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Jury Finds BNSF Railway Guilty of Violating Illinois Biometric Privacy Act

Shein因服务商的数据泄露被处罚190万美元

Shein Was Fined 1.9 Million Dollars for Data Leakage of the Service Provider



知识产权 Intellectual Property

Vfine与网易云音乐云村交易所达成版权合作

Vfine and Netease Cloud Music Cloud Village Exchange Reached Copyright Cooperation

最高院：侵害信息网络传播权案件管辖不适用被侵权人（原告）住所地

SPC Clarified That the Jurisdiction over Cases of Infringement upon Rights to Network Dissemination of Information does not Apply to the Domicile of the Infringed Party (the Plaintiff)

法院认定无印良品不构成反向混淆

Shanghai IP Court Clarified That MUJI Does Not Constitute Reverse Confusion

在鞋子上使用与VANS条纹商标近似的标识构成商标侵权

Using a Logo Similar to the VANS Stripe Mark on Shoes Constitutes Trademark Infringement

最高院：在被诉侵权产品上贴附商标的侵权人应承担制造者的责任

SPC Clarified That Trademark Owner of the Trademark on the Infringing Product Shall Bear the Liability of Manufacturer

最高院：专利权人可以依据修改后的权利要求主张权利

SPC Ruled That the Patentee Can Claim Based on the Amended Claims of the Patent

世贸组织总干事敦促瑞士同意豁免新冠疫苗及疗法专利

WTO Director General Urges Switzerland to Agree to Exempt the Patent of COVID-19 Vaccine and Therapy

InterDigital与苹果续签专利许可协议

InterDigital Renews its Patent License Agreement with Apple

Medit赢得3Shape提起的四项连续专利诉讼

Medit wins four consecutive patent lawsuits against 3Shape

立方竞争法周报 Weekly Competition Law News

河北省公布聘用竞争政策专家库名单

2022年10月14日，河北省市场监督管理局（“河北省市监局”）发布公告，聘用22人为河北省市监局竞争政策专家，聘期2年。这22人包括大学教授、律师、数据分析师和政府官员，专长的领域包括反垄断法、竞争法、经济法、网络信息安全、数据分析、投资并购和经营者集中申报等。（[查看更多](#)）

Hebei Province Announces the List of Hiring Competition Policy Experts

On October 14, 2022, the Hebei Provincial Administration for Market Regulation (“Hebei AMR”) issued an announcement, hiring 22 people as competition policy experts for a 2-year term. These 22 individuals include university professors, lawyers, data analysts and government officials, and specialize in areas such as anti-monopoly law, competition law, economic law, cyber information security, data analysis, investment and M&A and merger filings, etc. ([More](#))

山东省市监局联合滨州市有关部门召开反垄断合规指引座谈会

2022年10月13日，山东省市场监管局联合滨州市市场监管局、滨州市住建局和滨州市房地产中介行业协会，召开反垄断合规指引座谈会，滨州市12家房地产中介机构参会。有关部门从多个方面对《反垄断法》进行了解读，并结合房地产中介行业特点和典型案例，作出有针对性的合规经营提示，帮助企业进一步加深对《反垄断法》的理解。（[查看更多](#)）

Shandong AMR Holds an Anti-Monopoly Compliance Guiding Symposium Together with Binzhou Municipal Authorities

On October 13, 2022, Shandong Administration for Market Regulation (“Shandong AMR”) held an anti-monopoly compliance guiding symposium, together with Binzhou Municipal Administration for Market Regulation, Binzhou Municipal Housing and Urban-Rural Development Bureau and Binzhou Real Estate Intermediary Industry Association. 12 real estate intermediary companies attended the meeting. The relevant departments interpreted the *Anti-Monopoly Law* from several aspects, and combined with the characteristics of the real estate intermediary industry and typical cases to provide targeted compliance tips to help enterprises further deepen their understanding of the *Anti-Monopoly Law*. ([More](#))

市场监管总局：全国统一大市场建设取得重大成果

2022年10月10日，市场监管总局发布文章，称中国市场监管和全国统一大市场建设取得重大成果。2018年以来，监管机构共查处各类垄断案件554件，审结经营者集中案件2696件，查办各类不正当竞争案件4.6万件。推动在全国范围内建立公平竞争审查制度，审查政策措施文件493万件，持续强化对滥用行政权力排除、限制竞争行为的执法。（[查看更多](#)）

SAMR: Significant Results Achieved in the Construction of National Unified Market

On October 10, 2022, the State Administration for Market Regulation (“SAMR”) released an article stating that China has made significant achievements in market regulation and the construction of a large national unified market. Since 2018, the authorities have investigated and handled 554 monopoly cases of all kinds, concluded 2,696 cases of concentration of operators, and investigated and handled 46,000 unfair competition cases of all kinds. The authorities promoted the establishment of a nationwide fair competition review system, reviewed 4.93 million policy and measure documents, and continued to strengthen law enforcement against behaviors of abuse of administrative power which exclude and restrict competition. ([More](#))

欧美执法部门举行第二届欧美联合技术竞争政策对话

2022年10月13日，美国联邦贸易委员会（Federal Trade Commission，“FTC”）发布公告，FTC主席、美国司法部反垄断部门负责人和欧盟委员会执行副主席在布鲁塞尔出席了第二届美欧联合技术竞争政策对话，评估了三方在确保和促进数字经济公平竞争方面的合作进展。此次会议主要集中于以下几个问题：采用地平线扫描（horizon scanning）方法识别未来可能引发竞争关注的关键技术和问题的重要性；在数字案件中采取有效的救济措施；以及即将更新的美国并购指南。（[查看更多](#)）

EU and U.S. Regulators Hold Their Second US-EU Joint Technology Competition Policy Dialogue

On October 13, 2022, the Federal Trade Commission issued a statement. Federal Trade Commission Chair Lina M. Khan, the Justice Department’s Antitrust Division Assistant Attorney General Jonathan Kanter, and Executive Vice President Margrethe Vestager of the European Commission met in Brussels for the second meeting of the US-EU Joint Technology Competition Policy Dialogue (“TCPD”). The three leaders met to take stock of the progress made on their cooperation efforts to ensure and promote fair competition in the digital economy. This dialogue focused on several topics, including the importance of horizon scanning to identify key technologies and issues that may raise competition concerns in the future; the adoption of effective remedies in digital cases; and the forthcoming update to the U.S. Merger Guidelines. ([More](#))

韩国公平贸易委员会就阿斯利康实施合谋行为罚款26亿韩元

2022年10月13日，韩国公平贸易委员会（KFTC）宣布，对制药巨头阿斯利康(AstraZeneca) 和当地仿制药公司 Alvogen 签订避免竞争的协议的行为处以 26 亿韩元（约合182 万美元）的罚款。根据KFTC的声明，Zoladax是一种由阿斯利康最初开发的治疗前列腺癌和乳腺癌药物，阿斯利康在得知Alvogen自2014年以来一直在开发该药物的仿制药后，与Alvogen进行了接洽，双方于2016年9月达成交易：Alvogen暂停该仿制药计划，以换取阿斯利康生产的三种产品的独家销售权。该交易原定有效期为2020年底，但已于2018年1月中止。（[查看更多](#)）

South Korean Regulator Fines AstraZeneca 2.6 Billion Won for Collusion

On October 13, 2022, the Korea Fair Trade Commission (“KFTC”) announced that it had fined pharmaceutical giant AstraZeneca and local generic pharmaceutical company Alvogen a combined 2.6-billion-won (USD 1.82 million) for establishing an agreement to avoid competition. According to the an-

nouncement, Zoladex is a treatment for prostate and breast cancer initially developed by AstraZeneca. AstraZeneca approached Alvogen after learning that the Korean company had been developing a generic version of Zoladex since 2014. The two companies completed their deal in September 2016: Alvogen suspended its plan to release a generic version of Zoladex, in return for gaining exclusive rights to sell three types of products made by AstraZeneca. While the agreement was intended to run until the end of 2020, it was suspended in January 2018. ([More](#))

欧盟附条件批准全球化工巨头塞拉尼斯收购杜邦部分业务

2022年10月11日，欧盟委员会附条件批准了全球化工巨头塞拉尼斯（Celanese）收购杜邦公司（DuPont）的移动和材料部门。欧盟委员会调查显示，交易双方在向汽车、工商业、电子电气以及终端消费市场的客户供应热塑性工程塑料方面存在竞争。交易完成后，合并后的实体将成为欧洲经济区和全球最大的热塑性共聚酯（TPC）生产商，市场上将仅剩少数可替代的供应商。为解决该竞争担忧，塞拉尼斯承诺将剥离其全球TPC业务，包括其在意大利的生产设施以及旗下Pibiflex和Riteflex TPC品牌。 ([查看更多](#))

Mergers: Commission Approves Celanese's Acquisition of DuPont's Partial Business, Subject to Conditions

On October 10, 2022, the European Commission conditionally approved the proposed acquisition of DuPont's Mobility and Materials Business by Celanese. The Commission's investigation showed that the parties compete in the supply of engineering thermoplastics to customers in the automotive, industrial and commercial, electric and electronic, and consumer-end markets. Following the transaction, the combined entity would become the largest producer of thermoplastic copolyester ("TPC") in the European Economic Area ("EEA") and globally, with only a few alternative suppliers remaining. To address the Commission's competition concerns, Celanese offered to divest its global TPC business, including its production facility in Ferrara (Italy), and the Pibiflex and Riteflex TPC's brands. ([More](#))

欧盟委员会对梯瓦制药滥用市场支配地位行为发表异议声明

2022年10月10日，欧盟委员会发布了对梯瓦制药（Teva）的异议声明，认为梯瓦制药滥用了其在比利时、捷克、德国、意大利、荷兰、波兰和西班牙的醋酸格拉替雷药物市场中的支配地位，实施了两种滥用行为，通过阻碍竞争性醋酸格拉替雷药物进入市场，实现人为延长旗下药物Copaxone独占性的最终目的。欧盟委员会发现，2015年2月至今，梯瓦制药一直在滥用专利程序，通过专利的分案申请延长对药物的基础专利保护；此外，梯瓦制药还向医疗人员实施系统性游说，贬低竞争药物的安全性和有效性。 ([查看更多](#))

European Commission Sends Statement of Objections to Teva over Abuse of Dominant Market Position

On October 10, 2022, the European Commission sent statement of objections to Teva, holding it abused its dominant position in the markets for glatiramer acetate in Belgium, Czechia, Germany, Italy, the Netherlands, Poland and Spain. The Commission is concerned that Teva engaged in two types of abusive conduct, with an overall objective of artificially prolonging the exclusivity of Copaxone by hindering the market entry and uptake of competing glatiramer acetate medicines. In particular, the

Commission preliminarily found that since February 2015 until today Teva: misused patent procedures and artificially extended glatiramer acetate's basic patent protection by filing divisional patents; implemented a systematic disparagement campaign targeting healthcare professionals and casting doubts about the safety and efficacy of competing medicines. ([More](#))

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

信安标委发布《信息安全技术 智能手机预装应用程序基本安全要求》（征求意见稿）

2022年10月9日，全国信息安全标准化技术委员会（以下简称“信安标委”）发布国家标准《信息安全技术智能手机预装应用程序基本安全要求》（以下简称“《要求》”）征求意见稿，意见征求截至12月8日。《要求》给出了智能手机预装手机应用程序的基本安全要求。《要求》规定：(1)预装应用程序收集个人信息应符合GB/T 41391—2022《信息安全技术 移动互联网应用程序(App)收集个人信息基本要求》；(2)预装应用程序应仅在用户开始对该应用程序进行交互操作后向用户申请相关系统以及个人信息权限，不应在用户未进行交互操作前获取相关权限；(3)不可卸载应用程序宜提供停止使用功能，用户选择停止使用后，不可卸载应用程序不应再对用户个人信息进行处理；(4)预装应用程序将敏感个人信息传出智能手机的，应取得用户单独同意。智能手机生产企业应确保用户选择不同意时不影响智能手机基本功能的使用，并在征求同意时将该情况明确告知用户等内容。（[查看更多](#)）

NISSTC Releases the Basic Security Requirements for Pre-installed Applications of Information Security Technology Smartphones (Draft for Comments)

On 9 October 2022, the National Information Security Standardization Technical Committee (“NISSTC”) released a national standard *Information Security Technology - Basic Security Requirements for Pre-installed Applications on Smartphones (Draft for Comments)* (the “Requirements”), to seek public comments by 8 December 2022. The Requirements provides the basic security requirements for pre-installed mobile applications on smart phones. The Requirements stipulate that: (1) the collection of personal information by pre-installed applications shall comply with *GB/T 41391-2022 Information Security Technology - Basic Requirements for Collecting Personal Information in Mobile Internet Applications*. (2) pre-installed applications should only request from the user permission regarding using of the relevant systems and processing of personal information after the user starts to interact with the application, and should not obtain the relevant permission prior to such user interaction. (3) applications that do not allow for uninstallation should provide the function of enabling users to stop use. After a user chooses to stop using, such application should no longer process the user's personal information. (4) if there is transmission of sensitive personal information from the smartphone by a pre-installed application, the user's separate consent shall be obtained. Smartphone manufacturers shall ensure that a user's choice of disapproval will not affect the use of the basic functions of the smartphone, and clearly inform the user of the situation when seeking consent. ([More](#))

民航局印发《关于民航大数据建设发展的指导意见》

2022年10月9日，中国民用航空局（以下简称“民航局”）正式印发《关于民航大数据建设发展的指导意见》（以下简称《指导意见》），旨在进一步加强民航大数据发展的顶层设计，指导行业更好地开展民航大数据建设工作。《指导意见》明晰了民航大数据发展特征，设计了民航大数据建设的总体框架以及提出了民航大数据建设的总体目标和战略路径等内容。提出构建数据标准体系、加强数据资源目录建设、推进数据要素流通、构建公共数据开放共享机制、加强民航数据网络建设等14个方面具体工作任务。（[查看更多](#)）

CAAC Releases Guidance on the Construction and Development of Civil Aviation Big Data

On 9 October 2022, the Civil Aviation Administration of China (CAAC) released *Guidance on the Construction and Development of Civil Aviation Big Data (the "Guidance")*, which aims to further strengthen the top-level design of civil aviation big data development and guide the industry to better carry out civil aviation big data construction. The Guidance clarifies the development characteristics of civil aviation big data, designs the overall framework of civil aviation big data construction, and puts forward the overall goal and strategic path of civil aviation big data construction. The Guidance puts forward 14 specific tasks, including building a data standard system, strengthening the construction of data resource catalog, promoting the circulation of data elements, building an open sharing mechanism for public data, and strengthening the construction of civil aviation data network. ([More](#))

工信部开展APP侵害用户权益整治“回头看”

2022年10月13日，工业和信息化部（以下简称“工信部”）发布通报，对工信部开展的APP侵害用户权益整治“回头看”行动进行总结，工信部在该次行动中组织第三方检测机构对违规推送弹窗信息、APP过度索取权限等问题进行重点抽测，共发现38款APP存在问题，如违规推送弹窗信息、欺骗误导用户提供个人信息以及APP强制、频繁过度索取权限等。问题APP如逾期不整改或整改不到位的，工信部将依法依规处置。（[查看更多](#)）

MIIT Launches Follow-up Actions to Rectify APP Infringement on Users' Rights and Interests

On 13 October 2022, the Ministry of Industry and Information Technology (“MIIT”) circulated a notice to summarize and look back at the rectification action of the MIIT on APP infringement of users' rights and interests. In this action, the MIIT organized a third-party testing agency to conduct a selective test and found problems among 38 APP, such as illegal pushing pop-up information, deception and misleading users to provide personal information, and frequent and excessive requests for permission. If the problem APP is not rectified within the time limit or the rectification is inadequate, the MIIT will handle it according to laws and regulations. ([More](#))

杭州推行首席数据官制度获国务院肯定

2022年10月10日，据杭州市数据资源局发布，国务院对杭州试点推行的首席数据官制度予以肯定。浙江省杭州市在全市115家市直部门、市属国有企业设立首席数据官、数字专员，为数字

政府建设整体推进提供了重要人才保障。据悉，首席数据官由杭州市数字化改革领导小组全面统筹，领导小组办公室行文设立，明确杭州市数据资源局为首席数据官制度建设主管部门。首席数据官队伍由首席数据官和数字专员组成。每个单位设置首席数据官、数字专员各1名，主要负责该部门5（单位）的平台建设、项目申报建设、系统建设管理、数字资源复用、数据加工治理、数据安全、考核考评等工作等。（[查看更多](#)）

Hangzhou's Implementation of the Chief Data Officer System Has Been Affirmed by the State Council

On 10 October 2022, according to the release of the Hangzhou Data Resources Bureau, the State Council affirmed the pilot implementation of the chief data officer system in Hangzhou. Hangzhou, Zhejiang Province, has set up chief data officers and digital commissioners in 115 municipal departments and municipal state-owned enterprises, providing an important talent guarantee for the overall promotion of digital government construction. It is reported that the chief data officer is comprehensively coordinated by the Hangzhou Digital Reform Leading Group, and the office of the Leading Group is established. It is clear that Hangzhou Data Resources Bureau is the competent department for the construction of the chief data officer system. The team of chief data officers consists of chief data officers and digital commissioners. Each unit has one chief data officer and one digital commissioner, who are mainly responsible for the platform construction, project application construction, system construction management, digital resource reuse, data processing governance, data security, assessment and evaluation of the 5 (units) of the department. ([More](#))

某科技公司违反《数据安全法》被行政处罚

2022年10月13日，据上海网信办发布，其发现某科技公司在处理政务类数据时违规操作，且未采取相应的技术措施和其他必要措施保障数据安全，导致数据存在泄露风险。上海网信办依据《中华人民共和国数据安全法》对该公司责令改正，给予警告，并处以人民币五万元罚款的行政处罚。上海网信办相关负责人表示，数据安全关乎人民群众切身利益，关乎国家安全和社会稳定，上海网信办将针对数据安全保护义务履行不力，造成重要数据泄露风险的违法违规行为加强监督检查和执法，进一步营造安全稳定的网络环境。（[查看更多](#)）

A Technology Company Receives Administrative Penalty for Violating the Data Security Law

On 13 October 2022, according to the release of the Shanghai Cyberspace Administration (the "SCA"), it found that a technology company violated the rules when handling government affairs data, and did not take corresponding technical measures and other necessary measures to ensure data security, leading to the risk of data leakage. In accordance with *the Data Security Law of the People's Republic of China*, the SCA ordered the company to correct, gave a warning and imposed an administrative penalty of RMB50,000. The relevant person in charge said that data security is related to the vital interests of the people, national security and social stability. SCA will strengthen supervision, inspection and law enforcement against violations of laws and regulations that lead to the risk of important data leakage due to poor performance of data security protection obligations, and further create a safe and stable network environment. ([More](#))

深圳证监局通报：某证券公司网络安全风险管理存在漏洞

2022年10月13日，深圳证监局发布证券期货机构监管通讯（2022第5期）。据报称，辖区某证券公司因网络安全风险管理存在漏洞，导致公司OA系统遭受注入攻击影响公司移动端OA办公。深圳证监局核查发现，该公司渗透测试及漏洞修复机制不完备，网络安全监控方式和响应机制有待改进，安全防护策略有待加强。同时，该公司信息系统相关人员流动较大，多个重要信息系统运维主岗已离职，多个技术管理环节权限管理不严。要求该公司认真落实网络和信息安全工作责任。（[查看更多](#)）

Shenzhen Securities Regulatory Bureau Informs a Securities Company about the Existence of Loopholes in its Network Security Risk Management

On 13 October 2022, the Shenzhen Securities Regulatory Bureau issued the Regulatory Communication of Securities and Futures Institutions (2022 Issue 5). It said that a securities company in its jurisdiction has loopholes in network security risk management, which led to injection attacks on the company's OA system and affected the company's mobile OA office. The Shenzhen Securities Regulatory Bureau found that the company's penetration test and vulnerability repair mechanism were incomplete, the network security monitoring method and response mechanism needed to be improved, and the security protection strategy needed to be strengthened. At the same time, the company's information system related personnel flow is large, many important information system operation and maintenance main posts have resigned, and the authority management of many technical management links is lax. The company is required to earnestly implement its responsibilities for network and information security. ([More](#))

男子伙同他人非法获取公民个人信息获刑三年

2022年10月12日，据中国法院网审判信息，江西省宜春市袁州区人民法院开庭审理了一起侵犯公民个人信息案，判处被告人章某有期徒刑三年，缓刑三年，并处罚金人民币二万元。经审理查明，2020年6月，被告人章某、颜某（未到案）二人以章某出资、颜某提供技术支持的方式，成立网络工作室，并聘请易甲、易乙、刘某。易甲、易乙日常通过微信群接受各地电信营业厅工作人员为他人新开通的电话号码及短信验证码，用来注册会员账号，再由刘某操作注册的会员号领取其工作室推荐的二维码领取优惠券，并使用优惠券成功消费，赚取APP平台的推荐返现。成功后以7-9元每组手机号码及验证码的价格，当日结账给提供手机号码及验证码的营业厅工作人员。共非法获利139356元。法院认定其行为已构成侵犯公民个人信息罪。（[查看更多](#)）

A Man Was Sentenced Three Years in Prison for Violating Citizens' Personal Information

On 12 October 2022, according to the trial information on the website of China Court, the People's Court of Yuanzhou District, Yichun City, Jiangxi Province heard a case on infringement of citizens' personal information and sentenced the defendant Zhang to three years in prison with three years' probation and a fine of RMB20,000. The court found that in June 2020, the defendants Zhang and Yan (who did not appear before the court) set up a network studio by means of Zhang's investment and Yan's technical support, and hired Yi Jia, Yi Yi and Liu. Yi Jia and Yi Yi obtained through WeChat groups in a routing manner new phone numbers and SMS verification codes opened for others by the

staff of telecom business offices in various regions, which phone numbers and SMS verification codes were then been used to register member accounts. Then, by using the registered member accounts Liu would access QR codes recommended by his studio to obtain coupons, and would further use the coupons to successfully consume and earn cash back from APP platforms for his studio's recommendation services. The staff of the telecom business offices who initially provided the mobile phone number and verification code were paid a compensation of 7-9 yuan for each group of mobile phone number and verification code settled on the same day. The total illegal profit was found to be RMB139,356. The court found that Zhang's act had constituted a crime of violating citizens' personal information. ([More](#))

欧盟官方公报公布《数字市场法》

2022年10月12日，欧盟官方公报公布《数字市场法》(Digital Markets Act, 以下简称“DMA”)全文，该法案将于2023年5月2日开始适用。DMA旨在确保数字水平的竞争环境，确立事前权利并为大型在线平台（“看门人”）建立规则。DMA为作为“看门人”的大型在线平台确立了义务和禁令，这些平台将面临规则严格的合规要求，例如对于数据的使用方面，“看门人”不得未经许可，交叉或合并使用从其核心平台服务处、或从其核心平台服务上做广告的第三方处获得的个人数据以及不得在与业务用户竞争时，使用操作核心平台服务后得出的数据等内容。 ([查看更多](#))

Official Journal of the European Union Publishes *Digital Markets Act*

On 12 October 2022, the Official Journal of the European Union published the full text of the Digital Markets Act (“DMA”), which will apply from May 2, 2023. The DMA is intended to ensure a digital level playing field that establishes ex-ante rights and rules for large online platforms (“gatekeepers”). The DMA establishes far-reaching obligations and prohibitions for large online platforms that act as “gatekeepers” who will be facing stringent compliance requirements under the rules. For example, in terms of the use of data, the “gatekeeper” shall not, without permission, cross or combine the personal data obtained from its core platform services or from the third party advertising on its core platform services, and shall not use the data obtained after operating the core platform services when competing with business users. ([More](#))

美国总统拜登发布加强美国关键基础设施网络安全的情况说明书

2022年10月11日，美国总统拜登在白宫发布加强美国关键基础设施网络安全的情况说明书（以下简称“情况说明书”），并宣布将“不懈关注”国家关键基础设施防御的改善，建立一个全面的方法来“锁定美国的数字大门”，其中包括改善关键基础设施的网络安全；确保新基础设施的智能与安全；加强联邦政府的网络安全要求并通过联邦政府的采购行为提高安全标准；打击勒索软件攻击；与盟友和合作伙伴合作，提供更安全的网络空间等。 ([查看更多](#))

Biden-Harris Administration Delivers on Strengthening America's Cybersecurity

On 11 October 2022, Biden-Harris Administration Delivers on Strengthening America's Cybersecurity and brought a relentless focus to improving the United States' cyber defenses, building a comprehensive approach to “lock our digital doors” and take aggressive action to strengthen and safeguard our nation's cybersecurity, including improving the cybersecurity of our critical infrastructure; ensur-

ing new infrastructure is smart and secure; strengthening the Federal Government's cybersecurity requirements, and raising the bar through the purchasing power of government; countering ransomware attacks to protect Americans online; working with allies and partners to deliver a more secure cyberspace, etc. ([More](#))

铁路巨头BNSF被判违反伊利诺伊州生物识别信息隐私法

2022年10月12日，美国芝加哥地区法院的一个陪审团向对铁路巨头BNSF提起集体诉讼的卡车司机们作出了2.28亿美元的判决。BNSF被认定违反了伊利诺伊州的生物识别隐私法，侵犯了约45,000位卡车司机的隐私。该州法律规定，可以收集虹膜扫描、指纹、声纹、面部几何学扫描，但必须获得书面同意。根据Honigman LLP律师事务所提供的新闻稿，Rogers诉BNSF铁路公司案指控BNSF使用指纹系统，才能允许司机进入堆场取货和卸货，但没有获得符合伊利诺伊州生物识别隐私法案要求的司机的书面同意。陪审团认定BNSF违反了生物识别隐私法45,600次，并作出了2.28亿美元的裁决，对每次违法行为处以最高5,000美元的罚款。 ([查看更多](#))

Jury Finds BNSF Railway Guilty of Violating Illinois Biometric Privacy Act

On 12 October 2022, in U.S. District Court in Chicago, a jury awarded a \$228 million verdict to the truck drivers who filed a class-action suit. BNSF was found guilty of violating Illinois the Biometric Privacy Act (BIPA), violating the privacy of 45,000 drivers. The state law basically says you can collect iris scans, fingerprints, voiceprints, facial geometry scans, but you have to get written consent to do so. The Rogers v. BNSF Railway Company lawsuit accused BNSF of using a fingerprint system that allowed drivers to access railyards for pickups and drop-offs but did not obtain written consent from drivers that complied with BIPA requirements, according to a news release from the law firm Honigman LLP. The jury determined BNSF violated BIPA 45,600 times and entered a verdict of \$228 million – awarding the maximum of a \$5,000 penalty per occurrence. ([More](#))

Shein因服务商的数据泄露被处罚190万美元

2022年10月13日，据悉，快时尚品牌Shein和Romwe背后的公司将向纽约州支付190万美元，缘由是数据泄露事件影响了数以百万计的客户。该罚款源于对Zoetop公司的指控，即该公司未能保护客户的数据，没有适当地通知客户数据泄露，并试图对泄露的严重程度保持沉默。罚款是在司法部长办公室对2018年的一次黑客攻击进行调查后作出的，在这次攻击事件中信用卡和个人信息，如姓名、电子邮件和哈希密码被盗。该数据泄露事件影响了3900万Shein和700万Romwe账户，包括纽约州居民拥有的80多万个账户。 ([查看更多](#))

Shein Was Fined 1.9 Million Dollars for Data Leakage of the Service Provider

On 13 October 2022, the company behind ultra fast fashion brands Shein and Romwe will pay New York state \$1.9 million over a data breach affecting millions of customers. The fine stems from charges that Zoetop failed to secure customers' data, didn't properly inform customers of a data breach, and tried to keep the extent of the leak quiet. The penalty comes after an investigation by the Office of the Attorney General into a 2018 hack in which credit card and personal information, like

names, emails, and hashed passwords, was stolen. The data breach affected 39 million Shein and 7 million Romwe accounts, including more than 800,000 accounts belonging to New Yorkers. ([More](#))

知识产权 Intellectual Property

Vfine与网易云音乐云村交易所达成版权合作

10月13日，商用音乐服务商Vfine Music与网易云音乐旗下的版权服务平台“云村交易所”达成版权合作。网易将通过Vfine为企业及个人用户提供网易云音乐优质内容，与Vfine一起打造正版智能的互联网音乐产业，双向赋能共建互联网音乐新生态。

来源：VFine黑板报

Vfine and Netease Cloud Music Cloud Village Exchange Reached Copyright Cooperation

On October 13, the commercial music service provider Vfine Music reached copyright cooperation with the copyright service platform "Cloud Village Exchange" under Netease Cloud Music. Netease will provide enterprises and individual users with high-quality content of Netease cloud music through VFINE, and together with Vfine, build a genuine and intelligent Internet music industry to build a new Internet music ecology.

Source: VFine

最高院：侵害信息网络传播权案件管辖不适用被侵权人（原告）住所地

2022年8月22日，最高人民法院作出（2022）最高法民辖42号民事裁定书，最高法认为，原告住所地法院对侵害作品信息网络传播权纠纷案件没有管辖权。针对信息网络传播权这一特定类型的民事权利，有关侵权案件的管辖应适用《最高人民法院关于审理侵害信息网络传播权民事纠纷案件适用法律若干问题的规定》（以下简称《信息网络传播权规定》）第十五条的特殊规定，不适用《最高人民法院关于适用〈中华人民共和国民事诉讼法〉的解释》（以下简称《民事诉讼法解释》）第二十五条的规定。

最高院认为《民事诉讼法解释》第二十五条规定中的“信息网络侵权行为”针对的是发生在信息网络环境下，通过信息网络实施的侵权行为，并未限于特定类型的民事权利或者权益。而《信息网络传播权规定》第十五条针对的是信息网络传播权这一特定类型的民事权利，是规范侵害信息网络传播权纠纷这一类民事案件管辖的特别规定。在确定侵害信息网络传播权民事纠纷案件的管辖时，应当以《信息网络传播权规定》第十五条为依据。另外，基于信息网络传播权的性质和特点，侵害信息网络传播权的行为一旦发生，随之导致“公众可以在其个人选定的时间和地点获得作品”，其侵权结果涉及的地域范围具有随机性、广泛性，不是一个固定的地点，不宜作为确定管辖的依据。

来源：最高人民法院

SPC Clarified That the Jurisdiction over Cases of Infringement upon Rights to Network Dissemination of Information does not Apply to the Domicile of the Infringed Party (the Plaintiff)

On August 22, 2022, the Supreme People's Court (SPC) issued the (2022) Supreme People's Jurisdiction No. 42 Civil Ruling. SPC held that the court where the plaintiff is domiciled has no jurisdiction over the case of infringement of the right to network dissemination of work information. With regard to the right of information network communication, which is a specific type of civil right, the special provisions of Article 15 of the *Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law to Trial of Civil Dispute Cases of Infringement upon Information Network Transmission Rights* (the Provisions on the Right of Information Network Transmission) shall apply to the jurisdiction of infringement cases, Article 25 of the *Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China* (the Interpretation of the Civil Procedure Law) shall not apply.

SPC holds that the "information network infringement" in Article 25 of the Interpretation of the Civil Procedure Law is aimed at the infringement that occurs in the information network environment, and is implemented through the information network, and is not limited to specific types of civil rights or interests. Article 15 of the Provisions on the Right of Information Network Transmission aims at the right of information network communication, which is a specific type of civil right, and it is a special provision to regulate the jurisdiction of such civil cases as infringement of the right of information network communication.

In determining the jurisdiction of civil disputes over infringement of the right of information network communication, Article 15 of the Provisions on the Right of Information Network Transmission shall be the basis, otherwise, if the public can obtain works at the time and place selected by themselves, the geographical scope involved in the infringement results will be random, resulting in regulation of jurisdiction meaningless.

Source: SPC

法院认定无印良品不构成反向混淆

近日，上海知识产权法院就北京棉田纺织品有限公司（原告）与无印良品（上海）商业有限公司（被告）侵害“无印良品”商标权一案作出二审判决，维持原判，认定无印良品不构成侵害原告注册商标专用权。

原告在第24类商品上注册了第1561046号“无印良品”商标、第7494239号“无印良品”商标、第14130423号“無印良品”商标。

原告主张被告在网购商品邮寄包裹袋上使用“MUJI無印良品”（上下）标识字样；官网商城购物明细单左上角使用“MUJI無印良品”（上下）标识字样、反面抬头使用“无印良品”字样；官网商城网页首部或其他显著位置使用“MUJI無印良品”标识字样等行为侵害了其商标权。要求被告无印良品公司赔偿经济损失人民币300万元，以及为制止侵权支付的合理费用合计75080元。

法院认为，正是基于被告在对其品牌的运营过程中，一直持续将“無印良品”“MUJI”及其结合的标识使用于其提供的杂货商品零售服务上，从而使得相关公众已经将该标识与被告及其母公司良品计画之间建立起稳定的对应关系，即普通消费者在被告开设的“無印良品”专卖店或网上店铺中购买涉及第24类商品时，不会误认为该商品来源于原告。

此外，对于被告在被告侵权商品上使用“无印良品MUJI”的行为，是否构成反向混淆，法院认为，被告销售的第24类商品上使用其自有“MUJI”商标，未使用被告侵权标识，被告的使用方式已合理避让原告的“无印良品”注册商标的权利边界，因此，该行为不构成反向混淆。

来源：[上海知识产权法院](#)

Shanghai IP Court Clarified That MUJI Does Not Constitute Reverse Confusion

Recently, Shanghai Intellectual Property Court (Shanghai IP Court) issued its judgment of second instance on the infringement of the "无印良品 (MUJI in Chinese)" trademark, upholding the judgment of first instance and holding that the defendant, Japan MUJI, does not constitute infringement on the plaintiff's exclusive right to use the registered trademark.

The court held that it was on the basis of the defendant's continuous use of "MUJI" and its combined logo in its grocery retail services during the operation of its brand, that the relevant public had established a stable correspondence between the logo and the defendant's and its parent company. That is, when consumers buy Class 24 goods in the "MUJI" franchise store or online store opened by the defendant, they will not be misled that the products came from the plaintiff. In addition, as for whether the defendant's use of "MUJI" on the alleged infringing products constituted reverse confusion, the court held that the defendant used its own "MUJI" trademark on the Class 24 goods sold by the defendant, but did not use the alleged infringing logo. The defendant's way of use had reasonably avoided the plaintiff's right boundary of "MUJI" registered trademark. Therefore, this act did not constitute reverse confusion.

Source: [Shanghai IP Court](#)

在鞋子上使用与VANS条纹商标近似的标识构成商标侵权

上海知识产权法院就范斯公司 (VANS, INC.) 与薛盛博、上海寻梦信息技术有限公司 (被告) 侵害商标权纠纷一案作出判决，认定被告在鞋子上使用与原告商标近似的标识构成商标侵权，责令赔偿原告经济损失及合理开支共100万元。

关于被告主张其使用被控侵权标识不属于商标性使用，且被控侵权标识与原告主张权利的涉案注册商标不近似，二审法院认同一审法院对于商标侵权的认定意见：涉案店铺商品描述以及商品外观处使用的被控侵权标识起到了识别商品来源的作用，属于商标使用，被控侵权标识与权利商标构成近似，易使相关公众对商品来源产生混淆误认，构成商标侵权。

来源：[上海知识产权法院](#)

Using a Logo Similar to the VANS Stripe Mark on Shoes Constitutes Trademark Infringement

Shanghai IP Court has made a judgment on a trademark dispute case, holding that the defendant's use of a logo similar to the plaintiff's trademark on the defendant's shoes constitutes trademark infringement, and ordered the defendant to pay the damages of RMB 1 million.

With regard to the defendant's claim that the use of the infringing logo is trademark use, and that the infringing logo is not similar to the registered trademark of the plaintiff's, the court held that the description of products in the shop and the infringement marks used in the appearance of products play a role in identifying the source of products, which is trademark use. The infringement marks are similar to the right trademarks, which leads to confusion of the relevant public, constituting trademark infringement.

Source: Shanghai IP Court

最高院：在被诉侵权产品上贴附商标的侵权人应承担制造者的责任

最高人民法院就赵志谋（原告）与东莞市凤瑞电子科技有限公司、佛山莱恩斯电子商务有限公司、北京京东叁佰陆拾度电子商务有限公司（被告）侵害发明专利权纠纷案作出判决，责令被告停止制造、销售侵害涉案专利的产品并赔偿原告经济损失。

法院认为，虽然被诉侵权产品实际由凤瑞公司制造，但莱恩斯公司在该被诉侵权产品上贴附了自己的商标，其行为性质与普通的销售者的销售行为相较产生了实质变化，应当承担制造者的责任。在被诉侵权产品上贴附了自己商标的侵权人，即使仅实施了销售行为而并未实施实际制造行为，亦应当承担制造者的责任。

来源：最高人民法院

SPC Clarified That Trademark Owner of the Trademark on the Infringing Product Shall Bear the Liability of Manufacturer

SPC made a judgment in the invention patent infringement dispute case, ordering the defendant to stop producing and selling the products infringing the patent and to pay the damages.

The court held that although the infringing product was actually produced by one of the defendants, and the other defendant attached its own trademark to the infringing product. The nature of the defendant's behavior has changed substantially compared with the sales behavior of ordinary sellers, and the defendant shall bear the liability of the manufacturer. The trademark owner of the trademark on the infringing product shall bear the liability of the manufacturer even if he has only carried out the sales act but not the actual manufacturing act.

Source: SPC

最高院：专利权人可以依据修改后的权利要求主张权利

最高人民法院就赵志谋（原告）与郑州邦米智能技术有限公司、郑州邦浩电子科技有限公司、湖北佩蒂贸易有限公司、北京京东叁佰陆拾度电子商务有限公司（被告）侵害发明专利权纠纷案作出判决，维持原判，责令被告停止制造、销售侵权产品。

被告称被诉侵权行为发生期间，原告据以主张的修改后的权利要求尚不存在，更未生效，因此被告的行为不构成侵权。法院认为，专利确权制度赋予专利权人以“对权利要求的进一步限定”的方式修改权利要求的权利，当国家知识产权局基于该修改后的权利要求维持专利权有效时，因修改后的专利权利要求的保护范围事实上进行了限缩，并未额外增加社会公众原本应当负担的避让义务，在此情况下，未经许可实施该修改后权利要求技术方案的行为，亦当然构成对涉案专利权的侵害。

来源：最高人民法院

SPC Ruled That the Patentee Can Claim Based on the Amended Claims of the Patent

SPC made a judgment on a dispute over infringement of the patent right for invention, upholding the original judgment, and ordered the defendant to stop producing and selling infringing products.

According to the defendant, during the period of the alleged infringement, the amended claims claimed by the plaintiff did not exist or become effective, so the defendant's act did not constitute infringement. The court held that the patent affirmation system entitles the patentee the right to amend the claims in the way of "further limiting the claims". When the CNIPA maintains the validity of the patent right based on such amended claims, the protection scope of the amended claims is limited in fact, and the avoidance obligation that the public shall bear is not increased. The act of implementing the technical solution of the amended claims without authorization certainly constitutes infringement of the patent right.

Source: SPC

世贸组织总干事敦促瑞士同意豁免新冠疫苗及疗法专利

2022年10月15日，世界贸易组织（WTO）总干事恩戈齐·奥孔乔-伊维拉在接受《瑞士时报》（Le Temps）的采访时敦促瑞士同意对新冠有关的治疗和诊断方法实行专利豁免。她承认，由于制药业对瑞士经济的重要性，瑞士方面批准第一份协议“并不容易”。化学和制药业约占瑞士年度出口的50%和GDP总量的5%。

伊维拉称，为了结束“道德上不可接受的”获取新冠疫苗的不平等现象，有必要批准这项专利豁免。今年6月，世贸组织《与贸易有关的知识产权协议》（TRIPS）会议达成意向协议，将在未来5年里授予发展中国家生产新冠疫苗的强制许可，这意味着这些国家能以较低的成本生产非专利疫苗，但必须对制药公司提供经济补偿。

世贸组织目前正在审议印度和南非关于放弃新冠疗法和疫苗的专利权的建议。在10月12日举行的世贸组织TRIPS会议上，伊维拉敦促成员们把重点放在具体建议上，以争取在12月17日的最后期限前达成协议。

来源：界面新闻

WTO Director General Urges Switzerland to Agree to Exempt the Patent of COVID-19 Vaccine and Therapy

On October 15, 2022, the Director General of the World Trade Organization (WTO), Ngozi Okonjo Ivera, in an interview with the Le Temps, urged Switzerland to agree to grant patent exemption for the treatment and diagnostic methods related to COVID-19. She acknowledged that due to the importance of the pharmaceutical industry to the Swiss economy, it was "not easy" for Switzerland to ratify the first agreement. The chemical and pharmaceutical industries account for about 50% of Switzerland's annual exports and 5% of its GDP.

Ivera said that in order to end the "morally unacceptable" inequality in access to the COVID-19 vaccine, it is necessary to approve the patent exemption. In June this year, the WTO's TRIPS meeting reached an agreement of intent, which will grant developing countries a compulsory license to produce COVID-19 vaccine in the next five years. This means that these countries can produce generic vaccines at a lower cost, but they must provide economic compensation to pharmaceutical companies.

WTO is currently considering the proposal of India and South Africa to waive the patent rights of COVID-19 therapy and vaccine. At the WTO TRIPS meeting held on October 12, Ivera urged members to focus on specific proposals in order to reach an agreement before the deadline of December 17.

Source: [Jiemian.com](https://www.jiemian.com)

InterDigital与苹果续签专利许可协议

2022年10月3日，美国移动和视频技术研究公司InterDigital宣布，它已与一家大型科技公司签订专利许可协议。在向美国证券交易委员会披露的经常性报告中，InterDigital披露了在9月30日与苹果公司达成了续签协议，双方签订了一个长达七年的每年约1.34亿美元许可费的合约。双方上一次签约是在2016年，当时InterDigital与苹果签订了一份多年期、含版税、全球性和非排他性专利许可协议。与此同时，InterDigital披露了2022年第三季度总收入将在1.12亿美元至1.15亿美元之间，高于之前的预期9600万美元至1亿美元。

来源: [InterDigital](https://www.interdigital.com)

InterDigital Renews its Patent License Agreement with Apple

On October 3, 2022, InterDigital, an American mobile and video technology research company, announced that it had signed a patent license agreement with a large technology company. In the regular report disclosed to the Securities and Exchange Commission of the United States, InterDigital disclosed that it reached a renewal agreement with Apple on September 30, and the two parties signed a seven-year license fee contract of about USD134 million annually. The last signing between the parties was in 2016 when InterDigital entered into a multi-year, royalty-bearing, worldwide, non-exclusive patent license agreement with Apple. In addition, InterDigital announced that it expects third quarter 2022 total revenue to be between USD112 million and USD115 million, up from its previous expectations of USD96 million to USD100 million.

Source: [InterDigital](https://www.interdigital.com)

Medit赢得3Shape提起的四项连续专利诉讼

Medit Corp. (Medit) 是一家全球3D扫描解决方案提供商，已成功应对丹麦竞争对手3 Shape A/S (3 Shape) 在德国提起的四起专利侵权诉讼。在过去的3年中，3 Shape积极地应对 Medit提起

的基于四项专利（EP2,568,870、EP2,400,919、EP2,732,434、EP3,401,876）的专利侵权诉讼。然而，德国法院现在就所有专利诉讼作出了有利于 Medit 的结论。此外，德国法院宣布这四项专利中的一项无效。

来源：[PR Newswire](#)

Medit wins four consecutive patent lawsuits against 3Shape

Medit Corp. (Medit), a global provider of 3D scanning solutions, has successfully defended against four separate patent infringement actions filed in Germany by a Danish competitor, 3Shape A/S (3Shape). Over the past 3 years, 3Shape has aggressively pursued patent infringement actions against Medit based on four patents (EP 2,568,870; EP 2,400,919; EP 2,732,434; EP 3,401,876). However, all four patent lawsuits have now been concluded in Medit's favor by German courts. Moreover, 1 of the 4 patents were invalidated by German courts.

Source: [PR Newswire](#)

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