-monopoly law in the field of people's livelihood. ([More](#))

最高法院明确一审人民法院可以向最高法院请示反垄断法律适用问题

2023年5月26日，最高人民法院（“最高院”）印发《最高人民法院关于法律适用问题请示答复的规定》（“《规定》”）的通知。根据《规定》第二条，对于技术类知识产权和反垄断法律适用问题，若出现以下五款规定情形之一，在高级人民法院之外，一审人民法院也可以向最高院提出请示：（1）法律、法规、司法解释、规范性文件等没有明确规定，适用法律存在重大争议的；（2）对法律、法规、司法解释、规范性文件等规定具体含义的理解存在重大争议的；（3）司法解释、规范性文件制定时所依据的客观情况发生重大变化，继续适用有关规定明显有违公平正义的；（4）类似案件裁判规则明显不统一的；（5）其他对法律适用存在重大争议的。《规定》将于2023年9月1日起施行。（[查看更多](#)）

SPC Clarifies Court of First Instance May Ask SPC for Instructions on Application of Anti-Monopoly Law

On May 26, 2023, the Supreme People's Court (“SPC”) issued the notice of the *Provisions of the SPC on Responses to Requests for Instructions on the Application of Law* (“*Provisions*”). According to Article 2 of the *Provisions*, regarding the application of technology-related intellectual property rights and anti-monopoly law, if one of the following five situations occurs, the court of first instance, other than high people's court, may also request instructions from the SPC: (1) There are no clear provisions in laws, regulations, judicial interpretations, normative documents, etc., and there are major disputes over the application of laws; (2) There are major disputes over the understanding of the specific meaning of laws, regulations, judicial interpretations, normative documents, etc.; (3) The objective circumstances on which judicial interpretations and normative documents are formulated have undergone major changes, and the continued application of relevant provisions is obviously contrary to fairness and justice; (4) The adjudication rules for similar cases are obviously inconsistent; (5) Other major disputes over the application of law. The *Provisions* will come into effect on September 1, 2023. ([More](#))

市场监管总局公布五起垄断案件处罚决定

近日，市场监管总局公布了由各地市场监督管理局（“市监局”）作出的五起反垄断处罚决定，包括两起由山东省和江苏省市监局查处的滥用市场支配地位案件，以及三起由上海市、福建省和四川省市监局查处的垄断协议案件。在两起滥用市场支配地位案件中，山东省市监局对华能日照热力有限公司在山东省日照市主城区城市公共管网供热服务市场无正当理由滥用市场支配地位实施限定交易和差别待遇行为处以其2019年度销售额1%的罚款425.98万元；江苏省市监局对南京中燃城市燃气发展有限公司在南京市江北地区管道燃气供应服务市场无正当理由滥用市场支配地位实施搭售和附加不合理交易条件行为没收违法所得2956.31万元，并处以其2018年度销售额2%的罚款2083.76万元，合计罚没金额5040.07万元。在三起垄断协议案件中，上海市市监局对上海旭东海普药业有限公司与天津天药医药科技有限公司两家主要生产商达成并实施了固定氟尿嘧啶注射液价格、分割销售市场的横向垄断协议行为处以其2020年度中国境内销售额3%的罚款，罚款金额分别为27171533.61元和29884312.48元；福建省市监局对福建省爆破器材

行业协会（“爆破协会”）通过省际会议的形式组织会员企业达成固定商品价格、限制商品销售数量的垄断协议行为，对爆破协会处以30万元罚款、对参与协议的三家会员企业各处以20万元罚款；四川省市监局对成都市工程造价协会在处理招投标价格投诉过程中，组织会员企业从事联合抵制交易的行为处以30万元罚款。（[查看更多](#)）

SAMR Announces Five Anti-Monopoly Penalty Decisions

Recently, the SAMR announced five anti-monopoly penalty decisions made by local Administration for Market Regulation (“AMR”), including two cases of abuse of dominant market positions investigated and handled by the Shandong AMR and the Jiangsu AMR, and three cases of monopolistic agreements investigated and handled by the Shanghai AMR, the Fujian AMR and the Sichuan AMR. In the two cases of abuse of dominant market positions, the Shandong AMR imposed a fine of CNY 4,259,800, 1% of its 2019 annual sales on the Huaneng Rizhao Thermal Power Co., Ltd, for it abusing its dominant market position in the public pipe network heating service market of Rizhao City’s main urban area by conducting trading restrictions and discriminatory treatments without justifiable reasons; the Jiangsu AMR confiscated CNY 29.5631 million of illegal income, and imposed a fine of CNY 20.8376 million, 2% of its 2018 annual sales, with a total confiscation and fine of CNY 50.4007 million on the Nanjing Zhongran Urban Fuel Development Co., Ltd., for it abusing its dominant market position in the pipeline gas supply service market of Nanjing City’s Jiangbei area by conducting tying and imposing other unreasonable trading conditions without justifiable reasons. In three monopoly agreement cases, the Shanghai AMR imposed fines of CNY 27,171,533.61 and CNY 29,884,312.48, 3% of their 2020 domestic annual sales, respectively on two major manufacturers, Shanghai Xudong Haipu Pharmaceutical Co., Ltd. and Tianjin Tianyao Pharmaceuticals Technology Co., Ltd., for reaching and implementing a horizontal agreement of fixing the price of fluorouracil injection and segmenting the sales market; the Fujian AMR imposed a fine of CNY 300,000 on the Fujian Explosive Materials Trade Association for organizing member companies to reach a monopoly agreement to fix commodity prices and limit commodity sales amount, and imposed a fine of CNY 200,000 on each of the three member companies for participating in the agreement; the Sichuan AMR imposed a fine of CNY 300,000 on the Chengdu Engineering Cost Association for organizing member companies to engage in refusing to deal during the process of handling complaints about bidding prices. ([More](#))

欧盟委员会对Booking拟收购eTraveli发表异议声明

2023年6月9日，欧盟委员会（European Commission）发布公告，向Booking（Booking Holdings）告知初步审查意见并发布异议声明，认为Booking拟议收购eTraveli（Flugo Group Holdings AB）可能会使Booking加强在欧洲经济区（EEA）内酒店在线旅行代理（OTA）市场上的地位。Booking是全球规模最大的旅游电子商务公司之一，在欧洲经济区内主要提供酒店在线旅行代理服务。eTraveli活跃于航班在线旅行代理业务，拥有市场上最先进的预订航班的技术解决方案之一。2022年11月16日，欧盟委员会对拟议交易展开调查，认定Booking在欧洲经济区的酒店在线旅行代理市场中具有支配地位，这起交易可能会进一步加强Booking在相关市场的支配地位，使得Booking扩大其旅游服务的“生态系统”（如航班、住宿、租车、景点），增

加酒店在线代理市场的进入和扩张壁垒，令Booking在线客户流量大幅增长，并最终导致酒店和终端客户的成本增加。（[查看更多](#)）

European Commission Sends Booking Statement of Objections over Proposed Acquisition of ETraveli

On June 9, 2023, the European Commission (“Commission”) issued a statement informing Booking Holdings (“Booking”) of its preliminary view that its proposed acquisition of Flugo Group Holdings AB (“eTraveli”) may allow Booking to strengthen its position on the market for hotel online travel agencies (“OTA”) in the European Economic Area (“EEA”) and sent Booking a Statement of Objections. Booking is one of the world’s leading digital travel companies, mainly active in the provision of accommodation OTA services in the EEA. ETraveli is primarily active as a flight OTA and has one of the market’s most sophisticated technical solutions for connecting travellers and flights. On November 16, 2022, the Commission opened an in-depth investigation, and concluded that Booking is the dominant hotel OTA in the EEA and the transaction may strengthen Booking’s dominant position in the hotel OTA market further, allow Booking to expand its ecosystem of travel services (e.g., flights, accommodation, car rentals, attractions), increase barriers to entry and expansion, allow Booking to significantly increase its online customer traffic and increase costs for hotels and end customers. ([More](#))

欧盟附条件批准威望迪收购拉加代尔

2023年6月9日，欧盟委员会公告附条件批准威望迪环球集团（Vivendi SA）收购拉加代尔集团（Lagardère Group）。二者在欧盟的法语国家图书出版市场居于领先地位，活跃于从收购版权到向零售商营销、分销和销售书籍的整个图书产业链。经调查，欧盟委员会发现威望迪和拉加代尔分别是相关市场中前两位市场参与者，彼此间竞争激烈，但缺乏其他竞争者，且拟议交易可能还将减少法国名人杂志的选择并提高价格。为解决欧盟委员会的竞争忧虑，威望迪提出全面剥离其出版业务，即Editis及其实体，以及威望迪在法国出版的名人新闻杂志Gala。欧盟委员会认为这些措施解决了其担忧，决定批准该拟议交易。（[查看更多](#)）

European Commission Conditionally Clears Acquisition of Lagardère by Vivendi

On June 1, 2023, the Commission issued a statement approving the proposed acquisition of Lagardère by Vivendi, subject to conditions. Vivendi and Lagardère are leading players in book publishing in French-speaking countries of the European Union, and are active throughout the book value chain, from the acquisition of publishing rights to the marketing, distribution and sale of books to retailers. Following its investigation, the Commission found that the two companies are the number one and two market players at most levels of the book value chain, where they closely compete but there is not enough credible players and the transaction would have reduced choice and increased prices for celebrity magazines. To address the Commission’s competition concerns, Vivendi offered a substantial remedy package consisting in the full divestment of Vivendi’s publishing business, Editis and its entities, and Vivendi’s celebrity press magazine Gala published in France. The Commission agrees these commitments fully address the competition concerns and approved the proposed acquisition. ([More](#))

德国监管者点赞Meta更透明的数据收集计划

2023年6月7日，德国联邦卡特尔局（Federal Cartel Office of Germany）对Meta最近在WhatsApp和Instagram等平台上为用户对其个人数据使用提供更多控制权的决定表示赞赏。Meta创建了一个账户中心，使用户首次有权选择是否单独或结合使用Meta服务。联邦卡特尔局最初拒绝了Meta的提议，但随后承认Meta对该账户中心有所改进，提高了透明度并使其更易于理解。2019年，德国联邦卡特尔局要求Meta停止在未征得用户同意的情况下将通过其子公司和其他网站获取的用户数据进行组合，该决定受到社交媒体公司的挑战，导致了一场法律纠纷，该纠纷已呈至欧洲法院（European Court of Justice）。（[查看更多](#)）

FCO Likes Meta Plan for ‘More Transparent’ Data Collection

On June 7, 2023, the Federal Cartel Office of Germany (“FCO”) praised Meta’s recent decision to provide users with increased control over their personal data usage on various platforms, including WhatsApp and Instagram. Meta has built an “accounts center” to provide users with the ability to choose whether they want to use Meta’s services separately or in combination for the first time. The FCO initially rejected Meta’s proposition, but later acknowledged that changes were made to improve its transparency and comprehensibility. In 2019, the FCO instructed Meta to cease combining user data obtained through its subsidiaries and other websites without obtaining user consent. The decision was contested by the social media company, resulting in a legal dispute that has been referred to the European Court of Justice. ([More](#))

CMA将卡特尔举报奖金提高至25万英镑

2023年6月6日，英国竞争和市场管理局（CMA）发布公告，称正在加强对非法卡特尔的执法工作，并将对向CMA举报非法卡特尔活动的人士提供高达25万英镑的奖励。CMA的“作弊还是竞争”活动向人们提供了有关如何发现、举报和阻止非法反竞争行为的建议，鼓励举报非法活动，提供奖金并保护匿名权益。CMA还提供了一系列指南，帮助企业 and 公司董事更好地理解如何遵守竞争法。（[查看更多](#)）

CMA Increases Informant Reward Up to £250K to Crack Down on Cartels

On June 6, 2023, The Competition and Markets Authority (“CMA”) published an announcement that it is strengthening its enforcement work against illegal cartels and offering a reward of up to GBP 250,000 to people who tell the CMA about unlawful cartel activity they have witnessed. The CMA’s “Cheating or Competing” campaign advises people to spot, report and deter illegal anti-competitive practices, encourages people to report illegal activities, offers rewards and protects their anonymity. The CMA also has a range of guidance to help businesses and directors understand more about how to comply with competition law. ([More](#))

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

国家互联网信息办公室发布《近距离自组网信息服务管理规定（征求意见稿）》

国家互联网信息办公室于2023年6月6日发布《近距离自组网信息服务管理规定（征求意见稿）》（以下简称《征求意见稿》）。意见反馈截止时间为2023年7月6日。《征求意见稿》规定，在中华人民共和国境内提供、使用近距离自组网信息服务，适用该规定。近距离自组网信息服务，是指利用蓝牙、Wi-Fi等信息技术，近距离即时组建网络并提供发布、接收信息的服务。近距离自组网信息服务提供者在提供服务过程中，应当依照《中华人民共和国网络安全法》的规定，要求近距离自组网信息服务使用者提供真实身份信息。在中华人民共和国境内提供近距离自组网信息服务，应当以显著清晰的方式提供发布者和接收者之间的配对确认功能，每次配对需经发布者和接收者确认并同意，未经双方同意，不得默认自动配对。未经接收者同意，不得默认提供快照、缩略图等概要信息预览功能。《征求意见稿》还要求近距离自组网信息服务提供者应当制定网络安全事件应急预案，配合网信部门、工信主管部门、公安部门开展监督检查工作，并提供必要的技术、数据等支持和协助。（[查看更多](#)）

The Cyberspace Administration of China Issued the *Close-range Ad Hoc Network Information Service Management Regulations (Draft for Comments)*

The Cyberspace Administration of China (the "CAC") issued the *Regulations on the Administration of Close-range Ad Hoc Network Information Services (Draft for Comments)* (the "Draft for Comments") on 6 June 2023. The deadline for feedback on the comments is 6 July 2023. The Draft for Comments provides that the provision and use of close-range ad hoc network information services in the People's Republic of China shall be governed by the provisions. Close-range ad hoc network information service refers to the establishment of ad hoc networks using blue tooth and Wi-Fi technologies to provide services of publishing and receiving information. Close-range ad hoc network information service providers in the process of providing services, in accordance with the provisions of the *Network Security Law of the People's Republic of China*, should require users of such services to provide real identity information. The provision of close-range ad hoc network information services in the People's Republic of China shall provide the pairing confirmation function between the publisher and the recipient of information in a conspicuous and clear manner, and each pairing shall be confirmed and agreed by the publisher and the recipient, and no automatic pairing shall be provided by default without the consent of both parties. Without the consent of the recipient, no snapshots, thumbnails and other summary information preview functions shall be provided by default. The *Draft for Comments* also requires that the close-range ad hoc network information service providers should develop emergency plans for network security incidents, cooperating with the cybersecurity authorities, the competent department of industry and information and technology and public security departments to carry out supervision and inspection work, and providing the necessary technical, data and other support and assistance. ([More](#))

国务院办公厅印发2023年度立法工作计划，《网络数据安全条例》、《人工智能法》在列

2023年6月6日，国务院办公厅发布了《关于印发国务院2023年度立法工作计划的通知》。

《国务院2023年度立法工作计划》明确，预备将《人工智能法草案》提请全国人大常委会审议。此外，拟审议的行政法规草案共17项，《网络安全管理条例》（国家网信办组织起草）、《商用密码管理条例（修订）》（国家密码局起草）在列，并将预备制定《政务数据共享条例》。（[查看更多](#)）

The General Office of the State Council Issued the 2023 Legislative Work Plan, Including the Regulations on the Administration of Network Data Security and the Artificial Intelligence Law

On 6 June 2023, the General Office of the State Council issued a notice on the issuance of the State Council's 2023 legislative work plan (The "Plan").

The Plan clearly stipulates that the draft of the Artificial Intelligence Law is to be readied to be submitted to the Standing Committee of the National People's Congress for review. In addition, there are a total of 17 draft administrative regulations to be reviewed, including the Regulations on Network Security Management (drafted by the Cyberspace Administration of China) and the Regulations on Commercial Password Management (revised) (drafted by the State Cryptography Administration), and the Regulations on Government Data Sharing will be prepared. ([More](#))

中国证券业协会印发《证券公司网络和信息安全三年提升计划（2023-2025）》

2023年6月9日，中国证券业协会印发《证券公司网络和信息安全三年提升计划（2023-2025）》（以下简称《安全提升计划》），阐明未来三年全面提升证券公司网络和信息安全的指导思想、基本原则、总体目标、主要任务及实施路径。

《安全提升计划》围绕国家关于网络和信息安全的具体要求，聚焦提升行业科技治理和信息系统架构掌控能力、防范网络和信息安全风险，明确六类31项主要任务要求，形成32项具体任务清单。（[查看更多](#)）

The China Securities Association Issued the Three-Year Improvement Plan for Network and Information Security of Securities Companies (2023-2025)

On 9 June 2023, the China Securities Association issued the Three-Year Improvement Plan for Network and Information Security of Securities Companies (2023-2025) (the "Security Improvement Plan"), clarifying the guiding ideology, basic principles, overall goals, main tasks, and implementation path for comprehensively improving network and information security of securities companies in the next three years.

Surrounding the specific government requirements for network and information security, the "Security Improvement Plan" focuses on improving industry technology governance and information system architecture control capabilities, as well as preventing network and information security risks, elaborating on 31 main task requirements for six categories, and forming a list of 32 specific tasks. ([More](#))

国家密码管理局发布《商用密码检测机构管理办法(征求意见稿)》《商用密码应用安全性评估管理办法(征求意见稿)》

2023年6月9日，国家密码管理局就《商用密码检测机构管理办法》《商用密码应用安全性评估管理办法》（以下分别简称《机构管理办法意见稿》和《评估管理办法意见稿》）向社会公开征求意见。公众可以在2023年7月9日前提出意见。

《机构管理办法意见稿》对商用密码检测机构资质许可、监督管理等提出明确要求，对规范机构市场准入及从业行为、促进商用密码检测活动健康发展具有重要意义。《机构管理办法意见稿》规定了商用密码检测机构资质认定的条件、程序、证书，以及资质变更、延续、注销等内容，并规定了商用密码检测机构及相关从业人员应遵守的行为规范以及管理要求。

《评估管理办法意见稿》则规定了商用密码应用安全性评估范围、责任主体、工作原则及要求、实施规范等内容。 ([查看更多](#))

The State Cryptography Administration Issued the *Administrative Measures for Commercial Cipher Codes Testing Institutions (Draft for Comments)* and the *Administrative Measures for Security Assessment of Commercial Cipher Codes Applications (Draft for Comments)*

On 9 June 2023, the State Cryptography Administration issued drafts for public comments of the *Administrative Measures for Commercial Cipher Codes Testing Institutions* and the *Administrative Measures for Security Assessment of Commercial Cipher Codes Applications* (hereinafter the "Draft Administrative Measures for Institutions" and "Draft Administrative Measures for Security Assessment", respectively). The public may provide their comments before 9 July 2023.

The *Draft Administrative Measures for Institutions* sets clear requirements for the qualification and licensing, supervision and management of commercial cipher code testing institutions, which is of great significance for regulating market access and professional activities of institutions, and promoting the healthy development of commercial cipher code testing activities. The *Draft Administrative Measures for Institutions* stipulates the conditions, procedures, certificates, as well as changes, renewals, and cancellations of qualifications for commercial cipher code testing institutions, as well as the behavioral norms and management requirements that commercial cipher code testing institutions and related practitioners should comply with. The *Draft Administrative Measures for Security Assessment* stipulates the scope, responsible parties, work principles and requirements, implementation standards, and other contents of the security assessment of commercial cipher code applications. ([More](#))

中国科技部发布《人类遗传资源管理条例实施细则》

中国科技部于6月1日发布《人类遗传资源管理条例实施细则》（以下简称“《细则》”），包括七章共78条，将于2023年7月1日起施行。

《细则》强调，采集、保藏、利用、对外提供中国人类遗传资源，应当尊重和保障人类遗传资源提供者的隐私权和个人信息等权益，按规定获取书面知情同意，确保人类遗传资源提供者的合法权益不受侵害。在中国境内采集、保藏中国人类遗传资源或者向境外提供中国人类遗传资源，必须由中国科研机构、高等学校、医疗机构或者企业(以下称中方单位)开展。设在港澳的内资实控机构视为中方单位。将人类遗传资源信息向境外组织、个人及其设立或者实际控制的机构提供或者开放使用的，中方信息所有者应当向科技部事先报告并提交信息备份。（[查看更多](#)）

The Ministry of Science and Technology of China Issued the Implementation Rules for the Management of Human Genetic Resources

The Ministry of Science and Technology of China issued the *Implementation Rules for the Regulations on the Management of Human Genetic Resources* (the "Rules") on 1 June, including seven chapters and a total of 78 articles, which will come into effect on 1 July 2023.

The *Rules* emphasize that the collection, preservation, utilization, and provision of Chinese human genetic resources should respect and protect the privacy and personal information rights of human genetic resource providers, obtain written informed consent in accordance with applicable regulations, and ensure that the legitimate rights and interests of human genetic resource providers are not infringed upon. The collection and preservation of Chinese human genetic resources within China or the provision of Chinese human genetic resources overseas must be carried out only by Chinese scientific research institutions, higher education institutions, medical institutions or enterprises (hereinafter the "Chinese units"). Domestic controlled institutions located in Hong Kong and Macao are considered Chinese units. If human genetic resource information is provided or opened for use to overseas organizations, individuals, and institutions established or actually controlled by them, the Chinese information owner shall report in advance to the Ministry of Science and Technology and submit a backup of the information. ([More](#))

南昌市网信办依法对某股份有限公司作出行政处罚

2023年5月30日，南昌市网信办依据《中华人民共和国数据安全法》第四十五条的规定，对江西某股份有限公司处以警告、罚款50万元，对直接负责的主管人员处以罚款5万元的行政处罚。

2023年4月13日，接上级网信部门通报，江西某股份有限公司运营的网络智能办公系统疑似遭黑客组织攻击并植入木马病毒，主机存在受控的风险。当日，南昌市互联网信息办公室决定立案调查并派执法人员开展案件调查工作。经查，该公司的OA系统和服务器内存储了大量敏感数据，但该公司履行数据安全保护义务不到位，OA系统感染了可获取服务器文件管理权限

和命令执行权限的木马程序；开展数据处理活动未加强风险监测，在发现数据安全漏洞风险和事件时未采取补救措施，未履行风险监测、补救处置等义务。（[查看更多](#)）

Nanchang Cyberspace Office Imposed Administrative Punishment on a Company in Jiangxi

On 30 May 2023, Nanchang Cyberspace Office, in accordance with the provisions of Article 45 of the *Data Security Law*, imposed a warning and a fine of RMB 500,000 on a company in Jiangxi, and imposed the person in charge a fine of RMB 50,000.

On 13 April 2023, a notice was received from the superior network information department that the intelligent office network system operated by a Jiangxi company is suspected to have been attacked by a hacker organization and implanted with a Trojan virus, posing a risk of the host network being controlled. On the same day, Nanchang Cyberspace Office decided to file a case for investigation and send law enforcement personnel to investigate the case. After investigation, it was found that the company's OA system and server memory stored a large amount of sensitive data, but the company did not fulfill its data security protection obligations properly. The other findings include: the OA system was infected with Trojan programs that could obtain server file management permissions and command execution permissions; the company failed to strengthen risk monitoring during data processing activities, failed to take remedial measures when identifying data security vulnerabilities and incidents, and failed to fulfill obligations such as risk monitoring and remedial disposal. ([More](#))

我国首例汽车企业全业务场景数据出境安全评估获批

近日，由ICMA智联出行研究院联合北京首信跨境数据科技有限公司（DGXC）共同支撑完成的北京现代汽车有限公司数据出境安全评估项目顺利通过国家互联网办公室的审批。

据悉，这是我国汽车领域首个全系统盘点、全业务申报、且全场景获批的数据出境安全评估案例，标志着我国汽车领域数据出境安全评估制度在北京率先落地，对提升我国数据安全合规管理水平具有重要意义。（[查看更多](#)）

China's First Full Business Scenario Cross-border Data Transfer Security Assessment for Automotive Enterprises Approved

Recently, the outbound cross-border data transfer security assessment project of Beijing Hyundai Co., Ltd., jointly supported by ICMA Zhilian Travel Research Institute and Beijing Shouxin Cross-border Data Technology Co., Ltd. (DGXC) successfully gained the approval of the National Cyberspace Office.

It is reported that this is the first outbound cross-border data transfer security assessment case in China's automotive industry that has undergone a security assessment on the basis of a system-wide inventory of data processed, with all business lines subject to application and with approval achieved in all applicable scenarios. It also marks the first case in Beijing of the implementation of outbound cross-border data transfer security assessment regime for China's automotive industry, and is of great significance for improving China's data security compliance level. ([More](#))

美国联邦通信委员会对违法拨打自动语音电话者处以5百万美元的罚款

2023年6月6日，美国联邦通信委员会（FCC）公布同日发布的针对J.M. Burkman & Associates LLC等被告的第EB-TCD-21-00032652号没收令，其中包括对上述被告处以5,134,500美元的罚款，因为他们违法拨打了1,141次自动语音电话。（[查看更多](#)）

USA: FCC Issues \$5 Million Fine for Illegal Robocalling

On 6 June 2023, the Federal Communications Commission (the “FCC”) announced the publication of its Forfeiture Order No.: EB-TCD-21-00032652, issued on the same date, against J.M. Burkman & Associates LLC and other respondents, in which it adopted a \$5,134,500 fine against the respondents for making 1,141 unlawful robocalls. ([More](#))

知识产权 Intellectual Property

《万国觉醒》获赔1000万，法院定义“换皮抄袭”

近日，深圳市中级人民法院认定乐狗研发、莉莉丝发行的《万国觉醒》遭到了微信小程序游戏《指挥官》的“换皮抄袭”，被告需赔偿原告经济损失1000万元。

法院认为，若将网络游戏视为一个整体智力创作成果，游戏画面是该智力成果的最终呈现形态，玩家感知到的智力成果内容就是游戏整体画面所呈现的内容。对于策略游戏而言，游戏机制层面的游戏元素的具体设计，及组合体系是一款游戏的核心内容。作为一款游戏最能体现其可玩性及价值的部分，其相当于游戏的‘骨架’，而游戏元素的具体形象则相当于‘皮’。著作权并不保护抽象的思想，但会对思想的具体表达予以保护。一款游戏的玩法规则，从整体到细部其实存在较大的创作空间，只要设计足够具体细致，那么游戏作品就具有独创性的表达，应受到著作权法保护。

来源：深圳市中级人民法院

Rise of Kingdoms Awarded Damages of RMB 10million: the Court Defines “Skin change plagiarism”

Recently, Shenzhen Intermediate Court affirmed that the video game, Rise of Kingdoms which is published by Legou Company and other plaintiff, is infringed by WeChat applet game "Commander". The defendant's act is recognized as “skin change plagiarism”, and damages of RMB 10 million was awarded.

The court held that if the online game is regarded as an overall intellectual creation result, the game screen is the final presentation form of the intellectual result, and the content of the intellectual result

perceived by the player is the content presented by the overall game screen. For strategy games, the specific design of game elements at the level of game mechanics, and the combination system is the core content of a game. The rules of playing a game, from the whole to the fine details, actually have a large creative space. As long as the design is specific and detailed enough, the game work has the expression of originality and shall be protected by copyright law.

Source: Shenzhen Intermediate People's Court

全国首例以“曾用企业名称”认定不正当竞争的涉外侵权案件

近日，天津知识产权法庭审结YKK株式会社与某拉链制造公司商标侵权及不正当竞争案。本案为全国首个以权利人的企业曾用名认定构成不正当竞争涉外侵权案件。

原告YKK株式会社系全球知名拉链生产商，其生产的拉链在世界范围内享有极高知名度与市场占有率。被告某拉链制造公司擅自使用原告极具知名度的曾用名“吉田”从事拉链交易行为，构成不正当竞争。最终，法院判令被告停止侵权、赔偿损失。

来源：天津市第三中级人民法院

Former Enterprise Name was Protected against Copycat, Foreign Entity was First Protected in China

Recently, the Tianjin Intellectual Property Court issued a trademark infringement and unfair competition case between YKK Corporation and a zipper manufacturing company. This case was the first foreign infringement case in China in which the former name of the right holder was found to constitute unfair competition.

The plaintiff, YKK Corporation, is a world-renowned zipper manufacturer, and its zippers enjoy a high popularity and market share worldwide. The defendant, a zipper manufacturing company, used the plaintiff's well-known former name "Yoshida" to engage in zipper trading without authorization, which constituted unfair competition. In the end, the court ordered the defendant to stop the infringement with damages.

Source: Tianjin IP Court

投标人滥用诉权、恶意举报竞争对手构成商业诋毁的不正当竞争

河南省高级人民法院近日发布的裁判文书显示，中交大建（西安）桥梁科技有限公司与浙江中隧桥波形钢腹板有限公司等不正当竞争纠纷案审理终结，被告需赔偿原告220万元。

本案中，中隧桥公司作为同业竞争者通过编造、传播超出正当评价和监督限度的虚假、误导性信息，使中交大建公司在波形钢腹板相关业务中客户、潜在客户及合作伙伴对中交大建公司的产品质量、服务水平、技术能力以及是否诚信经营产生怀疑，进而影响招投标的公平性。中隧桥公司已对中交大建公司的商业信誉和商品声誉造成了损害。中隧桥公司编造、传播虚假信息

和误导性信息，有悖于诚信的社会主义核心价值观，以及诚实守信的商业道德，不利于形成良好的竞争秩序，构成商业诋毁的不正当竞争行为。

来源：河南省高级人民法院

Bidder Abuse of the Right to Sue, Malicious Reporting Competitors constitute Unfair Competition of Commercial Defamation

Henan High Court issued the judgment of unfair competition between Zhongjiaodajian Limited, versus the defendant Zhongsui Bridge Limited. The defendant is awarded damages of RMB 2.2 million.

The court held that Zhongsui Bridge Limited reduced plaintiff's reputation by fabricating and disseminating false and misleading information, that exceeds the limits of proper evaluation and supervision, which has injured the fairness of bidding.

Source: Henan High People's Court

“十字盾牌”等3枚商标遭两公司恶意侵权，法院全额判赔300万元

近日，北京市知识产权法院就维氏股份公司与上海葆顺贸易有限公司、北京维士精英贸易有限公司商标权权属、侵权纠纷一案作出二审裁判，认定被告构成商标侵权，判赔人民币300万元。

法院认为，在注册商标使用后，因商标被撤销或者无效，构成侵害他人商标专用权的情况下，行为人是否应当承担赔偿责任，仍应依据主观过错程度进行判断。本案中，法院考虑到精英公司复制、模仿、翻译他人在先的驰名商标，本质上即是具有恶意的体现。关于赔偿数额的判定，法院综合考虑了精英公司的经营行为、产品销售范围、造成的影响巨大，所获利益可观；在案证据不能证明精英公司、葆顺公司是否已经停止侵权、停止侵权的时间，且精英公司、葆顺公司并未提交证据证明其具体获利金额，故法院参照精英公司、葆顺公司此前的经营情况和获利情况对赔偿金额推算自起诉之日起向前推算三年的获利情况。

来源：北京知识产权法院

Three Trademarks, Including "Cross Shield" Maliciously Infringed by Two Companies: the Court Awarded 3 Million for the Full Amount

Beijing IP Court issued the judgment of trademark dispute between Weishi Limited, versus Baoshun Limited and others. The court recognized that the defendants constitute trademark infringement, awarding damages of RMB 3 million.

The court held that in the case that after the defendant's trademark is cancelled or invalidated after the registered trademark is used, whether the defendant shall be liable for compensation shall be judged based on the degree of fault. The evidence does not prove whether defendants have stopped infringement after the invalidation of trademark. And they did not submit evidence to prove their specific prof-

it amount. The court affirmed the amount of compensation by referring to defendants' previous operation and profit situation for three years from the date of filing the lawsuit.

Source: Beijing IP Court

“卫斯理”=倪聪：看知名人物的笔名、艺名等特定名称主张姓名权保护的考量

近日，北京市高级人民法院就广州市卫斯理化工科技有限公司与国家知识产权局、力豪国际有限公司商标权无效宣告请求行政纠纷案作出终审判决，认定“卫斯理”名称的使用侵害了倪聪的姓名权。

本案中，在案证据可以证明在诉争商标申请日前，“卫斯理”作为倪聪先生的笔名具有较高的知名度，与倪聪先生本人形成了稳定的对应关系。法院认为，当事人以其笔名、艺名、译名等特定名称主张姓名权，该特定名称具有一定的知名度，与该自然人建立了稳定的对应关系，相关公众以其指代该自然人的，人民法院予以支持。

来源：北京市高级人民法院

Consideration of Claiming Name Right Protection for Specific Names such as Pseudonyms and Stage Names of Well-known Figures

Recently, Beijing High Court issued the final judgment of administrative dispute on trademark invalidation, which recognized the use of Wesley infringed Ni Cong's name right.

Wesley, as the pen name of Mr. Ni Cong, has a high degree of popularity, and has formed a stable correspondence with Mr. Ni Cong himself. The court held that if a person claims the right to a name by his pen name, stage name, translation name, etc., the specific name has a certain degree of popularity, and has established a stable correspondence with the natural person, and the relevant public refers to the natural person by it, the court will support it.

Source: Beijing High Court

判赔80万元：擅在汽车配件上使用“奔驰”商标构成侵权

上海知识产权法院就戴姆勒股份公司与上海同和汽配有限公司、上海同致汽车配件有限公司侵害商标权纠纷案作出终审判决。同和公司需立即停止侵权，并赔偿原告戴姆勒公司经济损失80万元。

被告同和公司长期在其店铺内出售带有奔驰车标、标识的汽车配件，并曾于2018年受到市场监督管理局作出的行政处罚。2018年，作为奔驰商标的权利人，原告将被告诉至法院。

法院认为，本案中，原告作为注册商标权利人既有权申请行政查处也有权提起商标侵权民事诉讼。侵权民事诉讼的赔偿金额并不必然以行政处罚所依据的事实及罚款金额为基础。另外，商标侵权民事诉讼中，权利人未提交公证实物并不必然影响商标侵权的判断。

来源：上海知识产权法院

Awarded RMB 800,000 in Damages: Unauthorized Use of "Mercedes-Benz": Use on Auto Parts Constitutes Trademark Infringement

Shanghai IP Court issued the judgement on trademark infringement dispute between Daimler AG, versus the defendants Tonghe Limited and others. The defendants are ordered to stop infringement, with RMB 800,000 in damage.

Defendant Tonghe has been selling auto parts with Mercedes-Benz decals and logos in its store, and was subject to administrative penalties issued by the Market Supervision Administration in 2018.

The court held that in this case, the plaintiff, as the trademark owner, had the right to apply for both administrative investigation and civil action for trademark infringement. The amount of compensation in a civil action for infringement is not necessarily based on the facts on which the administrative penalty is based and the amount of the fine. In addition, the failure of the right holder to submit a notarial object in a civil action for trademark infringement does not necessarily affect the judgment of trademark infringement.

Source: Shanghai IP Court

韩国国会通过《外观设计保护法》修正案

近日，韩国国会全体会议通过《外观设计保护法》修正案，旨在延长相似外观设计的申请期限，扩大不丧失新颖性规定的适用范围，放宽要求优先权的资格条件。修正案将在颁布6个月生效后生效。

修正案相关制度：

（1）相似外观设计：对于与申请人先前外观设计相似的外观设计，不会因违反新颖性或先申请原则而拒绝注册；

（2）不丧失新颖性：在申请之前已经公开的外观设计可能因丧失新颖性而被拒绝注册，但对于申请人公开不到12个月的外观设计，可以给予注册；

（3）要求优先权：申请人在一个国家提出专利申请之日起6个月内在另一个国家以相同的外观设计申请专利，将把在首个国家申请的时间视为申请日。

修订条款：

（1）将相似外观设计的申请期限从1年延长至3年，帮助企业建设品牌形象，强化对具有竞争优势的外观设计的保护；

（2）取消关于不丧失新颖性材料提交时间和期限的程序性条款，降低权利人申请不丧失新颖性的门槛；

(3) 完善要求优先权相关条款，为因正当理由不能在期限内（自申请日起6个月）要求优先权的权利人给予额外2个月的宽限期，并制定要求优先权的追加程序，保障权利人的权益。

来源：韩国知识产权局

Korean National Assembly Passes Amendments to the Design Protection Act

Recently, the plenary session of the National Assembly of Korea passed amendments to the Design Protection Act aimed at extending the filing period for similar designs, expanding the scope of application of the non-loss of novelty provision, and reducing the eligibility standard for claiming priority. The amendments will take effect six months after their enactment.

Amendment-related systems:

- (1) Similar designs: Registration will not be refused for violation of novelty or the first-to-file principle for designs that are similar to the applicant's previous designs;
- (2) No loss of novelty: registration may be refused for loss of novelty for a design that has been disclosed prior to filing. But registration may be granted for a design that has been disclosed by the applicant for less than 12 months;
- (3) Claim of priority: where an applicant files a patent application for the same design in another country within six months from the date of filing in one country, the time of filing in the first country will be considered as the filing date.

Revised provisions:

- (1) Extending the application period for similar designs from one year to three years to help enterprises build their brand image and strengthen the protection of designs with competitive advantages;
- (2) Eliminating procedural provisions on the time and deadline for filing non-loss of novelty materials and lowering the threshold for right holders to apply for non-loss of novelty;
- (3) Improving the provisions related to claiming priority, granting an additional 2-month grace period for right holders who cannot claim priority within the deadline (6 months from the filing date) for justifiable reasons, and establishing additional procedures for claiming priority to protect the rights and interests of right holders.

Source: Korea Intellectual Property Office

高智发明公司针对8项美国汽车专利向Volvo提起侵权诉讼

6月8日，高智发明公司（Intellectual Ventures）在德克萨斯州西区联邦地区法院对沃尔沃（Volvo）提起诉讼，指控沃尔沃侵犯了其8项美国汽车专利，要求德州法院裁定其专利是有效且可执行的，并要求获得未明确数额的损害赔偿。涉案专利号分别为：6832283、7891004、

9232158、10292138、8953641、7684318、9602608、7484008，涉及“解决网络组件的方法”“车联网方法”“大型动态测距摄像机”“缓冲区占用率确定及无线电承载器数据传输选择”“可变信道带宽的多载波通信方法和装置”“共享信道利用”“通知用户符合其偏好事物的系统和方法”“车联网设备”。

来源：FOSS Patents

Intellectual Ventures Sues Volvo over Patents on Day of Infringement Notice, Points Western District of Texas to Overlap with General Motors Litigation

On June 8, Intellectual Ventures filed a lawsuit against Volvo in the U.S. District Court for the Western District of Texas, alleging infringement of eight U.S. automotive patents, asking the Texas court to determine that the patents are valid and enforceable, and seeking an unspecified amount of damages. The patents in question are: 6832283, 7891004, 9232158, 10292138, 8953641, 7684318, 9602608, 7484008, and relate to "Methods for Solving Network Components", "Methods for Networking Vehicles", "Large Dynamic Ranging Camera", "Buffer Occupancy Determination and Radio Bearer Data Transmission Selection", "Method and Apparatus for Multi-Carrier Communication with Variable Channel Bandwidth", "Shared channel utilization", "Systems and methods for notifying users of things that match their preferences", "Telematics devices".

Source: FOSS Patents

英国法院判决Optis诉苹果案FRAND费率

英国高等法院就Optis诉苹果案作出判决，苹果公司必须每年为Optis标准必要专利组合支付500万美元，该组合涵盖了所有使用蜂窝连接的苹果产品。

苹果在诉讼中所主张的一些有关降低标准必要专利许可费的论点被法院驳回，其中包括“全球必要专利已经贬值”这一论点，以及苹果公司认为最小的可销售专利实施单位（SSPPU）应该作为计算全球必要专利许可费的基数。

在判决中，Marcus Smith（史密斯）大法官反对了这一观点——如果基带芯片组制造商在25美元的组件上产生可能5美元的利润，它“应该从5美元的利润中支付专利许可费，这构成了任何人都有义务为该必要专利付费的绝对限制”。

来源：Foss Patents

Mr. Justice Marcus Smith has Made His Optis v. Apple FRAND Determination: Only \$5M Per Year for Global Standard-essential Patent License Covering All Apple Products, Even Hypothetical Apple Car

Apple has effectively prevailed over the Optis Wireless patent licensing firm in the High Court of Justice (formerly known as the England & Wales High Court, still commonly abbreviated as EWHC). Optis will receive only approximately US\$5 million per year from Apple, and we're talking about a



worldwide standard-essential (SEP) portfolio license covering all Apple products implementing cellular connectivity, even "a hypothetical Apple car, retailing at a hypothetical US\$100,000 and using the Standard for Cellular Connectivity."

Source: FOSS patents

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