



NEWSLETTER

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Intellectual Property

CNIPA issued a reply on issues related to repeated patent infringement

On September 8, CNIPA issued a reply on issues related to repeated patent infringement. It mentioned that the provinces, such as Beijing, Tianjin, Hebei, Zhejiang, Fujian, Henan, Hubei, Guangdong, Chongqing, Sichuan, Guizhou, Chongqing, Xinjiang etc., have clearly stipulated in their local regulations that administrative penalties could be imposed on repeated patent infringement. This reply provided guidance on the aspects including the period for preforming judgement, the determination of the starting time of repeated patent infringement, the treatment for the actions of "improved infringement", the procedure of ruling on repeated patent infringement cases, and the relationship between administrative and civil liabilities for repeated patent infringement.

Source: CNIPA

CNIPA issued a notice of public consultation on the “Measures for Credit Management of Patent Agents (Draft)”

On September 8, CNIPA published on its website a notice of public consultation on the "Measures for Credit Management of Patent Agents (Draft)", to seek public comments on the "Measures for Credit Management of Patent Agent (Draft for Public Comments)" drafted CNIPA. Relevant companies and people from all fields can submit opinions through email, fax, or letter before September 15, 2021.

Source: CNIPA

Zhejiang launched the first blockchain public deposition platform for intellectual property in China

On the morning of September 9, the on-site promotion meeting for the action of "entering the park and benefiting enterprises" (2021-2023) of intellectual property financial services in Zhejiang Province was held in Hangzhou High-tech district (Binjiang) Wisdom e Valley. At the meeting, the "Zhejiang Province Intellectual Property Financial Services "Entering the Park and Benefiting Enterprises " Action Plan (2021-2023)" was released, and the first national IP blockchain public depository platform, "IP Blockchain Public Depository Platform of Zhejiang Province", was officially launched.

The platform utilizes the characteristics of blockchain technology such as distributed storage, non-tamperability, security, confidentiality, and traceability to provide efficient and fast deposition services for intellectual property rights such as original designs, data assets and trade secrets. The platform issues deposition certificates for the deposition information that meets the technical specifications and secure encrypted storage requirements, and provides users with corresponding deposition services in the process of rights maintenance, licensing, pledging and trading on the basis of intellectual property blockchain deposition, aiming at realizing one-stop service for intellectual property.

Source: Pengbai News

A flooring company which maliciously registers and hoards trademark similar to famous brands was awarded 15 million yuan in damages

Recently, the Suzhou Intermediate People's Court concluded a trademark infringement and unfair competition dispute, in which the defendant, a home furnishing company in Fujian, was awarded to compensate the plaintiff, Nature Home furnishing (China) Co., Ltd., for 15 million yuan, refreshing a new record of damage in the intellectual property field of the domestic flooring industry.

The Fujian company has registered a large number of trademarks of "Nature xx family" on flooring

products similar to the "Nature" trademark, which is very malicious. The court held that this case belongs to malicious infringement and the circumstances were serious, and it met the applicable conditions of punitive damages. Therefore, the proportion of punitive damages was doubled in this case.

Source: [Suzhou Intermediate Court](#)

South Korea's MBC TV sues Bilibili for copyright and infringement dispute

South Korea's MBC TV has sued Bilibili (B Station) for "copyright ownership and infringement dispute". According to the online announcement of Nanjing Intermediate People's Court, the case will be heard on November 19. MBC TV was established in 1961 and is one of the three major TV mainstream media in Korea, known as the "Kingdom of Korean dramas". MBC TV's classic works include "My Name is Kim Sanshun", "Dae Jang Geum", "Infinite Challenge", "King of Masked Singer", etc.

Source: [Sina Judicial Channel](#)

OPPO countersues Nokia for infringement to start 5G patent counterattack

It is reported that OPPO has launched multiple patent infringement lawsuits against Nokia in China and Europe, respectively, involving Nokia's 5G base station products. This is a countermeasure taken by OPPO against the global patent lawsuit launched by Nokia not long ago. OPPO's performance on patents in recent years is remarkable. In July this year, OPPO reached a settlement with Sisvel, ending more than two years of patent disputes. Recently, the Supreme People's Court finally ruled in favor of OPPO in the "OPPO vs. Sharp standard-essential patent licensing dispute", and confirmed the jurisdiction of Chinese courts over the global rates of standard-essential patents. The OPPO vs. Nokia case may become a "wind vane" case on 5G standard-essential patent licensing and licensing fees, which will have a significant impact on the determination of global 5G standard-essential patent licensing rules.

Source: [Intellectual Property Frontier](#)

Reduced patent fees for all recognized educational institutions announced in India

At a recent Confederation of Indian Industry virtual event on intellectual property, India's Commerce and Industry Minister Piyush Goyal announced that patent fees will be slashed by 80 percent for all recognized universities, colleges or schools – whether in India or overseas. Previously, only recognized state-owned educational institutions can avail of the reduced patent fee. Nishant Kewalramani, senior partner at Ediplis Counsels, believes the patent fee reduction will help students recognize the value of patents early on, allowing them to develop an innovation and patenting mindset in their careers and in everything they do in the future.

Source: [AsiaIP](#)

Apple App Store forced to liberalize third-party payments by California court

The one year-long antitrust lawsuit between game company Epic Games and Apple has finally seen a breakthrough. On September 10, 2021, the U.S. California District Court issued an injunction that Apple cannot prohibit application developers from providing in-app links to direct users to third-party payment channels that are not in-app purchases. The ban will take effect in December. This means that the 30% "Apple Tax", the "moat" of the revenue of App Store, has been quietly blocked. The so-called "Apple tax" refers to the App Store's 30% commission on the revenue of digital paid content provided by application developers to users, and an important part of the closed loop of this commission is blocking the third-party payment channels, which means all developers must use Apple's in-app purchase payment method.

Source: [21st Century Business Herald](#)

Overseas News

Ningxia Issues Two Documents Related to Anti-Monopoly

On September 7, 2021, Ningxia issued two antitrust-related documents, clearly requiring to improve the anti-monopoly working mechanism, according to which it will be viable for the Administration for Market Regulation of Autonomous Region to investigate cases by itself, or entrust lower departments to carry out the investigation; to clarify the procedures for registration, verification and reporting of suspected antitrust violations clues; to develop anti-monopoly enforcement talents pool. ([More](#))

The Compilation of the Antimonopoly Law of Belt and Road Countries Published

On September 6, 2021, the Anti-Monopoly Bureau of the State Administration for Market Regulation (“SAMR”) announced that it had organized the translation of *The Compilation of the Antimonopoly Law of Belt and Road Countries* (“*Compilation*”). The *Compilation*, divided into two volumes, covers the basic anti-monopoly legislation among 30 countries and systematically introduces the anti-monopoly legislation and the establishment of authorities in these countries. The *Compilation* helps enterprises to have an insight into the anti-monopoly legal environment of countries along the “One Belt One Road” to strengthen anti-monopoly compliance, and better carry out investment activities in these countries. ([More](#))

Director of SAMR: Strengthening Competition Regulation on Platforms Economy

On September 6, 2021, Zhanggong, the director of SAMR, stated at the State Council press conference that it is necessary to strengthen platform economic regulation and anti-monopoly, and prevent disordered expansion of capital. First, it needs to improve fair and transparent competition rules, promptly revise the two competition laws, and formulate the *Interim Provisions on the Abuse of Dominant Market Position* and other regulations; Second, it is necessary to strengthen supervision and law enforcement of anti-monopoly and unfair competition, and investigate and punish illegal acts such as “either or” conducted by top platforms and low-price dumping in community group buying field. Thirst, it needs to timely supervise and guide enterprises to strengthen their own compliance awareness and ability, organize and hold administrative guidance meeting to strengthen warning and prevention. ([More](#))

SAMR Issues *Chinese Annual Report on Anti-Monopoly Enforcement (2020)*

On September 3, 2021, SAMR issued *Chinese Annual Report on Anti-Monopoly Enforcement (2020)* (“*Report*”), which elaborates from the aspects of improving competition system, anti-monopoly enforcement practice and capacity building, and pays attention to the development of the Internet platform and monopoly risks, pointing out the competition concerns remained of the merger of start-ups by Internet giants. In addition, the *Report* announced the “Ten Typical Cases of Anti-Monopoly Enforcement in 2020”, covering four categories of monopolistic behaviors, including cement, second-hand cars, medicine, semiconductor, the Internet and other people’s livelihood and emerging fields. ([More](#))

CMA Finds Competition Concerns Remain over the Purchase of AWAL by SONY

On September 7, 2021, The Competition and Markets Authority (“CMA”) stated that it had found that Sony’s completed purchase of AWAL raises competition concerns. After investigation, CMA found that the wholesale distribution of recorded music in the UK is highly concentrated at present and AWAL is an important emerging player. The evidence shows if the deal had not gone ahead, Sony and AWAL could also have competed more strongly with each other in future, which could have benefited artists by improving the terms of their deals with distributors, potentially allowing them to keep a larger share of their earnings and to have more ownership of their music rights. CMA said that this is a Phase 1 decision and unless the parties offer suitable Undertakings in lieu, it will proceed to Phase 2. ([More](#))

Cybersecurity and Data Protection

TC260 Issues Notices of Solicitation for Participation on Drafting More Than Ten Standards

From September 8 to September 13, 2021, the National Information Security Standardization Technical Committee (“TC260”) issued notices of solicitation for participation on drafting more than ten standards, including *Information Security Technology / Internet User Account Nomination Requirements*, *Information Security Technology / Software Supply Chain Security Requirements*, *Information Security / Network Security and Privacy Protection* and other related information technology and data security standards. ([More](#))

National Human Rights Action Plan (2021-2025) Released to Strengthen the Personal Information Protection

On September 9, 2021, the State Council Information Office released the *National Human Rights Action Plan (2021-2025)* (“Plan”). The Plan includes the “personal Information Rights and Interests” into the chapter “Civil and Political Rights”, stressing the need to strengthen personal information protection, improve relevant legal systems, supervision, law enforcement and publicity, to effectively safeguard network and data security. First, improve the personal information protection legal system, clear personal information processing principles, rules, strictly limit sensitive personal information processing, strengthen personal information processor compliance management obligations, set strict legal responsibility; Second, carry out in-depth personal information protection supervision, law enforcement and publicity, and establish personal information infringement complaints and reports system; Finally, maintain the security of the network and data, protect the network from interference, destruction or unauthorized access, prevent network data leakage or theft or tampering, strengthen the monitoring of network and data security risks, and severely crack down on illegal and criminal activities such as stealing online data and illegal sale of personal information. ([More](#))

CAC Close down Numbers of Financial “Stinky Mouth” Accounts

On September 8, 2021, Cyberspace Administration of China (“CAC”) announced that major commercial website platforms took action quickly to conscientiously carried out self-examination and self-correction, and focused on rectifying eight prominent violations that disrupted the order of online communication in the financial fields since the launch of special campaign (“QINGLANG”) on rectification of the irregular collection and publication of financial information by commercial platforms and “We Media”. At present, 2,929 illegal “We Media” accounts have been dealt with, and 47,153 harmful information are cleared, among which 1,793 accounts have been closed, including three accounts with more than 1 million followers. Major commercial website platforms have issued announcements, announced the progress of the rectification work, and set up entrances for reporting to welcome netizens to actively report and jointly build a clean cyberspace. ([More](#))

Shanghai Preparing the Data Exchange

On September 9, 2021, the Shanghai Municipal People’s Government held a press conference. In response to the question of “How will Shanghai carry out digital transformation during the 14th Five-Year Plan period”, Vice Mayor Wu Qing said that, the first is to accelerate the application of digital technology and promote the innovative application of AI, big data technology in industrial robots, fault monitoring and maintenance and other fields; the second is to accelerate new digital infrastructure, deploy 5G base stations on a large scale, and build twenty 5G full-link factories; the third is to accelerate the construction of a full-factor ecology, and lead or participate in the formulation of more than 80 digital transformation standards for the manufacturing industry, and initially complete the industrial Internet public

service platform in the Yangtze River Delta. At present, Shanghai is promoting comprehensive data legislation and the preparation of Data Exchange. ([More](#))

2021 Internet Network Security Report of Shanxi Province Released

On September 8, 2021, the CAC issued a notice stating that the *2021 Internet Network Security Report of Shanxi Province* (“**Report**”) issued officially by Shanxi Province recently. The Report, relying on relevant national network security monitoring basic platform, in accordance with full-amount of network security monitoring data, data submitted by the telecommunications and Internet industry and data of institutions related to network security, systematically analyzes the provincial network security situation, carries out in-depth special analysis of the network security situation of 5G, supply chain, industrial Internet, digital government, finance, health, commercial password application, as well as illegal collection of personal information by Apps, and puts forward targeted network security protection suggestions. ([More](#))

Anhui Deals with Numbers of Illegal Websites and Accounts in August

On September 3, 2021, CAC announced that the Cyberspace Administration of Anhui Province, together with the Provincial Communications Administration, in the special online environmental campaign for minors in the summer vacation, investigated and punished 33 illegal websites, coordinated relevant platforms to close or banned 63 accounts in accordance with users’ service agreements, transferred 85 clues about violations of laws and regulations, and cleaned up 8,953 illegal and bad information related to minors. In the next step, the network information systems of Anhui Province should earnestly implement the *Regulations on Ecological Governance of Network Information Content*, steadily carry out special actions such as clean the chaos of the fans circle, continue to strengthen governance efforts, and tighten the main responsibility of the website platforms. ([More](#))

Tencent, NetEase and Other Enterprises and Platforms Had Regulatory Talk

On September 8, 2021, relevant persons in charge of the Propaganda Department of the CPC Central Committee and National Press and Publication Administration, jointly with the CAC and other departments, talked with Tencent, NetEase and other key online game enterprises, game account rental and sales platforms, and game live broadcast platforms. It is pointed out that all subjects mentioned above should resolutely implement the *Notice on Further Strict Management to Effectively Prevent Minors from Indulging in Online Games* and the *Notice on Comprehensive Governance in the Cultural and Entertainment Field* and other relevant requirements, undertake the responsibility down to earth, strictly implement the limitation on the duration of providing online games to minors, and should not to provide online game account rental and sale transaction services to minors; strengthen the online game content audit check and strengthen the management of game live broadcast; put an end to unauthorized changing the game content and other behaviors. It is clarified that the reporting platform preventing minors from indulging in online games will launched recently, and enterprises without full implementation will be strictly punished. ([More](#))

Network Information Department of Hainan Province Imposes an Administrative Punishment on “Zhengqi” App

On September 6, 2021, CAC announced that the Network Information Department of Hainan Province recently imposed an administrative punishment on “Zhengqi” App by law. After investigation, the “Zhengqi” App did not earnestly fulfill the main responsibility of information content security management on the Internet platform. Nor the App fulfilled the obligation of information release audit management or took disposal measures such as timely stopping transmission and elimination, in violations of Article 47 of the *Cybersecurity Law*, Article 10 of the *Regulations on Ecological Governance of Net-*

work Information Content and Article 7 of the *Regulations on Account Name Management of Internet Users*. The authority gave the App a warning and a fine of RMB 100,000; had a serious talk with the person in charge, ordering the App to carry out a comprehensive rectification, and to suspend the users' registration during the rectification period. ([More](#))

U.S. Commerce Department Establishes NAIAC

On September 8, 2021, the U.S. Commerce Department announced that it has established the National Artificial Intelligence Advisory Committee (“NAIAC”) to advise the President and other federal agencies on a range of issues related to artificial intelligence (AI). The Department is now seeking to recruit top-level candidates to serve on the committee. The committee is to provide recommendations on topics including the current state of U.S. AI competitiveness; progress in implementing the Initiative; the state of science around AI; issues related to AI workforce; how to leverage initiative resources; the need to update the initiative; the balance of activities and funding across the initiative; the adequacy of the National AI R&D Strategic Plan; management, coordination, and activities of the initiative; adequacy of addressing societal issues; opportunities for international cooperation; issues related to accountability and legal rights; and how AI can enhance opportunities for diverse geographic regions. ([More](#))

CNIL Fines AG2R LA MONDIALE EUR 1.75 Million.

On September 8, 2021, the French Data Protection authority (“CNIL”) issued a notice stating that it had fined the AG2R LA MONDIALE group EUR 1.75 million. CNIL carried out an inspection in 2019. It is found that the company had not implemented the regulated retention periods. As a result, the data of almost 2,000 potential customers who had no contact with the company were kept for more than three or five years. Furthermore, the company was storing the data of more than 2 million customers, including some of health or bank details, beyond the legal retention periods allowed after the end of the contract. In addition, telephone calls made by the company's data processors could be recorded without the person contacted being informed of the principle of recording or of her right to object to it. The practices above infringe Article 5-1-e, Articles 13 and 14 of the GDPR, the company has made the necessary changes to comply with the GDPR following the inspection and the procedure. ([More](#))

ICO to Call on G7 Countries to Tackle Cookie Pop-ups Challenge

On September 7, 2021, the UK Information Commissioner's Office (“ICO”) announced it will call on fellow G7 data protection and privacy authorities to work together to overhaul cookie consent pop-ups, so people's privacy is more meaningfully protected and businesses can provide a better web browsing experience. The ICO will present its vision for the future, where web browsers, software applications and device settings allow people to set lasting privacy preferences of their choosing, rather than having to do that through pop-ups every time they visit a website. This would ensure people's privacy preferences are respected and the use of personal data is minimised, while improving users' browsing experience and removing friction for businesses. ([More](#))

ICO Fines Glasgow Company £150,000 for Making Half a Million Nuisance Calls

On September 5, 2021, ICO announced it has fined Glasgow-based company DialADeal Scotland Ltd for making more than half a million nuisance marketing calls. The unsolicited calls were about fake Green Deal energy saving schemes, including boiler and window replacement, loft insulation and home improvement grants. It is found that the company were breaking the law on a number of fronts, not only were they making calls to people without their permission, they were also hiding their identity using false names and spoof numbers. The company has been fined £150,000 by the ICO. ([More](#))

ISO Publishes New Standard to Maintain Car Network Security

On August 31, 2021, the International Standardization Organization (“**ICO**”) published a new standard, named *Road vehicles -Cybersecurity engineering* (ISO/SAE 21434). The standard, drawing on the previous *Cybersecurity guidebook for cyber-physical vehicle systems*, will help manufacturers keep abreast of changing technologies and cyber-attack methods, and defines the vocabulary, objectives, requirements and guidelines related to cybersecurity engineering for a common understanding throughout the supply chain. ([More](#))

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