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中国网络社会组织联合会第二届理事会第二次会议在京召开

The 2nd Meeting of the Second Council of China Federation of Internet Societies Held in Beijing

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Seminar on the Development of Digital People Industry in AIGC Era Held in Beijing

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UKIPO Launches One-Stop Standard Essential Patent Resource Center

亚马逊反诉诺基亚专利侵权

Amazon Counterclaims Nokia for Patent Infringement

立方竞争法周报 Weekly Competition Law News

国务院副总理张国清：要强化反垄断和反不正当竞争

2024年7月29日，国务院副总理张国清发表文章《构建全国统一大市场》，将规范不当市场竞争和市场干预行为作为构建全国统一大市场的重点任务之一，提出要强化反垄断和反不正当竞争，在完善市场垄断和不正当竞争行为认定法律规则的同时，健全预防和制止滥用行政权力排除、限制竞争制度，稳步推进自然垄断行业改革，全面加强竞争执法司法。 ([查看更多](#))

Vice Premier of the State Council Zhang Guoqing: It is Necessary to Strengthen Anti-monopoly and Anti-unfair Competition

On July 29, 2024, Zhang Guoqing, Vice Premier of the State Council, published an article titled “Building a Unified National Market”, in which he identified the regulation of improper market competition and intervention as one of the key tasks in building a unified national market. He proposed to strengthen anti-monopoly and anti-unfair competition, to improve legal rules for identifying market monopoly and unfair competition, to improve the regime for preventing and curbing the abuse of administrative power to exclude or restrict competition, to steadily promote the reform of natural monopoly industries, and to comprehensively strengthen the administrative and judicial enforcement regarding competition. ([More](#))

上半年市场监管总局无条件批准经营者集中案件282件

2024年7月30日，根据国家市场监督管理总局（“市场监管总局”）发布经营者集中有关数据，2024年上半年，市场监管总局审结经营者集中案件297件，其中无条件批准282件，受理后申报方撤回申报14件，附加限制性条件批准JX金属株式会社收购拓自达电线株式会社股权案。审结案件中，经营者集中简易案件共262件，约占88%；在初步审查阶段结案（受理后30天）的案件共256件，约占86%。 ([查看更多](#))

SAMR unconditionally approved 282 cases of concentration of undertakings in the first half of 2024

On July 30, 2024, according to the data on the concentration of undertakings released by the State Administration for Market Regulation (“SAMR”), in the first half of 2024, the SAMR concluded 297 cases of concentration of undertakings, of which 282 were unconditionally approved, 14 were withdrawn by the filing parties after acceptance, and the acquisition of shares of Tatsuta Electric Wire & Cable Co., Ltd. by JX Advanced Metals Corporation was approved with conditions. Among the concluded cases of concentration of undertakings, there were 262 simple cases, constituting 88% approximately; a total of 256 cases were concluded at the initial review stage (within 30 days after acceptance), constituting 86% approximately. ([More](#))

市场监管总局公布公平竞争审查举报受理方式

2024年8月1日，市场监管总局向社会公布公平竞争审查举报受理方式，对违反《公平竞争审查条例》规定的政策措施，任何单位和个人可以向市场监管总局举报。市场监管总局将按照依法、公正、高效原则，及时处理有关举报材料，着力打破地区封锁和行业垄断，为各类经营者公平参与市场竞争营造良好环境。 ([查看更多](#))

SAMR Announced Acceptance Methods for Fair Competition Review Reports

On August 1, 2024, the SAMR announced to the public the acceptance methods for fair competition review reports. Any entity or individual can report to the SAMR for violations of policies and measures stipulated in the *Regulation on Fair Competition Review*. The SAMR will handle the relevant report materials in a timely manner according to the principles of law, fairness, and high efficiency, focusing on breaking regional barriers and industry monopolies, and creating a good environment for all types of businesses to participate in market competition fairly. ([More](#))

美国法院确认软件供应商可对汽车技术巨头CDK提起反垄断集体诉讼

2024年7月23日，据媒体报道，美国伊利诺伊州北区联邦地区法院（“法院”）裁定软件供应商AutoLoop和其他供应商满足集体诉讼的法律标准，可对汽车技术巨头CDK Global提起反垄断集体诉讼。该诉讼涉及汽车行业内的数百家供应商，指控CDK大幅限制了经销商系统的访问权限而导致AutoLoop和其他供应商为其应用程序访问必要数据的成本上升，要求CDK赔偿约3.95亿美元（28.66亿人民币）。该诉讼最初在威斯康星州提起，后在伊利诺伊州进行合并审理。法院目前尚未确定审判日期。 ([查看更多](#))

Software Vendors Win Class Action Status in Antitrust Case Against CDK Global

On July 23, 2024, according to media reports, the United States District Court for the Northern District of Illinois (“the Court”) ruled that software provider AutoLoop and other suppliers met the legal criteria to advance its 2018 lawsuit against CDK as a class action. The lawsuit includes hundreds of other vendors within the auto industry, and they accuse CDK of significantly restricting access to dealer systems, which consequently drove up the costs that AutoLoop and other vendors incur to access necessary data for their applications; they are collectively seeking estimated damages of \$395 million from CDK. The case was originally filed in Wisconsin, later it was consolidated in Illinois. The court has not yet determined a trial date. ([More](#))

德国联邦卡特尔局批准大众汽车与Rivian汽车设立合资企业

2024年7月29日，德国联邦卡特尔局（the Bundeskartellamt）根据并购控制规则批准大众汽车与美国电动汽车制造商Rivian成立合资企业，以及大众汽车对Rivian汽车的少数股权收购，认为该交易预期不会显著阻碍有效竞争。大众汽车和Rivian将各自持有合资企业的50%股份，该合资企业旨在开发下一代用于电动汽车的电子电气架构；该架构当前正在经历重大变革，因为市场不再认为目前普遍存在的具有许多分布式控制单元的架构足以满足未来车辆的需求。可以预见，向电动出行的转变意味着未来车辆将包含更多的电气和电子组件，该趋势也适用于集成到车辆

中的自动驾驶功能和基于网络的增值服务。在这种情况下，软件预计在未来将发挥更大的作用。 ([查看更多](#))

The Bundeskartellamt Cleared the Formation of a Joint Venture between Volkswagen and Rivian Automotive

On July 29, 2024, the Bundeskartellamt cleared under merger control the formation of a joint venture between Volkswagen and US electric car manufacturer Rivian as well as Volkswagen's acquisition of a minority shareholding in Rivian Automotive Inc. It held that the transaction was not expected to significantly impede effective competition. Volkswagen and Rivian will each hold a 50 per cent share in the joint venture, which aims to develop the next generation of the so-called Electrical/Electronic architecture for electric vehicles; this architecture is currently undergoing a major change as the market no longer considers the currently prevailing architectures with many distributed control units to be sufficient for future vehicles. The foreseeable shift to electric mobility means that cars will contain significantly more electrical and electronic components in the future, and this trend also applies to the autonomous driving functions and network-based value-added services integrated into vehicles. In this context, software is expected to play an even greater role in the future. ([More](#))

西班牙反垄断监管机构以滥用市场地位为由对Booking.com处以4.132亿欧元罚款

2024年7月30日，据媒体报道，西班牙反垄断监管机构CNMC针对在线预订业巨头Booking.com五年来滥用其市场支配地位的行为处以4.132亿欧元（32.38亿人民币）罚款。CNMC的调查始于西班牙酒店经理协会和马德里酒店商业协会于2021年提出的投诉。CNMC查明，Booking.com禁止酒店在自己的网站上的报价低于在Booking.com上的报价，并在未与酒店经营者协商的情况下，单方面对酒店客房提供价格折扣。此外，Booking.com还要求西班牙酒店在公司总部所在地荷兰解决纠纷，并为给Booking.com带来更高费用的酒店提供好处，从而限制了其他服务提供商吸引酒店合作的能力。 ([查看更多](#))

Spain's Antitrust Regulator Levied a €413.2 Fine against Booking.com for its Abuse of Dominance

On July 30, 2024, according to media reports, Spain's antitrust regulator, the National Commission for Markets and Competition ("the CNMC"), has levied a fine of €413.2 million (\$448 million) against online reservation giant Booking.com. The investigation by CNMC was triggered by complaints filed in 2021 by the Spanish Association of Hotel Managers and the Madrid Hotel Business Association. The CNMC found that Booking.com prohibits hotels from offering lower prices on their own websites compared to those listed on Booking.com, and the company unilaterally imposes price discounts on hotel rooms without consulting the hoteliers. Additionally, Booking.com requires Spanish hotels to resolve conflicts in the Netherlands where the company is headquartered, and it offers benefits to hotels that generate higher fees for Booking.com, therefore limiting the ability of alternative service providers to attract hotel partnerships. ([More](#))

亚马逊起诉诺基亚侵犯云计算专利，反击诺基亚此前视频编解码专利侵权指控

2024年7月30日，亚马逊在美国特拉华州联邦地区法院针对诺基亚提起专利侵权诉讼，主张诺基亚侵犯其在云计算领域的12项美国专利，并向法院申请禁令救济。与之相关的是，2023年10月31日，诺基亚在美国特拉华州联邦地区法院针对亚马逊提起专利侵权诉讼，主张亚马逊侵犯其15项H.264、H.265相关美国专利，并向法院申请禁令救济；诺基亚还在欧洲统一专利法院、英国高等法院、德国杜塞尔多夫地区法院针对亚马逊提起诉讼，上述案件仍在审理中。本次亚马逊对诺基亚提起的诉讼可以视为亚马逊的反击行动之一，系列诉讼的审理结果可能对双方未来云计算和流媒体业务布局产生一定影响。 ([查看更多](#))

Amazon sued Nokia for infringing its cloud computing patents, counteracting to Nokia's previous patent infringement allegations on video coding and decoding patents

On July 30, 2024, Amazon filed a patent infringement lawsuit against Nokia in the United States District Court for the District of Delaware, claiming that Nokia infringed on 12 of its U.S. patents in the field of cloud computing, and it applied to the court for an injunction. As related, on October 31, 2023, Nokia filed a patent infringement lawsuit against Amazon in the United States District Court for the District of Delaware, claiming that Amazon infringed on 15 of its U.S. patents related to H.264 and H.265, and it applied to the court for an injunction for relief; Nokia also filed lawsuits against Amazon in the Unified Patent Court of Europe, the High Court of Justice of the United Kingdom, and the Düsseldorf Regional Court in Germany, and the above cases are still under trial. The lawsuit filed by Amazon against Nokia this time can be seen as one of Amazon's countermeasures, and the results of this series of lawsuits may have a certain impact on the future layout of both parties' cloud computing and streaming media businesses. ([More](#))

欧盟就《排他性滥用市场支配地位指南（草案）》公开征求意见

2024年8月1日，欧盟委员会发布《排他性滥用市场支配地位指南（草案）》（“《指南》”）并公开征求意见。《指南》旨在反映欧盟委员会如何解读欧盟法院有关排他性滥用市场支配地位行为（“滥用行为”）的判例法以及欧盟委员会自身的实践做法，并就有关滥用行为的各种关键问题提供了指导。有关问题包括欧盟法律下的竞争法执法目的和消费者福利概念、适用于评估单一和共同市场支配地位的主要原则、认定滥用行为的一般原则的适用方式、证明行为的排他效应的必要证据、确定滥用行为的排他效果的实质法律标准、对具有市场支配地位企业的特定类型行为的分析框架、评估具有市场支配地位企业提出的正当理由的一般原则等。 ([查看更多](#))

The European Commission Seeks Feedback on Draft Guidelines on Exclusionary Abuses

On August 1, 2024, The European Commission published “draft Guidelines on exclusionary abuses of dominance” (“The Guidelines”) and launched a public consultation. The Guidelines aim at reflecting the Commission's interpretation of the EU courts' case law on exclusionary abuses and the Commission practice, and they provide guidance on various key issues concerning exclusionary abuses. Such issues include the purpose of competition law enforcement and the concept of consumer welfare under EU law, the main principles applicable to the assessment of single and collective dominance, the applica-

tion of general principles to determine if a conduct by a dominant company is likely to constitute an abuse, the evidence necessary to show that a conduct is capable of producing exclusionary effects, the substantive legal standard to establish a conduct's capability to produce exclusionary effects, the analytical framework applicable to certain types of conduct by dominant companies, the general principles applicable to the assessment of objective justifications that the dominant company may argue. ([More](#))

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

中央网信办启动“清朗·网络直播领域虚假和低俗乱象整治”专项行动

2024年7月31日，中央网信办专门印发通知，在全国范围内部署开展为期1个月的“清朗·网络直播领域虚假和低俗乱象整治”专项行动。本次专项行动围绕网络直播领域虚假和低俗乱象，重点整治五类突出问题。一是编造虚假场景人设，无底线带货营销。二是“伪科普”“伪知识”混淆视听。三是传播“软色情”信息。四是扰乱社会秩序，侵犯他人权益。五是欺骗消费者，销售假冒伪劣商品。中央网信办有关负责同志强调，各地网信部门要充分认识专项行动重要意义，周密组织部署，全面排查整治，扎实推进落实。通过开展专项行动，督促指导属地网站平台，一是加强网络主播规范管理，二是强化用户行为规范。 ([查看更多](#))

OCCAC Launches Special Action on "Qinglang - Remediation of Webcasting False and Vulgar Elements"

On 31 July 2024, the Office of the Central Cyberspace Affairs Commission ("OCCAC") issued a special notice, deploying a one-month nationwide special action on Qinglang - Remediation of Webcasting False and Vulgar Elements. This special action focuses on the field of false and vulgarity in the field of network live broadcasting, focusing on the rectification of five types of outstanding problems. First, the fabrication of false scene persona, bottomless bandwagon marketing. Second, "pseudoscience" "pseudo-knowledge" to confuse the public. Third, the dissemination of "soft pornography" information. Fourth, disturbing the social order and violating the rights and interests of others. The fifth is to deceive consumers and sell counterfeit and shoddy goods. The relevant responsible comrade of OCCAC stressed that local cyberspace departments should fully understand the significance of the special action, carefully organize and deploy the action, comprehensively investigate and rectify related chaotic phenomena, and solidly promote the implementation. By carrying out special actions, urge and guide the local website platform, i.e., first, to strengthen the network anchor norms and management, second, to strengthen the norms of user behavior. ([More](#))

工信部公开征求对《关于进一步加强智能网联汽车准入、召回及软件在线升级管理的通知（征求意见稿）》的意见

2024年8月1日，工业和信息化部装备工业一司联合市场监管总局质量发展局组织编制了《关于进一步加强智能网联汽车准入、召回及软件在线升级管理的通知（征求意见稿）》（以下简称

《通知》），向社会公开征求意见，意见反馈时间截止到2024年9月1日。《通知》第二项加强组合驾驶辅助准入与召回管理中强调要加强智能网联汽车认证服务和管理，推动构建智能网联汽车质量认证体系，围绕组合驾驶辅助和数据安全、网络安全、功能安全、预期功能安全等领域积极推行自愿性认证，服务智能网联汽车产业健康发展。同时，保障措施中还明确企业要落实智能网联汽车产品质量和生产一致性、产品安全主体责任，持续确保汽车数据安全、网络安全、OTA 升级、功能安全和预期功能安全等保障能力有效，规范营销宣传行为，健全产品售后服务管理体系，严格履行 OTA 升级管理和备案承诺，以及事件事故报告要求。（[查看更多](#)）

MIIT Publicly Solicits Opinions on Notice on Further Strengthening the Management of Intelligent Connected Vehicle Access, Recall and Software Online Upgrade (Draft for Opinion)

On 1 August 2024, the First Department of Equipment Industry of the Ministry of Industry and Information Technology ("MIIT"), in conjunction with the Quality Development Bureau of the State Administration for Market Regulation, organized the preparation of the *Notice on Further Strengthening the Management of Intelligent Connected Vehicle Access, Recall and Software Online Upgrade (Draft for Opinion)* ("Notice"), which is open for public consultation, and the deadline for feedback is September 1, 2024. The second item of the Notice, Strengthening Access and Recall Management of Combined Driving Assistance, emphasizes the need to strengthen the certification services and management of intelligent connected vehicles, promote the construction of a quality certification system for intelligent connected vehicles, and actively implement voluntary certification in the areas of combined driving assistance and data security, network security, functional safety, and expected functional safety, so as to serve the healthy development of the intelligent connected vehicle industry. At the same time, the Safeguard Measures also make it clear that enterprises should implement the main responsibility for the quality and consistency of the production of intelligent networked automobile products and product safety, continue to ensure that the automobile data security, network security, OTA upgrades, functional safety and expected functional safety and other security capabilities are effective, standardize marketing and publicity behaviors, improve the after-sales service management system of the products, and strictly fulfil the OTA upgrades management and the filing of the commitment as well as the incident and accident reporting requirements. ([More](#))

《深圳数据交易所定价服务指南》（1.0版本）正式发布

2014年7月31日，深圳数据交易所发布《深圳数据交易所定价服务指南》（1.0版本）（以下简称《定价指南》），《定价指南》对深圳数据交易所开展数据定价中的术语和定义、定价原则、定价标的、定价流程、评价和改进内容等基本要求提出指引，为在深圳数据交易所上市的数据产品、数据工具和数据服务提供定价参考。（[查看更多](#)）

Shanxi Issues Measures for the Administration of Data Intellectual Property Rights Registration (for Trial Implementation)

On 31 July 2014, Shenzhen Data Exchange released the *Shenzhen Data Exchange Pricing Service Guidelines (Version 1.0)* ("Pricing Guidelines"). The *Pricing Guidelines* provide for guidelines on certain basic requirements for data pricing carried out by the Shenzhen Data Exchange in respect of terms and definitions, pricing principles, pricing objects, pricing procedures, evaluation and improvement,

and provide reference for the pricing of data products, data tools and data services listed on the Shenzhen Data Exchange. ([More](#))

2024年中国网络文明大会将于8月28日至29日在四川成都举办

2024年7月29日，2024年中国网络文明大会新闻发布会在京举行，宣布大会将于8月28日至29日在四川成都举办。本次大会以“弘扬时代精神 共建网络文明”为主题，由中央网信办、中央精神文明建设办公室、中共四川省委、四川省人民政府共同主办，中国网络社会组织联合会、四川省委网信办、四川省文明办、中共成都市委、成都市人民政府联合承办。大会将举办开幕式及主论坛、11场分论坛和“让科技之光点亮网络文明”网络互动引导活动。目前，大会各项筹备工作已基本就绪。 ([查看更多](#))

China Conference on Internet Civilization 2024 to be held in Chengdu, Sichuan from 28 to 29 August

On 29 July 2024, the press conference of China Conference on Internet Civilization 2024 was held in Beijing, announcing that the conference will be held in Chengdu, Sichuan Province from 28 to 29 August. With the theme of "Carrying forward the spirit of the times and building network civilization", the conference will be co-hosted by the Office of the Central Cyberspace Affairs Commission, the Central Office for the Construction of Spiritual Civilization, the CPC Sichuan Provincial Party Committee and the People's Government of Sichuan Province, and jointly organized by the China Federation of Internet Societies, the Sichuan Provincial Cyberspace Office, the Sichuan Provincial Office of Civilization, the CPC Chengdu Municipal Party Committee, and the People's Government of Chengdu. The conference will hold the opening ceremony and the main forum, 11 sub-forums and "let the light of science and technology to light up the network civilization" network interactive guidance activities. At present, the preparatory work for the conference is basically ready. ([More](#))

中国网络社会组织联合会第二届理事会第二次会议在京召开

2024年8月1日上午，中国网络社会组织联合会第二届理事会第二次会议在京召开。会议听取并审议通过中网联2023年度工作报告和财务工作报告，审议通过中网联个人会员建议名单、《中国网络社会组织联合会会员管理办法（修订审议稿）》相关制度等。会议强调，中网联是网信领域全国性、联合性、枢纽型社会组织，肩负着团结凝聚广大会员单位，助力网信事业、网络强国建设的重要职责使命，各理事单位要以更深入的交流、更务实的举措、更有力的支持，将中网联打造成为更具影响力凝聚力号召力的平台，为更好服务网信事业发展和网络强国建设作出新的更大贡献。 ([查看更多](#))

The 2nd Meeting of the Second Council of China Federation of Internet Societies Held in Beijing

On the morning of 1 August 2024, the 2nd Meeting of the Second Council of China Federation of Internet Societies ("CFIS") was held in Beijing. The meeting listened to and deliberated on the adoption of the 2023 annual work report and financial work report of CFIS, and considered and adopted the pro-

posed list of individual members of CFIS, and the relevant systems of *the Membership Management Measures of the CFIS (Revised Draft for Consideration)*. The meeting stressed that the CFIS is a national, joint and pivotal social organization in the field of net credit, shouldering the important responsibility and mission of uniting and cohesion of the vast number of member units, helping the cause of net credit and the construction of a strong network country, and the governing units should take more in-depth exchanges, more pragmatic initiatives and stronger support to make CFIS a more influential, cohesive and appealing platform, so as to make new and greater contributions to better serve the development of the cause of net information and the construction of a strong network country. ([More](#))

AIGC时代数字人产业发展研讨会在京举办

2024年7月30日，由中国互联网协会组织召开的AIGC时代数字人产业发展研讨会在京举办。中国互联网协会副秘书长裴玮、中关村科学城管委会产业促进一处副处长钱程出席研讨会。中国互联网协会专家咨询委员会委员武锁宁作了题为《联手打造人工智能产业新高地》的主旨发言。近30家企业代表参加研讨会并作了交流分享。来自政府、行业组织、研究机构、人工智能及数字人企业的代表参加本次研讨会，共同聚焦AIGC时代数字人产业发展路径展开研讨，探讨数字人发展趋势，展示企业人工智能数字人发展成果，倡导加强产业上下游企业合作，保障数字人产业安全环境，聚集生态、提升效率、落地应用。参加研讨会的各界代表就AIGC数字人发展趋势、数字人应用落地场景探索、未来数字人产业发展机遇与挑战、在海淀打造数字人产业高地等议题作了深入交流与探讨。 ([查看更多](#))

Seminar on the Development of Digital People Industry in AIGC Era Held in Beijing

On 30th July 2024, a seminar on the development of digital person industry in AIGC era organized by Internet Society of China was held in Beijing. Pei Wei, Deputy Secretary General of Internet Society of China, and Qian Cheng, Deputy Director of Industry Promotion of Zhongguancun Science City Management Committee, attended the seminar. Wu Suoning, a member of the Expert Advisory Committee of the Internet Society of China, delivered a keynote speech entitled "Joining hands to build a new high ground for the artificial intelligence industry". Nearly 30 enterprise representatives attended the seminar and made exchanges and sharing. Representatives from the government, industry organizations, research institutes, artificial intelligence and digital human enterprises participated in this seminar to jointly focus on the development path of the digital human industry in the AIGC era, discuss the development trend of the digital human industry, show the development results of the enterprise AI digital human development, advocate the strengthening of cooperation between the upstream and downstream enterprises in the industry, safeguard the security environment of the digital human industry, gather the ecology, improve the efficiency, and land the application. Representatives from all walks of life participating in the seminar made in-depth exchanges and discussions on topics such as the development trend of AIGC's digital people, the exploration of the landing scenarios of digital people applications, the opportunities and challenges of the future development of the digital people industry, and the creation of a highland for the digital people industry in Haidian. ([More](#))

美国：司法部起诉TikTok非法收集儿童数据

2024年8月2日，美国司法部代表联邦贸易委员会（FTC）向TikTok提起民事诉讼，指控TikTok违反《儿童网络隐私保护法》（COPPA），未经监护人许可非法收集13岁以下儿童的个人信息。据诉状称，截至2020年，TikTok的政策是保留其已知的未满13岁儿童的账户，除非该儿童明确承认年龄且满足其他严格条件。此外，起诉书还指控TikTok在其平台中设置了后门程序，允许儿童绕过旨在筛选13岁以下儿童的年龄限制。起诉书要求法院对字节跳动和TikTok实施民事处罚，并对他们发出永久禁令，以防止未来违反COPPA。《联邦贸易委员会法》允许对每次违规行为处以每天最高51,744美元的民事处罚。 ([查看更多](#))

USA: The Department of Justice Sues TikTok for Illegal Data Collection on Children

On 2 August 2024, The U.S. Department of Justice, on behalf of the Federal Trade Commission ("FTC"), filed a civil lawsuit against TikTok, alleging that TikTok violated the Children's Online Privacy Protection Act ("COPPA") by illegally collecting personal information about children under the age of 13 without the permission of their guardians. As of 2020, TikTok had a policy of maintaining accounts of children that it knew were under 13 unless the child made an explicit admission of age and other rigid conditions were met, according to the complaint. In addition, the complaint alleges that TikTok built back doors into its platform that allowed children to bypass the age gate aimed at screening children under 13. The complaint asks the court to impose civil penalties against ByteDance and TikTok and to enter a permanent injunction against them to prevent future violations of COPPA. The FTC Act allows civil penalties up to \$51,744 per violation, per day. ([More](#))

知识产权 Intellectual Property

司法部就《国务院关于涉外知识产权纠纷处理的规定（公开征求意见稿）》公开征求意见

7月29日，司法部就《国务院关于涉外知识产权纠纷处理的规定（公开征求意见稿）》（以下简称“《意见稿》”）公开征求意见，意见反馈截止至2024年8月28日。

《意见稿》共12条：一是明确政府有关部门加强对涉外知识产权纠纷处理的指导和服务，鼓励商会、行业协会、跨境电商平台等组织搭建涉外知识产权维权援助平台（第二条、第三条、第十条）；二是加强信息服务，及时收集、发布国外有关知识产权法律制度信息等（第四条、第五条）；三是加强应对指导，为我国公民、组织涉外知识产权纠纷处理提供应对策略指导和维权援助（第六条）；四是加强专业服务，支持商事调解组织、仲裁机构参与涉外知识产权纠纷解决，鼓励律师事务所、知识产权服务机构等提高涉外知识产权服务能力，为我国公民、组织提供高效便捷的涉外知识产权纠纷解决途径和优质高效的涉外知识产权和法律服务（第七条、第八条）；五是加强企业能力建设，要求企业加强合规管理，明确加强对企

业宣传、培训，提升涉外知识产权纠纷处理能力。鼓励保险机构开展涉外知识产权相关保险业务，支持企业设立涉外知识产权维权互助基金，降低维权成本（第九条、第十一条）。

来源：司法部

The Ministry of Justice of the People's Republic of China is seeking public feedback on the "Regulations on Handling Foreign-Related Intellectual Property Disputes (Draft for Public Comment)"

On July 29, the Ministry of Justice of the People's Republic of China (MOJ) opened a public consultation on the "Regulations on Handling Foreign-Related Intellectual Property Disputes (Draft for Public Comment)" (the "Draft"). The deadline for feedback is August 28, 2024.

The Draft consists of 12 provisions. First, it clarifies that relevant government departments shall enhance guidance and services for handling foreign-related intellectual property disputes. The government departments shall encourage organizations such as chambers of commerce, industry associations, and cross-border e-commerce platforms to establish support platforms for intellectual property rights protection (Articles 2, 3, and 10). Second, it emphasizes strengthening information services, by timely collecting and publishing information on foreign intellectual property laws and systems (Articles 4 and 5). Third, it focuses on improving response guidance. Providing strategies and support for Chinese citizens and organizations dealing with foreign-related intellectual property disputes (Article 6). Fourth, it supports professional services. Encouraging commercial mediation organizations, arbitration institutions, law firms, and intellectual property service agencies to enhance their capabilities, and provide efficient and high-quality services for resolving foreign-related intellectual property disputes (Articles 7 and 8). Fifth, it highlights the need for building corporate capabilities. Requiring companies to strengthen compliance management, improve their capacity for handling foreign-related intellectual property disputes through better promotion and training. It also encourages insurance institutions to offer related insurance services, and supports the establishment of mutual aid funds for intellectual property rights protection to reduce costs (Articles 9 and 11).

Source: Ministry of Justice of the People's Republic of China

全国首个“版权仲裁庭”在武汉成立

7月26日，全国首个“版权仲裁庭”——“武汉仲裁委、湖北省版权保护协会仲裁庭”正式成立。该仲裁庭将接受武汉仲裁委员会的业务指导，依法受理和审理平等的自然人、法人和非法人组织之间因版权活动而产生的合同纠纷和其他财产权益纠纷，包括但不限于版权归属、版权使用、版权侵权、版权合同签订等领域产生的争议，同时，依法对因版权活动产生的合同纠纷和其他财产权益纠纷开展调解工作。

来源：湖北省司法厅

China's First "Copyright Arbitration Tribunal" Established in Wuhan

On July 26, China's first Copyright Arbitration Tribunal, Wuhan Arbitration Commission and Hubei Copyright Protection Association Arbitration Tribunal, was officially established. This Arbitration Tribunal will receive business guidance from the Wuhan Arbitration Commission. It will handle and adju-

dicating disputes between natural persons, legal entities, and non-legal entities arising from copyright activities. This includes, but is not limited to, disputes over copyright ownership, usage, infringement, and contract agreements. Additionally, the Tribunal will mediate disputes arising from copyright activities.

Source: Department of Justice of Hubei Province

江苏法院案例：江苏省首例保护地理标志刑事附带民事诉讼案一审宣判

7月26日，江苏省无锡市惠山区人民法院一审公开开庭审理了被告人蒋某某假冒阳山水蜜桃注册商标刑事附带民事诉讼案。该案系江苏省首例涉地理标志证明商标的刑事附带民事案件。

2023年6月至7月期间，被告人蒋某某未经“阳山”商标注册人无锡市惠山区阳山水蜜桃桃农协会（以下简称“桃农协会”）的许可，获取印有“阳山”标识的桃箱，又购买水蜜桃包装成为假冒“阳山”商标的水蜜桃销售至全国各地。桃农协会遂提起民事诉讼，公诉机关对桃农协会的附带民事诉讼支持起诉。法院主持双方调解，蒋某某与桃农协会当庭达成调解协议，桃农协会当庭予以谅解。法院认为，被告人蒋某某未经注册商标所有权人许可，在同一种商品上使用与其注册商标相同的商标，情节严重，其行为已构成假冒注册商标罪。法院以假冒注册商标罪判处被告人蒋某某有期徒刑八个月，缓刑一年，并处罚金人民币45000元。

2021年，数某某公司对隐某公司以侵害数据财产权、著作权和商业秘密以及构成不正当竞争行为提起诉讼。一审法院认为，数某某公司的数据集不具有独创性，不受著作权保护，但属于商业秘密，可适用商业秘密相关法律规定予以保护。

来源：无锡市中级人民法院

Jiangsu Court Case: Jiangsu Province's First Criminal and Civil Case Involving Geographical Indication Protection Concluded

On July 26, the Huishan Court conducted a public trial on a criminal and civil case. The Defendant was charged with counterfeiting the "Yangshan" geographical Indication trademark for peaches. This case is the first in Jiangsu Province to involve a criminal and civil suit related to a geographical indication trademark.

Between June and July 2023, the Defendant obtained peach boxes marked with "Yangshan", without permission from the trademark owner, Wuxi City Huishan District Yangshan Peach Farmers' Association (the "Peach Farmers' Association"). The Defendant used these boxes to package peaches, and marketing them as "Yangshan" peaches across the country.

The court found that, the Defendant's use of identical trademark on identical goods without permission constituted the crime of counterfeiting trademark. The Defendant was sentenced to eight months in prison, with one-year probation, and fine of RMB 45,000.

Source: Wuxi Intermediate People's Court

上海法院案例：剧本杀叠加使用他人作品多种元素导致混淆构成不正当竞争

近日，上海市浦东新区人民法院发布了知识产权司法服务保障新质生产力高质量发展典型案例，其中涉及一起叠加使用他人作品多种元素导致混淆构成不正当竞争的案件。《Legend of MIR II》（中文名《传奇》）是一款具有高知名度及市场认可度的游戏。被告纪某某经营的工作室发行了一款名为《传奇》的剧本杀，被告某文化公司在经营的剧本杀馆使用了该剧本杀。该剧本杀大量使用了与《传奇》游戏中的元素构成实质性相似的卡牌、道具形象。

法院经审理认为，被告纪某某生产、销售的及被告某文化公司在经营过程中使用的《传奇》剧本杀中部分卡牌及道具实物形象与原告主张权利的美术作品构成实质性相似，构成著作权侵权。两被告在对《传奇》剧本杀的经营及宣传推广中使用“传奇”标识的行为，构成商标侵权。原被告均为游戏产品的经营者，双方存在同业竞争关系，《传奇》游戏及部分游戏元素名称等已具有一定的影响力，综合考量被诉侵权《传奇》剧本杀对《传奇》游戏元素及内容的使用方式，易使相关公众产生关联，主观攀附故意明显，构成不正当竞争。

据此，法院判决两被告立即停止著作权侵权、商标侵权及不正当竞争行为；被告纪某某赔偿经济损失及合理开支共计17万元，被告某文化公司在3万元的范围内承担连带赔偿责任。

来源：[上海市浦东新区人民法院](#)

Shanghai Court Case: Game Using Elements from Another Work Could Constitutes Unfair Competition

Recently, the People's Court of Pudong New District in Shanghai released a typical case. The case involving judicial protection of intellectual property rights and high-quality development of new productivity. The case concerns unfair competition caused by the use of multiple elements from another work, leading to confusion.

The game "Legend of MIR II" (Chinese name: "传奇") is a highly recognized and popular game. The Defendant Ji, operated a studio that released a script murder game named "Legend". The Defendant XX Cultural Company (Defendant A) operated a script murder venue using this game. The script murder game extensively used card and prop images substantially similar to those in the "Legend" game.

The court found that some card and prop images in the script murder game produced and sold by the Defendant Ji, and used by the Defendant A, were substantially similar to the artistic works claimed by the Plaintiff, constituting copyright infringement. The "Legend" mark was used in the promotion and operation of the script murder game by both Defendants, which constituted trademark infringement. Since the Defendants and the Plaintiff are operators in the same industry, and the "Legend" game and some of its elements had a certain level of influence, the court held that the use of "Legend" in the script murder game was likely to cause confusion among the public, and was an intentional attempt to affiliate with the original work, thus constituting unfair competition.

Accordingly, the court ordered the defendants to immediately cease acts of copyright infringement, trademark infringement, and unfair competition. The Defendant Ji was ordered to pay a total of RMB

170,000 for economic losses and reasonable expenses, while the Defendant A was jointly liable for damages up to RMB 30,000.

Source: People's Court of Pudong New District, Shanghai

最高法案例：反向工程抗辩成立至少要求产品应当是从公开渠道获取，且实施人非负有保密义务人

近日，最高人民法院审结一起侵害商业秘密纠纷二审案件。该案具体分析了在商业秘密侵权案件中反向工程抗辩成立的要求，具有一定的指导意义。

该案中，一审法院认定，各被诉侵权人发表比对意见认为被诉侵权技术方案与原告立杰公司主张的技术秘密相比较，认可被诉侵权技术方案具备秘密点 1-5 的结构，对于自认的部分，一审法院予以认定。经过庭审调查，被告闵廷辉认可其在被告第一工程公司处获取一张图纸，在闵廷辉接触了立杰公司图纸的情况下，应由各被诉侵权人对其获得该信息的正当性进行举证。被实施反向工程的产品应当是从公开渠道取得的产品，且反向工程的实施人不能是对商业秘密负有保密义务的人，如果是以不正当手段知悉了他人商业秘密之后又以反向工程为由主张获取行为合法的，该抗辩主张不能成立。第一工程公司所举证据不能证明被实施反向工程的图纸或产品系其从公开渠道合法取得，亦不能就拆卸、测绘、分析等过程进行充分举证并且作出合理说明。故第一工程公司反向工程的抗辩主张缺乏相应的事实和法律依据，亦不符合情理，不予采信。

二审法院认为一审法院对于立杰公司主张的信息技术构成技术秘密、第一工程公司与亨信公司构成共同侵权以及三被告应承担的法律责任的认定均无不当，故驳回上诉，维持原判。

来源：最高人民法院

Supreme Court Case: Reversing Engineering Defense Requires Publicly Obtained Products and Non-Confidentiality Obligations

Recently, the Supreme People's Court of the People's Republic of China (SPC) adjudicated a second-instance case involving trade secret infringement. This case provides significant guidance on the requirements for a valid reverse engineering defense in commercial secret cases.

In this case, the first-instance court affirmed that the Defendants' technical solutions were comparable to the trade secrets claimed by the Plaintiff, Lijie Company (Plaintiff A), and recognized certain secret elements in the Defendants' solutions. During the trial, Defendant Min Tinghui (Defendant 1) admitted obtaining a drawing from the First Engineering Company (Defendant A). Given the Defendant 1's exposure to the Plaintiff A's drawings, it was the responsibility of the Defendants to prove the legitimacy of their acquisition of the information. For a reverse engineering defense to be valid, the product must be obtained from a public source, and the reverse engineer must not have confidentiality obligations concerning the trade secret. If a party learns of a trade secret through improper means, and claims the acquisition was lawful, based on reverse engineering, this defense shall not be upheld. The evidence

presented by the Defendant A failed to prove that, the drawings or products used in reverse engineering were obtained legally from public sources, and did not sufficiently demonstrate the process of disassembly, measurement, and analysis. Therefore, the reverse engineering defense lacked factual and legal grounds, and was not accepted.

SPC upheld the first-instance court's findings that the Plaintiff A's technical information constituted trade secrets, that the Defendant A and the Defendant Hengxin Company were jointly liable, and that the three Defendants shall bear legal responsibility. The appeal was dismissed, and the original judgment was maintained.

Source: Supreme People's Court of the People's Republic of China

湖南法院案例：销售“剪标”“刮码”商品构成不正当竞争

近日，湖南省长沙市天心区人民法院审结一起涉及销售“剪标”“刮码”商品的案件。该案中，原告在第30类“茶”等商品上拥有“品品香”“晒白金”等系列注册商标，并建立产品“一品一码”可追溯和防伪系统。被告在其运营网店销售原告“品品香”“晒白金”商标白茶商品时，刮掉了原告在产品上标注的防伪溯源码。原告指控被告的行为侵犯了注册商标专用权并构成不正当竞争。

一审法院认为，被告销售的商品系正品，且并未破坏原告注册商标标识，未割裂原告注册商标与其商品的联系，不会引起相关公众的混淆，不构成商标侵权。被告销售刮去生产日期、防伪码等条码产品的行为，一方面破坏了原告的价格管控体系和质量保证体系，损害原告的合法权益；另一方面，销售刮码产品的行为亦未向消费者做出提示和说明，被告销售刮码产品的行为不符合诚信原则，构成不正当竞争。被告不服提起上诉，长沙市中级人民法院维持了原判。

来源：湖南省长沙市天心区人民法院

Supreme Court Case: Reversing Engineering Defense Requires Publicly Obtained Products and Non-Confidentiality Obligations

Recently, the People's Court of Tianxin District in Hunan Province concluded a case involving the sale of "cut label" and "scratched code" products. In this case, the Plaintiff owned registered trademarks such as "Pinpinxiang" and "Shaibai Jin" for goods in Class 30 (e.g., tea). The Plaintiff also had established a product traceability and anti-counterfeiting system using unique codes. The Defendant, while selling the Plaintiff's "Pinpinxiang" and "Shaibai Jin" branded white tea products through their online store, removed the anti-counterfeiting codes marked on the products.

The first-instance court found that while the products sold by the Defendant were genuine, and did not damage the Plaintiff's registered trademarks or sever the connection between the trademarks and the goods, thereby not constituting trademark infringement. The removal of production dates and anti-counterfeiting codes violated the Plaintiff's price control and quality assurance systems, damaging the Plaintiff's legitimate rights. Additionally, the Defendant's failure to inform consumers about the scratched codes, and the lack of transparency in the sale of such products were deemed contrary to principles of good faith, constituting unfair competition. The defendant appealed the decision, but the

Changsha Intermediate People's Court upheld the original judgment.

Source: People's Court of Tianxin District, Hunan Province

UKIPO推出一站式标准必要专利资源中心

2024年7月22日，英国知识产权局（UKIPO）启动标准必要专利（SEP）资源中心。

SEP资源中心旨在为英国企业提供“一站式服务”，帮助企业寻求如何驾驭SEP生态系统的方法，具体包括：（1）技术标准和标准制定组织指南；（2）SEP许可指南；（3）SEP许可中的争议解决和救济指南；（4）其他资源：英国SEP判例跟踪、术语表和国际SEP特定资源。

该资源中心将持续更新，包括案例研究和对企业SEP的支持，该资源中心的推出是UKIPO应对当前挑战而采取的一揽子非监管措施的一部分；其目标是帮助中小企业更好的了解SEP生态系统与公平、合理和非歧视许可（FRAND），并提高透明度和争议解决效率。

来源：英国政务信息服务平台

UKIPO Launches One-Stop Standard Essential Patent Resource Center

On July 22, 2024, the UK Intellectual Property Office (UKIPO) launched a Standard Essential Patent (SEP) Resource Center. The center aims to provide UK businesses with a "one-stop service" to navigate the SEP ecosystem. Specifically, it offers:

1. Guides on technical standards and standard-setting organizations;
2. SEP licensing guidance;
3. Dispute resolution and remedies in SEP licensing;
4. Additional resources including UK SEP case tracking, a glossary of terms, and international SEP-specific resources.

The Resource Center will be regularly updated with case studies and support for businesses dealing with SEPs. This initiative is part of UKIPO's comprehensive non-regulatory measures to address current challenges, aiming to help SMEs better understand the SEP ecosystem, Fair, Reasonable, and Non-Discriminatory (FRAND) licensing, and improve transparency and dispute resolution efficiency.

Source: UK Government Information Service

亚马逊反诉诺基亚专利侵权

2023年10月31日，诺基亚发布新闻稿称，其已在美国、德国、印度、英国和UPC对亚马逊发起关于视频编解码的标准必要专利诉讼。亚马逊在特拉华州地区法院提起的这一反诉是对诺

基亚的首次反击。

2024年7月30日，亚马逊向美国特拉华州地方法院对诺基亚提起专利侵权诉讼，指控诺基亚侵犯其12项云计算的专利。亚马逊详细介绍了其AWS服务在云计算方面研发和专利积累，认为诺基亚推出的云计算服务侵犯了其2000年代初的云计算技术。起诉状中表明，亚马逊要求法院发布禁令，阻止诺基亚进一步的侵权行为，并要求诺基亚赔偿未在庭审中披露的侵权销售额。

来源：[The Register](#)

Amazon Counterclaims Nokia for Patent Infringement

On October 31, 2023, Nokia announced that it had initiated standard-essential patent litigation against Amazon in the U.S., Germany, India, the UK, and under the Unified Patent Court (UPC) regarding video encoding and decoding technologies. This lawsuit represents Nokia's first legal action against Amazon.

On July 30, 2024, Amazon countered by filing a patent infringement lawsuit against Nokia in the U.S. District Court for the District of Delaware, alleging Nokia of infringing on 12 of its cloud computing patents. Amazon detailed its research and patent accumulation related to its AWS cloud services, claiming that Nokia's cloud computing services infringe on its early 2000s cloud technology. The lawsuit seeks an injunction to prevent further infringement by Nokia and demands damages for unreported infringement sales.

Source: [The Register](#)

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 www.lifanglaw.com

 Email: info@lifanglaw.com

 Tel: +86 10 64096099

 Fax: +86 10 64096260/64096261