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立方竞争法周报 Weekly Competition Law News

最高法发布2023年反垄断和反不正当竞争典型案例

2023年9月14日，最高人民法院（最高法）发布2023年人民法院反垄断和反不正当竞争典型案例。本次共发布10件典型案例，包括5件反垄断典型案例和5件反不正当竞争典型案例。5件反垄断典型案例中，3件滥用市场支配地位类案件涉及不公平高价、限定交易、附加不合理交易条件、拒绝交易等4种类型的滥用行为，2件垄断协议类案件分别涉及纵向协议和横向协议。案件涉及医药、殡葬、汽车销售和建材等行业，均与民生息息相关。（[查看更多](#)）

SPC Releases 2023 Typical Cases of Anti-Monopoly and Anti-Unfair Competition

On September 14, 2023, the Supreme People's Court (SPC) releases the 2023 People's Court Typical Anti-Monopoly and Anti-Unfair Competition Cases. A total of 10 typical cases were released, including 5 typical anti-monopoly cases and 5 typical anti-unfair competition cases. Among the 5 typical anti-monopoly cases, 3 abuse of dominant market position cases involve 4 types of abusive behaviours such as unfairly high prices, limiting transactions, attaching unreasonable conditions of transactions, and refusing to deal, etc., and 2 monopoly agreement cases involve vertical agreements and horizontal agreements respectively. The cases involve industries such as medicine, funeral, car sales and building materials, all of which are closely related to people's livelihoods. ([More](#))

新巨丰包装获得市场监管总局批准收购纷美包装

2023年9月14日，据山东新巨丰科技包装股份有限公司（“新巨丰包装”）公告披露，国家市场监督管理总局（“市场监管总局”）决定对本次收购交易涉及的经营集中事项不予禁止，允许实施集中。新巨丰包装拟以协议转让方式收购JSH Venture Holdings Limited持有的纷美包装有限公司（“纷美包装”）28.22%股份。2023年7月4日，新巨丰包装收到市场监管总局的提示函，建议进行经营集中申报；7月19日，新巨丰包装收到经营集中申报受理通知书；8月16日，新巨丰包装收到实施进一步审查的决定书；9月14日，新巨丰包装收到《经营者集中反垄断审查不予禁止决定书》，允许其实施集中。（[查看更多](#)）

NEWJF Obtains Approval from SAMR to Acquire Greatview Packaging

On September 14, 2023, Shandong NEWJF Technology Packaging Co., Ltd. (“NEWJF”) discloses that the State Administration for Market Regulation (SAMR) has decided not to prohibit the concentration of undertakings involved in this acquisition transaction and allowed the implementation of the concentration. NEWJF proposed to acquire 28.22% equity interest of its competitor Greatview Aseptic Packaging Company Limited (“Greatview”), held by JSH Venture Holdings Limited. On July 4, 2023, NEWJF received a reminder letter from the SAMR suggesting that a declaration of concentration of undertakings be carried out; on July 19, NEWJF received a notification of acceptance of the declaration of concentration of undertakings; on August 16, NEWJF received a decision letter for the implementation of further review; and on September 14, NEWJF received the Decision on Non-prohibition of Antitrust Review of Concentration of Undertakings, which allowed it to implement the concentration. ([More](#))

市场监管总局发布三起垄断协议系列案件行政处罚决定

2023年9月12日，市场监管总局发布了由北京市、江苏省、贵州省三地市场监督管理局（“市局”）作出的行政处罚决定，三起案件的当事人分别为北京市围棋协会和8家会员单位、南京市10家瓶装液化气经营企业和贵州省4家混凝土生产企业。涉案行为分别为2021年8月17日至2022年3月1日就围棋业余段、级位赛赛事服务费和证书服务费达成并实施横向垄断协议，实施固定或者变更商品价格的行为；2018年8月9日至2021年1月11日就液化石油气销售价格和客户报备事宜达成并实施横向垄断协议，实施固定或者变更商品价格的行为；2016年11月29日至2021年12月31日就生产销售商品混凝土达成并实施横向垄断协议，实施固定或者变更商品价格、分割销售市场的行为，三地市局对涉案当事人分别以立案调查上一年度的销售额为基础，处以2%-5%不等的罚款，罚款总额分别为16.6万元、827万元、600万元罚款。（[查看更多](#)）

SAMR Issues Administrative Penalty Decisions on Three Cases of Monopoly Agreements

On 12 September 2023, the SAMR issues administrative penalty decisions issued by the Administration for Market Regulation (“AMR”) of Beijing, Jiangsu and Guizhou Provinces, in three cases involving the Beijing Weiqi Association and eight member units, 10 bottled liquefied petroleum gas (“LPG”) operating enterprises in Nanjing, and four Guizhou Province concrete production enterprises. The acts involved were reaching and implementing horizontal monopoly agreements from August 17, 2021 to March 1, 2022 on tournament service fees and certificate service fees for Weiqi amateur segment and rank tournaments, and implementing acts of fixing or changing the price of commodities; reaching and implementing horizontal monopoly agreements from August 9, 2018 to January 11, 2021 on the sales price of liquefied petroleum gas and customer reporting matters, and implementing acts of fixing or changing commodity prices; and from November 29, 2016 to December 31, 2021, reaching and implementing a horizontal monopoly agreement in relation to the production and sale of commercial concrete, and implementing the fixing or changing of commodity prices and the division of the sales market, the three local AMRs imposed fines on the parties involved ranging from 2% to 5% based on the sales of the year prior to the opening of the case for investigation, with the total amount of fines amounting respectively to CYN 166,000, CYN 8.27 million, CYN 6 million fine. ([More](#))

江浙沪皖签署公平竞争政策一体化推进合作协议

2023年9月12日，上海、江苏、浙江、安徽省监局负责人共同签署长三角地区公平竞争政策一体化推进合作协议（“合作协议”）。合作协议明确了加强公平竞争审查制度实施协同、经营者集中审查区域化合作、反垄断反不正当竞争执法协作、竞争倡导工作整体性推进等4个方面14项合作内容。在经营者集中审查方面，合作协议强调开展经营者集中协同预警，加强经营者集中联合培训，注重经营者集中协作配合，共同助力长三角地区企业依法做大做强。在反垄断反不正当竞争执法方面，合作协议强调开展重点领域联合执法与复杂问题联合攻关，开展必要线索共享互通与关键环节互助互认，共同打造长三角地区公平竞争市场环境。（[查看更多](#)）

Jiangsu, Zhejiang, Shanghai and Anhui Sign Cooperation Agreement on Integration and Promotion of Fair Competition Policy

On 12 September 2023, the heads of the municipal AMR of Shanghai, Jiangsu, Zhejiang and Anhui signed the Cooperation Agreement on Integration and Promotion of Fair Competition Policy in the Yangtze River Delta Region (“Cooperation Agreement”). The Cooperation Agreement specifies 14 items of cooperation in four areas, including strengthening the synergy of the implementation of the fair competition review system, regionalised cooperation in the review of the concentration of undertakings, cooperation in the enforcement of anti-monopoly and anti-unfair competition, and holistic promotion of competition advocacy work. In the area of review of concentration of undertakings, the cooperation agreement emphasises the development of coordinated early warning, strengthening of joint training, focusing on collaboration and cooperation and jointly assisting enterprises in the Yangtze River Delta region to become bigger and stronger in accordance with the law. In terms of anti-monopoly and anti-unfair competition law enforcement, the cooperation agreement emphasises the development of joint law enforcement in key areas and joint research on complex issues, the sharing of necessary clues and mutual recognition of key links, so as to jointly build a fair and competitive market environment in the Yangtze River Delta region. ([More](#))

市场监管总局发布《经营者集中反垄断合规指引》

2023年9月11日，市场监管总局发布《经营者集中反垄断合规指引》（“《指引》”）。《指引》共分6章35条，分别为总则、经营者集中审查主要规定、重点合规风险、合规风险管理、合规管理保障和附则。《指引》是国务院反垄断委员会发布的《经营者反垄断合规指南》在经营者集中领域的专项指引。经营者可以根据经营规模、管理模式、集中频次、合规体系等自身情况，参照本指引建立经营者集中反垄断合规管理制度，或者将本指引有关经营者集中合规要素纳入经营者现有反垄断合规管理制度。（[查看更多](#)）

SAMR Issues *Guidelines on Anti-Monopoly Compliance on Concentration of Undertakings*

On 11 September 2023, the SAMR issues the *Guidelines on Anti-Monopoly Compliance on Concentration of Undertakings* (“*Guidelines*”). The *Guidelines* are divided into 6 chapters and 35 articles, which are General Provisions, Main Provisions for Review of Concentration of Undertakings, Key Compliance Risks, Compliance Risk Management, Compliance Management Safeguards and Supplementary Provisions. The *Guidelines* is a specialised guidelines issued by the Antimonopoly Committee of the State Council in the area of concentration of undertakings. Undertakings may establish an anti-trust compliance management system for concentration of undertakings with reference to the *Guidelines* in accordance with their own circumstances such as scale of operation, management mode, frequency of concentration, compliance system, etc., or incorporate the relevant elements of the *Guidelines* on compliance with concentration of Undertakings into the existing antitrust compliance management system of the Undertakings. ([More](#))

ACCC拒绝批准澳航与东航之间的协调行为

2023年9月15日，澳洲竞争与消费者委员会（ACCC）发布决定草案，提议拒绝批准澳洲航空有

限公司（“澳航”）和中国东方航空股份有限公司及其相关实体（“东航”）对澳洲与中国大陆之间航线运营的协调行为。澳航和东航正在请求ACCC批准延长协调协议，允许它们在2024年3月底之前协调澳洲和中国之间的客运和货运业务。ACCC担忧批准协调行为将会增加澳航和东航提供提高价格的机会和动力，限制或推迟悉尼到上海间航线上引入新的运力。此前因新冠疫情的特殊情况及其对旅行的相关影响，ACCC曾于2021年无条件批准该协调行为，并于2023年3月30日再次授予临时批准。目前ACCC正在等待当事人于2023年10月6日之前提交针对该决定草案的意见，并在此基础上作出最终决定。（[查看更多](#)）

ACCC Proposes to Deny Coordination between Qantas and China Eastern

On September 15, 2023, the Australian Competition & Consumer Commission (ACCC) issues a draft determination proposing to deny authorisation for Qantas Airways Ltd and China Eastern Airlines Corporation Limited and their related entities (including Jetstar) to continue coordinating operations between Australia and mainland China. Qantas and China Eastern are seeking authorisation for an Extended Joint Coordination Agreement that enables them to coordinate passenger and cargo transport operations between Australia and China until the end of March 2024. The ACCC is concerned that the authorisation would provide Qantas and China Eastern with the opportunity and incentive to increase prices, compared to what they would charge absent the alliance, by limiting or delaying the introduction of additional capacity on the Sydney-Shanghai route. The ACCC previously authorised this alliance in 2021 without conditions due to the exceptional circumstances related to the COVID-19 pandemic and its associated effects on travel and on 30 March 2023, the ACCC granted interim authorisation to enable Qantas and China Eastern. The ACCC is seeking submissions in response to the draft determination by 6 October 2023, before making its final decision. ([More](#))

FTC警告品牌药制药公司在橙皮书中不当列出专利可能面临诉讼

2023年9月14日，联邦贸易委员会（FTC）在美国食品和药物管理局（FDA）的支持下发布了政策声明，警告生产和销售品牌药的制药公司在FDA的《经过治疗等效性评价批准的药品》（“橙皮书”）中不当列出专利可能面临诉讼。橙皮书是FDA批准的安全有效的药品清单。当一家品牌药制药公司在橙皮书中列出一项专利时，可能会导致法定中止，在长达30个月的时间内阻止竞争药品的上市，包括成本较低的仿制药替代品。根据政策声明，在橙皮书中不当列出专利可能会损害来自价格较低的仿制药替代品的竞争，并人为地抬高价格。FTC将严格审查橙皮书中的不当专利列表，将其视为潜在的不公平竞争方法，并利用包括反垄断诉讼在内的多种手段来制止导致药品价格上涨的非法商业行为。（[查看更多](#)）

FTC Warns Brand Pharmaceutical Manufacturers' Improper Listing of Patents in 'Orange Book' May Lead to Legal Action

On September 14, 2023, The Federal Trade Commission (FTC) today issued a policy statement, supported by the U.S. Food and Drug Administration (FDA), warning pharmaceutical companies that make and sell brand-name drugs that they could face legal action if they improperly list patents in the FDA's catalog of "Approved Drug Products with Therapeutic Equivalence Evaluations," ("Orange Book"). The FDA's Orange Book is a list of drug products approved by the agency as safe and effective. When

a brand pharmaceutical company lists a patent in the Orange Book it may lead to a statutory stay that blocks the introduction of competing drug products for up to 30 months, including lower-cost generic alternatives. Improperly listing patents in the Orange Book may harm competition from less expensive generic alternatives and keep prices artificially high. The FTC will scrutinize improper Orange Book patent listings as potential unfair methods of competition in violation of Section 5 of the FTC Act and use all its tools to halt unlawful business practices that contribute to high drug prices, including using the FDA's regulatory process for disputing a brand company's patent listing and potentially pursuing relief under the antitrust laws. ([More](#))

电子巨头LG因操纵价格遭荷兰反垄断监管机构罚款800万欧元

2023年9月12日，荷兰消费者和市场管理局（ACM）宣布对电子巨头LG非法操纵价格行为处以800万欧元的罚款。据调查，在2015年到2018年间，LG与7家大型零售商就电视机的在线价格达成了协议。LG通过提出“价格建议”的方式，协调零售商将价格提高到LG建议的价格，这直接影响了零售商之间的竞争，导致价格上涨。此外，LG还积极阻止零售商进行特价广告和降低价格。由于消费者保护建立在公平竞争和道德贸易（ethical trading）的原则之上，因此ACM对LG的处罚可以为荷兰其他企业树立榜样，确保消费者能够从开放透明的市场中受益，惩罚不道德的贸易行为。（[查看更多](#)）

Electronics Giant LG Fined 8 Million Euros in Netherlands for Price-Fixing

On September 12, 2023, according to the media, the Netherlands Authority for Consumers and Markets (ACM) announces a hefty fine of 8 million euros on electronics giant LG for allegedly engaging in illegal price-fixing of television sets through a scheme with seven major retailers. LG was abiding by agreements reached between 2015 and 2018 regarding online prices for their products, which directly impacted competition between retailers. This regulation resulted in higher prices for the consumer as retailers were not able to set their own prices, and LG actively discouraged them from advertising specials and lowering prices. The penalty on LG is meant to serve as an example for other businesses across the Netherlands, as consumer protection rests on principles of fair competition and ethical trading. ([More](#))

美国大型货运列车公司西屋制动面临Progress Rail提起的反垄断诉讼

2023年9月10日，据媒体报道，美国大型货运列车公司西屋制动（Westinghouse Air Brake Technologies Corporation）正面临竞争对手Progress Rail的反垄断指控。Progress Rail是卡特彼勒（Caterpillar Inc.）旗下的铁路公司，其指控西屋制动有排他性交易和其他反竞争行为，并要求其剥离在一年多前以110亿美元交易购买的通用电气（General Electric Company）交通部门。2019年，西屋制动和通用电气两家公司的合并经过美国司法部（DOJ）审查并批准，西屋制动承诺继续保持机车驾驶室电子设备和其他产品的市场开放。Progress Rail声称西屋制动违反了这项承诺，给消费者带来了更多成本，影响了消费者的安全和自然环境，因此Progress Rail要求美国反垄断法上的三倍赔偿，并要求西屋制动出售通用电气交通部门。（[查看更多](#)）

Major Freight Train Company Westinghouse Air Brake Hit with Antitrust Suit from Rival Progress Rail

On September 10, 2023, according to the media, Westinghouse Air Brake (Westinghouse Air Brake Technologies), a major freight train company, is hit with a lawsuit from a rival manufacturer Progress Rail, a railway division of Caterpillar (CAT. N), they are challenging what they allege are Westinghouse Air Brake's "exclusionary" deals and other anticompetitive behaviours, requesting it to divest the GE Transportation Unit that they bought over a year ago in an \$11 billion deal. In 2019, the U.S. Justice Department reviewed the deal but decided to not take any action to block the merger and the two companies signed an 'interchangeability agreement' in which Westinghouse Air Brake committed to continue an open marketplace for locomotive cab electronics and other products. Progress Rail claims Westinghouse Air Brake is breaking the agreement and alleges this is costing consumers more and affecting their safety and the environment. To ensure this, they are seeking triple damages under U.S. antitrust laws as well as a court order forcing Westinghouse to sell off the GE transportation unit. ([More](#))

谷歌在线搜索业务面临数十年来最大的反垄断审判

2023年9月10日，据媒体报道，针对谷歌（Google LLC）的反垄断审判将在9月12日开庭审理。美国司法部（DOJ）指控这家科技巨头在在线搜索领域垄断经营，并利用其垄断地位限制竞争、扼杀创新并侵犯用户隐私。谷歌否认这些指控，声称在线市场存在激烈竞争且市场主体不断追求创新。审判预计将耗时约四个月，其关注重点将在谷歌与其合作伙伴（如Mozilla、苹果等其他公司）之间的协议。此案标志着DOJ反垄断执法机构第三次针对技术垄断提起诉讼（第一次针对IBM，时间为1969-1982；第二次针对微软，时间为1998-2002），专家称相关诉讼是自20世纪90年代美国政府起诉微软以来该国最大的垄断案件。这场审判不仅将决定谷歌在线搜索业务的命运，还将成为拜登政府反垄断议程的风向标，并对整个科技行业产生重大影响。（[查看更多](#)）

Google's Online Search Business Faces Biggest U.S. Antitrust Trial in Decades

On September 10, 2023, according to the media, the antitrust trial against Google (Google LLC) will begin on September 12. The US Department of Justice (DOJ) has accused the tech giant of operating a monopoly in online search and using its monopoly power to restrict competition, stifle innovation and violate user privacy. Google denies these allegations, claiming that there is fierce competition in the online market and a relentless drive to innovate. The trial, which is expected to take about four months, will focus on agreements between Google and its partners, such as Mozilla, Apple and others. While this case marks the third time the DOJ's antitrust enforcers have taken on a tech monopoly (IBM 1969-1982; Microsoft 1998-2002), and experts say the lawsuit is the largest monopoly case in the country since the U.S. government sued Microsoft in the 1990s. The trial will not only determine the fate of Google's online search business, but will also serve as a bellwether for the Biden administration's anti-trust agenda and have a significant impact on the entire technology industry. ([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 网络安全保险应用指南》（征求意见稿）

2023年9月13日，全国信息安全标准化技术委员会（以下简称“信安标委”）秘书处发布国家标准《信息安全技术 网络安全保险应用指南》（以下简称《应用指南》）征求意见稿，截止时间2023年11月12日。

《应用指南》借鉴国际网络安全保险相关标准成果，结合我国网络安全保险产业现状和网络安全风险管理实践，提出了适合我国国情的网络安全保险应用指南，帮助并指导各组织通过网络安全保险应对和管理风险。《应用指南》对投保前风险评估、保险期间风险控制以及出险后事件评估等给出了基本的方法和内容，为不同环节中的保险应用提供可操作性的指导建议，以解决网络安全保险中所应用的基本安全技术方法以及差异性问题。（[查看更多](#)）

National Information Security Standardization Technical Committee Releases the Information Security Technology Cybersecurity Insurance Application Guidance and Cybersecurity Insurance (Draft for Comments)

On 13 September 2023, the Secretariat of the National Information Security Standardization Technical Committee issued a draft of the national standard *Information Security Technology Cybersecurity Insurance Application Guidance* (the “Application Guidance”), which is open for public comments until 12 November 2023.

The *Application Guidance* draws on the achievements of international standards related to cybersecurity insurance, combines the current situation of China’s cybersecurity insurance industry and cybersecurity risk management practices, and puts forward a cybersecurity insurance application guidance suitable for China’s particular national circumstances, to help and guide organizations to cope with and manage risks through cybersecurity insurance. The *Application Guidance* sets forth basic methods and contents for pre-insurance risk assessment, risk control during insurance coverage and post-insurance event assessment, and provides operable guidance and suggestions for insurance applications in various scenarios, so as to meet the challenges in basic security technology methods and differences in applications in cybersecurity insurance. ([More](#))

信安标委发布一批标准制定参编单位征集通知

2023年9月11至15日，信安标委就一批拟制定标准公开征集参编单位，拟制定标准包括：《信息安全技术 信息安全管理体系要求》《信息安全技术 信息安全风险管理指导》《信息安全技术 数字水印技术实现指南》《信息安全技术 数据安全保护要求》《信息安全技术 个人信息保护合规审计指南》《信息安全技术 互联网信息服务深度合成安全规范》《信息安全技术 基于个人请求的个人信息转移要求》《信息安全技术 数据安全和个人信息保护社会责任指南》《信息安全技术 半同步区块链共识机制安全规范》《信息安全技术 生成式人工智能人工标注安全规范》等等。（[查看更多](#)）

National Information Security Standardization Technical Committee Issues Notices Calling for Participants in the Formulation of Standards

From 11 to 15 September 2023, the National Information Security Standardization Technical Committee publicly solicited participants in the preparation of a number of proposed standards, including: *Information Security Technology - Information Security Management System Requirements*, *Information Security Technology - Information Security Risk Management Guidance*, *Information Security Technology - Digital Watermark Technology Implementation Guide*, *Information Security Technology - Data Security Protection Requirements*, *Information Security Technology - Personal Information Protection Compliance Audit Guide*, *Information Security Technology - Internet Information Service Deep Synthesis Security Specification*, *Information Security Technology - Requirements for the Transfer of Personal Information Based on Individual Requests*, *Information Security Technology - Data Security and Social Responsibility Guidelines for Personal Information Protection*, *Information Security Technology - Security Specifications for Semi-synchronous Blockchain Consensus Mechanism*, and *Information Security Technology - Security Specifications for Generative Artificial Intelligence Manual Tagging*, etc. ([More](#))

国家广播电视总局、工业和信息化部、国家市场监督管理总局进一步加强车载音视频管理

2023年9月14日，国家广播电视总局、工业和信息化部、国家市场监督管理总局联合发布了《关于进一步加强车载音视频管理的通知》（以下简称《通知》），从多方面规范车载音视频服务。

《通知》明确，车载网络音视频服务机构应向广播电视主管部门申领《信息网络传播视听节目许可证》，取得车载网络音视频服务资质，向工业和信息化主管部门履行移动互联网应用程序（以下简称APP）备案手续。《通知》要求强化公共服务节目源供给，鼓励各级广播电视台、融媒体中心与车载网络音视频服务机构建立合作机制，加装、推送更多主流广播电视节目。将中央广播电视总台节目源优先向公众免费提供，并在界面显著位置提供入口。广播电视、工业和信息化主管部门加强对车载网络音视频的监督管理，只有取得相应资质的车载网络音视频应用软件方可加装至车载系统。（[查看更多](#)）

National Radio and Television Administration, MIIT and SAMR Have Further Strengthened the Management of Vehicle Audio and Video

On 14 September 2023, the National Radio and Television Administration, the Ministry of Industry and Information Technology, and the State Administration for Market Regulation jointly issued the *Notice on Further Strengthening the Management of Vehicle Audio and Video* (the "Notice") to regulate vehicle audio and video services from various aspects.

The *Notice* clarifies that vehicle network audio and video service providers shall apply for the *Information Network Transmission Audiovisual Program License* from the competent department of radio and television, obtain the qualification for providing vehicle network audio and video services, and perform the record-filing procedures for mobile Internet applications with the competent department

of industry and information technology. The *Notice* calls for strengthening the supply of public service program sources, encouraging radio and television stations at all levels and media integration centers to establish cooperation mechanisms with vehicle network audio and video service providers to install and push more mainstream radio and television programs. The CCTV-sponsored program sources should be provided as a priority to the public free of charge, and portals should be provided in a prominent manner in the interface. The competent departments of radio and television, industry and information technology shall strengthen the supervision and management of vehicle network audio and video, and only vehicle network audio and video application software that has obtained corresponding qualifications can be installed into the vehicle system. ([More](#))

《汽车整车信息安全技术要求》和《智能网联汽车 自动驾驶数据记录系统》完成审查

2023年9月13至14日，全国汽车标准化技术委员会智能网联汽车分技术委员会2023年第三次标准审查会在贵阳召开。会上，全体参会委员及委员代表共同审查了强制性国家标准《汽车整车信息安全技术要求》和《智能网联汽车 自动驾驶数据记录系统》，经过起草单位汇报、委员质询、起草单位回复等流程，最终两项强制性国家标准顺利通过审查。

《汽车整车信息安全技术要求》规定了汽车信息安全管理要求、信息安全一般要求、信息安全技术要求、检查及试验方法及同一型式判定。《智能网联汽车 自动驾驶数据记录系统》规定了智能网联汽车自动驾驶数据记录系统的数据记录、存储和读取、耐撞性、信息安全以及车规级环境的要求和相应的试验方法。后续，全国汽标委智能网联汽车分委会将尽快完成相关标准的报批工作。 ([查看更多](#))

The Review of Technical Requirements for Vehicle Cybersecurity and Intelligent Networked Vehicle - Autonomous Driving Data Recording System Was Completed

From 13 to 14 September 2023, the third standard review meeting of the Intelligent and Connected Vehicle Sub-technical Committee of the National Automotive Standardization Technical Committee in 2023 was held in Guiyang. At the meeting, all the participating members and committee representatives jointly reviewed the mandatory national standards *Technical Requirements for Vehicle Cybersecurity* and *Intelligent Networked Vehicle - Autonomous Driving Data Recording System*. These two standards finally passed the review after going through reporting by the drafting unit, responding to committee members' questions, and replying from the drafting unit and other processes.

The national standard *Technical Requirements for Vehicle Cybersecurity* stipulates the requirements of the vehicle information security management system, the general requirements of information security, the technical requirements of information security, the inspection and test methods and the determination of the same type. The standard *Intelligent Networked Vehicle - Autonomous Driving Data Recording System* specifies the requirements and corresponding test methods for data recording, storage and reading, crashworthiness, information security and automotive-grade environment of intelligent networked vehicle autonomous driving data recording system. In the future, the Intelligent and Connected Vehicle Sub-technical Committee of the National Automotive Standardization Technical Committee will submit the relevant standards for approval as soon as possible. ([More](#))

上海网信办联合多部门发布《上海市互联网证券信息服务企业合规指引》

2023年9月15日，上海市人民检察院联合上海市委网信办、上海市证券同业公会，制定发布《上海市互联网证券信息服务企业合规指引》（以下简称《合规指引》），引导相关企业加强互联网证券信息服务合规建设，维护清朗网络空间和网民合法权益。

《合规指引》明确，提供证券信息服务的本市属地网站平台、“自媒体”以及各类所有制企业，均可参照本指引开展业务合规管理。根据《合规指引》，上海市网站平台、移动应用程序商店应当将核验证券服务资质作为开展证券领域业务合作、应用程序上架的前置程序。网站平台应加强账号管理，有关账号在推广证券投资咨询服务、发布证券投资咨询文章、报告或者意见时，要明示所在证券投资咨询机构或证券公司名称、个人真实姓名及其登记编码，做到亮牌经营。（[查看更多](#)）

The Cyberspace Administration of Shanghai and Multiple Departments Jointly Issue the Compliance Guidelines for Internet Securities Information Service Enterprises in Shanghai

On 15 September 2023, the Shanghai Municipal People's Procuratorate, together with the Cyberspace Administration of Shanghai and the Shanghai Securities Association, formulated and issued the *Compliance Guidelines for Internet Securities Information Service Enterprises in Shanghai* (the "Compliance Guidelines"), guiding relevant enterprises to strengthen the compliance of Internet securities information services and safeguarding a clean cyberspace and protecting the legitimate rights and interests of netizens.

The *Compliance Guidelines* specify that local website platforms, "self-media" and enterprises of various ownership systems that provide securities information services may refer to the *Compliance Guidelines* to carry out business compliance management. According to the *Compliance Guidelines*, Shanghai-based website platforms and mobile application stores should verify qualifications for securities services as a prerequisite before carrying out business cooperation in the securities field and the offering on shelf of the mobile internet applications. The website platforms should strengthen account management. When promoting securities investment consulting services or publishing securities investment consulting articles, reports or opinions, the relevant accounts should clearly indicate the name of the affiliated securities investment consulting institution or securities company, the real name of the individual and registration code, so as to achieve transparent business operations. ([More](#))

公民个人信息泄露遭境外披露兜售 上海市一政务信息系统技术服务公司被行政处罚

据2023年9月15日网信上海，上海市网信办协调有关部门要求某政务信息系统技术承包商立即下线政府网站页面、关闭相关云服务端口、配合开展网络资产清查，并对该公司作出行政处罚。

据悉，该公司主要从事政务信息系统技术支撑工作。2022年，该公司租用1台私有云服务器用于对未交付政务系统的研发测试和演示验收工作，存储了大量公民信息和政务信息，涉及公民个

人信息数据1.5万余条。现场检查发现，该公司在开展数据处理活动中未能有效履行数据安全和个人信息保护义务，没有建立全流程数据安全管理制度，未采取技术防护措施保障数据安全和公民个人信息安全，导致平台频繁遭受境外远程访问和数据泄露风险。（[查看更多](#)）

A Shanghai Government Information System Technology Service Company was Administratively Penalized for Leaking Citizens' Personal Information that was Disclosed and Peddled by an Offshore Organization

On 15 September 2023, according to the public account of Cyberspace Administration of Shanghai, Cyberspace Administration of Shanghai coordinated with relevant departments to order a government information system technology contractor to immediately take down its web page from the government website, close the relevant cloud service portal, cooperate in carrying out the network asset inventory, and imposed administrative penalties on the company.

It is reported that the company is mainly engaged in the technical support of government information systems. In 2022, the company leased one private cloud server for R&D, testing and demonstration and acceptance of undelivered government systems, in the process storing a large amount of citizen information and government affairs information, involving more than 15,000 pieces of citizens' personal information. After on-site inspection, it was found that the company failed to effectively perform data security and personal information protection obligations in carrying out data processing activities, did not establish a full-cycle data security management system, and did not take technical protection measures to ensure data security and citizens' personal information security, resulting in the platform frequently suffering from overseas remote access and subject to data leakage risks. ([More](#))

《深圳市企业数据合规指引》发布

2023年9月11日，深圳市人民检察院联合深圳市互联网信息办公室、深圳市司法局、深圳市发展和改革委员会、深圳数据交易所发布了《深圳市企业数据合规指引》（以下简称《合规指引》）。《合规指引》立足企业数据法治需求，引导企业开展数据合规管理，增强企业数据合规意识，提高数据保护水平，对涉及数据各场景制定了全面详细的规范指引。

《合规指引》共分为六章、77条，包括：总则、数据安全合规管理组织体系建设、数据合规管理制度体系建设、数据全生命周期合规、数据出境合规和附则。（[查看更多](#)）

Guidelines for Corporate Data Compliance in Shenzhen Were Released

On 11 September 2023, the People's Procuratorate of Shenzhen, in conjunction with Cyberspace Administration of Shenzhen, Shenzhen Bureau of Justice, Development and Reform Commission of Shenzhen, and the Shenzhen Data Marketplace, issued *the Guidelines for Corporate Data Compliance in Shenzhen* (the "Compliance Guidelines"). The *Compliance Guidelines* are based on the data compliance needs of enterprises, guiding enterprises to carry out data compliance management, enhancing the awareness of data compliance, improving the level of data protection, and formulating comprehensive and detailed normative guidelines for various scenarios involving processing of data.

The Compliance Guidelines consists of six chapters and 77 articles, including the General Provisions, Construction of Data Security Compliance Management and Organization System, Construction of

Data Compliance Management System, Compliance of the Whole Life Cycle of Data Processing, Compliance of Outbound Transfer of Data, and Special Provisions. ([More](#))

天津市知识产权局就《天津市数据知识产权登记办法（试行）》公开征求意见

2023年9月12日，天津市知识产权局就《天津市数据知识产权登记办法（试行）》（以下简称《登记办法》）公开征集意见，征集截止时间为2023年9月21日。

《登记办法》明确，数据知识产权的登记对象，是指数据持有者或者数据处理者依据法律法规规定或者合同约定收集，经过一定规则或算法处理的、具有商业价值及智力成果属性的处于未公开状态的数据集合。数据知识产权登记证书是登记主体依法持有数据并对数据行使权益的初步凭证，享有依法依规加工使用、流通交易、收益分配和权益保护。鼓励数据处理者及时登记数据知识产权，通过质押、交易、许可等多种方式加强登记证书的使用。 ([查看更多](#))

Tianjin Measures for Registration of Data Intellectual Property (for Trial) Issued by Tianjin Intellectual Property Administration is Open for Public Comments

On 12 September 2023, Tianjin Intellectual Property Administration issued *Tianjin Measures for Registration of Data Intellectual Property (for Trial Implementation)* (the “Registration Measures”), which is open for public comments until 21 September 2023.

The *Registration Measures* specified that the target of registration of data intellectual property rights involves data sets in an undisclosed state that had been collected by the data holder or data processor in accordance with the provisions of laws and regulations or contractual agreements, had been processed by certain rules or algorithms, and possess commercial value and the attributes of intellectual achievement. The registration certificate of data intellectual property constitutes the initial proof that the register holds ownership rights to such data and may exercises such rights to the data legally, and enjoys the right to process, use, circulate and trade data and allocate the profits. Data processors are encouraged to register their data intellectual property in a timely manner and to strengthen the use of registration certificates through pledging, trading, licensing and other means. ([More](#))

加州隐私保护局发布网络安全法规愿景

2023年8月，加州隐私保护局（CPPA）发布了风险评估和网络安全审计法规草案。若草案得到通过，将对收集或以其他方式处理个人数据的公司提出严格的网络安全要求，从而产生间接影响。

该草案在近四页的篇幅中详细说明了审计必须“具体”评估和记录的企业网络安全计划的组成部分。其中包括多重身份验证、强密码、加密、零信任架构、权限限制、安全配置、补丁管理、日志记录等。根据CPPA草案，如果公司认为所列的任何组成部分不适用，审计应记录并解释为什么该组成部分对于企业的个人信息保护不是必需的，以及企业所采取的保护措施如何提供至少同等的安全性。 ([查看更多](#))

California Privacy Agency Lays out Vision for Cybersecurity Regulation

In August 2023, the California Privacy Protection Agency issued draft regulations on risk assessments and cybersecurity audits. The regulations, if adopted, would have the indirect effect of imposing significant cybersecurity requirements on companies collecting or otherwise processing personal data.

Over nearly four pages, the draft specifies the components of a business's cybersecurity program that an audit must assess and document "with specificity". These include multifactor authentication, strong passwords, encryption, zero-trust architecture, privilege restrictions, secure configuration, patch management, logging and more. Under the CPPA draft, if a company believes any of the listed components is not applicable, the audit shall document and explain why the component is not necessary to the business's protection of personal information and how the safeguards the business has in place provide at least equivalent security. ([More](#))

瑞典数据保护局确立监管机构在行为守则监管方面的要求

2023年9月7日，瑞典数据保护局（IMY）发布了第IMY-2022-6945号决定，其中确定了负责监督行为准则合规性的机构必须满足的条件，以便该等监管机构根据《通用数据保护条例》（GDPR）第41(2)条获得许可。IMY特别指出，该决定旨在落实欧洲数据保护委员会（EDPB）关于GDPR下的行为规范和监督机构的第1/2019号指导方针。（[查看更多](#)）

IMY Establishes Requirements for Supervisory Bodies of Codes of Conduct

On 7 September 2023, the Swedish data protection authority (IMY) published its Decision No. IMY-2022-6945, as issued on the same date, in which it determined the requirements that bodies tasked with monitoring compliance with codes of conduct must meet in order to be accredited under Article 41(2) of the General Data Protection Regulation (GDPR). In particular, the IMY notes that the decision aims to implement the European Data Protection Board's (EDPB) Guidelines 1/2019 on codes of conduct and supervisory bodies under the GDPR. ([More](#))

知识产权 Intellectual Property

国知局、司法部关于加强新时代专利侵权纠纷行政裁决工作的意见

2023年9月11日，为加强新时代专利侵权纠纷行政裁决工作，国家知识产权局、司法部联合印发《关于加强新时代专利侵权纠纷行政裁决工作的意见》（以下简称《意见》）。

《意见》明确了加强新时代专利侵权纠纷行政裁决工作的总体要求，包括指导思想、基本原则和主要目标。《意见》着眼于推动解决当前专利侵权纠纷行政裁决工作突出问题和加强新时代行政裁决工作需要，围绕6个方面15项重点任务提出56条具体举措，覆盖行政裁决工作全链条。为确保各项重点任务有力实施，《意见》从加强组织领导、加强督促检查、加强宣传引导等三方面提出具体要求。

来源：国家知识产权局

CNIPA and the Ministry of Justice Issues the *Opinions on Strengthening Administrative Adjudication of Patent Infringement Disputes in the New Era*

On 4 September 2023, the China National Intellectual Property Administration (CNIPA) and the Ministry of Justice jointly issued *Opinions on Strengthening Administrative Adjudication of Patent Infringement Disputes in the New Era* (the Opinions) to strengthen the work of administrative adjudication of patent infringement disputes in the new era.

The Opinions clarified the overall requirements for strengthening administrative adjudication of patent infringement disputes in the new era, including the guiding ideology, basic principles and main objectives. The Opinions focus on promoting the solution of the current acute problems of administrative adjudication of patent infringement disputes and the need to strengthen the administrative adjudication work in the new era, and put forward 56 specific proposals around 15 key tasks in 6 aspects, covering the whole chain of administrative adjudication work. In order to ensure the strong implementation of the key tasks, the Opinions put forward specific requirements from strengthening organisational leadership, strengthening supervision and inspection, and strengthening publicity and guidance.

Source: China National Intellectual Property Administration

最高法：中国法院对OPPO诉Interdigital全球SEP许可费率案具有管辖权

2023年9月4日，最高人民法院就上诉人交互数字公司Interdigital Inc.、交互数字控股公司Interdigital Holdings Inc.（两上诉人以下合成Interdigital）与被上诉人OPPO广东移动通信有限公司、OPPO广东移动通信有限公司深圳分公司（两被上诉人以下合称OPPO方）标准必要专利使用费纠纷管辖权异议二审作出终审裁定，驳回Interdigital的上诉请求，维持了一审裁定，确认中国法院对标准必要专利全球许可费率诉讼具有管辖权。

法院认为，标准必要专利的专利权人一旦作出FRAND许可承诺，其面临的许可选择原则上已经不再是是否许可他人实施专利的问题，而是具体以何种条件许可实施的问题，由此产生的争议主要是标准必要专利许可合同缔约纠纷，同时亦不排除在特定情况下当事人可能提起侵权责任之诉。在标准必要专利许可纠纷的管辖方面，专利权授予地、专利许可实施地、专利许可合同磋商地、可供扣押财产或执行财产所在地，均构成该纠纷管辖的地域连结点。

来源：最高人民法院

Supreme People's Court: Chinese Court has Jurisdiction over OPPO v. Interdigital on Global SEP License Fee

On 4 September 2023, the Supreme People's Court issued a final ruling of jurisdictional objection to the SEP licence fee dispute between the appellants Interdigital Inc. and Interdigital Holdings Inc. (the Interdigital) and the appellees, OPPO Guangdong Mobile Communication Co. and its Shenzhen Branch (the OPPO). The final decision was issued to reject the appeal request of the Interdigital and

affirm the decision of the first instance to confirm that the Chinese court's jurisdiction over the SEP license fee.

The court held that, once the holder of a standard-essential patent makes a FRAND licence undertaking, the licensing choice it faces is no longer a question of whether to license others to implement the patent, but rather a question of under what conditions to license the implementation of the patent. And the disputes arising therefrom are mainly disputes over the making of the SEP licensing contract, and at the same time do not exclude that the parties concerned may, in certain circumstances, bring a tortious liability lawsuit. In terms of jurisdiction over disputes on SEP licences, the place where the patent is granted, where the patent is implemented, where the patent licence contract is negotiated, and where the property is available for seizure or execution all constitute the territorial link for the jurisdiction of such disputes.

Source: Supreme People's Court

隆基绿能与韩华全球专利战迎来终结

9月16日，隆基发布韩华起诉公司专利侵权的进展公告。公告称，9月14日，公司收到法国巴黎法院的撤诉决定，对公司的德国、香港、荷兰的子公司与韩华德国子公司 Hanwha QCELLS GmbH 在法国的侵权诉讼撤诉予以确认。截至本公告日，双方在全球范围内的所有专利诉讼程序均已终结。

今年5月11日，隆基与韩华正式达成专利交叉许可。本次专利交叉授权后，双方有权在全球范围内合法使用相关专利技术，并承诺撤销双方之间（包括关联方）在全球范围内的所有诉讼及专利无效程序。

随后，隆基先后收到了澳大利亚联邦法院、荷兰鹿特丹法院和海牙地方法院、德国杜塞尔多夫高级地区法院的撤诉，至9月14日受到荷兰巴黎法院的撤诉决定之后，隆基与韩华的专利纠纷终于落幕。

来源：隆基绿能

LONGi & Hanwha: Global Patent War Settled

On 16 September 2023, LONGi issued an announcement on the progress of Hanwha's lawsuit against LONGi for patent infringement. According to the announcement, on 14 September, LONGi received a decision from the Court of Paris, France, confirming the withdrawal of the infringement litigation in France between the Company's subsidiaries in Germany, Hong Kong and the Netherlands and Hanwha's German subsidiary Hanwha QCELLS GmbH. Up to the date of this announcement, all patent litigation proceedings between the two parties worldwide have been settled.

On 11 May 2023, LONGi and Hanwha has reached patent cross-licence. Thereafter, both parties have the right to legally use the relevant patented technology worldwide and committed to withdraw all litigation and patent invalidation proceedings between them (including related parties) worldwide. Subsequently, LONGi has received the withdrawal of the case from the Federal Court of Australia, the Court

of Rotterdam and the District Court of The Hague in the Netherlands, the Higher Regional Court of Düsseldorf in Germany, and the decision of withdrawal of the case from the Court of Paris in the Netherlands was received on 14th September, which finally brought the patent dispute between LONGi and Hanwha to an end.

Source: LONGi Green Energy Technology Co., Ltd.

Swisse案：擅用驰名商标开展招商加盟被判赔1000万元

近日，广州知识产权法院就健合公司、诗微仕公司诉上海旭饮公司、健澳公司侵害商标权及不正当竞争纠纷案作出一审判决，法院判决被告赔偿1000万元。

法院认为，原告涉案商标的知名度高，在原告向被告终止合同并发送律师函后，两被告仍大规模实施侵权行为；被告利用原告商标的知名度在全国各地规模性开展招商加盟，获利巨大，且对原告的商誉造成严重损害，侵权情节严重。法院对原告主张的三种计算方式逐一进行分析，最后采用了“现场公证取证及被市场监管局查获的‘Swisse’加盟饮品店23家”计算依据，计得被告侵权获利287.5万元，并以此为基数，适用2.5倍的惩罚性赔偿，加上原告合理维权费用，原告请求赔偿金额未超出相应数额，最终判决全额支持原告的请求赔偿金额。

来源：广州知识产权法院

Case of Swisse: Damages of RMB 10 million Awarded against Unauthorized Use of Well-known Trademarks for Investment Promotion and Franchising

Recently, Guangzhou IP Court issued a first-instance judgment of trademark infringement and unfair competition between Jianhe Co. and Swisse Co. (the Plaintiffs) against Shanghai Xuyin Co. and Jianao Co. (the Defendants), in which the court ordered the Defendants to pay damages of RMB10 million.

The court held that as the trademark involved is well-known, and after the Plaintiffs terminated the contract and sent a lawyer's letter to the defendant, the Defendants still committed infringement on a large scale. The Defendants use the trademark throughout the country on a large scale to carry out investment promotion, making huge profits, and causing serious damages to the Plaintiffs' goodwill. The court analysed the three calculation methods claimed by the Plaintiffs, and finally adopted the method of "on-site notarised evidence and 23 'Swisse' franchised beverage shops seized by the Market Supervision Bureau", calculated that the Defendants' infringing profit was RMB2.875 million. Using this as the base, the Plaintiffs' claim did not exceed the amount that punitive damages of 2.5 times, plus reasonable costs, and the Plaintiffs' claims were fully supported.

Source: Guangzhou IP Court

TP-Link因侵犯美国公司Wi-Fi 6专利，被判赔3748万美元

2023年9月14日，美国德州东区地方法院作出陪审团判决，裁定TP-Link侵犯美国Atlas全球技术公司的多项专利，被判一次性赔偿37,481,264美元。

该诉讼最初由 Atlas Global Technologies LLC提起，指控 TP-Link Technologies Co., Ltd.和TP-Link USA Corporation通过生产各种无线Wi-Fi 6路由器侵犯了Atlas Global Technologies LLC拥有的多项专利。

原告美国Atlas全球技术公司（Atlas Global Technologies Co. Ltd）是美国著名的专利运营公司Acacia的子公司。根据涉案专利的转让记录显示，这是Atlas公司2021年2月从芯片制造商NEWRACOM公司收购的213件专利中的一部分。

来源: [Bloomberg Law](#)

TP-Link Infringes US company's Wi-Fi 6 patent, with Damages of USD 37.48 Million

On 14 September 2023, a Texas federal jury of the US District Court for the Eastern District ordered TP-Link Technologies Co. to pay Atlas Global Technologies LLC USD 37.5 million in lump-sum damages for violating patented state-of-the-art wireless network technology.

The lawsuit, initially filed by Atlas Global Technologies LLC, alleges that TP-Link Technologies Co., Ltd. and TP-Link USA Corporation have infringed on a number of patents owned by Atlas Global Technologies LLC through the manufacture of various wireless Wi-Fi 6 routers. LLC by manufacturing various wireless Wi-Fi 6 routers.

The plaintiff, Atlas Global Technologies Co. Ltd, is a subsidiary of Acacia, a well-known patent operating company in the United States. According to the assignment records of the patents in question, this is part of the 213 patents that Atlas purchased in February 2021 from chip maker NEWRACOM, Inc.

Source: [Bloomberg Law](#)

法国与摩洛哥签署专利审查高速路合作协议

近日，法国国家工业产权局（INPI）与摩洛哥工业和商业产权局（OMPIC）签署了一份旨在加快专利授权流程的协议，即专利审查高速路（PPH）合作协议，协议将会在2023年11月1日生效。

协议生效后，申请人可以要求加快向OMPIC提交的第二件专利申请（无论这是一件国家申请还是进入到摩洛哥国家阶段的PCT申请）的授权程序，只要上述申请所包含的权利要求与已经接受过INPI审查并被认为可授予专利的申请中所提及的权利要求足够相似。反过来，该PPH协议也适用于那些希望在法国享受到专利申请加速处理程序的申请人。该协议带来的有关获得摩洛哥专利的全新方式将会使申请人从中受益，并有助于节省更多的时间。

来源: [中国保护知识产权网](#)

Moroccan, French Patent Offices Sign Agreement to Expedite Patent Issuance

Recently, The French National Institute of Industrial Property (INPI) and the Moroccan Office of Industrial and Commercial Property (OMPIC) signed a Patent Prosecution Highway (PPH) agreement, which is poised to streamline and expedite the patent examination and issuance process. The agreement will take effect on 1 November 2023.

After the agreement comes into effect, the applicant can request to expedite the granting process for the second patent application submitted to OMPIC (whether it is a national application or a PCT application that enters the Moroccan national phase), as long as the claims contained in the above application are sufficiently similar to those contained in the application examined by the INPI and considered patentable.

Source: [China Intellectual Property Protection Network](#)

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