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立方竞争法周报 Weekly Competition Law News

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Cyberspace Administration of China issues Announcement for the Eighth Batch of In-depth Synthesis Service Algorithm Recordation Information

工信部印发《工业和信息化领域数据安全事件应急预案（试行）》

MIIT Issues *Emergency Plan for Data Security Incidents in Industrial and Informatization Fields (for Trial Implementation)*

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China National Information Technology Standardization Technical Committee (NITS) Solicits Opinions on Two National Standards Including *Artificial Intelligence Risk Management Capability Assessment (Draft for Comment)*

山东省大数据局就《山东省公共数据资源授权运营管理办法（试行）》公开征求意见

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Law Enforcement by Cyberspace Administration of Hunan Province, Interviewing 10 App Leaders for Illegal Collection and Use of Personal Information

通过外网非法获取公民个人信息1亿余条，一科技公司员工获刑

A Technology Company Employee Jailed for Illegally Obtaining More Than 100 million Pieces of Citizens' Personal Information via Internet

国际：全球隐私保护机构在行业参与后就数据抓取问题发表后续联合声明

International: Global Privacy Authorities Issue Follow-up Joint Statement on Data Scraping After Industry Engagement

英国：英国资讯专员办公室（ICO）发布数据（使用和访问）（DUA）法案的回应

UK: Information Commissioner's Response to the Data (Use and Access) (DUA) Bill

国际：国际数字监管合作网络（INDRC）和经济合作发展组织（OECD）发布关于数字监管框架的声明

International: INDRC and OECD Issue Statement on Digital Regulatory Frameworks

拉脱维亚：DVI发布了非法个人数据处理刑事责任指南

Latvia: DVI Publishes Guide on Criminal Liability for Illegal Personal Data Handling

知识产权 Intellectual Property

《商标侵权案件违法经营额计算办法》公布施行

Measures for Calculating the Illegal Operating Revenue in Trademark Infringement Cases Issued and Enforced

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福建法院：假冒注册商标还故意拖延诉讼，惩罚性赔偿100万元

Fujian Court: Counterfeit Registered Trademark and Deliberate Litigation Delay, with Punitive Damages of RMB 1 Million

美国：联邦巡回上诉法院撤销联想对爱立信驳回反诉禁令的判决

United States: The Federal Circuit Court of Appeals Overturns Lenovo's Injunction Against Ericsson's Counterclaim Dismissal

欧盟：欧盟委员会对Teva处以462.6亿欧元罚款

European Union: European Commission Fines Teva €4.626 Billion

立方竞争法周报 Weekly Competition Law News

市场监管总局印发《标准必要专利反垄断指引》

2024年11月8日，市场监管总局官网发布《标准必要专利反垄断指引》（“《指引》”）。《指引》具有以下三方面特点：充分体现发展和规范并重的基本理念；兼顾标准必要专利权人和实施方利益平衡；构建事前事中事后全链条监管的制度体系。《指引》共六章二十二条，第一章总则部分明确了文件的目的是、依据和相关概念等，第二章对经营者提出信息披露等合规要求，第三章规定标准制定和实施、涉及标准必要专利等的垄断协议情形，第四章规定涉标准必要专利的滥用市场支配地位行为典型类型和认定因素，第五章规定了涉及标准必要专利的经营者集中申报问题，第六章规定了文件的效力及解释。（[查看更多](#)）

SAMR Issues Anti-Monopoly Guidelines for Standard Essential Patents

On November 8, 2024, the State Administration for Market Regulation (“SAMR”) on its official website published *the Antitrust Guidelines for Standard-Essential Patents* (“*the SEP Guidelines*”). *The SEP Guidelines* possesses three major features: it fully embodies the fundamental principle of balancing development with regulation; it strikes a balance between the interests of standard-essential patent (“SEP”) holders and implementers; and it establishes a regulatory system covering the entire chain, including pre-event, mid-event, and post-event stages. *The SEP Guidelines* consist of 6 chapters and 22 articles: Chapter 1, namely General Provisions, clarifies the purpose, legal basis and related concepts of the document; Chapter 2 sets out compliance requirements for businesses, such as information disclosure obligations; Chapter 3 stipulates the circumstances involving monopolistic agreements related to the formulation and implementation of standards as well as those related to SEPs; Chapter 4 identifies typical conduct of abuse of market dominance involving SEPs and their determining factors; Chapter 5 addresses issues related to notifications of concentration of undertakings involving SEPs; Chapter 6 defines the effectiveness and interpretation of the document. ([More](#))

中国与意大利签署竞争领域合作协议

2024年11月8日，在国家主席习近平和意大利总统马塔雷拉的共同见证下，国家市场监督管理总局局长罗文与意大利驻华大使安博思签署了两国竞争领域合作谅解备忘录。根据上述合作文件，中意将就共同关注的竞争议题开展信息交流、经验分享、能力建设等活动，共同维护公平竞争的市场秩序。（[查看更多](#)）

China and Italy Sign Cooperation Agreement in the Field of Competition

On November 8, 2024, under the joint witness of President XI Jinping and Italian President Sergio Mattarella, the SAMR’s Director LUO Wen and the Italian Ambassador to China Ambassador Antonio Puri Purini signed a Memorandum of Understanding on cooperation in the field of competition between the two countries. According to the cooperation document, China and Italy will engage in activities such as information exchange, experience sharing, and capacity building on competition issues of mutual interest, and jointly maintain a fair and competitive market order. ([More](#))

北京知识产权法院2022年设立竞争垄断案件法官团队，提升审判服务质量

2024年11月6日，北京知识产权法院召开新闻发布会，并发布《北京知识产权法院十年审判工作白皮书（2014-2024）》（“《白皮书》”）。据《白皮书》总结，2014年11月至2024年10月，北京知识产权法院受理竞争类（含反不正当竞争、反垄断、特许经营合同、网络域名）案件3767件。同时，北京知产法院高质量审理各类垄断案件，在两大部平台互诉封禁行为涉嫌滥用市场支配地位系列案中推动双方撤回起诉，在原料药拒绝交易纠纷管辖权异议案中确立通过侵权结果发生地确定拒绝交易纠纷管辖连结点的规则。此外，2022年北京知产法院专设竞争垄断案件法官团队，并成立专业法官会议竞争垄断委员会，提升竞争垄断案件专业化水平。（[查看更多](#)）

Beijing Intellectual Property Court has Established a Dedicated Team of Judges for Competition and Monopoly Cases, Improving Quality of Judicial Services

On November 6, 2024, Beijing Intellectual Property Court (“the **Beijing IP Court**”) held a press conference and issued *White Paper on the Judicial Work of Beijing Intellectual Property Court in the Past Ten Years* (“the **Whitepaper**”). As summarized by the Whitepaper, from November 2014 to October 2024, the Beijing IP Court accepted 3,767 competition cases (including anti-unfair competition, anti-monopoly, franchise contracts, and network domain names). Meanwhile, the Beijing IP Court has conducted high-quality trials of various monopoly cases: in a series of cross-actions between two leading platforms concerning alleged abuse of market dominance, the Beijing IP Court facilitated the withdrawal of actions by both parties; in the case of jurisdictional objection over the dispute of refusal to deal regarding a certain pharmaceutical ingredient, the Beijing IP Court established the rule for determining the jurisdictional connection point for disputes over refusal to deal based on the location where the result of infringement took place. Moreover, the Beijing IP Court established a dedicated team of judges for competition and monopoly cases, and formed the committee of competition and monopoly under the professional judges’ meeting system, improving the professional adjudication level for such cases. ([More](#))

河北省2024年核查垄断问题线索38条，发出3份《提醒敦促函》

2024年11月5日，河北省政府召开“河北省2024年优化营商环境工作推进情况”新闻发布会，介绍了河北省市场监督管理局（“河北省市监局”）深入落实公平竞争审查制度、扎实开展反垄断执法等方面的工作。在整体执法方面，河北省市监局开展民生领域反垄断专项行动，年度核查垄断问题线索38条，向有关行政机关发出《提醒敦促函》3份。在经营者集中方面，河北省市监局提供企业并购精准指导，2023年在省级管理系统中嵌入经营者集中风险预警提示功能。在合规治理方面，河北省市监局组织全省86家自然垄断企业和民生领域重点企业反垄断合规培训。（[查看更多](#)）

Hebei Province has Investigated 38 Leads of Monopoly Issues and Issued three Reminder and Urging Letters

On November 5, 2024, the Hebei Provincial Government held a press conference on “Progress in Optimizing the Business-Operating Environment of Hebei Province in 2024”, which introduced the Hebei Administration for Market Regulation (“Hebei Administration”)’s work on thoroughly implementing the fair competition review system and conducting solid anti-monopoly enforcement. Regarding the overall enforcement, the Hebei Administration has carried out special anti-monopoly actions in the field of people’s livelihood, and it has investigated 38 leads related to monopoly issues and has issued three Reminder and Urging Letters to relevant administrative authorities. Regarding the concentration of undertakings, the Hebei Administration has provided precise guidance on corporate mergers and acquisitions, and it has embedded a risk warning and alert feature for concentration of undertakings into the provincial management system in 2023. Regarding compliance governance, the Hebei Administration has organized anti-monopoly compliance trainings for 86 natural monopolistic enterprises and major companies in the field of people’s livelihood across the province. ([More](#))

安徽省市监局近年立案调查垄断类案件15件，2024年已办结垄断案件3件

2024年10月29日，安徽省市场监管局公开介绍了安徽省市监局在优化公平竞争市场环境方面的举措。近年来，安徽省市监局深入开展反垄断执法等专项行动，强化保险、医药、教育等民生领域监管执法，共立案调查垄断协议、滥用市场支配地位案件15件，共查办滥用行政权力排除、限制竞争案件14件，2024年以来办结反垄断案件3件。 ([查看更多](#))

Anhui AMR has Formally Investigated 15 Monopoly Cases in Recent Years and has Concluded 3 of Them in 2024

On October 29, 2024, Anhui Administration for Market Regulation (“Anhui AMR”) publicly introduced its work in fostering a fair and competitive market environment. In recent years, Anhui AMR has conducted in depth special actions including antitrust enforcement, furthering the regulation and enforcement in the field of people’s livelihoods such as insurance, medicine and pharmaceuticals, education, etc. To date, Anhui AMR has formally investigated 15 cases of monopolistic agreements and abuse of market dominance; it has handled 14 cases of abusing administrative power to restrict or eliminate competition. In 2024, Anhui AMR has concluded 3 monopoly cases. ([More](#))

天津市市场监管委员会发布一起机动车检测公司垄断协议案处罚决定，罚款近70万

2024年10月24日，天津市市场监管委员会发布10家机动车检测公司达成并实施垄断协议案处罚决定。天津市市场监管委员会根据群众举报，2024年5月11日起对该案开展调查，并于2024年5月31日正式立案。本案中天津市宝通机动车检测有限公司等10家公司与具有竞争关系的经营者达成垄断协议，达成并实施固定机动车检测服务价格的垄断协议，限制经营者价格竞争的幅度，提高了机动车检测服务价格，损害消费者利益，因此天津市市场监管委员会对10家涉案公司作出各自2023年度销售额2%至5%的处罚，罚款合计675094.69元。值得注意的是，本案中有两位经营者适用了宽大制度。 ([查看更多](#))

Tianjin AMR Issues a Penalty Decision of A Monopolistic Agreement Case Involving Automotive Inspection Companies, with Fines Totaling Nearly RMB 700,000

On October 24, 2024, Tianjin Administration for Market Regulation (“**Tianjin AMR**”) issued a penalty decision of a monopolistic agreement case involving 10 automotive inspection companies. According to the report from the public, Tianjin AMR initiated the investigation on May 11, 2024, and formally established the case on May 31, 2024. In this case, 10 competitive companies including Tianjin Baotong Automotive Inspection Co., Ltd., have formed and implemented a monopolistic agreement to fix the prices for automotive inspection services, limiting the extent of price competition among businesses, thereby increasing the prices for automotive inspection services and harming consumers’ interests. Therefore, Tianjin AMR imposed fines on the 10 participating companies amounting to 2% to 5% of their respective annual turnover for 2023, with the total fine amounting to RMB 675,094.69. Notably, two companies in this case benefited from the leniency policy. ([More](#))

欧委会对美国康宁公司启动反垄断调查，涉及电子设备盖板玻璃产品

2024年11月6日，欧盟委员会宣布正式启动对美国玻璃制造商康宁公司（Corning）的反垄断调查，以评估康宁是否滥用其在全球手机等手持电子设备特殊屏保玻璃市场中的支配地位。欧委会担忧，康宁与移动手机制造商、玻璃加工商签订了反竞争的排他供应协议，可能将有竞争关系的玻璃生产商排除出大部分市场领域，进而减少消费者选择、导致产品价格上涨、创新受阻，最终损害全球消费者利益。康宁与移动手机制造商签订的协议包括独家采购义务及相伴随的排他折扣，以及要求手机厂商向康宁披露竞争性报价、保障康宁有权优先匹配报价的“English Clauses”。康宁与玻璃加工商签订的协议包括独家购买义务、禁止加工商挑战康宁专利的“不挑战条款”。康宁公司目前可以提交承诺以化解欧委会的担忧。 ([查看更多](#))

The Commission Launches Antitrust Investigation into Corning over Cover Glass Products for Electronic Devices

On November 6, 2024, the European Commission (the “**Commission**”) officially announced the opening of an antitrust investigation into Corning, a U.S.-based glass manufacturer, to assess whether the company has abused its dominant position in the worldwide market for a special type of glass mainly used to protect the screens of handheld electronic devices. The Commission has concerns that Corning may have concluded anti-competitive exclusive supply agreements with mobile phone manufacturers and with companies that process raw glass, potentially excluding rival glass producers from large segments of the market, thereby reducing customer choice, increasing prices, and stifling innovation to the detriment of consumers worldwide. Corning’s agreements with mobile phone manufacturers appear to include exclusive sourcing obligations and the accompanying exclusivity rebates, as well as the “English Clauses” obliging mobile phone manufacturers to report competitive offers and ensuring that Corning has the right to first match those offers. Corning’s agreements with glass processors appear to include exclusive purchase obligations and no-challenge clauses preventing processors from challenging Corning’s patents. Corning may now submit commitments to address the Commission’s concerns. ([More](#))

欧委会调查Visa和Mastercard对零售商收费的竞争影响

2024年11月6日，据媒体报道，欧盟委员会针对Visa和Mastercard的收费结构对欧洲经济区内零售商的潜在影响展开调查。具体而言，欧委会在2024年9月份向零售商和支付服务供应商分发问卷，并要求次月完成答复。问卷聚焦各类费用，如加入卡支付网络组织涉及的卡组费（scheme fees）、以及收费频率、透明度等问题。欧委会问卷通常在潜在反垄断案件中收集证据时使用，本次问卷重点关注自2016年以来新增、减少或累积费用是否阻碍了零售商的业务经营。若欧盟委员会基于本次调查结果决定启动反垄断案件程序，Visa和Mastercard可能面临高达其全球年收入10%的罚款。（[查看更多](#)）

The Commission Probes Visa and Mastercard Over Competition Impact of Payment Fees on Retailers

On November 6, 2024, according to media reports, the Commission is investigating the potential impact of Visa and Mastercard's fee structures on retailers within the European Economic Area ("EEA"). Specifically, the Commission distributed questionnaires to retailers and payment service providers in September of 2024, requiring responses by the following month. The questionnaire inquiries focus on various fees, including scheme fees charged for participating in the card payment network, as well as their frequency and transparency. The Commission's questionnaires are often used to collect evidence for potential antitrust cases; in this investigation the questionnaires particularly ask whether the introduction of new fees, removal of existing ones, or the cumulative number of charges within the EEA since 2016 have hindered retailers' business operations. If the Commission decides to proceed with antitrust proceedings based on the findings of this investigation, Visa and Mastercard could face fines of up to 10% of their respective global annual revenue. ([More](#))

英伟达拟收购以色列初创公司RUN需获得欧委会并购审查批准

2024年10月31日，据媒体报道，欧委会宣布美国半导体巨头英伟达对以色列人工智能初创公司RUN的收购需要获得欧委会的反垄断审查批准。被收购方RUN聚焦优化人工智能基础设施，欧委会认为英伟达的收购行为可能削弱欧洲市场的竞争。据报道，英伟达的收购价格约为7亿美元，交易并未自动触发欧盟辖区经营者集中审查，原因是金额未达到欧盟的法定申报额门槛；但双方在意大利进行申报，意大利竞争管理局随后向欧委会提出转介请求，欧委会同意对该交易的潜在竞争风险进一步评估。（[查看更多](#)）

Nvidia's Acquisition of Israeli AI Startup Run Needs EC's Merger Review Clearance

On October 31, 2024, according to media reports, the European Commission ("EC") announced that the U.S. semiconductor giant NVIDIA will have to seek EC's antitrust clearance for its proposed acquisition of the Israeli AI startup Run. RUN specializes in optimizing the AI infrastructure, and the EC expressed concerns that NVIDIA's acquisition could weaken competition in the European market. The reported acquisition price is approximately \$700 million. The acquisition does not automatically trigger the merger review in the European jurisdiction, because it does not meet the statutory turnover

threshold mandating a filing; however the parties filed a notification to the Italy, and the Italian Competition Authority subsequently raised a referral request to the EC, who agreed to further assess the potential competition risks of the acquisition. ([More](#))

墨西哥联邦经济委员会提起首个集体诉讼，涉及药企操纵价格行为

2024年10月29日，墨西哥联邦经济委员会（“Cofece”）提起首个集体诉讼，该诉讼的被告为墨西哥三家主要医药分销商和墨西哥医药产品分销者协会。根据墨西哥联邦经济委员会的一份声明，上述主体在长达十年的时间里策划并实施了一系列限制性协议，如在每年特定日期限制药品分销、减少供应给药房的药品数量，操控销售价格并限制药房的折扣。墨西哥联邦经济委员会称上述行为导致墨西哥境内药品价格被人为地抬高，并尤其限制了低收入家庭获得必需药品的机会，认为上述行为已经导致超过20亿比索的损害。在该诉讼中墨西哥联邦经济委员会要求涉案主体支付总计23.16亿比索的赔偿。（[查看更多](#)）

Cofece Files Its First Collective Action in History involving Price Manipulation Conduct of Pharmaceutical Companies

On October 29, 2024, the Mexican Federal Economic Competition Commission (“Cofece”) has filed its first collective action, and the Defendants are three major pharmaceutical distributors in Mexico and the Association of Pharmaceutical Products Distributors of Mexico. According to a statement from Cofece, these entities have planned and engaged in a series of restrictive agreements over a ten-year period, including not distributing medicines on certain days of the year, limiting the quantity of medicines supplied to pharmacies, manipulating sales prices and limiting discounts to pharmacies. Cofece stated that these practices artificially inflated prices of pharmaceutical prices in Mexico, limiting access to essential medicines especially regarding low-income households and having caused damages estimated at over 2 billion pesos. In this collective action, Cofece demands that the participating entities pay 2.316 billion pesos to compensate for the damage. ([More](#))

欧委会与英国或将达成竞争合作协议，专业层面谈判已完成

2024年10月29日，欧委会官网发布报道，宣布欧委会与英国已经完成了关于竞争合作协议的专业层面讨论。双方于2024年5月16日开始对该竞争合作协议开展讨论，协议将作为《欧盟-英国贸易与合作协议》的补充协议。这项竞争合作协议将允许欧委会、欧盟成员国竞争执法机构和英国竞争与市场管理局在竞争案件调查中直接合作，这也是首个授权欧盟成员国竞争执法机构与第三国竞争执法机构直接合作的欧盟竞争合作协议。此外，该合作协议将明确双方在调查重大反垄断和并购案件时相互通报；在必要时协调不同辖区的调查合作，并明确合作原则以避免管辖冲突；但双方在交换保密信息前仍需首先获得提供信息的企业同意。该协议将在欧盟和英国完成各自辖区的正式批准程序后生效，并需获得欧洲议会的批准。（[查看更多](#)）

EC and UK Will Conclude a Competition Cooperation Agreement and have Finalized Technical Negotiations

On October 29, 2024, the EC on its official website announces that the EC and the UK have finalized the technical negotiations on a competition cooperation agreement. Negotiations on this cooperation agreement began on May 16, 2024, and the agreement will be a “supplementing agreement” to the EU-UK Trade and Cooperation Agreement (“TCA”). The future competition cooperation agreement will allow the EC, the national competition authorities of the EU Member States (“NCAs”) and the UK Competition and Markets Authority to cooperate directly in competition investigations, it is also the first EU competition cooperation agreement enabling NCAs to cooperate directly with a third country competition authority. Furthermore, the cooperation agreement will set out that important antitrust and merger investigations are brought to each other’s attention, and it will also allow the coordination of investigations between the jurisdictions involved when necessary and set out clear principles of cooperation aimed at avoiding any conflicts between jurisdictions; but authorities before exchanging confidential information need to obtain the consent of the undertaking providing the information. The agreement will enter into force after both the EU and the UK have finalized their formal ratification procedures of respective jurisdictions, and the consent of the European Parliament will also be required. ([More](#))

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

全国数据标准化技术委员会2024-2025年拟制修订的重点标准项目清单

2024年10月30日，为发挥标准在规范数据基础设施建设、促进数据资源高质量供给、推动数据高效有序流通、引领数据技术迭代创新、形成多元数据融合应用新格局的基础和支撑作用，围绕数据治理、数据流通利用、数字化转型、数据技术、数据基础设施等重点领域，全国数据标准化技术委员会发布2024-2025年拟制修订的重点标准项目清单。（[查看更多](#)）

SAC/TC609 Releases the List of Key Standard Projects to be Developed or Revised by 2024- 2025

On 30 October 2024, the SAC/TC609 released a list of key standards to be revised from 2024 to 2025, in order to play the role of basis and support of a standards in regulating the construction of data infrastructure, promoting the high-quality supply of data resources, promoting the efficient and orderly circulation of data, leading the iterative innovation of data technology, and forming the new pattern of diversified data fusion applications, focusing on key areas such as data governance, data flow and utilization, digital transformation, data technology and data infrastructure. ([More](#))

国家互联网信息办公室发布第八批深度合成服务算法备案信息的公告

2024年11月1日，中国网信网发布公告，根据《互联网信息服务深度合成管理规定》，现公开发布第八批境内深度合成服务算法备案信息。《互联网信息服务深度合成管理规定》第十九条明确规定，具有舆论属性或者社会动员能力的深度合成服务提供者，应当按照《互联网信息服务算法推荐管理规定》履行备案和变更、注销备案手续。深度合成服务技术支持者应当参照履行备案和变更、注销备案手续。（[查看更多](#)）

Cyberspace Administration of China issues Announcement for the Eighth Batch of In-depth Synthesis Service Algorithm Recordation Information

On 1 November 2024, according to an announcement published by CAC, in accordance with the *Provisions on Deep Synthesis Management of Internet Information Services* ("[Provisions](#)"), it is now publicly releasing the eighth batch of domestic deep synthesis service algorithm recordation information. Article 19 of *Provisions* clearly stipulates that deep synthetic service providers with the attributes of public opinion or the ability to mobilize society shall perform the registration and change and cancel the registration procedures in accordance with the *Internet Information Service Algorithm Recommendation Management Regulation*. In-depth synthesis service technical support should be referred to the implementation of recordation and modification, cancellation of recordation procedures. ([More](#))

工信部印发《工业和信息化领域数据安全事件应急预案（试行）》

2024年10月31日，《工业和信息化领域数据安全事件应急预案（试行）》（以下简称“《应急预案》”）正式发布实施。《应急预案》旨在建立健全工业和信息化领域数据安全事件应急组织体系和工作机制，提高数据安全事件综合应对能力，确保及时有效地控制、减轻和消除数据安全事件造成的危害和损失，保护个人、组织的合法权益，维护国家安全和公共利益。适用于在中华人民共和国境内发生的工业和信息化领域数据安全事件应急处置活动。 ([查看更多](#))

MIIT Issues *Emergency Plan for Data Security Incidents in Industrial and Informatization Fields (for Trial Implementation)*

On 31 October 2024, the *Emergency Plan for Data Security Incidents in the Field of Industry and Information Technology (for Trial Implementation)* ("[Emergency Plan](#)") was officially released and implemented. The *Emergency Plan* aims to establish and improve the emergency organizational system and working mechanism for data security incidents in the industrial and information technology fields, improve the comprehensive response capability to data security incidents, ensure timely and effective control, mitigation and elimination of the harm and losses caused by data security incidents, protect the legitimate rights and interests of individuals and organizations, and safeguard national security and public interests. It is applicable to the emergency response activities of data security incidents in the industrial and information technology fields that occur within the territory of the People's Republic of China. ([More](#))

全国信标委就《人工智能风险管理能力评估（征求意见稿）》等两项国家标准公开征求意见

2024年10月30日，全国信息技术标准化技术委员会发布通知，公开征求《人工智能风险管理能力评估（征求意见稿）》和《人工智能 计算中心 计算能力评估》两项国家标准的意见。

《人工智能风险管理能力评估（征求意见稿）》提出了人工智能风险管理能力评估参考模型，规定了人工智能风险管理能力框架、能力等级和评估方法。《人工智能 计算中心 计算

能力评估》规定了人工智能计算中心计算能力的评价指标，包括规模、性能、可用性等维度，并给出了评估方法。（[查看更多](#)）

China National Information Technology Standardization Technical Committee (NITS) Solicits Opinions on Two National Standards Including *Artificial Intelligence Risk Management Capability Assessment (Draft for Comment)*

On 30 October 2024, the NITS issued a notice to publicly solicit opinions on two national standards, the *Artificial Intelligence Risk Management Capability Assessment (Draft for Comment)* and the *Artificial Intelligence Computing Center Computing Capability Assessment*. The *Assessment of Artificial Intelligence Risk Management Capabilities (Draft for Comment)* proposes a reference model for the assessment of artificial intelligence risk management capabilities, and specifies the framework, capability levels and assessment methods for artificial intelligence risk management capabilities. The *Artificial Intelligence Computing Center Computing Capability Assessment* stipulates the evaluation indicators of computing power of artificial intelligence computing centers, including dimensions such as scale, performance, availability, and gives evaluation methods. ([More](#))

山东省大数据局就《山东省公共数据资源授权运营管理办法（试行）》公开征求意见

2024年11月7日，山东省大数据局发布关于向社会公开征求《山东省公共数据资源授权运营管理办法（试行）》（公开征求意见稿）（以下简称《征求意见稿》）的公告，意见反馈时间截止到2024年12月7日。《征求意见稿》共计七章四十三条，适用于山东省行政区域内开展公共数据资源授权运营及其相关管理活动。（[查看更多](#)）

Shandong Province Big Data Bureau Solicits Public Opinions on the Measures for the Administration of Authorized Operation of Public Data Resources in Shandong Province (for Trial Implementation)

On 7 November 2024, the Shandong Province Big Data Bureau issued a notice to publicly solicit opinions on the *Measures for the Administration of Authorized Operation of Public Data Resources in Shandong Province (for Trial Implementation)*

(open consultation draft) (“*Measures*”), and the feedback time is until 7 December 2024. The *Measures* has a total of 43 articles in seven chapters, which are applicable to the authorized operation of public data resources and related management activities within the administrative region of Shandong Province. ([More](#))

湖南省网信办执法约谈10家违规收集使用个人信息App负责人

2024年10月31日，湖南省省网信办依据相关法律法规，对亮健康App、快滴顺风车App、店铺转让App、易招聘App、货运多App、人人修App、快嗒顺风车App、当家App、师傅联盟App、郴房网App10家App运营公司负责人开展执法约谈，要求以上公司认真分析落实主体责任不力的原因，深入组织自查、举一反三，从制度、管理和技术等方面提出针对性整改方

案，明确整改时间、内容和措施，做到个人信息采之有界、用之有度、护之有责。（[查过更多](#)）

Law Enforcement by Cyberspace Administration of Hunan Province, Interviewing 10 App Leaders for Illegal Collection and Use of Personal Information

On 31 October 2024, according to laws and regulations, Cyberspace Administration of Hunan Province conducted law enforcement interviews with the heads of 10 App operating companies, including Bright Health App, Fast Drop Hitchhiking App, Shop Transfer App, Easy Recruitment App, Freight App, Everyone Repair App, Fast Click Hitchhiking App, Home App, Master Alliance App, and Chen Fang Wang App. The above-mentioned companies were required to carefully analyze the reasons for the lack of implementation of their primary responsibility, conducting in-depth organizational self-examination, citing examples and contrast cases, and proposing targeted rectification programmes in terms of institutional, managerial and technical aspects, and clarify the timing, contenting and measures of rectification, so as to ensure that personal information is used within their boundaries, appropriately and responsibly. ([More](#))

通过外网非法获取公民个人信息1亿余条，一科技公司员工获刑

2024年10月28日，上海市杨浦区人民检察院（以下简称“杨浦区检察院”）召开新闻发布会，通报2020年以来侵犯公民个人信息隐私案件办理情况。发布会上，杨浦区人民检察院公布了一起典型的侵犯公民个人信息案例。案例中被告人吴某是某安全科技有限公司员工，2024年2月，吴某通过翻墙软件违规访问境外Telegram平台，并在该软件“ling某”群的“资源共享”内下载含有公民个人信息的文件，储存在其持有的移动硬盘中，同时将上述下载渠道提供给他人。经鉴定，被告人吴某非法获取的公民个人信息共计1亿余条。近日，经杨浦区检察院提起公诉，法院以侵犯公民个人信息罪判处吴某有期徒刑一年六个月，缓刑一年六个月，并处罚金人民币二千元。（[查看更多](#)）

A Technology Company Employee Jailed for Illegally Obtaining More Than 100 million Pieces of Citizens' Personal Information via Internet

On 28 October 2024, the Yangpu District People's Procuratorate of Shanghai Municipality (“**Yangpu District Procuratorate**”) held a press conference to report on the handling of cases involving Infringement of citizens' personal information privacy since 2020. At the press conference, the Yangpu District Procuratorate announced a typical case. The defendant Wu is an employee of a security technology company. In February 2024, Wu illegally accessed an overseas Telegram platform through the wall software, downloaded the documents containing citizens' personal information from the "resource sharing" of the "ling XX" group of the software, stored such documents in the portable hard disk he held, and provided others with the above download channel. Upon identification, Wu illegally obtained more than 100 million pieces of personal information of citizens. Recently, after the Yangpu District Procuratorate prosecuted, the court sentenced Wu to imprisonment of one year and six months, suspended the one year and six months, and fined RMB2,000. ([More](#))

国际：全球隐私保护机构在行业参与后就数据抓取问题发表后续联合声明

继2023年8月24日，澳大利亚、加拿大等12个国家/地区的数据保护机构发布关于数据抓取的联合声明后，2024年10月28日，16个国家/地区的数据保护机构发布了关于数据抓取的后续联合声明。声明强调在数据抓取方面遵守隐私和数据保护法律的必要性。声明同时强调了公司保护用户数据免受非法抓取的义务，数据抓取可能导致报告数据泄露的可能性，以及人工智能在逃避检测上的风险和加强数据保护方面的作用。声明还提到，当某一组织合法允许第三方从其平台收集可公开访问的个人数据时，通过应用程序编程接口（API）Footnote1 提供此类访问权限可以更好地控制数据，并有助于检测和减少未经授权的抓取。（[查看更多](#)）

International: Global Privacy Authorities Issue Follow-up Joint Statement on Data Scraping After Industry Engagement

Following the Joint Statement on Data Capture issued on 24 August 2023 by the Data Protection Agencies of 12 countries, including Australia and Canada, on 28 October 2024, the Joint Statement on Data Capture was issued by the Data Protection Agencies of 16 countries. The statement emphasized the need to comply with privacy and data protection legislation in data capture. The statement also highlights the obligation of companies to protect user data from illegal access, the potential for data access to be compromised, and the role of artificial intelligence in avoiding detection hazards and enhancing data protection. The statement also mentioned that when an organization legally allows third parties to collect publicly accessible personal data from its platform, providing such access right through the application programming interface (API) can better control the data and help detect and reduce unauthorized access. ([More](#))

英国：英国资讯专员办公室（ICO）发布数据（使用 and 访问）（DUA）法案的回应

2024年10月31日，英国信息专员办公室（ICO）发布了对数据（使用 and 访问）法案的回应，支持有关智能数据、数字验证服务、健康和社会保健信息标准、合法利益、创新和增长、有效的公共服务提供和保护公共安全等方面内容。ICO 认为法案中提议的数据保护变化对英国监管环境的适应性修改，并同时认为法案中拟议的修改内容有利于平衡其与欧盟的关系。（[查看更多](#)）

UK: Information Commissioner's Response to the Data (Use and Access) (DUA) Bill

On 31 October 2024, the UK Information Commissioner's Office (ICO) published its response to the *Data (Use and Access) Bill*, which support topics such as smart data, digital verification services, health and social care information standards, legitimate interests, innovation and growth, effective public service delivery and protecting public safety. The ICO considers the proposed data protection changes in the Bill to be adaptive to the regulatory context in the UK and considers the proposed changes in the Act to be conducive to balancing its relationship with the EU. ([More](#))

国际：国际数字监管合作网络（INDRC）和经济合作发展组织（OECD）发布关于数字监管框架的声明

2024年11月8日，国际数字监管合作网络（INDRC）和经济合作与发展组织（OECD）就他们共同主办的关于数字监管框架之间的相互作用——结构合作的挑战和机遇的研讨会发表了一份联合声明。该声明内容来源于2024年11月8日召开的研讨会，该研讨会侧重于确定共同的监管挑战以及未来可能的协同作用和联合工作主题。研讨会围绕 1.数据驱动的市场、创新的商业模式、人权：商业和民间社会的视角；2.人工智能、LLM、数据、算法：监管挑战、协调响应；3 .共同和单独：监管机构如何适应技术创新，同时促进多边和连贯的应对措施；4.跨监管挑战：关注 AI 生成的内容和黑暗模式等四个部分展开。（[查看更多](#)）

International: INDRC and OECD Issue Statement on Digital Regulatory Frameworks

On 8 November 2024, the International Digital Regulatory Cooperation Network (INDRC) and the Organisation for Economic Co-operation and Development (OECD) issued a joint statement on their co-hosted workshop on the interplay between digital regulatory frameworks - challenges and opportunities for structural cooperation. The statement is based on a workshop held on 8 November 2024, which focused on identifying common regulatory challenges and possible future synergies and joint work topics. The workshop was organized around 1.Data-Driven Markets, Innovative Business Models, Human Rights: Business and Civil Society Perspectives; 2. AI, LLM, data, algorithms: regulatory challenges, coordinated responses; 3.Together and separately: how regulators are adapting to technological innovations while promoting multilateral and coherent responses; 4. Cross-regulatory challenges: a focus on AI-generated content and dark patterns, among other four sections. ([More](#))

拉脱维亚：DVI发布了非法个人数据处理刑事责任指南

2024年11月1日，拉脱维亚数据国家监察局（DVI）发布了关于非法个人数据处理刑事责任的指南，明确规定，如果非法数据处理是故意进行的，如报复、贪婪或勒索，或者如果造成重大损害，则会产生刑事责任。重大损害被定义为财产损失超过最低月工资的五倍，或任何损害超过最低月工资的十倍，或当其他受法律保护的利益受到严重威胁。每个案件都单独评估，以确定损害是否严重，同时考虑到威胁的类型、内容、当事人的特点以及对被侵犯利益的态度。（[查看更多](#)）

Latvia: DVI Publishes Guide on Criminal Liability for Illegal Personal Data Handling

On 1 November 2024, the Data State Inspectorate (DVI) of Latvia released guidance on criminal liability for illegal personal data handling, specifying that criminal liability arises if unlawful data processing is done with intent, such as for revenge, greed, or blackmail, or if it results in significant damage. Significant damage is defined as property damage exceeding five minimum monthly wages, or any damage exceeding ten minimum monthly wages, or when other legally protected interests are significantly threatened. Each case is individually assessed by the State Police, considering the type of threat, its content, the characteristics of the person, and the attitude towards the violated interests. ([More](#))

知识产权 Intellectual Property

《商标侵权案件违法经营额计算办法》公布施行

2024年10月30日，国家市场监督管理总局公布《商标侵权案件违法经营额计算办法》。该办法由国家知识产权局、国家市场监督管理总局联合印发，自公布之日起施行。

《商标侵权案件违法经营额计算办法》共19条，在商标行政执法部门处理商标侵权案件过程中，当事人的行为已被认定为商标侵权行为时适用该办法。

来源：国家市场监督管理总局

Measures for Calculating the Illegal Operating Revenue in Trademark Infringement Cases" Issued and Enforced

On October 30, 2024, the State Administration for Market Regulation released the Measures for Calculating the Illegal Operating Revenue in Trademark Infringement Cases. These measures, jointly issued by the China National Intellectual Property Administration and the State Administration for Market Regulation, are effective immediately upon publication.

The Measures for Calculating the Illegal Operating Revenue in Trademark Infringement Cases consist of 19 articles and are applicable when an individual's actions have been identified as trademark infringement in cases handled by trademark administrative enforcement agencies.

Source: State Administration for Market Regulation

江苏法院：全国首例即将正式上线游戏遭受外挂侵害的诉中行为保全案

近日，江苏省泰州医药高新技术产业开发区人民法院就一起不正当竞争纠纷案件，对于申请人（原告）请求两被申请人（被告）在各平台立即删除《远光84》外挂商品链接并不得以任何形式提供《远光84》外挂软件事宜作出行为保全裁定。

法院认为，根据申请人提交的证据，两申请人享有《远光 84 V2.0》游戏软件的复制权、信息网络传播权、发行与运营权，申请人的请求具有事实依据和法律基础。并且，竞技类游戏的运营依赖于公平的游戏环境，被控外挂行为存在破坏游戏生态的风险，降低玩家在游戏测试阶段的体验，影响游戏口碑。外挂行为存在污染游戏测试数据的风险，申请人可能因为外挂行为无法在测试阶段对游戏可能存在的不足和漏洞进行调整和优化，影响后续上线版本的质量，不采取行为保全措施将有很大可能会对申请人的合法权益造成难以弥补的损害。同时，申请人已提供担保，不会造成当事人间利益显著失衡，且不会损害国家和社会公共利益。故法院依法裁定被申请人立即停止涉案不正当竞争行为。

来源：江苏省泰州医药高新技术产业开发区人民法院

Jiangsu Court: The First Interim Injunction of Acts Case in China to Protect a Game from Cheat Program Infringement Pre-Launch

Recently, the Taizhou Medical High-Tech Industrial Development Zone People's Court in Jiangsu Province ruled on a case of unfair competition. The applicant (plaintiff) requested that the two respondents (defendants) immediately remove links to the cheat software Yuanguang 84 across all platforms and refrain from providing the Yuanguang 84 cheat software in any form. The court issued an interim injunction in favor of this request.

The court found that, based on evidence submitted by the applicant, the applicant holds the rights to reproduce, distribute, and operate the Yuanguang 84 V2.0 game software, as well as rights to information network dissemination. The applicant's claims are factually and legally grounded. Additionally, competitive games rely on a fair gaming environment, and the alleged cheat software undermines the game's ecosystem, diminishes players' experience during the testing phase, and could harm the game's reputation. Cheat software can pollute game testing data, potentially preventing the applicant from identifying and addressing issues or vulnerabilities, thus affecting the quality of the final release. Failure to enforce the injunction could irreparably damage the applicant's legitimate rights and interests.

The applicant has provided a security deposit to ensure that granting the injunction will not result in a significant imbalance of interests between parties or harm national and public interests. Consequently, the court ordered the respondents to immediately cease the unfair competition acts in question.

Source: Jiangsu Court

北京法院：华为手机充电器构成“有一定影响的商品名称、装潢”

近日，北京知识产权法院就东莞市智宏电子科技有限公司（下称“智宏公司”）、华为终端有限公司（下称“华为公司”）、北京京东叁佰陆拾度电子商务有限公司（下称“京东公司”）不正当竞争纠纷案件做出二审判决，判决驳回上诉，维持原判，此前一审法院判决智宏公司停止侵权、消除影响，赔偿华为公司经济损失80000元。

法院认为，华为公司于2016年开始推出超级快充手机充电器。经华为公司长期、广泛地推广和使用，“SuperCharge/超级快充”充电器名称以及其特定尺寸、白色外观、圆润转角以及充电器机身三分之一处有椭圆形凹陷的装潢设计均已有一定知名度和影响力。虽然凹陷设计款充电器并非华为公司所独有，但与其他设计相结合时仍可呈现出区别于其他充电器的独特特征，故“SuperCharge/超级快充”以及其特有装潢可以认定构成反不正当竞争法第六条规定的具有一定影响的商品名称和装潢。智宏公司一方面生产了与前述商品装潢高度近似的充电器产品，另一方面还在其自营1688店铺中允诺销售了带有“华为”“超级快充”“SuperCharge”标识的商品，其行为容易造成相关公众混淆误认，已构成反不正当竞争法第六条第一项规定的混淆的不正当竞争行为。智宏公司作为主要从事电子产品及配件研发和产销的企业，对华为超级快充充电器的名称、装潢等标识理应知晓，其在生产、销售充电器产品时非但未予避让，反而生产、销售与华为超级快充充电器高度近似的充电器产品进行不正当竞争，应承担相应法律责任。

来源：北京知识产权法院

Beijing Court: Huawei Phone Charger Constitutes a "Product Name and Decoration with Certain Influence"

Recently, the Beijing Intellectual Property Court issued a second-instance judgment in an unfair competition dispute involving Dongguan Zhihong Electronic Technology Co., Ltd. (hereinafter "Zhihong Company"), Huawei Terminal Co., Ltd. (hereinafter "Huawei"), and Beijing JD.com E-Commerce Co., Ltd. (hereinafter "JD.com"). The court dismissed the appeal and upheld the original judgment, in which the first-instance court had ordered Zhihong Company to cease infringement, eliminate its impact, and compensate Huawei for economic losses amounting to 80,000 yuan.

The court found that Huawei launched its Super Charge fast-charging phone chargers in 2016. Through extensive and long-term promotion, the "Super Charge" name and the charger's distinctive design features, including its specific size, white color, rounded corners, and oval indentation located at one-third of the charger's body, have achieved notable recognition and influence. While the indentation design is not exclusive to Huawei, its combination with other design elements creates a unique characteristic distinguishing it from other chargers. Therefore, the "Super Charge" name and its distinctive decoration were recognized under Article 6 of the Anti-Unfair Competition Law as having a certain influence.

Zhihong Company produced charger products with a highly similar appearance to Huawei's Super Charge chargers and advertised these products with "Huawei," "Super Charge," and "fast-charging" labels on its 1688 platform store. Such actions could easily lead the public to confusion or mistaken association, thus constituting unfair competition under Article 6(1) of the Anti-Unfair Competition Law. Given that Zhihong Company specializes in electronic product development and sales, it should have been aware of Huawei's Super Charge branding and appearance. Instead of avoiding these characteristics, Zhihong manufactured and sold highly similar products, thereby engaging in unfair competition and bearing the corresponding legal responsibility.

Source: BIPC

黑龙江法院：“五常大米”地理标志商标侵权案——黑龙江法院涉农知识产权司法保护十大典型案例

黑龙江省高级人民法院就福州市稻花香米业集团有限责任公司（下称“稻花香公司”）、福州市稻花香米业集团有限责任公司泰来分公司（下称“泰来分公司”）、黑龙江秋然米业有限公司（下称“秋然公司”）、福州市稻子商务信息咨询有限公司（下称“稻子公司”）、五常大米协会侵害商标权及不正当竞争纠纷做出二审判决，判决驳回上诉，维持原判，此前一审法院判决稻花香公司、稻子公司停止侵害商标专用权的行为，稻花香公司、泰来分公司、秋然公司、稻子公司停止不正当竞争行为，稻花香公司赔偿五常市大米协会经济损失200万元及合理支出5万元，稻子公司、泰来分公司、秋然公司对部分承担连带赔偿责任。

法院认为，秋然公司在其官网上公开宣传其销售的产品是“五常大米”，该公司开具的发票印证了其以“五常大米”名义通过央广电视购物对外销售，属于商标性使用，会导致相关公众无法区分商品来源，误以为秋然公司销售的大米系种植于五常市并具备五常大米的特定品质，构

成侵害商标权。秋然公司等抗辩被诉侵权六款大米确系来源于五常市，但秋然公司等并未提交有效证据证明其生产、销售的被诉六款侵权大米均“种植于五常”，与其在网络平台销售时所标注的不符，秋然公司等行为足以误导消费者对于产品的来源误认为与五常大米存在特定关联，构成不正当竞争。

来源：黑龙江省高级人民法院

Heilongjiang Court: "Wuchang Rice" Geographical Indication Trademark Infringement Case - One of Heilongjiang's Top Ten Agricultural Intellectual Property Judicial Protection Cases

The Heilongjiang High People's Court recently issued a second-instance judgment on a trademark infringement and unfair competition dispute involving Fuzhou Daohuaxiang Rice Industry Group Co., Ltd. (hereinafter referred to as "Daohuaxiang Company"), its Tielai Branch, Heilongjiang Qiuran Rice Co., Ltd. (hereinafter referred to as "Qiuran Company"), Fuzhou Daozi Business Information Consulting Co., Ltd. (hereinafter referred to as "Daozi Company"), and the Wuchang Rice Association. The court dismissed the appeal and upheld the original ruling. Previously, the first-instance court had ordered Daohuaxiang Company and Daozi Company to cease actions infringing on the exclusive trademark rights, and for Daohuaxiang Company, Tielai Branch, Qiuran Company, and Daozi Company to cease unfair competition activities. Daohuaxiang Company was also ordered to compensate the Wuchang Rice Association for economic losses totaling 2 million yuan and reasonable expenses of 50,000 yuan. Daozi Company, Tielai Branch, and Qiuran Company were held jointly liable for part of the compensation.

The court found that Qiuran Company promoted its products as "Wuchang Rice" on its official website and issued invoices indicating that it sold rice under the "Wuchang Rice" name through a national TV shopping platform. This use of the "Wuchang Rice" trademark misled consumers, who might mistakenly believe Qiuran Company's rice was grown in Wuchang and met Wuchang Rice's specific quality standards, thus constituting trademark infringement. Qiuran Company and others argued that the six disputed rice products originated from Wuchang, but they failed to provide valid evidence proving that the rice in question was indeed grown in Wuchang. This inconsistency between their claims and the labeling on online sales platforms misled consumers into believing the products had a specific association with Wuchang Rice, constituting unfair competition.

Source: Heilongjiang Court

福建法院：假冒注册商标还故意拖延诉讼，惩罚性赔偿100万元

近日，厦门中院发布一则案例，基本案情为：德国某公司为涉案商标的商标权人，涉案商标在服装行业中具有显著性和极高的知名度。艾某未经授权在其开设的售卖服饰的涉案店铺中使用了与涉案商标相同的标识。在第一次庭审中，对法官关于涉案店铺如何经营运转的询问，艾某不明确回答，表示还要核实。之后，厦门中院根据原告申请向淘宝平台调取涉案店铺的销售数据并组织各方质证，质证过程中，艾某当庭提交其关于进货成本和刷单的减责证据，并披露店铺实际经营人为伍某。原告遂当庭申请追加伍某为共同被告，并撤回对发货人陈某的起诉，要求艾某与伍某停止侵权并承担100万元惩罚性赔偿的连带责任。第二次庭审中，艾某与伍某均

辩称艾某系将身份证借给伍某开设涉案店铺，涉案店铺实际经营人为伍某，艾某未参与实际经营；艾某还当庭提交了其与伍某签订的《免责声明协议》意图免责。

法院认为，涉案商标经过长期的使用、宣传，已具有较高的知名度。艾某、伍某在同类商品上使用与涉案商标相同的商标并进行销售，且在产品链接中使用“正品”字样，系假冒涉案商标，已构成商标侵权。本案中不论艾某是否实际参与经营，其出借身份信息开设涉案店铺的行为，系为伍某的商标侵权行为提供便利和帮助，与伍某构成共同侵权，应当与伍某连带承担停止侵权并赔偿损失的责任。艾某与伍某签订的《免责声明协议》系二者对侵权责任的内部约定，不影响对外承担连带责任。

来源：福建省厦门市中级人民法院

Fujian Court: Counterfeit Registered Trademark and Deliberate Litigation Delay, with Punitive Damages of 1 Million Yuan!

Recently, the Xiamen Intermediate People's Court released a case involving a trademark infringement dispute. The basic facts are as follows: a German company owns the trademark rights to the involved mark, which has high distinctiveness and significant recognition in the apparel industry. Defendant used the same mark in a clothing store without authorization. During the first hearing, Ai was vague in responding to the judge's questions about the store's operations, stating that further verification was needed. Subsequently, upon the plaintiff's request, the court obtained sales data for the store from the Taobao platform and conducted cross-examinations. During this process, Ai presented evidence to mitigate responsibility, showing product cost and false transaction records, and disclosed that the store's actual operator was Wu. The plaintiff then requested that Wu be added as a co-defendant and withdrew the complaint against Chen, the person handling shipments, seeking a joint liability of 1 million yuan in punitive damages from Ai and Wu for trademark infringement.

In the second hearing, both Ai and Wu argued that Ai had only lent his ID to Wu to open the store, and that Wu was the actual operator while Ai did not participate in its management. Ai also presented a "Disclaimer Agreement" signed with Wu in an attempt to evade responsibility.

The court found that the trademark in question had achieved a high level of recognition through prolonged use and promotion. Ai and Wu used the same mark on similar products and sold them, even labeling them as "genuine" in product links, constituting counterfeit use of the trademark and therefore trademark infringement. The court ruled that regardless of Ai's actual involvement in the store's operations, his act of lending his ID to establish the store facilitated Wu's trademark infringement, thereby making them jointly liable. The "Disclaimer Agreement" between Ai and Wu only applies internally and does not exempt them from joint liability for ceasing the infringement and compensating for damages.

Source: Fujian Court

美国：联邦巡回上诉法院撤销联想对爱立信驳回反诉禁令的判决

2024年10月24日，联邦巡回上诉法院撤销了联邦贸易委员会法官 Boyle在爱立信与联想公司之间的重大 FRAND许可纠纷中驳回反诉禁令的判决。本次争议的核心是爱立信的5G标准必要专

利。2023年10月，爱立信提出以“净销售额的1%，单件上限4美元”的价格将其5G标准必要专利许可给联想公司。同日，爱立信提起诉讼，寻求声明其要约符合FRAND义务，并声称侵犯了四项美国专利。联想公司提出反诉，认为爱立信违反FRAND义务，并请求对FRAND条款作出司法认定，以便进行全球交叉许可。在这之后，2023年12月19日，联想又向地方法院提起诉讼，要求法院发布禁诉令，禁止爱立信执行起在哥伦比亚和巴西的禁令。地方法院驳回了联想的起诉，故联想上诉到联邦巡回上诉法院。

上诉法院认为，即使一项诉讼只解决了禁令救济的适当性，而不是整个外国程序，它也可以是决定性的。因此，地区法院得出的结论是，美国案例只有在导致全球许可的情况下才对外国案例具有决定性，这一结论走得太远了。相反，需要解决的决定性问题是其FRAND承诺项下“爱立信是否已遵守其诚信谈判义务”。如果爱立信违反了该等义务，其“在案件审理期间无权就标准必要专利针对联想申请禁令”。

来源: patentlyo.com

United States: The Federal Circuit Court of Appeals Overturns Lenovo's Injunction Against Ericsson's Counterclaim Dismissal

On October 24, 2024, the United States Court of Appeals for the Federal Circuit overturned District Judge Terrence Boyle's decision, which had denied Lenovo's request for an anti-suit injunction against Ericsson in a significant FRAND (Fair, Reasonable, and Non-Discriminatory) licensing dispute. The core issue centers on Ericsson's 5G standard-essential patents (SEPs).

In October 2023, Ericsson offered to license its 5G SEPs to Lenovo at a rate of "1% of net sales, with a cap of \$4 per unit." On the same day, Ericsson filed a lawsuit seeking a declaration that its offer complied with its FRAND obligations and alleged infringement of four U.S. patents. Lenovo counterclaimed, asserting that Ericsson had breached its FRAND commitments and requested a judicial determination of FRAND terms to facilitate a global cross-license agreement. Subsequently, on December 19, 2023, Lenovo filed a motion in the district court seeking an anti-suit injunction to prevent Ericsson from enforcing injunctions obtained in Colombia and Brazil. The district court denied Lenovo's motion, leading to Lenovo's appeal to the Federal Circuit.

The Federal Circuit concluded that even if a lawsuit addresses only the appropriateness of injunctive relief without resolving the entire foreign proceeding, it can still be determinative. Therefore, the district court's conclusion—that the U.S. case would only be determinative of the foreign cases if it resulted in a global license—was too broad. Instead, the key issue to resolve is whether, under its FRAND commitments, "Ericsson has fulfilled its obligation to negotiate in good faith." If Ericsson has breached this obligation, it "would not be entitled to seek injunctions against Lenovo on its SEPs during the pendency of the case." This decision underscores the importance of good faith negotiations in FRAND licensing disputes and the potential limitations on seeking injunctive relief when such obligations are not met.

Source: patentlyo.com

欧盟：欧盟委员会对Teva处以462.6亿欧元罚款

2024年10月31日，欧盟委员会发布公告，决定对Teva公司处以462.6亿欧元罚款。Teva公司是一家全球制药公司，通过欧洲经济区的多家子公司运营。欧盟委员会调查发现，Teva滥用了其在比利时、捷克、德国、意大利、荷兰、波兰和西班牙的醋酸格拉替雷市场的主导地位，拖延其治疗多发性硬化症的畅销药物Copaxone的竞争。委员会发现，Teva人为地延长了Copaxone的专利保护期，并系统性地传播有关竞争产品的误导性信息，以阻碍其进入市场和推广。因此欧盟委员会决定对Teva处以462.6亿欧元罚款。

来源：Eu Commission

European Union: European Commission Fines Teva €4.626 Billion

On October 31, 2024, the European Commission announced a fine of €462.6 million against Teva Pharmaceutical Industries Ltd., a global pharmaceutical company operating through multiple subsidiaries within the European Economic Area. The Commission's investigation revealed that Teva abused its dominant position in the glatiramer acetate markets of Belgium, the Czech Republic, Germany, Italy, the Netherlands, Poland, and Spain. Specifically, Teva artificially extended the patent protection for its multiple sclerosis drug, Copaxone, and systematically disseminated misleading information about competing products to hinder their market entry and uptake. Consequently, the European Commission imposed the €462.6 million fine on Teva.

Source: Eu Commission

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