



No.263

2021.08

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## Intellectual Property

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### 13,800 Administrative Patent Infringement Rulings in First Half of 2021

On 13 August, CNIPA stated that, in the first half of 2021, intellectual property offices across China made efforts to promote administrative patent infringement dispute rulings by focusing on key online and offline locations, important periods such as May Day and the Dragon Boat Festival, patent infringement control, and achieving good results. The number of administrative patent infringement dispute rulings across the country reached 13,800, with Zhejiang, Jiangsu, Guangdong, Shanghai, Sichuan, Fujian, Hebei, Beijing, Anhui, Henan, Shandong, and other places topping national rankings.

Source: CNIPA

### Luxi Chemical to Pay RMB 749 million in Patent Infringement Damages

On 9 August, Luxi Chemical announced that it had received a Civil Judgment from Liaocheng Intermediate People's Court. The judgment recognizes an arbitration made by the Arbitration Institute of the Stockholm Chamber of Commerce in Sweden on 7 November 2017. Luxi was reported to have violated an "Agreement on Non-Use and Confidentiality of Carbonylation Technology via Low Pressure" signed with Johnson Matthey David Technology Co Ltd and Dow Global Technology Co Ltd.

Zhang Lei, Deputy General Manager of Luxi Chemical, made a public announcement on 9 August in which he said that the company respects the civil judgment made by the Liaocheng Intermediate People's Court and will fulfil its obligation to pay damages, but that the company did not infringe the involved intellectual property rights. He said that due to its lack of international cooperation experience, the company violated the confidentiality agreement and paid a huge price, and has learnt from this experience.

Source: China IP Magazine

### HC Semitek Sues Sanan for RMB 80 million in Patent Infringement Damages

It was reported that HC Semitek filed patent infringement suits against Sanan Optoelectronics, Xiamen Sanan Optoelectronics Co Ltd, Anhui Sanan Optoelectronics Co Ltd, [etc.](#), for infringing its "high voltage LED chip" and "LED epitaxial wafer and its manufacturing method" patents.

HC Semitek complained that Sanan Optoelectronics should stop manufacturing, offering to sell, and selling the products that infringe the patents-in-suit, destroy all the equipment and molds used for producing the infringing products, and compensate HC Semitek for RMB 80 million in economic losses. Previously, Sanan Optoelectronics filed two patent infringement lawsuits against HC Semitek and its subsidiaries. The lawsuits this time are a continuation and escalation of the patent disputes between these leading companies in the LED industry.

Source: IPR daily

### Kepic Potato Chips v. Kepic – RMB 130,000 in Damages Awarded

Recently, a first-instance civil judgment was handed down in the trademark infringement dispute between Dali Food Group Co Ltd, and Liaocheng Wisdom Garden Food Co Ltd and Tongshan District Jade Department Store Supermarket.

In 2003, Dali began to use the "Kepic" trademarks on its potato chips. In July 2011, the trademark "Kepic" was recognized as a "China Well-known Trademark" by the Trademark Office. Later, Wisdom Garden used a logo similar to the plaintiff's trademark on the packaging of potato chips it produced and sold, and Jade Department Store sold those infringing potato chips.

After the court heard the case, Wisdom Garden was ordered to compensate Dali for economic losses and reasonable expenses totalling RMB 130,000 within ten days from the judgment. Meanwhile, Jade Department Store was held jointly and severally liable with Wisdom Garden for RMB 5,000 in compensation.

Source: IPR daily

### **“Guo Cui” Trademark Ruled Invalid**

The Beijing Court Trial Information Network announced that Global Best Brewing Group Co Ltd filed an administrative lawsuit against CNIPA’s “Guo Cui” trademark invalidation decision. The Beijing Intellectual Property Court subsequently rejected it.

In this case, the trademark in dispute consisted of the Chinese characters “Guo Cui”. “Guo Cui” usually refers to the essence of Chinese traditional culture. Using “Guo Cui” as a trademark on products, such as liquor and other products, can easily cause the relevant public to misunderstand the quality and other characteristics of the products. Therefore, the application to register the disputed trademark violated the relevant provisions of the [Trademark Law \(2014\)](#). “Guo Cui” has a specific meaning, and its use in products such as sake (Japanese rice wine) is likely to harm China’s political, economic, cultural, religious, ethnic, and other social and public interests.

Source: Qilu One Point

### **ByteDance’s “Toutiao” Trademark Appeal Rejected**

Beijing ByteDance Technology Co Ltd applied for the “Toutiao” trademark, but CNIPA rejected the application for registration. In its rejection ruling, CNIPA held that “Toutiao” is the distinguishing part of the disputed trademark and each of the earlier cited trademarks. It is similar in text composition, pronunciation, and overall effect, which was likely to cause confusion and misidentification with similar trademarks. ByteDance then filed an administrative lawsuit, and the Beijing Intellectual Property Court rejected ByteDance’s claims. An appeal was filed but rejected by the Beijing Higher People’s Court, which upheld the original judgment.

Source: China Youth Daily

### **ByteDance’s “Toutiao” Trademark Appeal Rejected**

On 11 August, two first-instance civil judgments in the unfair competition disputes between Beijing iQiyi Technology Co Ltd and Beijing Bytedance Technology Co Ltd were published.

After investigation, the court held that the acts complained of in the case involved the use of technical means to hinder or disrupt the normal operation of network products or services legally provided by other operators, the seeking of improper interests, and the disruption of the order of market competition, which constituted unfair competition.

The final judgment ordered the defendant, Beijing ByteDance Technology Co Ltd, to compensate the plaintiff, Beijing iQiyi Technology Co Ltd, for economic losses and reasonable expenses totalling RMB 602,000.

Source: Netease News

### **Tianhe Loses Copyright Dispute with CAVCA**

After three years of litigation, the much-watched contract dispute between the China Audio-Video Copyright Association and Tianhe Culture Group Co Ltd and its subsidiaries has finally made some progress. On 29 July, the Beijing Intellectual Property Court made a first-instance judgment. It supported

all nine exclusive cooperation agreements concerning karaoke copyright licensing matters signed between the plaintiff and the defendant Tianhe Company since 1 November 2018. The court ruled that Tianhe and its subsidiaries should pay CAVCA a total of RMB 99.76 million in copyright license arrears, interest payments and damages. The court also rejected all Tianhe's counterclaims. Tianhe was dissatisfied with the first-instance judgment and stated that it would appeal.

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

### **Nearly 100,000 EU trademark applications were recorded in the first half of 2021**

In the first half of 2021, the European Union Intellectual Property Office (EUIPO) received a record 100,000 EU trademark applications, an increase of approximately 24% compared to the same period last year. The number of applications for registered community designs also increased by nearly 2% during the same period.

The increased demand for EU trademarks involves fields such as data processing equipment and computers, business management, and scientific and technological services and research, reflecting the changing needs of consumers and health institutions during the COVID-19 epidemic.

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

### **English Court Rules that Lenovo Infringed InterDigital 4G Patent**

On 10 August, an English court ruled that Lenovo infringed InterDigital's EP2485558 patent, which is part of the 4G standard. Further FRAND proceedings are pending.

InterDigital claimed that Lenovo imported and sold 4G equipment in the UK, which infringed the EP2485558 patent. In response, Lenovo filed a patent invalidation request based on lack of novelty, effectiveness, and creativity as part of their defence strategy and filed a counterclaim. They were not successful.

Source: [IP Forefront](#)

## **Overseas News**

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### **Lanpu Video Reports Fuman Electronics' Abuse of Market Dominance**

On August 12, 2021, Lanpu Video, the LED electronic display manufacturer, issued an announcement stating that it had submitted a complaint to the China Optics and Optoelectronics Industry Association and the Antimonopoly Bureau of the State Administration for Market Regulation. Lanpu Video stated that Fuman Electronics has repeatedly refused to perform IC product supply contracts without any good reason and has continued to demand price increases, which have seriously affected Lanpu Video's normal business activities and seriously disrupted the market order. Up to now, Lanpu has received support from nearly 100 IC companies and nine display screen companies who wish to participate in joint litigation. ([More](#))

### **Chongqing AMR Conducts a 149 Case Anti-monopoly and Anti-competition Enforcement Campaign with Fines of around CNY 33 Million**

On July 30, 2021, the Chongqing Administration for Market Regulation ("Chongqing AMR") announced that it had investigated and handled a total of 149 anti-monopoly and anti-unfair competition cases as part of its in-depth implementation of the "anti-monopoly and anti-unfair competition special enforcement campaign", and had issued fines of around CNY 33 million. The key monopolistic behav-

iors investigated and dealt with included refusals to deal, exclusive dealing, unreasonable trading conditions, “either-or” practices, overlord clauses, dumping, big-data discrimination, tying, the exclusion and restriction of competition in bidding and government procurement. The Chongqing AMR stated that it would continue to focus on key areas such as education and training institutions, private medical institutions, red top intermediaries, and the platform economy while strengthening law enforcement and maintaining a unified, open, orderly, and competitive market environment. ([More](#))

### **Anhui AMR Rectifies Hexian People’s Government and Hexian Housing Construction Bureau’s Abuse of Administrative Power**

On August 5, 2021, the Anhui Province Administration for Market Regulation (“Anhui AMR”) issued a notice on rectifying Hexian People’s Government and Hexian Housing Construction Bureau’s abuse of administrative power to exclude and restrict competition. Upon investigation, these two governmental authorities allowed Anhui Jinran Energy Investment Co Ltd to unify the prices at 110 bottled gas outlets in the county, which constituted an abuse of administrative power to exclude and restrict competition. During the investigation, the parties cancelled the “uniform price” requirement and implemented market-adjusted prices for bottled liquefied gas. At the same time, the two parties promised to allow all eligible companies to compete and said they would build a fair and competitive market environment. ([More](#))

### **AGMC Probes McDonald’s Franchise Agreements**

On August 9, 2021, it was reported that Italy’s antitrust authority AGCM would investigate McDonald’s terms and conditions in its agreements with franchise operators following several complaints. The AGCM move could put the US fast-food chain, which in 2020 made USD 19.2 billion in revenue, at risk of a fine of as much as 10% of its global turnover if it is found guilty of breaching Italian antitrust rules. The AGCM stated that, based on the available information, there appeared to be a relationship of economic dependence between the store operators and McDonald’s. The authority also noted a series of pervasive and binding clauses on prices, promotions, stocks, supplies, purchases, and financial management, among other things, which could be elements of abusive conduct. ([More](#))

### **Indian Supreme Court Orders CCI to Investigate the Monopolistic Conduct of Amazon and Flipkart**

On August 9, 2021, it was reported that India’s Supreme Court allowed an antitrust investigation to proceed against Amazon.com’s local unit and Walmart-backed Flipkart for allegedly abusing their dominance by offering deep discounts and preferential treatment to some vendors to the competitive detriment of brick-and-mortar traders. A three-judge panel headed by Chief Justice N.V. Ramana rejected separate petitions by Amazon and Flipkart to halt the probe. Amazon and Flipkart deny any wrongdoing and told the court that the panel didn’t follow the required procedure when starting the investigation. ([More](#))

### **CMA Provisionally Finds Pfizer and Flynn’s Behavior Abusive**

On August 5, 2021, the Competition and Markets Authority (“CMA”) announced that it had reached a provisional view that Pfizer and Flynn, the two dominant suppliers of phenytoin sodium in the UK, broke competition law by charging unfairly high prices for phenytoin sodium capsules. In December 2016, following an in-depth investigation, the CMA fined Pfizer and Flynn for breaking competition law by charging unfairly high prices for phenytoin sodium capsules. The companies appealed against the CMA’s decision and the fine. In 2018, the Competition Appeal Tribunal (“CAT”) upheld the CMA’s findings on market definition and dominance but set aside the CMA’s finding that the companies’ prices were an unlawful “abuse” of dominance and referred the matter of abuse back to the CMA

for further consideration. The CMA and Flynn then appealed to the Court of Appeal. In March 2020, the Court of Appeal dismissed Flynn's appeal in its entirety and upheld parts of the CMA's appeal relating to the application of the legal test for unfair pricing. Following this, the CMA decided to re-investigate the matters remitted by the CAT and opened its current investigation in June 2020. ([More](#))

## Cybersecurity and Data Protection

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### Six Major Revision of the Draft Law on the Personal Information Protection (3rd Draft)

On August 13, 2021, the Legislative Affairs Committee of the Standing Committee of the National People's Congress held a press conference to inform the situation about draft laws which will be reviewed at this Standing Committee meeting. At the press conference, the Committee disclosed that the draft Law on the Personal Information Protection (3rd Draft) is intended to make revision in six perspectives, including special rules on "big data discrimination", regarding personal information of minors under the age of 14 as sensitive personal information and requiring special treatment, personal information exporting, protection of personal information transferred abroad, and improving the protection of personal information of deceased persons, improving the complaint and reporting mechanism, etc. ([More](#))

### Regulations on the Security Protection of Critical Information Infrastructure Issued by State Council

On 17 August 2021, the State Council promulgated the Regulations on the Security Protection of Critical Information Infrastructure (the "Regulations"). The Regulations clarify the competent authorities and their duties. At the same time, the Regulations clarify the main responsibilities of operators of critical information infrastructures, requiring operators to establish a sound network security protection system and responsibility system, set up special security management agencies, conduct annual network security testing and risk assessment, and report immediately when major risk issues arise. In addition, the Regulations also make special provisions for activities such as vulnerability detection, penetration testing and the export of important data of critical information infrastructures. ([More](#))

### Draft of Information Security Technology- Security Framework for Block-chain Technology Published for Comment

On 2 August 2021, the National Information Security Standardization Technical Committee released the national standard Information Security Technology- Security Framework for Block-chain Technology (Draft for Comments). This standard addresses the security risks faced by block-chain, compiles the technical system of block-chain, and provides a general block-chain technical security framework for the overall planning and security guidance during the course of development, preparation, use and management of block-chain platform and applications. ([More](#))

### MIIT Requires to Strengthening the Management of Market Access of ICVs Production Enterprises and Products

On 12 August 2021, the Ministry of Industry and Information Technology (MIIT) issued the Opinions on Strengthening the Management of Market Access of Intelligent Connected Vehicle Production Enterprises and Products (the "Opinions"), which requires strengthening the management of automotive data security, network security, software upgrades, functional safety and expected functional safety, ensuring product quality and production consistency, as well as promoting the high-quality development of ICVs

industry. The Opinions strengthen the market access management of smart connected vehicle production enterprises and products, clarify the management requirements for automotive data security, network security and online upgrades, and guide enterprises to strengthen capacity building to effectively safeguard citizens' lives, property security and public safety. It also address to the issues such as protection of personal information and important information, data storage and export, etc. ([More](#))

### **CAC Works with Other Departments on the Centralized Governance of Camera Peeping and other Black Industry**

Since May this year, Cyberspace Administration of China (CAC), in conjunction with MIIT, the Ministry of Public Security and the State Administration for Market Supervision, has been intensively promoting the centralized management of camera peeping and other black industry. Among them, CAC instructed local cyberspace administration to supervise various platforms to clean up relevant illegal and harmful information, dispose of illegal accounts and take down relevant commodities, and inquire 14 video monitoring app manufacturers with potential risks of private video information leakage and urged to complete rectification; MIIT organized relevant agencies and 18 key video surveillance cloud platforms and camera manufacturer to hold a national teleconference and deploy centralized rectification work of camera network security. ([More](#))

### **NCERT found privacy non-compliance behavior of 14 Apps through Internet monitoring**

National Computer Virus Emergency Response Center (NCERT) recently found through Internet monitoring that 14 Apps had privacy non-compliance behavior, violating the relevant provisions of the Network Security Law and allegedly collecting personal privacy information beyond the scope. The non-compliance behavior mainly includes: no privacy policy; unclear or partially application to the users for the access of privacy; collecting personal information before obtaining the user's consent; failing to provide effective functions to correct and delete personal information and delete the user's account, or setting unreasonable conditions for deleting the user's account; failing to establish or publish channels for complaints and reports, or exceeding the promised time limit for handling responses, etc. ([More](#))

### **Several Policy Measures for Promoting Digital Transformation of Cities in Shanghai issued by Shanghai DRC**

On 2 August 2021, the Shanghai Municipal Development and Reform Commission released “Several Policy Measures for Promoting Digital Transformation of Cities in Shanghai” (the “Measures”). The Measures requires to improve rules for the use of biometric information such as human faces; explore the system for authorizing the operation of public data; and establish a new systematic and comprehensive system for safeguarding digital transformation, etc. ([More](#))

### **EDPB Published Overview on Resources made Available by Member States to the Data Protection Authorities and on Enforcement Actions by the Data Protection Authorities**

On 11 August 2021, the EU Data Protection Board (EDPB) published Overview on Resources made Available by Member States to the Data Protection Authorities and on Enforcement Actions by the Data Protection Authorities. EDPB shares statistics on the financial and human resources invested by Member States to data protection authorities. In addition, the report includes the total number of enforcement cases within the EU and across borders, including the number of cases based on complaints, the number of ex officio investigations, and the number of cases based on data breach notifications. ([More](#))



## ICO Seeks Opinion on the Draft International Data Transfer Agreement and the Guidance

On 11 August 2021, The Information Commissioner's Office (ICO) has launched a public consultation on its draft international data transfer agreement (IDTA) and guidance. When organizations send personal information to a country outside the UK, they must ensure people's data protection rights continue to be protected. An IDTA is a contract that organizations can use when transferring data to countries not covered by adequacy decisions. The consultation is split into three sections: Proposal and plans for updates to guidance on international transfers; Transfer risk assessments; and the International data transfer agreement. The IDTA will replace the current standard contractual clauses (SCCs). ([More](#))

## Complaint Raised Against the Apple's Detection Function of Child Sexual Abuse Material

On August 5, Apple announced to adopt a new system that will detect images called Child Sexual Abuse Material (CSAM), where images are transformed into unique numbers that correspond to that image and report to the law enforcement department. Apple says that its system is more private for users than previous approaches to eliminating illegal images of child pornography, because it uses sophisticated cryptography on both Apple's servers and user devices. Some security researchers have raised concerns that this technology could eventually be used to identify other kinds of images, such as photos of a political protest. ([More](#))

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