



NEWSLETTER

LIFANG & PARTNERS 立方观评



关注更多精彩内容

No.371

2023.12

立方要闻周报

Weekly News By Lifang & Partners

NO.109

立方竞争法周报 Weekly Competition Law News

全国首个反垄断审查合规辅导基地在厦门成立

First Nationwide Antitrust Review Compliance Counseling Base Established in Xiamen

市场监管总局前10月公布无条件批准经营者集中案件605件

SAMR Announces 605 Cases of Unconditional Approval of Concentration of Undertakings in First 10 Months of 2023

荷兰合作银行因参与债券交易卡特尔被处以2660万欧元罚款

Rabobank Faces EUR 26.6 Million EU Fine over Decade-Long Bonds Trading Cartel

FTC在制药商Mylan诉Sanofi案中提交法庭之友书状

FTC Files Amicus Brief in Mylan, Sanofi Insulin Patent Dispute

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

工信部就《工业和信息化领域数据安全行政处罚裁量指引（试行）》公开征求意见

The MIIT Publicly Solicits Opinions on the *Guidelines on Administrative Penalties Discretion for Data Security in Industrial and Information Technology Fields (Trial)*

《公共数据授权运营平台技术要求》团体标准正式发布

The Group Standard *Technical Requirements for Public Data Authorization Operation Platform* Officially Released

上海仲裁委员会发布《上海仲裁委员会数据仲裁指引》

Shanghai Arbitration Commission Issues *Guidelines on Data Arbitration* Shanghai Arbitration Commission Issues *Guidelines on Data Arbitration*



NEWSLETTER

LIFANG & PARTNERS 立方观评



关注更多精彩内容

No.371

2023.12

北京市互联网信息办公室、北京市经济和信息化局、北京市通信管理局通知开展2023年度汽车数据安全管理工作

Beijing Internet Information Office, Beijing Municipal Bureau of Economy and Information Technology, Beijing Municipal Communications Administration Issue Notice to Carry out 2023 Annual Automotive Data Security Management Report Work

广东省通信管理局通报下架4款App

Guangdong Communications Administration Announces the Removal from Shelf of Four Apps

浙江温州公安网安部门查处某大药房内部人员侵犯公民个人信息案

Zhejiang Wenzhou Public Security and Network Security Authorities Investigate a Case Involving Certain Employee of a Pharmacy Infringing Citizens' Personal Information

杭州互联网法院发布数据权益司法保护十大典型案例

Hangzhou Internet Court Releases Ten Typical Cases of Judicial Protection of Data Rights and Interests.

广州警方公布典型案例：网络运营者不履行网络安全保护义务将被罚

Guangzhou Police Announces Typical Cases: Internet Operators Failing to Fulfill Their Obligations to Protect Internet Security Will be Punished

兰州银行因EAST数据质量管理不到位等被罚710万、多人被禁业

Lanzhou Bank Was Fined 7.1 million yuan for Inadequate EAST Data Quality Management; Several Individuals Banned from the Banking Industry

美国联邦贸易委员会宣布与Global Tel*Link及其子公司就数据安全故障达成和解

USA: FTC Announces Settlement with Global Tel*Link and Its Subsidiaries for Data Security Failures

西班牙数据保护局发布关于使用生物识别数据进行现场和访问控制的指南

Spain: AEPD Publishes Guide on Use of Biometric Data for Presence and Access Control

知识产权 Intellectual Property

国家知识产权局办公室公布2023年度第二批知识产权信息服务优秀案例名单



No.371

2023.12

CIPA announced the list of the second batch of outstanding cases of intellectual property information service in 2023

北京发布《知识产权公共服务规范》团体标准

Beijing releases group standards for Intellectual Property Public Services

侵权人对外宣称的经营业绩可以作为计算损害赔偿的依据

The business performance declared by the infringer can be used as the basis for calculating damages

“米其林”诉“米芝莲”案，判赔1000万

"Michelin" v. "Michelin" Case, Awarded RMB 10 Million Compensation

“莫干山”被认定为“板材”等商品上的驰名商标

"Moganshan" is recognized as a well-known trademark on "plate" commodities

重庆警方破获特大假冒品牌电池商标案，涉案金额2000余万元

Chongqing police have cracked a huge counterfeit battery trademark case involving more than RMB 20 million

抄袭摄影作品名称行为，被认定侵犯著作权并构成不正当竞争

Copying the names of photographic works shall be deemed to infringe copyright and constitute unfair competition.

联想向ITC提起专利侵权诉讼，指控华硕侵犯多项专利

Lenovo files patent infringement action against asus with the US ITC

TCL中环子公司向爱旭股份发起侵权诉讼

Maxeon Solar Technologies files patent action against Aiko in Germany

再生元起诉Celltrion专利侵权

Regeneron sued Celltrion for patent infringement

立方竞争法周报 Weekly Competition Law News

全国首个反垄断审查合规辅导基地在厦门成立

2023年11月22日，据媒体报道，海丝中央法务区反垄断审查合规辅导中心在厦门市海丝中央法务区思明示范区正式揭牌运营。作为全国首个反垄断审查合规法务辅导基地，它将依托海丝中央法务区平台，立足厦门，辐射福建乃至“海上丝绸之路”沿线地区，为企业申报经营者集中提供公益性的法律支持服务。今年9月7日，上海市市场监管局、福建省市场监管局、厦门市海丝中央法务区建设工作领导小组办公室、厦门市市场监管局、厦门市思明区人民政府五方代表在第三届海丝中央法务区论坛上，共同签署合作框架协议，正式启动全国首个反垄断审查合规辅导中心建设项目。辅导中心落成后，将根据企业申报经营者集中的服务需求，为企业提供常规辅导、个性化辅导和疑难问题辅导三个层级的公益性法务支持。（[查看更多](#)）

First Nationwide Antitrust Review Compliance Counseling Base Established In Xiamen

On November 22, 2023, according to media reports, the Antitrust Review Compliance Counseling Center of the Maritime Silk Road Central Legal District is officially established in the Siming Demonstration Zone of the Maritime Silk Road Central Legal District, Xiamen. As the first nationwide antitrust review compliance legal counseling base, it will rely on the platform of the Maritime Silk Road Central Legal District, based in Xiamen, radiating to Fujian and even areas along the “Maritime Silk Road”, to provide public welfare legal support for enterprises to declare concentration of undertakings. On September 7 this year, representatives from the Shanghai AMR, Fujian AMR, Xiamen Maritime Silk Road Central Legal District Construction Leading Group Office, Xiamen AMR, and Xiamen Siming District People’s Government attended the third meeting. At the Maritime Silk Road Central Legal District Forum, they jointly signed a cooperation framework agreement and officially launched the country’s first anti-monopoly review compliance counseling center construction project. After the completion of the counseling center, it will provide enterprises with three levels of public welfare legal support: regular counseling, personalized counseling and difficult problem counseling based on the needs of enterprises reporting concentration of undertakings. ([More](#))

市场监管总局前10月公布无条件批准经营者集中案件605件

近日，市场监管总局发布公告，宣布今年前10个月公布的无条件批准经营者集中案件数量为605件，上述案件主要有五个特点。一是从案件类型看，绝大多数是简易案件。二是从主体构成看，经营者集中涵盖了各类经营主体，境内企业间集中案件数量最多，其次是境外企业间集中案件。三是从行业分布看，涉及实体经济制造业的案件数量最多，其他占比较高的行业包括批发零售、交通运输、水电气热生产供应、房地产、信息技术服务业等。四是从交易类型看，包括涉及同行竞争者的横向集中案件、涉及上下游企业的纵向集中案件、没有横纵向关系的混合集中案件；从交易模式看，涉及股权收购的案件数量最多，其次是合营企业。五是从企业注册地看，境内企业间集中主要来自上海、北京、广东、浙江等省市，境外企业间集中主要涉及美国、法国、日本等国家。（[查看更多](#)）

SAMR Announces 605 Cases of Unconditional Approval of Concentration of Undertakings in First 10 Months of 2023

Recently, the SAMR issues a notice, announcing that the number of cases of unconditional approval of concentration of undertakings announced in the first 10 months of 2023 is 605. There are five main features of the above-mentioned cases. First, looking at the types of cases, the vast majority are simple cases. Second, from the perspective of entity composition, concentration of undertakings covers all types of business entities, with the largest number of concentration cases among domestic enterprises, followed by concentration cases among overseas enterprises. Third, from the perspective of industry distribution, the number of cases involving the real economy manufacturing industry is the highest. Other industries with a relatively high proportion include wholesale and retail, transportation, water, electricity and heat production and supply, real estate, information technology services, etc. Fourth, from the perspective of transaction types, including horizontal concentration cases involving competitors in the same industry, vertical concentration cases involving upstream and downstream enterprises, and mixed concentration cases without horizontal and vertical relationships; from the perspective of transaction patterns, the largest number of cases involving equity acquisitions, followed by Joint ventures. Fifth, looking at the place of enterprise registration, the concentration of domestic enterprises mainly comes from Shanghai, Beijing, Guangdong, Zhejiang and other provinces and cities, while the concentration of overseas enterprises mainly involves the United States, France, Japan and other countries. ([More](#))

荷兰合作银行因参与债券交易卡特尔被处以2660万欧元罚款

2023年11月22日，据媒体报道，欧盟委员会宣布基于荷兰合作银行（Rabobank）与德意志银行（Deutsche Bank）共同参与的欧元计价债券交易的卡特尔行为，对荷兰合作银行处以2660万欧元（2.08亿人民币）的罚款；而德意志银行则通过宽大处理制度免于罚款。本案的卡特尔行为涉及在欧洲经济区（EEA）交易的以欧元计价的SSA债券和政府担保债券。经调查，欧盟委员会认定，在2006年至2016年期间，荷兰合作银行和德意志银行通过其交易员交换了商业敏感信息，并协调了其交易和定价策略。本案罚款根据欧盟委员会2006年罚款准则确定。在确定罚款数额时，欧盟委员会特别考虑了欧洲经济区卡特尔参与者所涉产品的销售价格、反竞争行为的严重性、地理范围和持续时间等因素。（[查看更多](#)）

Rabobank Faces EUR 26.6 Million EU Fine over Decade-Long Bonds Trading Cartel

On November 22, 2023, according to media reports, the European Commission imposes a hefty €26.6 million (CYN 208 million) fine on Dutch bank Rabobank for its involvement in a euro-denominated bonds trading cartel, while Deutsche Bank is exempted from the fine through the leniency system. The cartel conduct in this case relates to euro-denominated SSA bonds and government-guaranteed bonds traded in the European Economic Area (EEA). After the investigation, the European Commission determined that between 2006 and 2016, Rabobank and Deutsche Bank exchanged commercially sensitive information through their traders and coordinated their trading and pricing strategies. The fines were set on the basis of the Commission's 2006 Guidelines on fines. In determining the amount of the fine, the European Commission takes into account factors such as the sales price of the products involved in the EEA cartel, the seriousness, geographical scope and duration of the anti-competitive conduct. ([More](#))

FTC在制药商Mylan诉Sanofi案中提交法庭之友书状

2023年11月20日，联邦贸易委员会（FTC）发布公告，宣布其已向美国宾夕法尼亚州西区联邦地区法院提交了法庭之友书状（amicus brief），以应对在美国食品药品监督管理局（FDA）发布的橙皮书中不当列出的药物所造成的反竞争损害。FTC本次提交的书状涉及制药商Mylan（Mylan Pharmaceuticals Inc.）和其附属公司指控Sanofi（Sanofi-Aventis U.S. LLC）和其附属公司从事反竞争行为，以垄断注射用甘精胰岛素（一种用于治疗糖尿病的药物）的市场。Mylan主张Sanofi滥用FDA的橙皮书监管程序，垄断了用于治疗糖尿病的可注射甘精胰岛素市场，通过在橙皮书中不当列出药物，推迟并阻止了Mylan的仿制药Semglee与Sanofi的甘精胰岛素药物的竞争。（[查看更多](#)）

FTC Files Amicus Brief in Mylan, Sanofi Insulin Patent Dispute

On November 20, 2023, the Federal Trade Commission (FTC) issues a notice, announcing that it submitted an amicus brief to the U.S. District Court for the Western District of Pennsylvania to address anticompetitive harm caused by drugs improperly listed in the Orange Book published by the U.S. Food and Drug Administration (FDA). The FTC's filing this time involves drug manufacturer Mylan (Mylan Pharmaceuticals Inc.) and its affiliates accusing Sanofi (Sanofi-Aventis U.S. LLC) and its affiliates of engaging in anti-competitive behaviour to monopolize the injectable insulin glargine (a drug used to treat diabetes). Mylan contends that Sanofi abused the FDA's Orange Book regulatory process to monopolize the market for injectable insulin glargine used to treat diabetes, delaying and blocking Mylan's generic drug called Semglee from competing with Sanofi's branded insulin glargine drug Lantus by improperly listing several drugs in the Orange Book. ([More](#))

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

工信部就《工业和信息化领域数据安全行政处罚裁量指引（试行）》公开征求意见

2023年11月23日，工业和信息化部安全管理局就《工业和信息化领域数据安全行政处罚裁量指引（试行）》（以下简称《裁量指引》）公开征求意见，以贯彻落实《数据安全法》《工业和信息化领域数据安全管理办法（试行）》，推动工业和信息化领域数据安全行政处罚工作制度化、规范化开展。征求意见截止日期为2023年12月23日。

《裁量指引》提出工业和信息化领域数据安全行政处罚裁量应当遵循依法行政、责罚相当、处罚与教育相结合原则。关于行政处罚情形，《裁量指引》以《数据安全法》为基准，提出不履行数据安全保护义务、向境外非法提供数据、不配合监管等三类违法行为触发条件，并综合涉及数据级别和数量、公共利益损害时间、直接经济损失、影响范围等因素，对数据安全违法行

为的危害程度划分为“较轻”“较重”“严重”等情节。结合行为的危害程度，在行政处罚裁量权适用规则中明确了不予处罚、从轻处罚、减轻处罚、从重处罚等裁量阶次。（[查看更多](#)）

The MIIT Publicly Solicits Opinions on the *Guidelines on Administrative Penalties Discretion for Data Security in Industrial and Information Technology Fields (Trial)*

On 23 November 2023, the Security Administration Bureau of the Ministry of Industry and Information Technology publicly solicited opinions on the *Guidelines on Administrative Penalties Discretion for Data Security in the Industrial and Information Field (Trial)* (hereinafter referred to as the “Guidelines”) to implement the *Data Security Law* and the *Measures for Data Security Management in the Industrial and Information Field (Trial)*, in order to promote the institutionalization and standardization of administrative penalties for data security in industrial and information technology fields. The deadline for comments is 23 December 2023.

The Guidelines proposed that the discretion of administrative penalties for data security in the industrial and information fields should follow the principles of administration according to law, proportionate punishment, and combination of punishment and education. Regarding administrative penalties, the Guidelines take the *Data Security Law* as the basis, and propose three types of trigger conditions for illegal acts, such as failing to fulfill data security protection obligations, illegally providing data overseas, and failing to cooperate with supervision. The degree of harm to data security violations is divided into “light”, “heavy”, and “serious”, comprehensively taking into consideration factors such as grading of data and quantity, the length of time for public interest damage, direct economic losses, and scope of influence. Combined with the degree of harm of the behavior, the application rules of administrative punishment discretion clearly set forth different levels of discretionary decisions including “no punishment”, “light punishment”, “reduced punishment”, and “heavier punishment”. ([More](#))

《公共数据授权运营平台技术要求》团体标准正式发布

2023年11月23日，第二届全球数字贸易博览会“数据要素治理与市场化论坛”于杭州成功召开，会上，国家工业信息安全发展研究中心发布并解读了团体标准《公共数据授权运营平台技术要求》（T/CECC 024-2023）（以下简称《标准》）。《标准》由中国电子商会归口管理，中心联合了近60家单位共同研制，将于2023年12月10日起正式实施。

《标准》定义了公共数据授权运营平台参考架构，围绕数据登记、授权、流通全流程，从功能、性能、运维、安全和互联互通等五个方面明确了平台相关技术要求。《标准》的发布推出，对规范公共数据授权运营平台建设、激发公共数据要素价值、促进数字经济健康发展具有一定积极作用。（[查看更多](#)）

The Group Standard *Technical Requirements for Public Data Authorization Operation Platform* Officially Released

On 23 November 2023, the Data Elements Governance and Marketization Forum at the second Global Digital Trade Expo was successfully held in Hangzhou, at which the National Industrial Information Security Development Research Center issued and interpreted the group standard *Technical Requirements for Public Data Authorization Operation Platform* (T/CECC 024-2023) (hereinafter referred to as the “Standard”). The Standard is centrally managed by the China Electronic Chamber of Commerce,

and jointly developed by the center and nearly other 60 units and will be formally implemented from 10 December 2023.

The *Standard* defines the reference framework of the public data authorization operation platform, focuses on the whole process of data registration, authorization and circulation, and clarifies the relevant technical requirements of the platform from five aspects: function, performance, operation and maintenance, security and inter-connectivity. The release and launch of the *Standard* is expected to have a positive role in regulating the construction of public data authorization operation platforms, stimulating the value of public data elements, and promoting the healthy development of the digital economy.

([More](#))

上海仲裁委员会发布《上海仲裁委员会数据仲裁指引》

2023年11月23日，上海仲裁委员会发布《上海仲裁委员会数据仲裁指引》（以下简称《仲裁指引》）。《仲裁指引》明确适用于数据资源、数据资产、数据产品等标的在生成、采集、加工、存储、交易、评估等过程中产生的合同或其他财产类纠纷案件，为数据纠纷案件的处理提供程序性指引，在通知与送达、仲裁员人选、专家证人和鉴定报告、调查取证、临时措施等程序方面针对数据争议案件进行特殊规定，同时引入了多元化争端机制在数据纠纷案件的适用，自发布之日起施行。（[查看更多](#)）

Shanghai Arbitration Commission Issues *Guidelines on Data Arbitration* Shanghai Arbitration Commission Issues *Guidelines on Data Arbitration*

On 23 November 2023, the Shanghai Arbitration Commission issued the *Shanghai Arbitration Commission Data Arbitration Guidelines* (hereinafter referred to as the *Arbitration Guidelines*). The Arbitration Guidelines clearly apply to contractual or other property-related disputes arising from the generation, collection, processing, storage, trading and evaluation of data resources, data assets and data products, and provide procedural guidelines for the handling of data dispute cases. Special provisions are made for data dispute cases in terms of notification and service, arbitrator selection, expert witnesses and appraisal reports, investigation and evidence collection, interim measures, and other procedures, while introducing the application of a diversified dispute mechanism in data dispute cases, which will take effect from the date of release. ([More](#))

北京市互联网信息办公室、北京市经济和信息化局、北京市通信管理局通知开展2023年度汽车数据安全管理情况报送工作

2023年11月21日，为规范汽车数据处理活动，保护个人、组织的合法权益，维护国家安全和社会公共利益，促进汽车数据合理开发利用，根据《汽车数据安全管理若干规定（试行）》，北京市互联网信息办公室、北京市经济和信息化局、北京市通信管理局联合组织开展2023年度北京市汽车数据安全管理情况报送工作。报送对象注册地为北京地区且开展重要数据处理活动的汽车数据处理者，包括汽车制造商、零部件和软件供应商、经销商、维修机构以及出行服务企业等。报送时限至2023年12月15日。通知明确，依据报送情况，后续将以抽查方式核验重点企业报送内容真实性，指导排查有关数据安全风险隐患。相关工作情况将报送至中央网信办、工业和信息化部。（[查看更多](#)）

Beijing Internet Information Office, Beijing Municipal Bureau of Economy and Information Technology, Beijing Municipal Communications Administration Issue Notice to Carry out 2023 Annual Automotive Data Security Management Report Work

On 21 November 2023, in order to regulate automobile data processing activities, protect the legitimate rights and interests of individuals and organizations, safeguard national security and social and public interests, and promote the rational development and utilization of automobile data, according to the *Several Provisions on the Security Management of Automobile Data (Trial Implementation)*, Beijing Internet Information Office, Beijing Municipal Bureau of Economy and Information Technology, and Beijing Municipal Communications Administration jointly organized the report of Beijing automobile data security management in 2023. The reporting entities include automobile data processors registered in Beijing and carrying out important data processing activities, including automobile manufacturers, parts and software suppliers, dealers, maintenance agencies and travel service enterprises. The submission deadline is 15 December 2023. The notice clarifies that based on the status of submission, the authenticity of the content submitted by key enterprises will be verified by random inspection, and guidance will be provided to detect and deal with relevant data security risks. The relevant work will be reported to the Office of the Central Cyberspace Affairs Commission and the Ministry of Industry and Information Technology. ([More](#))

广东省通信管理局通报下架4款App

2023年11月22日，广东省通信管理局发布关于下架4款侵害用户权益APP的通报。此前，广东省通信管理局持续开展APP隐私合规和数据安全专项整治行动，经核查复检，尚有4款APP未按照要求完成整改反馈。为严肃处理上述APP的违规行为，广东省通信管理局决定对上述APP予以下架。广东省通信管理局将对通报APP持续跟踪，视情况进一步采取后续处理措施。

通报下架的APP涉嫌违规收集个人信息，超范围收集个人信息、APP频繁自启和关联启动等问题。([查看更多](#))

Guangdong Communications Administration Announces the Removal from Shelf of Four Apps

On 22 November 2023, the Guangdong Communications Administration issued a notice on the removal from shelf of four apps that infringe on users' rights and interests. Previously, the Guangdong Communications Administration continued to carry out special rectification actions on APP privacy compliance and data security, and after verification and re-inspection, there were still 4 Apps that did not complete required rectification. To seriously deal with the violations of the above Apps, the Guangdong Communications Administration decided to remove the above Apps. Guangdong Communications Administration will continue to monitor the related APPs and take further follow-up measures according to the situation.

The removed APPs were suspected of illegal collection of personal information, collection of personal information beyond the requisite scope, and frequent self-activation and associated startup of the APP. ([More](#))

浙江温州公安网安部门查处某大药房内部人员侵犯公民个人信息案

近期，浙江温州公安网安部门查处了一起某大药房内部人员侵犯公民个人信息案。此前，公安部门在日常工作中发现有人在暗网上售卖温州某大药房销售数据。通过侦查发现，该大药房数据分析师利用工作便利将大量交易数据导出并售卖。温州网安在依法对该数据分析师采取刑事强制措施的同时，经侦查发现该大药房因未建立健全全流程数据安全管理制度，未组织开展数据安全教育培训，未采取相应的技术措施和其他必要措施保障数据安全，最终导致大量敏感数据泄露。

该大药房数据分析师因违反《中华人民共和国刑法》第二百五十三条之一之规定，涉嫌侵犯公民个人信息罪被温州公安机关依法刑事拘留，现案件还在进一步办理中。同时，温州公安机关依据《中华人民共和国数据安全法》第二十七条、第四十五条之规定，对该公司处罚款110万元，对该大药房直接负责的主管人员处罚款10万元。[\(查看更多\)](#)

Zhejiang Wenzhou Public Security and Network Security Authorities Investigate a Case Involving Certain Employee of a Pharmacy Infringing Citizens' Personal Information

Recently, the public security and network security authorities in Wenzhou, Zhejiang province, investigated a case involving certain employee of a large pharmacy violating citizens' personal information. Previously, the public security department found in its daily work that someone was selling sales data of a large pharmacy in Wenzhou on the dark Web. Through investigation, it was found that the data analyst of the large pharmacy took advantage of the convenience of work to export and sell a large amount of transaction data. While taking criminal coercive measures against the data analyst in accordance with the law, Wenzhou network security authorities found through investigation that the pharmacy did not establish and improve the data security management system of the whole process, did not organize data security education and training, and did not take corresponding technical measures and other necessary measures to ensure data security, which eventually led to the leakage of a large number of sensitive data.

The data analyst of the large pharmacy was detained by the Wenzhou public security authorities for violating the provisions of Part 1 of Article 253 of the *Criminal Law of the People's Republic of China* on suspicion of violating citizens' personal information, and the case is still being further handled. At the same time, according to the provisions of Article 27 and Article 45 of the *Data Security Law of the People's Republic of China*, the Wenzhou public security authorities fined the company 1.1 million yuan, and fined the person in charge of the pharmacy directly responsible for 100,000 yuan.[\(More\)](#)

杭州互联网法院发布数据权益司法保护十大典型案例

2023年11月23日，杭州互联网法院院长受邀出席第二届全球数字贸易博览会数据要素治理与市场化论坛，并发布杭州互联网法院数据权益司法保护十大典型案例。十大典型案例涉及：数据与算法驱动下虚构数据的司法规制、数据产品的法律属性及权益保护、公共数据商业化利用的合法性边界、数据权益的权属判断与分类保护、数据权益的权属判断与分类保护、社交平台数据的性质及数据爬取行为的认定、网络直播数据造假行为的司法规制、涉众信息数据的权益保

护、对平台大数据监测结果的司法审查、以“撞库”方式获取经销商数据库构成不正当竞争等十个方面法律问题。[\(查看更多\)](#)

Hangzhou Internet Court Releases Ten Typical Cases of Judicial Protection of Data Rights and Interests.

On 23 November 2023, the president of Hangzhou Internet Court was invited to attend the Elements Governance and Marketization Forum of the second Global Digital Trade Expo Data, and released ten typical cases of judicial protection of data rights and interests of Hangzhou Internet Court. Ten typical cases involve: judicial regulation of fictitious data driven by data and algorithms, legal attributes and rights protection of data products, legal boundaries of commercial use of public data, ownership judgment and classification protection of data rights, ownership determination and classification protection of data rights, nature of data on social platforms and identification of data crawling behavior, judicial regulation of online live data fraud, protection of data rights and interests involving stakeholders, , judicial review of platforms' big data monitoring results, and unfair competition caused by the acquisition of dealer databases by way of credential stuffing attack.[\(More\)](#)

广州警方公布典型案例：网络运营者不履行网络安全保护义务将被罚

2023年11月22日，广州市花都公安机关发布三例“净网2023”专项行动网络安全行政执法的典型案列。

2023年11月3日，接广州市网络与信息安全信息通报中心通报，花都区某贸易有限公司财务系统页面出现违法信息，经现场核查，发现该公司未按规定采取防范计算机病毒和网络攻击、网络侵入等危害网络安全行为的技术措施导致系统被黑客入侵并被篡改，加入违法信息，违反了《中华人民共和国网络安全法》第二十一条之规定。该公司被给予罚款两万元，直接负责人罚款被处以五千元罚款。

2023年5月19日，经过核查发现，广州某教育科技有限公司系统撤销备案后仍在继续运行使用，且未重新定级备案，存在虚假撤销的行为，违反了《广东省计算机信息系统安全保护条例》第十四条之规定，被给予警告并责令其限期完成整改。

2023年10月19日，花都网警发现，花都区某货源网站未履行网络安全保护义务，未按规定履行网络国际联网备案手续，违反了《计算机信息网络国际联网安全保护管理办法》第十二条之规定。该网站负责人被给予警告和责令其限期完成整改的处罚。[\(查看更多\)](#)

Guangzhou Police Announces Typical Cases: Internet Operators Failing to Fulfill Their Obligations to Protect Internet Security Will be Punished

On 22 November 2023, the public security authorities in Huadu, Guangzhou released three typical cases of network security administrative law enforcement in the “Net 2023” special action.

On 3 November 2023, following the notification of Guangzhou Network and Information Security Information Notification Center, it was found that illegal information appeared on the financial sys-

tem page of a trading company in Huadu District. After on-site verification, it was found that the company did not take technical measures to prevent computer viruses, network attacks, network intrusion and other harmful network security behaviors in accordance with applicable regulations, resulting in the system being hacked and tampered with, with illegal information being added. This violates the provisions of Article 21 of the *Cybersecurity Law of the People's Republic of China*. The company was fined 20,000 yuan and the person directly responsible was fined 5,000 yuan.

- On 19 May 2023, after verification, it was found that the system of a Guangzhou education technology company continued to operate after the cancellation of its record-filing, without reinitiating the record-filing procedures based on a revised grading. Therefore, it was deemed a false cancellation of record-filing, in violation of the provisions of Article 14 of the *Regulations on Computer Information System Security Protection of Guangdong Province*, and was given a warning and ordered to complete the rectification within a prescribed time limit.

- On 19 October 2023, Huadu network police found that a sourcing website in Huadu District did not fulfill the obligations of network security protection, did not perform the filing procedures for international networking as required, and violated the provisions of Article 12 of the *Measures for the Management of Computer Information Network International Networking Security Protection*. The person in charge of the website was given a warning and ordered to complete the rectification within a prescribed deadline. ([More](#))

兰州银行因EAST数据质量管理不到位等被罚710万、多人被禁业

近日，国家金融监督管理总局甘肃监管局披露的行政处罚信息公开表显示，2023年11月2日，兰州银行及其9家支行因EAST数据质量管理不到位等违规问题，被共计罚款710万元；其中总行罚款390万元，各支行共计罚款320万元。这份罚单中，还有多名相关责任人被罚，其中数人终身禁止从事银行业工作。([查看更多](#))

Lanzhou Bank Was Fined 7.1 million yuan for Inadequate EAST Data Quality Management; Several Individuals Banned from the Banking Industry

Recently, the administrative penalty information disclosure form disclosed by the Gansu Regulatory Bureau of the State Financial Supervision and Administration shows that on 2 November 2023, for failing to have adequate EAST data quality management and other violations, Lanzhou Bank and its nine branches were fined a total of 7.1 million yuan. Among them, the head office was fined 3.9 million yuan, and the branches were fined 3.2 million yuan in total. A number of relevant responsible people were also fined, and several of whom are banned from working in the banking industry for life. ([More](#))

美国联邦贸易委员会宣布与Global Tel*Link及其子公司就数据安全故障达成和解

2023年11月16日，美国联邦贸易委员会（FTC）宣布，已与Global Tel*Link Corporation及其两家公司就违反《联邦贸易委员会法》（FTC法）的行为达成和解。

此前经过调查，FTC发现上述公司未能采取合理和合适的措施保护用户个人信息，认为上述公司的行为和做法构成了影响商业的不公平或欺骗性行为或做法，违反了FTC法的第5(a)条。

有鉴于此，FTC的拟议命令禁止Global Tel*Link及其子公司就其数据安全做法进行虚假陈述，并要求它们采取一系列措施，包括实施全面的数据安全计划。

[\(查看更多\)](#)

USA: FTC Announces Settlement with Global Tel*Link and Its Subsidiaries for Data Security Failures

On 16 November 2023, the Federal Trade Commission (FTC) announced that it had reached a settlement with Global Tel*Link Corporation d/b/a as GTL and ViaPath Technologies and two of its subsidiaries, for violations of the Federal Trade Commission Act (FTC Act).

Following its investigation, the FTC determined that the acts and practices of the companies as alleged in the complaint constitute unfair or deceptive acts or practices affecting commerce, in violation of Section 5(a) of the FTC Act.

In light of the above, the FTC's proposed order prohibits Global Tel*Link and its subsidiaries from misrepresenting their data security practices and require them to implement a comprehensive data security program.[\(More\)](#)

西班牙数据保护局发布关于使用生物识别数据进行现场和访问控制的指南

2023年11月23日，西班牙数据保护局（AEPD）发布了一份关于将生物识别数据用于现场和访问控制的指南。该指南规定了将生物识别技术用于工作和非工作目的的访问控制的标准，确定了应考虑的措施，以便使用该技术的个人数据处理符合《通用数据保护条例》（GDPR）等法规。

[\(查看更多\)](#)

Spain: AEPD Publishes Guide on Use of Biometric Data for Presence and Access Control

On 23 November 2023, the Spanish data protection authority (AEPD) published a guide on the use of biometric data for presence and access control. The guide sets the criteria for the use of biometrics for access control, both for work and non-work purposes, establishing the measures to be taken into account so that personal data processing that uses this technology complies with the General Data Protection Regulation (GDPR), among other regulations.[\(More\)](#)

知识产权 Intellectual Property

国家知识产权局办公室公布2023年度第二批知识产权信息服务优秀案例名单

日前，国家知识产权局办公室组织了2023年第二批知识产权信息服务优秀案例征集和评选，并于11月22日公布了20个优秀案例名单。案例详情将通过知识产权信息公共服务重要网点交流研讨活动、优秀案例分享活动等进行发布和解读。并明确各省级知识产权管理部门要积极宣传推

广，组织本地区知识产权公共服务机构学习借鉴优秀案例经验做法，进一步拓宽服务渠道、创新服务形式、丰富服务内容，不断提升知识产权信息公共服务能力和水平，更好支撑知识产权转化运用和经济社会高质量发展。来自北京邮电大学、兰州大学、浙江大学、南开大学、合肥市知识产权保护中心、中国专利信息中心等单位的优秀案例入选名单。

来源：国知局

CIPA announces the list of the second batch of outstanding cases of intellectual property information service in 2023.

Recently, CIPA organized the collection and selection of the second batch of excellent cases of intellectual property information service in 2023, and announced the list of 20 excellent cases on November 22. Case details will be released and interpreted through exchange and discussion activities at important IP information public service outlets and excellent case sharing activities. It is also clear that provincial intellectual property management departments should actively publicize and promote, organize local intellectual property public service institutions to learn from excellent cases and practices, further expand service channels, innovate service forms, enrich service content, and constantly improve the capacity and level of intellectual property information public service, so as to better support the transformation and application of intellectual property and high-quality economic and social development. Excellent cases from Beijing University of Posts and Telecommunications, Lanzhou University, Zhejiang University, Nankai University, Hefei Intellectual Property Protection Center, China Patent Information Center and other units were selected.

Source: CIPA

北京发布《知识产权公共服务规范》团体标准

日前，2023年北京市知识产权公共服务工作会在中关村软件园召开。会上发布了《知识产权公共服务规范》团体标准，此次发布的《知识产权公共服务规范》是全国首个综合性知识产权公共服务团体标准，规定了知识产权公共服务的术语和定义、基本原则、服务内容、服务保障、服务评价与改进等内容，将知识产权创造、运用、保护、管理全链条的公共服务内容分为基础服务和特色服务两大类，并为各项公共服务的开展提供指引。《知识产权公共服务规范》的发布将有助于北京市建设上下联动、运行规范、服务高效的新型知识产权公共服务体系，促进创新成果更好利企便民。

来源：国知局

Beijing releases group standards for Intellectual Property Public Services.

Recently, the 2023 Beijing Intellectual Property Public Service Work will be held in Zhongguancun Software Park. The conference released the "Intellectual property Public Service Standard" group standard, the "intellectual property public service standard" is the first comprehensive intellectual property public service group standard in China, which stipulates the terms and definitions of intellectual property public service, basic principles, service content, service guarantee, service evaluation and

improvement, etc. The public service content of the whole chain of intellectual property creation, application, protection and management is divided into two categories: basic service and characteristic service, and provides guidance for the development of various public services. The release of the "IP Public Service Standards" will help Beijing build a new IP public service system with top-down linkage, standardized operation and efficient service, and promote innovation results to better benefit enterprises and facilitate the people.

Source: CIPA

侵权人对外宣称的经营业绩可以作为计算损害赔偿的依据

近日，最高人民法院对福州某科技公司与上海某建筑科技公司、张某等人专利侵权纠纷案件做出二审判决。

福州某科技公司认为，上海某建筑技术公司、张某于2017年开始积极推广第三代点挂安装技术，其中“点挂专用抗拉拔保护锚栓”落入涉案专利权的保护范围，构成侵权，故向上海知产法院提起诉讼，请求判令停止侵害、赔偿损失250万元。上海知产法院一审认定上海某建筑技术公司、张某主张的抵触申请抗辩成立，故判决驳回福州某科技公司的诉讼请求。

最高人民法院二审认为，上海某建筑技术公司、张某主张的抵触申请抗辩不成立，构成专利侵权。上海某建筑技术公司和张某在2017年宣称其累计施工面积已达200万平方米以上，虽然其认为上述工程量为夸大宣传，但并未提交有效反证证明其实际施工量。在此基础上，法院参考福州某科技公司主张的每平方米所需被诉侵权产品平均用量约为5根、专利产品销售单价为3.57元、3.27元不等以及合理利润率认定赔偿数额，上海某建筑技术公司和张某侵权获利应不低于250万元。最终综合考虑上海某建筑技术公司和张某经营规模，因其侵权时间长、侵权范围广、侵权恶意明显，以及福州某科技公司为本案支出的合理维权费用等因素，依法对福州某科技公司主张的250万元赔偿数额予以全额支持。

来源：最高人民法院

The business performance declared by the infringer can be used as the basis for calculating damages.

Recently, the Supreme People's Court made a second-instance judgment on a patent infringement dispute between a Fuzhou technology company and a Shanghai construction technology company and Zhang.

A Fuzhou technology company claimed that a Shanghai construction technology company and Zhang began to actively promote the third generation of point-hanging installation technology in 2017, among which the "point-hanging special anti-drawing protection anchor" fell into the protection scope of the patent rights involved, constituting infringement, so it filed a lawsuit to the Shanghai Intellectual Property Court, requesting an order to stop the infringement and compensate for losses of RMB 2.5 million. The Shanghai Intellectual Property Court of first instance found that Shanghai construction technology

company and Zhang's claim against the application was established, so the judgment rejected the lawsuit request of a science and technology company in Fuzhou.

The second instance of the Supreme People's Court held that a Shanghai construction technology company and Zhang's defense of conflicting applications were not established and constituted patent infringement. Shanghai construction technology company and Zhang claimed in 2017 that its cumulative construction area has reached more than 2 million square meters, although it believes that the above engineering amount is exaggerated promotion, but did not submit effective counter-evidence to prove its actual construction amount. On this basis, the court determined the amount of compensation by referring to the average amount of sued infringing products per square meter claimed by Fuzhou technology company, the unit price of patented products and the reasonable profit rate, and the infringement profit of Shanghai construction technology company and Zhang should not be less than RMB 2.5 million. The compensation amount of RMB 2.5 million advocated by Fuzhou technology company is fully supported.

Source: Supreme People's Court

“米其林”诉“米芝莲”案判赔1000万

2023年11月，湖北高院针对米其林集团总公司与上海米芝莲餐饮管理有限公司（以下称米芝莲公司）等商标侵权及不正当竞争一案作出二审判决，认定米芝莲公司使用“米芝莲”侵害米其林集团总公司第12类“MICHELIN”、“米其林”驰名商标的合法权益，判赔1000万元。

法院认为，米芝莲公司未经许可在餐饮服务上使用“米芝莲”标识并宣传“我的名字叫·米芝莲”。在香港话里“米芝莲”就是米其林的意思，是全球最顶级的那个餐厅指南……“米芝莲其实就是米其林的粤语说法”，其行为具有强烈的诱导倾向，其目的在于错误引导消费者将“米芝莲”与“米其林”联系起来，甚至达到两者混淆目的。相关公众在看到被诉“米芝莲”商标时，即使认为米其林公司并不提供饮品、小食等餐饮服务，相当程度上也会被宣传语所诱导联想到案涉驰名商标，且其《米其林指南》《米芝莲指南》实际运用于餐饮的情形下，消费者即使不会对商品的来源产生混淆误认，看到使用被诉商标的商品却会在相当程度上联想到案涉驰名商标，则案涉驰名商标和特定商品或服务之间唯一对应关系被破坏，其显著性被减弱。这种行为是典型的驰名商标淡化行为，无疑会降低驰名商标的商业价值，给商标权利人造成巨大损失，使侵权人获得不当利益，侵权人的同类经营者

权益亦会因此受损，最终不利于法治营商环境的建设，故本案应给予案涉驰名商标反淡化保护。关于赔偿数额，法院按照单店加盟费乘以店铺数量（6万元*500家）计算其侵权获利已高达3000万元，已远超出米其林公司诉请金额1000万，故对诉请金额全额支持。

来源：湖北高院

" MICHELIN " v. " MIZHILIAN " case, awarded RMB 10 million of compensation.

In November 2023, the Hubei High Court made a second-instance judgment on the case of trademark infringement and unfair competition between COMPAGNIE GENERALE DES ETABLISSEMENTS MICHELIN and Shanghai Michelin Catering Management Co., Ltd. (hereinafter referred to as Michelin Company). finding that Michelin Company infringed the legitimate rights and interests of COMPAGNIE GENERALE DES ETABLISSEMENTS MICHELIN 's "Michelin" well-known trademark. A judgment of RMB 10 million.

The court held that Michelin Company used the "Michelin" logo on catering services without permission, and its behavior had a strong inducement tendency, and its purpose was to wrongly guide consumers to associate the accused infringing logo with the plaintiff's well-known trademark, and even achieve the purpose of confusing the two. When the relevant public sees the accused infringing trademark, even if consumers do not confuse and misrecognize the source of the goods, they will associate the well-known trademark in the case to a considerable extent when they see the goods using the accused trademark, then the only correspondence between the well-known trademark in the case and the specific goods or services will be destroyed and its significance will be weakened. This kind of behavior is a typical well-known trademark dilution behavior, which will undoubtedly reduce the commercial value of well-known trademarks, cause huge losses to the trademark right holder, make the infringer obtain improper benefits, and damage the rights and interests of similar operators of the infringer, and ultimately is not conducive to the construction of the legal business environment. Therefore, the well-known trademark involved in this case should be given anti-dilution protection. Regarding the amount of compensation, the court calculated that the infringement profit of Michelin Company has reached 30 million yuan, which has far exceeded the amount of Michelin Company's petition 10 million yuan, so it supports the amount of the petition in full.

Source: Hubei High Court

“莫干山”被认定为“板材”等商品上的驰名商标

近日，北京知产法院对国家知识产权局与北京城建天下商贸有限公司（下称城建公司）、浙江升华云峰新材股份有限公司（下称升华公司）、北京泰和方盛建材有限公司（下称泰和公司）等商标权无效宣告请求行政纠纷案作出二审判决，判决撤销被诉裁定，判令国家知识产权局重新作出裁定。

法院认为，本案中，升华公司提交的证据足以证明在诉争商标申请日之前，引证商标“莫干山及图”在“胶合板；贴面板；木板”商品上已经具有较高知名度，已构成驰名商标。诉争商标标志与引证商标的显著识别部分为“莫干山”，二者在文字构成、呼叫、含义等方面相近，诉争商标已构成对引证商标的复制、摹仿。诉争商标核定使用的保温用非导热材料等商品虽然和引证商标构成驰名的“胶合板；贴面板；木板”，属于不同的商品类别，但上述商品均属于建筑材料，在用途、消费群体等方面关联性较强，诉争商标的注册容易误导公众，致使升华公司的利益可能受到损害。泰和公司、城建公司系同行业经营者，作为诉争商标的受让人，在引证商标达到驰名的情况下，其受让行为难谓善意。

来源：北京知识产权法院

"Moganshan" is recognized as a well-known trademark on "plate" commodities.

Recently, the Beijing Intellectual Property Court for CIPA and Urban construction company, Shenghua company, Taihe company and other trademark invalidation request for administrative disputes made a judgment of second instance, the decision to revoke the ruling, ordered CIPA to make a new ruling.

The court held that in this case, the evidence submitted by Shenghua Company was sufficient to prove that before the filing date of the contested trademark, the trademark "Moganshan" was cited in the "plywood; Veneer panel; "Wood" products have a high visibility, has formed a well-known trademark. The distinguishing part of the contested trademark logo and the cited trademark is "Moganshan", which is similar in the composition, call, meaning and so on, and the contested trademark has constituted a copy and imitation of the quoted trademark. The goods such as thermal insulation non-thermal materials used in the approval of the disputed trademark although they constitute the well-known "plywood" with the cited trademark; Veneer panel; "Wood" belongs to different commodity categories, but the above commodities are building materials, in the use, consumer groups and other aspects of the strong correlation, the registration of the dispute trademark is easy to mislead the public, resulting in Shenghua company's interests may be damaged. Taihe Company and Urban Construction company are operators in the same industry, as the assignee of the contested trademark, when the cited trademark is well-known, its acceptance behavior cannot be called good faith.

Source: Beijing Intellectual Property Court

重庆警方破获特大假冒品牌电池商标案 涉案金额2000余万元

在“昆仑2023”专项行动中,重庆北碚警方破获一起特大销售假冒品牌电池商标案,抓获犯罪嫌疑人15名,涉案金额2000余万元。

警方调查发现,廖某从河南省新乡市陆续购进价值约10余万元的假冒某品牌电池在重庆销售。廖某交代,其上家是河南的王某,双方通过微信联系,并以1号电池每节4至5元,5号和7号电池每节1元的价格从王某处购入假品牌电池,王某再通过物流发货给他。办案民警在河南、重庆同步开展收网行动,端掉制作假冒品牌电池窝点3个、销售假冒品牌电池包材窝点1个,查扣制假机器设备9台、白板电池5万余节、假冒包装100万余个,假冒品牌电池30余万节,抓获制造、销售假冒品牌电池嫌疑人15名。

经查,自2019年以来,犯罪嫌疑人王某为牟取非法利益,在未取得品牌方权利人授权情况下,伙同王某伟、王某奇等人,通过购买原料、外包材料和假冒商标标识等手段,大肆生产假冒电池,通过微信、物流代收货款等方式,将生产的假冒伪劣电池销售至重庆、山东、河北、四川、江苏、新疆等地,销售金额达2000余万元。目前,以王某为首的犯罪团伙主要成员已被警方移送检察机关起诉,该案还在进一步办理中。

来源: 中国新闻网

Chongqing police busted a huge counterfeit brand battery trademark case involving more than RMB 20 million yuan.

In the "Kunlun 2023" special action, Chongqing Beibei police cracked a large sales of counterfeit brand batteries trademark case, arrested 15 suspects, involving more than RMB 20 million.

Police investigation found that Liao from Xinxiang city, Henan Province has bought about RMB 10 million worth of counterfeit batteries of a brand in Chongqing sales. Liao said that his last home is Wang from Henan. They sides through WeChat contact, and at a very low price from Wang to buy fake brand batteries, then Wang shipped to him. The police in Henan and Chongqing simultaneously carried out net collection operations, removed 3 dens for producing counterfeit brand batteries, 1 dens for selling counterfeit brand battery packaging materials, seized 9 sets of counterfeit machinery and equipment, more than 50,000 whiteboard batteries, more than 1 million counterfeit packaging, more than 300,000 counterfeit brand batteries, and arrested 15 suspects for manufacturing and selling counterfeit brand batteries.

After investigation, since 2019, to seek illegal interests, without the authorization of the brand owner, the criminal suspect Wang and others, through the purchase of raw materials, outsourcing materials and counterfeit trademarks and other means, the production of counterfeit and shoddy batteries through WeChat, logistics collection and other ways, the production of counterfeit batteries sold to Chongqing, Shandong, China. In Hebei, Sichuan, Jiangsu, Xinjiang and other places, the sales amount reached more than 20 million yuan. At present, the main members of the criminal gang led by Wang have been transferred to the prosecution by the police, and the case is still being further handled.

Source: Chinanews.com

抄袭摄影作品名称行为，侵犯著作权与不正当竞争的竞合

上海知产法院就湖南盘子女人坊文化科技股份有限公司（以下称盘子女人坊公司）诉广东古艺文化传播有限公司（以下称古艺公司）、上海茗瑞文化传播有限责任公司（以下称茗瑞公司）、网红（佛山市）摄影有限公司（以下称网红公司）擅自使用与他人有一定影响的商品名称、包装、装潢等相同或者近似的标识纠纷案作出二审判决，撤销一审判决，驳回盘子女人坊公司的全部诉讼请求。此前一审法院判决古艺公司、茗瑞公司、网红公司停止侵权，连带赔偿古艺公司经济损失24万元。

二审法院认为，现有证据不足以证明盘子女人坊公司的涉案摄影套系已经具有一定市场知名度，对应的摄影套系名称已经成为有一定影响的商品名称。盘子女人坊公司在本案中提出的所有诉讼主张，均缺乏事实和法律依据，且在4413案中盘子女人坊公司就使用、传播被诉侵权照片的行为主张著作权侵权，并已由法院作出侵权判决。而摄影作品的套系名称概括性的表达了该套系摄影作品的主题，因此，摄影作品套系名称本就是该套系摄影作品的组成部分之一，对套系摄影作品著作权的保护当然包括了对摄影作品套系名称的保护。本案中，古艺公司、茗瑞公司、网红公司的上述侵权行为属于同一行为。法院已就古艺公司、茗瑞公司、网红公司使用、传播被诉侵权照片侵害盘子女人坊公司涉案古风人像套系摄影作品著作权，并判令其承担

民事责任的前提下，盘子女人坊公司又以该行为构成不正当竞争为由请求古艺公司、茗瑞公司、网红公司承担民事责任，不应予以支持。

来源：上海知识产权法院

Copying the names of photographic works shall be deemed to infringe copyright and constitute unfair competition.

Shanghai Intellectual Property Court on the plate woman square company v. ancient art company, Mingrui company, net red company unauthorized use of the same or similar logo dispute with others have a certain impact on the name of the goods, packaging, decoration, etc., made a second instance judgment, revoking the first instance judgment, rejected all the claims of the plate woman square company. Previously, the court of first instance ruled that the ancient art company, Mingrui Company and net red company should stop the infringement and compensate the ancient art company for RMB 24 million.

The court of second instance held that the existing evidence was not enough to prove that the photography set involved in the Plate Woman Fang company has a certain market visibility, and the corresponding photography set name has become a commodity name with a certain influence. All the claims put forward by the company in this case lack facts and legal basis, and in case 4413, the company claimed copyright infringement for the use and dissemination of the accused infringing photos, and the court has made an infringement judgment. The name of the series of photographic works generally expresses the theme of the series of photographic works. Therefore, the name of the series of photographic works is one of the components of the series of photographic works. The protection of the copyright of the series of photographic works certainly includes the protection of the series of photographic works. In this case, the above infringement acts of ancient art company, Mingrui Company and Internet red company belong to the same act. The court has used and spread the accused infringing photos to infringe the copyright of the ancient portrait set of photography works of the Plate Woman Fang company, and ordered them to bear civil liability under the premise that the plate Woman Fang company also requested the ancient art company, the Plate Woman Fang Company and the net red company to bear civil liability on the grounds that the behavior constitutes unfair competition, and should not be supported.

Source: Shanghai Intellectual Property Court

联想向ITC提起专利侵权诉讼，指控华硕侵犯多项专利

近日，联想向美国国际贸易委员会（ITC）提起专利侵权诉讼，指控华硕在多个产品中侵犯了其在软件、硬件和连接相关的多项专利。

联想表示，作为交叉许可协议、公开透明谈判以及行业内公平、合理和非歧视（FRAND）条款的坚定支持者，主张在许可谈判中提高透明度，减少歧视。对华硕的诉讼反映了联想致力于保护其在过去 39 年中对技术创新和行业做出的重大贡献，建立了超过 28000 项专利的组合，另外还有 14000 项专利申请正在处理中。

华硕回应称，不会对目前正在进行的法律诉讼进行评论，但会按照法律程序保护自身权益。

来源: techpowerup.com

Lenovo Files Patent Infringement Action Against ASUS with the US ITC

Lenovo (United States) Inc., part of the global technology corporation, Lenovo Group, filed a patent infringement action on November 15th with the United States International Trade Commission (ITC) against ASUSTeK Computer Inc. and ASUS Computer International (ASUS) for infringement of a variety of Lenovo's patents related to software, hardware, and connectivity across multiple ASUS products. The action is in response to ASUS's August 2023 filings in the Regional Court of Munich related to cellular technologies, where Lenovo had offered a cross-licensing deal as a solution.

Lenovo is a strong proponent of cross-licensing agreements, open and transparent negotiations, and licensing within the industry on fair, reasonable, and non-discriminatory (FRAND) terms. This is evidenced by the Group's ongoing litigation with InterDigital, where it advocated for greater transparency and less discrimination in licensing negotiations and was proven by the UK Court to be a willing licensee. The action against ASUSTeK reflects the Group's commitment to protecting its significant contributions to technology innovation and industry "firsts" over the past 39 years, building a portfolio of over 28,000 patents with a further 14,000 applications pending.

Asustek responded that it would not comment on ongoing legal proceedings, but would protect its rights in accordance with legal procedures.

Source: techpowerup.com

TCL中环子公司（Maxeon Solar）向爱旭股份发起侵权诉讼

11月15日，太阳能(5.650, -0.05, -0.88%)电池板制造商Maxeon Solar Technologies (MAXN，下称Maxeon) 在德国法院对中国光伏企业爱旭股份(17.310, -0.49, -2.75%) (600732.SH) 及其子公司提起专利侵权诉讼，指控其侵犯了太阳能电池架构的欧洲专利，专利号为EP2297788B1，要求其停止侵权。

11月16日早9时许，爱旭股份发布声明回应称，经其知识产权团队以及合作的欧洲知识产权律师事务所多次核验，确认两者专利技术有着根本的不同，不存在对该专利的侵犯。

来源: aikosolar.com

Maxeon Solar Technologies Files Patent Action Against Aiko in Germany

On November 15, Solar (5.650, -0.05, -0.88%) panel manufacturer Maxeon Solar Technologies (MAXN, Maxeon (hereinafter referred to as Maxeon) has filed a patent infringement lawsuit in a German court against Chinese photovoltaic company Ai Xu (17.310, -0.49, -2.75%) (600732.SH) and its subsidiaries, alleging that it infringes the European patent for solar cell architecture, patent No. EP2297788B1, and asking it to stop the infringement.

At 9 am on November 16, Aiko Shares issued a statement in response, saying that after repeated verification by its intellectual property team and the European intellectual property law firm it cooperated with, it was confirmed that the two patented technologies were fundamentally different and there was no infringement of the patent.

Source: aikosolar.com

仿制药再起纠纷！再生元起诉Celltrion专利侵权

11月8日，美国生物制药公司Regeneron（再生元）在美国西弗吉尼亚州北区地方法院对韩国生物制药公司Celltrion提起诉讼，指控Celltrion侵犯了38项专利，其依据是Celltrion根据BPCIA提交了CT-P42的aBLA（简化生物制剂许可申请），这是一种拟议的EYLEA（aflibercept，阿柏西普，用于眼部疾病）生物仿制药，而且celltrion提供了关于该产品的商业营销通知。

再生元在起诉书中声称：1、Celltrion的CT-P42的使用侵犯了八项专利，这些专利通常涉及按照特定的计量表使用阿柏西普的方法，以治疗某些血管性眼病和/或已被确定具有某些多态性的患者；2、Celltrion的CT-P42配方侵犯了四项专利，这些专利通常涉及阿柏西普的稳定配方；3、Celltrion生产CT-P42的工艺侵犯了或导致CT-P42侵犯了二十五项专利；4、CT-P42 的拟议容器封闭系统侵犯了一项专利。

来源: pearceip.law

Generic drug dispute again! Regeneron sued Celltrion for patent infringement.

Regeneron filed a Complaint in the US District Court for the Northern District of West Virginia against Celltrion asserting infringement of 38 US aflibercept patents. It is based on Celltrion's submission of an aBLA (Simplified Biologics License Application) for CT-P42, a proposed biosimilar for EYLEA (aflibercept for ocular diseases), under the BPCIA, and celltrion's provision of a commercial marketing notice for the product.

The use of Celltrion's CT-P42 infringes eight patents, which generally relate to the use of Arbocept's method in accordance with specific metrology to treat certain vascular eye diseases and/or patients who have been identified as having certain polymorphisms. 2, Celltrion's CT-P42 formula infringes four patents, which generally relate to the stable formulation of Arbocept; 3. Celltrion's production process of CT-P42 infringes or causes CT-P42 to infringe 25 patents; 4. The proposed container closure system for CT-P42 infringes a patent.

Source: pearceip.law

立方律师事务所编写《立方观评》的目的仅为帮助客户及时了解中国法律及实务的最新动态和发展，上述有关信息不应被看作是特定事务的法律意见或法律依据，上述内容仅供参考。

This Newsletter has been prepared for clients and professional associates of Lifang & Partners. Whilst every effort has been made to ensure accuracy, no responsibility can be accepted for errors and omissions, however caused. The information contained in this publication should not be relied on as legal advice and should not be regarded as a substitute for detailed advice in individual cases.





Subscribe to our WeChat community


扫码关注公众号“立方律师事务所”和“竞争法视界”

北京 | 上海 | 武汉 | 广州 | 深圳 | 海口 | 首尔

Beijing | Shanghai | Wuhan | Guangzhou | Shenzhen | Haikou | Seoul

 www.lifanglaw.com

 Email: info@lifanglaw.com

 Tel: +8610 64096099

 Fax: +8610 64096260/64096261