



NEWSLETTER

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1、大唐电信与高通设立手机芯片合资公司获反垄断批准

中国反垄断监管机构批准了高通公司与中国国有企业大唐电信的子公司组建合资公司，生产智能手机芯片。

据知情人士透露，设立合资公司的计划早在一年前就已宣布，但是直到本周才获得监管部门的批准。合资公司由高通与大唐电信子公司联芯科技有限公司、建广资产管理公司和智路资本共同设立。合资公司将与生产低成本智能手机处理器的公司展开竞争，其中包括紫光集团旗下的中国展讯通信。

Qualcomm's Smartphone Chipset JV with Datang Telecom Gets the Approval of Chinese Antitrust Authority

Chinese antitrust authority has approved Qualcomm Inc.'s joint venture with a unit of China's state-owned Datang Telecom Technology Co. to design smartphone chipsets.

The proposed joint venture was announced a year ago, but only this week approved by China's anti-trust regulator, the people familiar with the matter said. The venture would be formed between Qualcomm and Datang's subsidiary Leadcore Technology Co., as well as Jianguang Asset Management Co. and Wise Road Capital, Qualcomm has said. It would compete with companies producing processors for low-cost smartphones, including China's Spreadtrum Communications, which is owned by Tsinghua Unigroup. 【1】

2、最高法：百度因“搜索模式”被诉不正当竞争，属国内首例

最高法官微于5月4日披露了一则庭审公告，即北京海淀区法院公开审理了原告上海梭伦信息科技有限公司(以下简称“梭伦”)诉被告上海盈诺精密仪器有限公司(以下简称“盈诺”)、被告北京百度网讯科技有限公司(以下简称“百度”)不正当竞争纠纷一案。百度涉嫌在用户搜索企业名称时将竞争对手的链接置于第一位的关键位置，而被起诉。最高法表示，目前涉及这一搜索模式的不正当竞争纠纷案尚属国内首例，具有较高的理论与实务研究价值。

梭伦公司称在百度搜索引擎上键入“上海梭伦”四个汉字后，百度页面显示盈诺公司网页链接位列第一位。梭伦公司认为盈诺公司截获了其网站的用户访问量，降低了公司在市场中投放的广告效应，因此涉嫌不正当竞争。梭伦公司还指出百度未尽到监管责任，故意为涉案行为提供便利，因此应承担侵权责任。

在庭前会议中，百度和盈诺公司均不认可原告的诉讼主张和诉讼请求。本案于2018年5月4日在海淀法院公开审理。 【2】

【1】http://www.morningstar.com/news/dow-jones/asia-pacific/TDJNDN_201805042548/qualcomms-smartphone-chipset-jv-gets-the-nod-in-china.html

SPC: Baidu is Sued for its Search Model, as the First Unfair Competition Dispute Regarding Search Model in China

On May 4, the Supreme People's Court on its official Weibo disclosed the trial announcement that the Beijing Haidian District Court held the hearing on an unfair competition dispute between Solon Tech. (Shanghai) Inc., Ltd(Solon). and Baidu, Shanghai Innuo Precision Instruments (Innuo). Baidu is sued for placing a competitor's link at the top of the list when searching for the business name. The Supreme People's Court stated that this case is still the first unfair competition dispute involving the search model in China and has a high theoretical and practical value.

Solon alleged that search results using the first four Chinese characters in its name, 'Shang Hai Suo Lun', displayed on Baidu website, were Innuo's website at the top of the list. Solon claimed that Innuo had intercepted its website visit traffic and diminished the value of its advertising spending, therefore engaging in unfair competition. It also claimed that Baidu had failed to fulfill its review obligations and deliberately facilitated the alleged conduct and was, therefore, also liable.

At a pre-trial conference, both Baidu and Innuo denied the allegations, and the trial is held in the Beijing Haidian District Court on May 4, 2018.

3、广东高院发布《关于审理通信领域SEP纠纷案的工作指引（试行）》

广东法院作为国内受理SEP纠纷案件较为集中的法院，在审理SEP纠纷案件方面积累了一定经验。2018年4月26日，广东省高级人民法院发布《关于审理通信领域SEP纠纷案的工作指引（试行）》。指引分5部分，共32条，对SEP纠纷案中的基本问题以及停止侵权、专利许可使用费、垄断等重点问题作出规定。

广东高院的这一指引是目前为止中国法院就审理标准必要专利纠纷案件发布的第一个较为系统的规范性文件。虽然该指引不是司法解释，不具有强制适用的法律效力，但可能对法院审理这类案件产生一定影响。

Guangdong High Court releases the Guidelines for the Trial of Telecommunication SEP Disputes (for trial implementation)

Guangdong courts have handled many SEP cases and accumulated relevant experiences in such cases. April 26, 2018, Guangdong High Court released the Guidelines for the Trial of Telecommunication SEP Disputes (for trial implementation). The Guidelines consist of 5 parts including 32 articles. It stipulates the basic issues in SEP cases and key issues such as the injunctions, patent royalties and antitrust.

The Guidelines of Guangdong High Court is the first systematic regulatory document issued by the Chinese court for the trial of SEP disputes. Although the Guidelines are not judicial interpretations and have no mandatory legal effects, they may have a certain impact on the courts dealing with SEP cases.

4、美国电信运营商Sprint与T-Mobile265亿美元合并计划，亟需获反垄断批准

2018年4月29日，美国无线运营商T-Mobile与Sprint宣布达成265亿美元的合并协议，该项合并需要向美国司法部（DOJ）和美国联邦贸易委员会（FTC）进行反垄断申报。而在2017年9月，美国联邦通信委员会（FCC）自2009年以来首次认定无线通信服务市场为“充分竞争的市场”，有分析员认为这可能有助于该交易最终获得反垄断批准。

T-Mobile与Sprint是美国第三大与第四大无线运营商，合并后其规模将与美国前两大无线运营商Verizon与AT&T相当。双方称，此次合并不仅有助于其与Verizon和AT&T两家电信巨头展开竞争，并且促进其与康卡斯特（Comcast）等广泛活跃于电信、宽带、视频行业的经营者之间的竞争。双方协议重点涉及5G技术，双方强调，此次合并将加快5G网络的发展，以保证美国在与中国的5G竞争中保持领先地位。

The \$26.5B Deal Between Sprint and T-Mobile is Subject to Antitrust Approval

On April 29, 2018, U.S. wireless operator T-Mobile and Sprint announced a \$26.5 billion merger agreement. The deal will have to be reviewed by the Justice Department and the FCC. The FCC in September deemed the wireless market "competitive" for the first time since 2009, which some analysts say could make it easier to present a deal.

The deal would combine the nation's third- and fourth-largest wireless companies and bulk them up to a similar size to Verizon and AT&T, the industry giants. The companies argued that the combination would allow them to better compete not only with those two rivals but also with Comcast and others as the wireless, broadband and video industries converge. The companies stressed that they plan to have more employees following the combination, particularly in rural areas, than they do as stand-alone companies now. The 5G aspirations are at the heart of the agreement. So they emphasized that the deal would help accelerate their development of faster 5G wireless networks and ensure that the U.S. doesn't cede leadership on the technology to China. 【3】

【3】 [http://www.njherald.com/article/20180430/AP/304309992#//](http://www.njherald.com/article/20180430/AP/304309992#/)



IMPORTANT INFORMATION

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For more information, please visit our website at www.lifanglaw.com. If you have any questions, please contact us at info@lifanglaw.com or

Beijing Office

Add: Room 1105, Tower A, Nan Xin Cang International Building, No.A22, Dongsishitiao Street, Dongcheng District, Beijing, P.R.China 100007

Tel: 8610-64096099

Fax: 8610-64096260,64096261

Shanghai Office

Add: Room 2805, China Insurance Building, No.166 Lujiazui East Road, Pudong New Area, Shanghai, China

Tel: 8621-58501696

Fax: 8621-68380006

Guangzhou Office

Add: Room 3806, Building G, G.T.Land Plaza, No. 16, Zhujiang East Road, Zhujiang New Town, Tianhe District, Guangzhou P. R. China

Tel: 8620-85561566, 85561660, 38898535

Fax: 8620-38690070

Wuhan Office

Add: Room 1002, Tower C, Han Street Headquarter International, No.171 Zhongbei Road, Wuchang Dist, Wuhan, Hubei, P. R. China

Tel: 8627-87301677

Fax: 8627-86652877

Seoul Office

Add: Guanghuamun Officia Building 1416, Saemunan-ro 92, Jongno-gu, Seoul Republic of Korea

Tel: 0082 02 69590780

