



NEWSLETTER

LIFANG & PARTNERS **立方观评**



关注更多精彩内容

No.270

2021.09

Weekly News By Lifang & Partners NO.11

Intellectual Property

The Central Committee of the Communist Party of China and the State Council issued the *Guidelines for Building a Powerful Country with Intellectual Property Rights (2021-2035)*

Draft Regulations on the Protection of Intellectual Property in Beijing Submitted for Review

China's First Professional Collegial Panel for Data-Related Disputes Inaugurated in Guangzhou

Xiaomi Sues Reviewer for Unfair Competition, Awarded ¥2 Million in First Instance

Kwai Sues Companies Providing Fabricating Pageview Services for Unfair Competition

Apple's Siri and Applebot Targeted in Patent Suit

UK Court Rules AI Cannot be Listed as a Patent Inventor

Marvel Suing to Keep Copyrights of 'Avengers'

Cybersecurity and Data Protection

SPC is Formulating Judicial Interpretations on Personal Information Protection, Injunction on Infringement of Personality Rights

Guide for Identifying Important Data (draft for comment) Released for the First Time

The MIIT Strongly Promote the Implementation of the Real-name Registration of the Car Networking Card

The MIIT Promote The Upgrade Of The National Internet Information Security Management System And The Construction Of Data Security And Cybersecurity Supervision And Technical Guarantee System

The *Blue Book Of China Internet Development Report 2021 And World Internet Development Report*

China's First Professional Collegiate Bench For Data-Related Disputes Was Established In Guangzhou

MIIT: Notification Of Apps Infringing On Users' Rights And Interests (10th Batch In 2021, 19th Batch In Total)

EDPB Adopts Opinion On Draft *South Korea Adequacy Decision*

EDPS Welcomes AML Package But Suggests Improvements To Protect Individuals' Personal Data

FTC Tells Health Apps The Need To Tell Consumers Of Data Breaches

Intellectual Property

The Central Committee of the Communist Party of China and the State Council issued the *Guidelines for Building a Powerful Country with Intellectual Property Rights (2021-2035)*

On September 22, 2021, the Central Committee of the Communist Party of China and the State Council issued the *Guidelines for Building a Powerful Country with Intellectual Property Rights (2021-2035)*. Which makes a comprehensive plan for China to accelerate the building of an IPR country.

The plan, which demands the significant achievement of building an IPR country, stricter IPR protection, a high level of public satisfaction, greater market value of IPR and significant increase in brand competitiveness by 2025, was released by the Central Committee of the Communist Party of China and the State Council. IPR country with Chinese characteristics and world standards is basically built, and China's IPR competitiveness will rank among the top in the world by 2035, says the guideline.

Source: [The State Council](#)

Draft Regulations on the Protection of Intellectual Property in Beijing Submitted for Review

on September 23, 2021, Regulations on the Protection of Intellectual Property in Beijing Reviewed at the 33th Meeting of the Standing Committee of the 15th People's Congress of Beijing Municipality. The regulation proposing to promote diversified mediation of intellectual property disputes, and propose to establish a system of technical investigation officers and investigation orders for lawyers to improve the effectiveness of judicial case handling. The courts, procuratorates and intellectual property protection management departments may invite or hire professional technical personnel to act as technical investigation officers when dealing with intellectual property cases involving patents, computer software, layout designs of integrated circuit, technical know-how and new variety of plant, etc., to provide technical investigation opinions on the technical issues in the cases and provide references for the determination of technical facts.

Source: [People's Government of Beijing Municipality](#)

China's First Professional Collegial Panel for Data-Related Disputes Inaugurated in Guangzhou

On the morning of September 26th, the first collegial panel for data-related disputes in China was inaugurated at the Guangzhou Internet Court. The panel will hear cases of first instance involving the collection, storage, use, processing, transmission, provision, disclosure, deletion, and other data processing and data security of personal data, corporate data and public data.

Source: [Guangzhou Internet court](#)

Xiaomi Sues Reviewer for Unfair Competition, Awarded ¥2 Million in First Instance

Recently, the civil judgment of the first instance of the unfair competition dispute between Xiaomi Corporation and Chongqing Tianji Meike Technology Co. The plaintiff, Xiaomi, claimed that the defendant conducted a live smart TV review and made the public mislead by setting unfair comparison conditions, avoiding the merits of the plaintiff's products and highlighting the merits of competing products, making the sales of the plaintiff's products drop sharply and causing the plaintiff's business reputation and merchandise reputation to suffer significant and irreparable damage. The defendant argued that if the similar peer-to-peer reviews were to be held liable for unfair competition that defamed goodwill, it

would be detrimental to similar media to make a rational or conscientious viewpoint, and would damage consumers' right to information, and would instead lead to normal commercial competition being unduly restricted.

The court held that the defendant's reviews were misleading information, damaging the plaintiff's business reputation and reputation for its goods. The defendant has clearly subjective fault and constituted commercial defamation. Therefore, the court ruled that the defendant Chongqing Tianji Meike Technology Co. shall compensate the plaintiff Xiaomi Corporation for economic damages of RMB 2 million and publish a statement on the website to eliminate the impact.

Source: [The First Intermediate People's Court of Chongqing Municipality](#)

Kwai Sues Companies Providing Fabricating Pageview Services for Unfair Competition

On September 21, the first instance of an unfair competition dispute between Beijing Kwai Technology Co., Ltd. and Shanghai Tianzhiyi Network Technology Co., Ltd. made public.

Kwai is one of the most popular short-form video platforms in China. Shanghai Tianzhiyi provided paid fabricating pageview services for Kwai users, and the services it provided led to inaccurate data on the evaluation system of the Kwai platform, which reduced the market reputation of the Kwai platform and damaged the Kwai's competitiveness on the market. The court held that the access data on the Kwai platform has a large commercial value and its commercial interests are protected under the law. Ultimately, the court ruled that Shanghai Tianzhiyi Network Technology Co., Ltd. shall compensate the plaintiff, Beijing Kwai Technology Co., Ltd. for economic losses of RMB 66,000.

Source: [Haidian People's Court](#)

Apple's Siri and Applebot Targeted in Patent Suit

Patent holdings firm Parus Holdings filed second patent lawsuit target Apple with the U.S. District Court for the Western District of Texas, claiming Apple's Siri voice assistant infringes on owned patents relating to methods of searching the internet with voice-enabled devices. And Apple's infringement was "intentional" and seeks triple damages and Parus' attorneys' fees, as well as a permanent injunction against Apple's infringement of Parus' patents.

Source: [TechWeb](#)

UK Court Rules AI Cannot be Listed as a Patent Inventor

On 21 September, in a decision on whether DABUS, the artificial intelligence inventor, could act as an inventor, the UK Appeal Court was finally rejected this request by three judges in a 2:1 decision. Prior to this, the US District Court had just announced the same result, namely that the inventor shall be a "natural person" in patent law.

This decision in the UK Appeal Court is in line with previous decisions in the Intellectual Property Office and European Patent Office, as well as prior decisions in the UK's High Court.

Source: [Engadget](#)

Marvel Suing to Keep Copyrights of 'Avengers'

Disney's Marvel unit is suing to hold on to full control of Avengers characters including Iron Man, Spider-Man, Dr. Strange, Ant-Man, Hawkeye, Black Widow, Falcon, Thor and others.

The complaints come against the heirs of some late comic book geniuses including Stan Lee, Steve

Ditko and Gene Colan. The suits seek declaratory relief that these blockbuster characters are ineligible for copyright termination as works made for hire. If Marvel loses, Disney would have to share ownership of characters worth billions.

Source: [The Hollywood Reporter](#)

Cybersecurity and Data Protection

SPC Is Formulating Judicial Interpretations on Personal Information Protection, Injunction on Infringement of Personality Rights

On September 23, 2021, the State Council Information Office (“SCIO”) held a press conference on judicial trials to serve and safeguard the building of a moderately prosperous society in all aspects. At the meeting, He Rong, the vice president of the Supreme People’s Court (“SPC”) in charge of daily work and a first-class justice, said that the judicial interpretations on personal information protection, injunction on infringement of personality rights, etc. are being formulated. ([More](#))

Guide for Identifying Important Data (Draft for Comment) Released for the First Time

In China's data security regulatory system, "important data" has a pivotal position. The *Cybersecurity Law* first introduced the concept of important data in the security assessment system for data cross-border transfer; the *Data Security Law* also emphasizes important data when establishing China's data classification and grading system, and requires all regions and departments to determine the specific catalog of important data for their respective regions and departments and for relevant industries and fields. Moreover, the *Data Security Law* and several other laws, regulations and policy documents have provided a series of responsibilities and obligations for the protection of important data. Currently, the draft for comments of the *Guide*, a national standard, has been completed and the public opinion will be solicited soon. The full text of the *Guide* was recently made public for the first time, which provides detailed descriptions of the characteristics and identification processes of important data. ([More](#))

The MIIT Strongly Promote the Implementation of the Real-Name Registration of the Car Networking Card

Recently, in order to implement the *Cybersecurity Law* and other relevant regulations, strongly promote the real-name registration management, and safeguard the legitimate rights and interests of citizens in cyberspace, the MIIT issued the *Notice on Strengthening the Management of Real-Name Registration of Car Networking Cards* (the "Notice"), starting the real-name registration of car networking cards.

The *Notice* mainly puts forward 12 working measures in terms of consolidating management responsibilities, strengthening real-name registration and personal information protection, organizing supervision and inspection, etc., to further standardize and refine the real-name registration requirements of the car networking card. ([More](#))

The MIIT Promote the Upgrade of the National Internet Information Security Management System and the Construction of Data Security and Cybersecurity Supervision and Technical Guarantee System

On September 26, 2021, the Internet Security Administration of MIIT organized a national video conference to promote the upgrade of the national Internet information security management system (the "Information Security System"), and coordinate the development of data security and cybersecurity technologies.

The meeting emphasized the unprecedented importance of data security and cybersecurity in the industrial and information fields in the new era. Carrying out the upgrade of the information security system, coordinating the development of data security and cybersecurity technologies, and developing data security and cybersecurity supervision capabilities in the industrial and information fields as soon as possible are not only the fundamental requirements for implementing the General Secretary Xi Jinping's important instructions and directives and a series of decisions and arrangements made by the central government, but also the MIIT's important implementations of the overall national security concept, the *Cybersecurity Law*, the *Data Security Law*, the *Personal Information Protection Law*, the *Security Protection Regulations for Critical Information Infrastructure*, and other relevant laws and regulations, to improve industrial data security and network security supervision capabilities. ([More](#))

The Blue Book of China Internet Development Report 2021 and World Internet Development Report 2021 Released

On September 26, the China Institute of Cyberspace released *the Blue Book of China Internet Development Report 2021* and *World Internet Development Report 2021* at the Wuzhen Summit of the World Internet Conference.

The China Internet Development Report 2021 systematically and objectively reflects the development of China's Internet over the past year, focusing on the continuous and healthy development of China's Internet, and the implementation of the macro strategic plan and the plan for the development of the Internet and information technology in order to better serve the overall development of the Communist Party and the country, and the work and life of the people, under the guidance of the General Secretary Xi Jinping's socialist thought with Chinese characteristics for a New Era, especially the important thought on cyberpower.

The *World Internet Development Report 2021* is based on a global perspective and takes President Xi Jinping's idea of building a community with a shared future in cyberspace as the main line, focusing on new technologies, applications, developments and issues in global Internet development practices.

([More](#))

China's First Professional Collegiate Bench for Data-Related Disputes Was Established in Guangzhou

China's first professional collegiate bench for data-related disputes was opened in Guangzhou Internet Court on the September 26. The Guangzhou Internet Court is the third Internet Court established in China after the establishment of Hangzhou and Beijing Internet Courts. The collegiate bench for data-related disputes will hear the first-instance cases involving the collection, storage, use, processing, transmission, provision, disclosure, deletion and other data processing and data security of personal data, enterprise data and public data under the centralized jurisdiction of the court.

Wang Yong, the president of Guangzhou Intermediate People's Court, pointed out that the establishment of the professional collegiate bench for data-related disputes is a timely institutional innovation for Guangzhou Internet Court to take the initiative to adapt to the development of the digital era. The relevant statistics show that the Guangzhou Internet Court has accepted 624 cases involving virtual property, personal information protection, the right to information self-determination, data anonymization and data pricing since its establishment nearly three years ago. ([More](#))

MIIT: Notification of Apps Infringing on Users' Rights and Interests (10th Batch in 2021, 19th Batch in Total)

On September 23, 2021, the MIIT issued a notification on the APPs that infringes the rights and interests of users (the 10th batch of 2021, the 19th batch in total).

The notification pointed out that according to the *Cybersecurity Law*, the *Telecommunications Regulations*, the *Provisions on Protecting the Personal Information of Telecommunications and Internet Users* and other laws and regulations, the MIIT recently organized third-party testing agencies to inspect cell phone application software, focusing on the random testing of holiday travel and livelihood services APPs. Up to now, there are still 52 APPs that have not completed the rectification.

The communication authorities actively carry out APP technical testing in accordance with the overall deployment of the MIIT. Up to now, there are still 282 APPs have not completed the rectification according to the time limit.

The notification emphasized that the above APPs shall complete the rectification before September 29. Otherwise, the MIIT will carry out relevant disposal work in accordance with laws and regulations. ([More](#))

EDPB Adopts Opinion on Draft South Korea Adequacy Decision

The European Data Protection Board (EDPB) adopted its opinion on the European Commission's draft adequacy decision for the Republic of Korea. The EDPB focused on general GDPR aspects and access by public authorities to personal data transferred from the European Economic Area (EEA) to the Republic of Korea for the purposes of law enforcement and national security, including the legal remedies available to individuals in the EEA. The EDPB also assessed whether the safeguards provided under the Korean legal framework are effective.

EDPB Chair, Andrea Jelinek, said: "This adequacy decision is of paramount importance, as it will cover transfers in both the public and the private sector. A high level of data protection is essential to support our long-standing ties with South Korea and to safeguard the rights and freedoms of individuals. While we underline that core aspects of the Korean data protection framework are essentially equivalent to those of the European Union, we call on the Commission to further clarify certain aspects and to closely monitor the situation." ([More](#))

EDPS Welcomes AML Package but Suggests Improvements to Protect Individuals' Personal Data

On 22 September 2021, the European Data Protection Supervisor (EDPS) published his Opinion on the European Commission's proposed Anti-Money Laundering legislative package (AML).

The EDPS welcomes the AML package and supports the general interest to fight money laundering and the financing of terrorism effectively. He welcomes the envisaged harmonisation of the AML/CFT framework through the enactment of a Regulation, as this will result in a more consistent application of the main rules by EU Member States. Moreover, he sees the harmonisation of the supervisory activities at EU level under the same European authority as a positive step, but calls for a clear definition of the roles, from a data protection perspective, of all stakeholders involved in the supervision model. ([More](#))

FTC Tells Health Apps the Need to Tell Consumers of Data Breaches

The Federal Trade Commission (FTC) has stated health apps and connected devices must comply with the *Health Breach Notification Rule*, making it so they must notify users when data is breached, according to a press release.

The FTC stated health apps and wearables, with the ability to track glucose levels, heart health, fertility, and sleep, have been attracting more sensitive personal data for some time now, per the release. Because of that, the apps have a responsibility to make sure the data is secure. That includes making sure unauthorized data access can't happen. ([More](#))

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 | 韩国
Beijing | Shanghai | Wuhan | Guangzhou | Shenzhen | Korea

 www.lifanglaw.com
 Email: info@lifanglaw.com

 Tel: +8610 64096099
 Fax: +8610 64096260/64096261