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South Korea and Romania Sign MoU to Facilitate Cyber Threat Response



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Amazon Ordered to Pay \$46.7 Million in Voice-Assistant Patent Case

立方竞争法周报 Weekly Competition Law News

HKCC就地产代理商合谋定价案件提起反垄断诉讼

2023年11月14日，香港竞争事务委员会（HKCC）对地产代理商美联物业代理有限公司、香港置业（地产代理）有限公司及美联集团有限公司（“美联”）与中原地产代理有限公司及利嘉阁地产有限公司（“中原”）合谋固定最低佣金比例的做法提起反垄断诉讼。2022年12月至2023年3月期间，美联与中原协议确定了在销售香港一手住宅时，必须收取最少百分之二的佣金，有关做法固定或限制了地产代理商向物业买家提供的最高回佣水平，这会使买家在购买住宅时需要支付更高的金额。因此HKCC认为有关安排构成严重反竞争行为中的合谋定价以及交换影响竞争的敏感资料，违反了香港《竞争条例》下的“第一行为守则”。（[查看更多](#)）

HKCC Takes Estate Agencies' Price-Fixing Cartel Case to Competition Tribunal

On November 14, 2023, the Hong Kong Competition Commission (HKCC) has commenced proceedings in the Hong Kong Competition Tribunal against Midland Realty International Limited, Hong Kong Property Services (Agency) Limited and Midland Holdings Limited (“Midland”) and its competitors Centaline Property Agency Limited and Ricacorp Properties Limited (“Centaline”). Between December 2022 and March 2023, Midland and Centaline agreed to fix the minimum net commission rate for the sale of first-hand residential properties in Hong Kong at 2%, which effectively fixes or restricts the maximum level of rebate their frontline agents could offer to the purchasers of such properties. As rebate is an element that affects the price that a purchaser will ultimately pay for the relevant property, the HKCC has reasonable cause to believe that such arrangements amount to serious anti-competitive conduct in the form of price fixing, and/or exchange of competitively sensitive information, in contravention of the First Conduct Rule of the Competition Ordinance. ([More](#))

FTC起诉阻止John Muir Health收购San Ramon地区医疗中心

2023年11月17日，美国联邦贸易委员会（FTC）发布公报，宣布其提起诉讼请求法院阻止John Muir Health以1.425亿美元（约10.18亿人民币）收购San Ramon地区医疗中心的拟议交易，由于其将极大地提高病人的医疗成本。John Muir Health是一家总部位于加州Walnut Creek的非营利性医疗公司，经营着两家医院，沿I-680州际公路提供普通急症护理服务（GAC）。FTC指控该拟议交易将使John Muir Health在其两家医院以及San Ramon地区医疗中心可以开出更高的住院病人GAC费率。这将直接消除John Muir Health和San Ramon地区医疗中心之间的竞争，同时也可能增加该地区本已很高的医疗成本，并有可能阻碍有助于提高所有患者医疗服务质量的改善。（[查看更多](#)）

FTC Sues to Block John Muir Health's Takeover of San Ramon Regional Medical Center

On November 17, 2023, the U.S. Federal Trade Commission (FTC) issues a notice, announcing that it filed a lawsuit requesting the court to block John Muir Health's proposed transaction to acquire sole ownership of San Ramon Regional Medical Center (CYN 1.018 billion), as it will greatly increase

health care costs. John Muir Health is a not-for-profit healthcare company headquartered in Walnut Creek, California that operates two hospitals providing general acute care (GAC) services along I-680. The FTC alleges that the proposed transaction would allow John Muir Health to charge higher inpatient GAC rates at its two hospitals and San Ramon Regional Medical Center. This would directly eliminate competition between John Muir Health and San Ramon Regional Medical Center, while also potentially increasing already high health care costs in the region and potentially hampering improvements that would improve the quality of health care for all patients. ([More](#))

伊利诺伊州最高法院审查派遣机构的互不挖角和工资固定协议

2023年11月15日，据媒体报道，伊利诺伊州最高法院开庭对派遣机构Elite Staffing Inc.、Metro Staffing和Midway Staffing Inc.与其共同客户Colony Display共同签订的互不挖角和工资固定协议是否违反州反垄断法进行审查。该诉讼源于伊利诺伊州总检察长Kwame Raoul在2020年提起的诉讼，指控这些公司利用其共同客户Colony Display订立互不挖角协议，进而促成了支付工人低于现行市场工资水平的次级协议。本次庭审着重对被指控的派遣机构之间串通行为的合法性进行审查，并提出了此类行为在就业领域的广泛影响。随着诉讼的展开，结果很可能对伊利诺伊州的劳动和反垄断监管产生深远影响。（[查看更多](#)）

Illinois Supreme Court Reviews Staffing Agencies' Non-Poach and Wage-Fixing Agreements

On November 15, 2023, according to media reports, the Illinois Supreme Court opens a hearing to review whether the mutual non-poach and wage-fixing agreements signed by staffing agency rivals Elite Staffing Inc., Metro Staffing and Midway Staffing Inc. and their common client Colony Display violated state antitrust laws. The lawsuit stems from a lawsuit filed by Illinois Attorney General Kwame Raoul in 2020, alleging that the companies used their common customer Colony Display to enter into a mutual non-poach agreement, which in turn facilitated a sub-agreement to pay workers below prevailing market wages. The trial focused on examining the legality of alleged collusion between staffing agencies and raised the broad implications of such conduct in the employment sector. As the lawsuit unfolds, the results are likely to have far-reaching consequences for labour and antitrust regulation in Illinois. ([More](#))

德国联邦卡特尔局对德国可口可乐展开反垄断调查

2023年11月14日，德国联邦卡特尔局（Bundeskartellamt）发布公告，宣布对美国饮料巨头可口可乐旗下的德国可口可乐（Coca-Cola Europacific Partners Deutschland GmbH）展开滥用市场支配地位的调查程序。联邦卡特尔局将首先审查德国可口可乐在可乐饮料或碳酸软饮料市场上是否具有支配地位或相对市场力量，是否应遵守针对支配地位公司的特殊竞争法规则，其还将调查德国可口可乐对德国食品零售商施加的条件是否符合规定。特别是，德国可口可乐公司的回扣结构是否合法或非法地激励食品零售商购买、展示和宣传德国可口可乐提供的包括可乐在内的全系列饮料。有关条款可能会限制与德国可口可乐竞争的其他饮料生产商在相邻市场的竞争机会。（[查看更多](#)）

Bundeskartellamt Initiates Abuse Proceedings Against Coca-Cola

On November 14, 2023, the German Federal Cartel Office (Bundeskartellamt) issues a notice, announcing the Bundeskartellamt has initiated abuse proceedings against Coca-Cola Europacific Partners Deutschland GmbH (Coca-Cola). The Bundeskartellamt will first examine whether Coca-Cola Germany has a dominant position or relative market power in the market for cola drinks or carbonated soft drinks and whether it should comply with special competition law rules for dominant companies. The authority will also investigate whether the terms imposed by Coca-Cola on German food retailers are in line with these rules. In particular, whether Coca-Cola Deutschland's rebate structure legally or illegally incentivizes food retailers to purchase, display and promote the full range of beverages offered by Coca-Cola Deutschland, including colas. The terms could limit opportunities for other beverage makers competing with Germany's Coca-Cola in adjacent markets. ([More](#))

美最高法院将决定是否受理美国足协向其提出的上诉

2023年11月13日，据媒体报道，美国最高法院已征求美国政府的意见，以决定是否受理美国足协（US Soccer Federation Inc.）向其提出的上诉，重审美国足协禁止外国球队在美国本土进行正式比赛的政策是否违反反垄断法。该诉讼由Relevant Sports于2019年向纽约南区联邦地区法院提起，在2021年被驳回后，美国第二巡回上诉法院于2023年3月恢复审理了该诉讼。第二巡回上诉法院裁定，如果国际足联（FIFA）的规则被认定违反了反垄断法，美国足协可能要承担责任，因为美国足协作为国际足联的成员已经同意了国际足联的规则。美国足协于2023年8月请求最高法院审理此案，认为第二巡回法院推翻下级法院的裁决是错误的，因为这会使协会一旦通过规则就会面临违反反垄断法的风险，会损害诸多协会的利益。长期以来，美国法院一直在努力解决反垄断法如何根据组织或协会成员的成员资格和采用的共同规则以适用于其成员的问题。 ([查看更多](#))

U.S. Supreme Court Will Decide Whether to Accept Appeal Filed by U.S. Soccer Federation

On November 13, 2023, according to media reports, the U.S. Supreme Court has sought the opinion of the U.S. government to decide whether to accept the appeal filed by the U.S. Soccer (US Soccer Federation Inc.) to review whether U.S. Soccer's policy prohibiting foreign teams from playing official games in the United States violates antitrust laws. The lawsuit was filed by Relevant Sports in the Federal District Court for the Southern District of New York in 2019. After being dismissed in 2021, the United States District Courts for the Second Circuit ("2nd Circuit") resumed hearing the lawsuit in March 2023. The 2nd Circuit ruled that U.S. Soccer could be held liable if FIFA's rule is found to violate antitrust law because it agreed to FIFA's rules as a member of the international body. The U.S. Soccer asked the Supreme Court of the United States to hear the case in August 2023, arguing that the 2nd Circuit was wrong to overturn the lower court's ruling because it would put the association at risk of violating antitrust laws once the rules were adopted and would harm many associations' Interests. The U.S. courts have long grappled with the question of how antitrust law applies to members of an organization or association based on their membership and the common rules they adopt. ([More](#))

澳大利亚电信公司TPG放弃与Vocus 63亿澳元的交易谈判

2023年11月13日，据媒体报道，澳大利亚电信公司TPG（TPG Telecom）已正式终止与Vocus（Vocus Group）就出售价值约63亿澳元（约292亿人民币）的部分非移动光纤资产的谈判。TPG称拟议交易的复杂性是主要的障碍，双方无法就运营模式和商业条款达成协议，这笔失败的交易涉及出售部分企业、政府和批发（EGW）资产，以及相关的固定基础设施资产，包括批发宽带业务Vision Network。Vocus最初于2023年8月向TPG提出了不具约束力的收购报价，开启了尽职调查期，TPG随后于2023年9月延长了尽职调查期，并于10月到期。尽管延长了期限，但两家公司仍无法达成共识，导致交易最终失败。（[查看更多](#)）

Australian TPG Telecom Abandons AUD 6.3 Billion Deal Talks with Vocus Group

On November 13, 2023, according to media reports, Australia's TPG Telecom ("TPG") has officially terminated negotiations with Vocus Group ("Vocus") over the sale of some of its non-mobile fiber assets, valued at approximately AUD 6.3 billion (CYN 29.2 billion). TPG cites the complexity of the proposed transaction as a major hurdle, with the parties unable to reach an agreement on the operating model and commercial terms. The failed deal involves the sale of certain enterprise, government, and wholesale (EGW) assets, along with associated fixed infrastructure assets, including the wholesale broadband business Vision Network. Vocus initially made a non-binding offer to TPG in August, triggering a due diligence period that was later extended by TPG in September before expiring in October. Despite the extension, the two companies were unable to find common ground, leading to the ultimate collapse of the deal. ([More](#))

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

四部委联合发布《关于开展智能网联汽车准入和上路通行试点工作的通知》

2023年11月17日，工业和信息化部、公安部、住房和城乡建设部、交通运输部联合发布了《关于开展智能网联汽车准入和上路通行试点工作的通知》（以下简称《通知》）。

《通知》包括总体要求、工作目标、组织实施、保障措施，以及两个附件。附件为《智能网联汽车准入和上路通行试点实施指南（试行）》和《智能网联汽车准入和上路通行试点申报方案（模板）》。《通知》要求，在智能网联汽车道路测试与示范应用工作基础上，遴选具备量产条件的智能网联汽车产品，开展准入试点。对取得准入的产品，在限定区域内开展上路通行试点，用于运输经营的需满足有关运营资质和运营管理要求。其中，自动驾驶功能是指《汽车驾驶自动化分级》（GB/T 40429-2021）定义的3级驾驶自动化和4级驾驶自动化功能。（[查看更多](#)）

Four Ministries Jointly Issue the *Notice on Pilot Work of Access and On-Road Tests of Intelligent Connected Vehicles*

On 17 November 2023, the Ministry of Industry and Information Technology (the “MIIT”), the Ministry of Public Security, the Ministry of Housing and Urban-Rural Development, and the Ministry of Transport jointly issued the *Notice on Pilot Work of Access and On-Road Tests of Intelligent Connected Vehicles* (the “Notice”).

The *Notice* includes general requirements, work objectives, organization and implementation, safeguards, and two attachments. The attachments are the *Implementation Guidelines for Pilot Access and On-Road Tests of Intelligent Connected Vehicles* and the *Declaration Program for Pilot Access and On-Road Tests of Intelligent Connected Vehicles (Template)*. The *Notice* requires that, on the basis of road testing and exemplary application work of Intelligent Connected Vehicles, Intelligent Connected Vehicle products with mass-production conditions are selected to carry out pilot access and road tests. For products that have gained access, pilot road tests will be carried out in limited areas, and will be used for transportation operations to meet the relevant operational qualifications and operational management requirements. In this case, the self-driving function refers to the level 3 driving automation and level 4 driving automation functions as defined in “Taxonomy of Driving Automation for Vehicles” (GB/T 40429-2021). ([More](#))

财政部发布《会计师事务所数据安全管理办法（征求意见稿）》

2023年11月13日，为贯彻落实数据安全法、网络安全法等相关法律的要求，加强会计师事务所数据安全，规范会计师事务所数据处理活动，财政部、国家网信办联合起草并公布《会计师事务所数据安全管理办法（征求意见稿）》（以下简称《暂行办法》），征求意见截止时间为2023年12月11日。

《暂行办法》的适用范围为在中国境内依法设立并为上市公司以及非上市的国有金融机构、中央企业等提供审计服务，或者开展跨境审计的会计师事务所及其从业人员。数据是指会计师事务所执行审计业务过程中，从外部获取和内部生成的任何以电子或者其他方式对信息的记录。

《暂行办法》要求会计师事务所对数据区分核心数据、重要数据、一般数据进行分级分类管理，对数据传输、数据加密、数据备份等事项作出具体规定，同时对跨境审计监管中涉及的数据出境事项作出规范。《暂行办法》明确，会计师事务所应当建立完善的网络管理治理架构，建立健全内部网络管理制度体系，按照业务活动规模及复杂程度配置具备相关职业技能水平的网络管理技术人员，确保合理的网络资源投入和资金投入。针对部分会计师事务所网络安全管理不严的问题，《暂行办法》要求会计师事务所设置严格的访问控制策略，统一管理各类账户，不得设置不受限制的超级账户，防范未经授权的访问行为。 ([查看更多](#))

Ministry of Finance Issues the *Interim Measures on Data Security Management for Accounting Firms (Draft for Public Comments)*

On 13 November 2023, in order to implement the requirements of the *Data Security Law*, the *Cybersecurity Law* and other relevant laws, to strengthen the data security management of accounting firms,

and to standardize the data processing activities of accounting firms, the Ministry of Finance and the Cyberspace Administration of China (“CAC”) jointly drafted and published the *Interim Measures on Data Security Management for Accounting Firms (Draft for Public Comments)* (the “Interim Measures”), which are open for public comments until 11 December 2023.

The *Interim Measures* apply to accounting firms that are legally established in China and provide auditing services for listed companies as well as non-listed state-owned financial institutions, central enterprises, et cetera, and accounting firms that carry out cross-border audits, as well as their practitioners. Data refers to any record of information, generated externally and internally, electronically or otherwise, in the course of an audit engagement performed by an accounting firm. The *Interim Measures* require accounting firms to manage data in a hierarchical manner, distinguishing between core, important and general data, and make specific provisions on matters such as data transmission, data encryption, data backup, etc., as well as regulating matters related to outbound transfer of data involved in the supervision of cross-border audits. The *Interim Measures* specify that accounting firms shall establish a comprehensive network management governance structure, set up a sound internal network management system, deploy network management technicians with relevant professional skills in accordance with the scale and complexity of their business activities, and ensure a reasonable investment of network resources and funds. In response to the problem of lax network security management of some accounting firms, the *Interim Measures* require accounting firms to set up strict access control policies, manage all kinds of accounts in a unified manner, and not to set up unrestricted super accounts to prevent unauthorized access. ([More](#))

北京高院发布《侵犯公民个人信息犯罪审判白皮书》

2023年11月15日，北京高院通过对近5年来全市法院审结的侵犯公民个人信息罪案件进行调研统计和实证分析，发布《侵犯公民个人信息犯罪审判白皮书》（以下简称《白皮书》），以期为社会、行业综合治理提供司法智慧。

《白皮书》包括侵犯公民个人信息犯罪审理情况、基本特点、成因分析、治理对策建议及典型案例五个方面。据《白皮书》介绍，在已审结的侵犯公民个人信息罪案件当中，涉案信息主要包含了手机号码、身份证件、互联网数据、地址位置四种基本的要素，且大部分案件涉及多种信息要素。其中公民手机号码、身份证件号码所占比重最大，合计达77.3%；其次是互联网相关数据，如用户注册信息、浏览检索记录、IP地址等；再次是地址位置，涉案信息大可到地域省份城市，小可精准至具体门牌号。上述各种信息类型及信息要素交叉组合，从而帮助不法分子识别、锁定特定的自然人或某一类人群。（[查看更多](#)）

Beijing High People’s Court Issues the *White Paper on Criminal Trials for Infringing on the Personal Information of Citizens*

On 15 November 2023, the Beijing High People’s Court Issuee the *White Paper on Criminal Trials for Infringing on the Personal Information of Citizens* (the “White Paper”) through research, statistics and empirical analysis of cases of crimes against citizens’ personal information tried and concluded by the Beijing High People’s Court over the past five years, in order to provide judicial expertise for the comprehensive governance of the society and the industry.

The *White Paper* covers five aspects, including the situation of criminal trials, basic characteristics, analysis of causes, suggestions for governance countermeasures and typical cases for infringement of citizens' personal information. According to the *White Paper*, among the closed criminal cases of infringement of citizens' personal information, the information involves mainly four basic elements: cell phone number, identity document number, Internet data, and address location, and most of the cases involve a variety of information elements. Among them, citizens' cell phone numbers and identity document numbers accounted for the largest proportion, amounting to 77.3%; followed by Internet-related data, such as user registration information, browsing and retrieval records, IP addresses, etc.; and then the address and location of the information involved in the case, which can be as large as the geographical provinces and cities, and as small as a specific door number. The cross-combination of the above information types and information elements helps criminals to identify and target specific persons or a certain group of people. ([More](#))

北京市经济和信息化局发布《数据清洗、去标识化、匿名化业务规程（试行）》

2023年11月14日，为规范数据处理行为，激活数据要素市场，北京市经济和信息化局发布《数据清洗、去标识化、匿名化业务规程（试行）》（以下简称《业务规程》）。

《业务规程》在《个人信息保护法》《数据安全法》等法规政策框架下，体系性地明晰了数据清洗、去标识化、匿名化处理的技术特点、相互关系和落地方式，总结了各项处理活动的目的、流程、技术方法及环境要求，可适用于广义的数据范畴，包括但不限于个人数据、企业数据、物联网数据等，为企业等主体开展相关数据处理活动和相应测试评估提供参考。（[查看更多](#)）

Beijing Municipal Bureau of Economy and Information Technology Issues the *Business Regulations on Data Cleansing, De-identification and Anonymization (Trial)*

On 14 November 2023, in order to regulate data processing activities and activate the data element market, the Beijing Municipal Bureau of Economy and Information Technology issued the *Business Regulations on Data Cleansing, De-identification and Anonymization (Trial)* (the “*Business Regulations*”).

Under the framework of the *Personal Information Protection Law*, the *Data Security Law* and other regulations and policies, the *Business Regulations* systematically clarify the technical characteristics, interrelationships and implementing methods of data cleansing, de-identification and anonymization processing, and summarize the purposes, processes, technical methods and environmental requirements of each processing activity, which can be applied to a wide range of data categories, including but not limited to, personal data, enterprise data, Internet of Things data, and so on, and provides reference for enterprises and other subjects to carry out relevant data processing activities and corresponding testing and evaluation. ([More](#))

北京市经济和信息化局和北京市财政局发布《2023年北京市高精尖产业发展资金实施指南（第三批）》

2023年11月17日，为落实《北京市“十四五”时期高精尖产业发展规划》《北京市关于促进高精尖产业投资推进制造业高端智能绿色发展的若干措施》等文件，明确北京市高精尖产业发展资

金（以下简称高精尖资金）重点支持的领域和方向，北京市经济和信息化局和北京市财政局发布《2023年北京市高精尖产业发展资金实施指南（第三批）》（以下简称《实施指南》）。

《实施指南》明确了三个重点方向，即机器人未定型创新产品首试首用奖励、重点共享开源平台奖励与数据要素市场示范奖励。数据要素市场示范奖励方面，包括鼓励企业在北京国际大数据交易所进行数据资产登记，及鼓励企业在北京国际大数据交易所开展数据交易。（[查看更多](#)）

Beijing Municipal Bureau of Economy and Information Technology and Beijing Municipal Bureau of Finance Release the *Implementation Guidelines for 2023 Beijing Municipal Funding for the Development of High-grade, Precision and Advanced Industries (Third Batch)*

On 17 November 2023, in order to implement the Beijing Municipal “the 14th Five-Year Plan” for the Development of High-grade, Precision and Advanced Industries, Beijing Municipal Measures on Promoting Investment in High-grade, Precision and Advanced Industries to Advance High-end, Intelligent and Green Development of the Manufacturing Industry, and other relevant documents, and to clarify the key areas and directions to be supported by Beijing municipal funds for the development of high-grade, precision and advanced industries, the Beijing Municipal Bureau of Economy and Information Technology and Beijing Municipal Bureau of Finance released the *Implementation Guidelines for 2023 Beijing Municipal Funding for the Development of High-grade, Precision and Advanced Industries (Third Batch)* (the “Implementation Guidelines”).

The *Implementation Guidelines* specifies three key directions, namely, incentives for the first trial and first use of undefined innovative products of robots, incentives for key shared open-source platforms, and incentives for the data factor market model. As for the incentives for data element market model, it includes encouraging enterprises to register their data assets in the Beijing International Big Data Exchange and to conduct data transactions. ([More](#))

湖北发布《湖北省数据交易管理暂行办法（征求意见稿）》

2023年11月7日，为引导培育本省数据交易市场，防范数据交易风险，规范数据交易行为，促进数据高效有序流通，湖北省发展和改革委员会发布《湖北省数据交易管理暂行办法（征求意见稿）》（以下简称《暂行办法》），征求意见时间为2023年11月7日至11月17日。

《暂行办法》适用于湖北省行政区域内进行的数据流通交易及相关活动，要求数据交易场所所在省发展改革部门的指导下，建设全省统一的数据要素交易平台。数据交易场所是指省人民政府批准设立从事数据交易业务，全省统一的数据交易机构。《暂行办法》对数据交易主体、数据交易标的、数据交易流程提出了相关要求。数据交易主体包括数据提供方、数据需求方、数据商和第三方服务机构。数据交易标的包括数据产品、数据服务、算力资源等。交易主体在数据交易场所完成注册，数据交易场所为交易主体颁发主体凭证。（[查看更多](#)）

Interim Measures for the Management of Data Transactions in Hubei Province (Draft for Opinion) issued

On 7 November 2023, in order to guide the cultivation of the data transaction market in the province, prevent the risk of data transactions, regulate the behavior of data transactions, and promote the efficient and orderly circulation of data, the Hubei Provincial Development and Reform Commission issued the *Interim Measures for the Management of Data Transactions in Hubei Province (Draft for Opinion)* (the “*Interim Measures*”), which are open for public comments from 7 November to 17 November, 2023.

The *Interim Measures* apply to data circulation transactions and related activities conducted within the administrative area of Hubei province, and require data trading venues to build a unified data element transaction platform for the province under the guidance of the provincial development and reform department. Data trading venues are data trading organizations approved by the provincial people's government to engage in data trading business, and are the unified data trading organization of the province. The *Interim Measures* set out requirements relating to the subject of data transactions, the object and the process of data transactions. The subject of data transaction includes data providers, data receivers, data vendors and third-party service organizations. The object of data transaction includes data products, data services, computing resources, etc. The subject of the transaction completes registration in the data trading venue, and the data trading venue issues the subject credentials for the subject of the transaction. ([More](#))

中国互联网金融协会正式发布《金融数据资产管理指南》等9项团体标准

2023年11月16日，中国互联网金融协会正式发布9项团体标准，包括《金融数据资产管理指南》《金融数据安全技术防护规范》《金融数据安全应急响应和处置指引》《公共数据在企业征信领域应用的指南》《金融分布式账本技术资金管理应用业务要求》《金融分布式账本技术资金管理应用技术要求》《移动金融客户端应用软件上架资质指引》《移动金融客户端应用软件无障碍设计指南》《网上银行服务 应用安全规范》。

其中，《金融数据安全技术防护规范》规定了金融数据安全技术的目标、原则、技术框架、安全管理制度、全生命周期安全、安全监管与运维等方面的内容，既提出了保障金融数据安全的通用技术要求，也提出了针对金融数据生命周期各环节的流程特点和安全风险的特定技术要求，有利于提升金融机构在数据采集、共享、使用过程中的安全防护能力，全面保障金融数据生命周期各环节的数据安全，并为第三方评估机构开展金融数据安全防护检查与评估工作提供参考。《金融数据资产管理指南》提出了金融数据资产管理的框架、原则、对象、活动、运营支撑与保障，提供了金融数据资产分类、盘点和估值方法。（[查看更多](#)）

National Internet Finance Association of China Officially Releases 9 Group Standards, Including the *Guidelines on Financial Data Asset Management*

On 16 November 2023, the National Internet Finance Association of China officially releases 9 group standards, including the *Guidelines on Financial Data Asset Management*, *Specification for Technical Protection of Financial Data Security*, *Guidelines for Emergency Response and Disposal of Financial Data Security*, *Guidelines for the Application of Public Data in the Field of Enterprise Credit*, *Busi-*

ness Requirements for the Application of Financial Distributed Ledger Technology for Funds Management, Technical Requirements for the Application of Financial Distributed Ledger Technology for Funds Management, Guidelines for the Qualification of Mobile Financial Client Application Software on the Market, Guidelines for the Accessibility Design of Mobile Financial Client Application Software, and Security Specification for Internet Banking Service Applications.

Among them, the *Specification for Technical Protection of Financial Data Security* stipulates the objectives, principles, technical framework, security management system, full life-cycle security, security supervision and operation and maintenance of financial data security technology, and puts forward both general technical requirements for safeguarding financial data security and specific technical requirements for the process characteristics and security risks of the various stages in the life cycle of financial data, which is conducive to improving the security protection capability of financial institutions in the process of data collection, sharing and use, comprehensively safeguarding the data security of each stage in the life cycle of financial data, and providing reference for third-party assessment organizations to carry out inspection and assessment of financial data security protection. The *Guidelines on Financial Data Asset Management* set out the framework, principles, objects, activities, operational support and safeguards for financial data asset management, and provide methods for classification, inventory and valuation of financial data assets. ([More](#))

华美银行因生产环境安全管控不足、生产数据安全管控不足被处罚

2023年11月13日，据中国经济网报道，国家金融监督管理总局网站当天公布的上海监管局行政处罚信息公开表显示，华美银行（中国）有限公司生产环境安全管控不足、生产数据安全管控不足。时任华美中国信息科技部主管仲蔚负直接管理责任。国家金融监督管理总局上海监管局依据《中华人民共和国银行业监督管理法》第四十六条，责令华美银行（中国）有限公司整改，并处罚款60万元；依据《中华人民共和国银行业监督管理法》第四十八条，对仲蔚警告。

([查看更多](#))

East West Bank was Penalized for Insufficient Security Control of Production Environment and Insufficient Security Control of Production Data

On 13 November 2023, according to China Economic Network, the official website of National Financial Regulatory Administration network published the administrative penalty information disclosed by Shanghai Supervisory Bureau, which shows that, the East West Bank (China) Ltd. was penalized for insufficient security control of production environment and insufficient security control of production data. Zhong Wei, then head of the Information Technology Department of East West Bank (China), was directly responsible for the management of the company. The Shanghai Supervision Bureau of the National Financial Regulatory Administration of the People's Republic of China, in accordance with Article 46 of the *Banking Supervision Law of the People's Republic of China*, ordered East West Bank (China) Limited to rectify the situation and imposed a fine of RMB 600,000; Zhong Wei was warned in accordance with Article 48 of the *Banking Supervision Law of the People's Republic of China*. ([More](#))

美国和韩国签署谅解备忘录，共享网络威胁信息和网络安全最佳实践

2023年11月9日，美国网络安全和基础设施安全局（CISA）宣布其与韩国国家情报院（NIS）签署了一份谅解备忘录（MoU），概述了两国总统在今年4月份签署的双边网络框架下的合作领域。

根据谅解备忘录（MoU），美国和韩国将定期就应对网络安全威胁的技术能力和机制进行磋商，加强各自计算机应急小组（CERT）之间的沟通；就关键基础设施供应链的恢复能力开展合作；通过联合演习、专家级交流和培训，分享网络和基础设施领域的最佳实践；分享人工智能等新技术政策方面的最佳实践。（[查看更多](#)）

US and South Korea Sign MoU Outlining Best Practices for Sharing Cyber Threat Information and Cybersecurity Best Practices

On 9 November 2023, the US Cybersecurity and Infrastructure Agency (“CISA”) announced that, on the same day, it signed a Memorandum of Understanding (“MoU”) with the Korean National Intelligence Service (“NIS”). In particular, the MoU outlines best practices for the two agencies to collaborate and share information as it relates to cyber threats.

Under the MoU, the United States and the Republic of Korea will consult regularly on methods for cybersecurity threat response; enhance communications between Computer Emergency Response Teams (“CERTs”); share best practices between agencies by utilizing joint exercises and training; and share best practices for new technologies, including artificial intelligence (AI). ([More](#))

韩国与罗马尼亚签署谅解备忘录加强网络威胁应对

2023年11月13日，韩国网络安全局（KISA）宣布，已于2023年11月9日与罗马尼亚国家网络安全局（DNSC）签署谅解备忘录（MoU），以促进双方在应对网络威胁方面的合作。

KISA特别解释，该谅解备忘录将允许两个机构通过加强网络安全能力、机构间人力交流和分享网络安全政策的最佳做法，在应对网络安全威胁方面开展合作。（[查看更多](#)）

South Korea and Romania Sign MoU to Facilitate Cyber Threat Response

On 13 November 2023, the Korean Internet Security Agency (“KISA”) announced that, on 9 November 2023, it had signed a Memorandum of Understanding (“MoU”) with the Romanian National Cyber Security Agency (“DNSC”) to the end of facilitating mutual collaboration for responding to cyber threats.

In particular, KISA explained that the MoU will permit the organizations to cooperate on their responses to cybersecurity threats by strengthening cybersecurity capabilities, exchanging manpower between the organizations, and sharing best practices for cybersecurity policies. ([More](#))

知识产权 Intellectual Property

最高法：一事两诉系滥用权利

近日，最高人民法院知识产权法庭对上诉人北京某科技公司甲与被上诉人李某侵害发明专利权纠纷一案作出终审判决，认定北京某科技公司甲的“一事两诉”等行为构成滥用权利，不仅应当驳回其在本案中有关诉讼请求，还应当承担对方当事人因诉讼而产生的合理开支。该判决指出，对于权利人故意以“诱导侵权”“陷阱取证”“误导性和解”“一事两诉”等方式滥用权利行为的，人民法院应依法采取有效措施予以规制，并可视情依据有关司法解释判令其承担对方当事人合理开支。

法院认为，保护专利权人的合法权益，鼓励发明创造，推动发明创造的应用，提高创新能力，促进科学技术进步和经济社会发展，是我国专利法的立法目的。但是，权利的行使必须有一定边界，应当遵循诚实信用原则，且不得损害他人合法权益。当合法权益被侵害时，权利人可以依法行使诉权，但诉讼行为应秉持善意、审慎行事，应当符合诚实信用原则。

来源：最高法知产法庭

SPC: "One Case with Two Litigations" Constitutes an Abuse of Rights

Recently, the Intellectual Property Tribunal of the Supreme People's Court issued a final judgment on the case of the invention patent infringement between the appellant, a Beijing-based technology company A (the Plaintiff), and the appellee, Li X (the Defendant), and found that the behavior of the Plaintiff's "one case with two lawsuits" and other acts constituted an abuse of rights. Not only shall the Plaintiff's claims in this case be dismissed, but the Plaintiff also shall bear the reasonable expenses incurred by the Defendant. The judgment noted that, for the rights holder's intentionally "induce infringement", "trap evidence", "misleading settlement", "one case with two lawsuits" and other ways of abuse of rights, the people's court shall take effective measures to regulate it in accordance with the law, and may, if appropriate, order it to bear the reasonable expenses of the other party in accordance with the relevant judicial interpretations.

The court held that when the legitimate rights and interests are infringed upon, the right holder may exercise the right of action in accordance with the law, but the litigation behavior shall be adhered to in good faith, act prudently, and shall be consistent with the principle of honesty and credit.

Source: Intellectual Property Tribunal of Supreme People's Court

最高法：涉GPL开源协议争议的软件权利人即使未开源，亦有权针对侵权行为维权

近日，最高人民法院就网经科技（苏州）有限公司诉浙江亿邦通信科技有限公司、苏州启奥网络科技有限公司、刘某某、吴某某、谢某侵害计算机软件著作权纠纷案作出终审判决。判决认

定，被告公司构成计算机软件著作权侵权，需共同赔偿原告经济损失及合理费用共计50万元并消除影响。

法院认为，在软件尚未被开源、该软件著作权人认为其软件不受GPLv2协议约束、被诉侵权人则依据GPLv2协议提出不侵权抗辩的侵权纠纷中，软件开发者自身是否违反GPLv2协议和是否享有软件著作权，是相对独立的两个法律问题，二者不宜混为一谈，以免不合理地剥夺或限制软件开发者基于其独创性贡献依法享有的著作权。但需指出，本案最终认定被诉行为构成侵权并支持涉案权利人的部分诉请，并不表明该涉案权利人将来在潜在的违约和/或侵权之诉中可免于承担其依法应当承担的违约和/或侵权责任。

来源：最高人民法院

SPC: Owners of Non-Open Source Software Under the GPL Open Source Agreement Could Enforce Their Rights

Recently, the SPC issued a final judgment on computer software copyright infringement in the case of Itibia Technologies (Suzhou) Co., Ltd. (the Plaintiff) v. ZheJiang Ebang Communication Co., Ltd. and others (the Defendants). The judgment found that the Defendants constituted computer software copyright infringement and ordered them to jointly pay the Plaintiff damages and reasonable expenses totaling RMB 500,000 and to eliminate the impact of the infringement.

The court held that in an infringement dispute where the software has not yet been open-sourced, the copyright owner of the software held that he/she was not bound by the GPLv2 agreement, and the Defendants raised the defense of non-infringement in accordance with the GPLv2 agreement, whether the software developer himself/herself was in breach of the GPLv2 agreement and whether he/she enjoyed the copyright of the software were two relatively independent legal issues. The two shall not be mixed together, to avoid unreasonable deprivation or restriction of the copyright of the software developer based on his/her original contribution. But it shall be noted that, the final determination that the alleged conduct constitutes infringement and the partial claim of the right holder favored in this case, do not suggest that the right holder in this case will be exempted from liability for breach of contract and/or infringement in potential future claims.

Source: The Supreme People's Court

杭州中院：ChildLife反向假冒案判赔5000万元

近日，杭州中院对ChildLife诉前经销商侵害商标权及不正当竞争案作出一审判决，认定被告构成商标侵权及不正当竞争，判赔5000万元。法院判令被告——inne销售方（南京童年时光生物技术有限公司）立即停止侵权及不正当竞争行为、刊登声明消除影响并赔偿经济损失5000万元。

法院认为，反向假冒的商标侵权行为而言，将他人商标取下而换上自己的商标的行为，切断了商品与原商标的联系，切断了生产者与消费者之间的桥梁，妨碍了商标功能的正常发挥，侵犯了他人的商标专用权。本案中，被诉侵权店铺在销售inne商品时，使用“CHILDLIFE”商标，虽

非物理意义上撤换他人商标，但在本质上与前述撤换他人商标所产生的作用和效果相同，同样也侵害“CHILDLIFE”商标的识别功能，割裂其与Childlife产品的联系与未经“CHILDLIFE”商标的权利人同意，在销售“CHILDLIFE”产品时更换其注册商标并将该更换商标的商品又投入市场的行为性质相同，构成反向假冒的商标侵权行为。

来源：浙江省杭州市中级人民法院

Hangzhou Intermediate People's Court: ChildLife Reverse Counterfeit Case, Ordered to Pay RMB 50 Million

Recently, Hangzhou Intermediate People's Court issued a first instance judgment in the case of ChildLife against former distributor for trademark and unfair competition infringement, found that the Defendant, the seller of inne (Nanjing Childhood Biotechnology Co., Ltd.), constituted trademark and unfair competition infringement, and was ordered to publish a statement to eliminate the effects and to pay damages of RMB 50 million.

The court held that, as far as the trademark infringement of reverse counterfeit is concerned, removing the original trademark and replacing it with one's own trademark cut off the connection between the goods and the original trademark, and also cut off the bridge between the producer and the consumer, hindered the normal function of the trademark, and infringed on others' trademark. In this case, the infringing store used the trademark "CHILDLIFE" when selling inne's products, which was not a physical removal of other's trademark, but essentially had the same effect as the aforementioned removal of other's trademarks. It also infringed on the recognizable function of the "CHILDLIFE" trademark and severed the link between the trademark and ChildLife's products. It has the same nature as the act of replacing the registered trademark of CHILDLIFE in the sale of CHILDLIFE products without the consent of the right holder, putting the goods with the replaced trademark into the market again, and constitutes the reverse confusion infringement.

Source: Hangzhou Intermediate People's Court of Zhejiang Province

美国倍而达公司起诉益方生物窃取商业秘密

近日，益方生物科技（上海）股份有限公司披露《关于公司涉及诉讼的公告》称，Beta Pharma, Inc.（以下简称“美国倍而达”）在美国新泽西地区法院对公司、Yueheng Jiang（江岳恒）、Wansheng Jerry Liu和Fox Rothschild, LLP提起了民事诉讼。美国倍而达提出，公司申请号为CN201910491253.6的专利申请存在商业秘密盗窃等情况。美国倍而达据此请求法院，要求被告赔偿其损失，并要求公司将包括涉案专利申请在内的相关专利及专利申请的权利人变更登记为原告。

据了解，早在2021年3月，美国倍而达就在美国新泽西地区法院对益方生物提起过商业秘密侵权诉讼。2023年3月15日，原告美国倍而达主动撤回了对益方生物、江岳恒（Yueheng Jiang）和Wansheng Jerry Liu提起的民事诉讼。

来源：证券时报网

InventisBio Sued by US-based Beta for Trade Secrets Theft

Recently, InventisBio Co., Ltd. (the "InventisBio") disclosed the "Announcement of Litigation Involving the Company", stating that US-based Beta Pharma Inc. (the "Beta") filed a civil lawsuit against the company, as well as the company's secretary of the board of directors, Yueheng Jiang, in the U.S. District Court District of New Jersey. Beta claimed that InventisBio's Patent Application No. CN201910491253.6 was subject to trade secret theft, among other things. The American firm accordingly petitioned the court, asking the defendants to compensate it for its losses and for InventisBio to change the registration of the right holders of the relevant patents and patent applications, including the patent application in question, to Beta.

It is reported that as early as March 2021, Beta filed a trade secret infringement lawsuit against InventisBio in the U.S. District Court District of New Jersey. On 15 March 2023, Beta withdrew the civil lawsuit filed against InventisBio, Yueheng Jiang, and Wansheng Jerry Liu.

Source: [Securities Times Newspaper Website](#)

新加坡发布版权集体管理组织条例新类别许可计划

近日，新加坡律政部（MinLaw）和新加坡知识产权局（IPOS）在官方公报上公布了关于新的集体管理组织（CMO）分类许可计划的次级立法——《2023年版权（集体管理组织）条例》（以下简称“《条例》”），这项计划将于2024年5月1日正式生效。

该许可计划旨在通过提高集体管理组织之间的透明度、问责制、效率和良好治理的标准，实现一个运作良好的集体管理生态系统。该计划采用了一种仅针对关键领域的“低干预”监管模式，同时让集体管理组织能够灵活地在这些范围内开展业务。该计划不会干涉集体管理组织对使用其管理的材料所收取的费用；集体管理组织仍可自由决定此类费用。根据此计划，每个集体管理组织都自动受到强制性分类许可的约束，并须遵守所有适用的许可条件。由于该计划是自动运行的，因此成为集体管理组织无需注册或支付任何费用。

来源：IPOS

Singapore Releases New Class Licensing Scheme for the Regulation of Collective Management Organisations

Recently, the Ministry of Law (MinLaw) and the Intellectual Property Office of Singapore (IPOS) today published the subsidiary legislation for a new collective management organization (CMO) class licensing scheme, which will come into operation on 1 May 2024.

The class licensing scheme seeks to achieve a well-functioning collective management ecosystem by raising standards of transparency, accountability, efficiency, and good governance among CMOs. The scheme applies a light-touch model of regulation targeted at critical areas only, while leaving CMOs the flexibility to operate within those boundaries. The scheme does not interfere in the fees that CMOs charge for the use of the material they manage; CMOs remain free to determine such fees. Under this scheme, every CMO is automatically subject to a mandatory class license and must comply with all

applicable license conditions. Since the scheme operates automatically, there is no need to register or pay any fee to be a CMO.

Source: IPOS

亚马逊语音助手专利案败诉，需赔偿4670万美元

近日，特拉华州联邦法院认定亚马逊专利侵权，需支付4670万美元的赔偿金。陪审团认定这家科技巨头的Alexa虚拟助手侵犯了VB Assets公司与语音识别和自然语言处理相关的专利。

VB Assets公司的前身VoiceBox Technologies公司为丰田、克莱斯勒和道奇等汽车制造商以及GPS制造商TomTom和Magellan等公司开发了语音控制软件。亚马逊于2014年在其 Echo 智能扬声器中推出了Alexa，此后又将语音助手集成到了其他设备和移动应用程序中。VB Assets公司在诉状中称，亚马逊的行为“粉碎”VoiceBox围绕其专利“推广和建立业务”的机会。

来源: REUTERS

Amazon Ordered to Pay \$46.7 Million in Voice-Assistant Patent Case

Recently, Delaware federal court found Amazon, the tech giant's Alexa virtual assistant violates patents related to speech recognition and natural language processing, and ordered Amazon to pay \$46.7 million in damages.

The predecessor of VB Assets was VoiceBox Technologies, created voice-control software for companies including carmakers Toyota, Chrysler, and Dodge, and GPS makers TomTom and Magellan. Amazon launched Alexa in its Echo smart speakers in 2014 and has since integrated the voice assistant into other devices and mobile apps. VB Assets said in its complaint that Amazon's conduct "crushed" VoiceBox's chances to "promote and build a business" around its patents.

Source: REUTERS

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