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## 立方要闻周报

### Weekly News By Lifang & Partners NO.12

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## **Intellectual Property**

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### **The State Council Information Office of China held a press conference to announce China plan to become IP power by 2035**

Communist Party of China and central government has issued the Outline for Building China into an Intellectual Property Power (2021-2035). On September 30, The State Council Information Office of China held a press conference at which representatives from China National Intellectual Property Administration, Copyright bureau of the Publicity Department of the Communist Party of China, The Supreme People's Court, the Ministry of Science and Technology, and the State Administration for Market Regulation were invited. At the meeting, The State Council Information Office of China briefed reporters on China plan to become IP power by 2035 and answered questions from journalists.

Source: [China Intellectual Property News](#)

### **The Beijing Intellectual Property Court held a briefing press on the trials of copyright contract disputes and announced 8 typical cases.**

On the morning of October 9, 2021, Beijing Intellectual Property Court held a briefing conference press on the trial status of copyright contract dispute cases, and combined with 8 typical cases, gave hints on the legal risks in the conclusion, performance and termination of commissioned creation contracts and film and television production contracts. The briefing aims to guide practitioners to prudently conclude contracts, effectively prevent and defuse risks, and reduce conflicts and disputes in cultural and creative industries from the source by analyzing 8 typical cases.

Source: [Beijing Intellectual Property Court](#)

### **OPPO and Sharp signed a patent licensing agreement, ending the global litigation**

Guangdong OPPO Mobile Telecommunications Co., Ltd. and Sharp Co., Ltd. announced that they have reached a patent cross-licensing agreement and cooperation, which covers the global patent licensing required for the implementation of communication technology standards for their terminal products. At the same time, the two sides will also end patent litigation and disputes in various countries and regions since 2020.

Source: [oppo.com](#)

### **RIO sued Ruiao for trademark infringement and was awarded RMB 3.6 million in compensation**

Recently, the judgement of Shanghai Bacchus Liquor Co., Ltd. sued Jinrui Biotechnology (Zhongshan) Co., LTD. (former Guangdong Ruiao Investment Co., LTD.) and others regarding disputes over infringement of trademark rights and unfair competition have been published, the first instance ordered Ruiao Company to stop production and sales of infringing goods, change the name of the company, and compensate the plaintiff Bacchus Company for economic losses and reasonable expenses totaling RMB 3.6 million. The court of second instance upheld the judgment of first instance .

Source: [China Judgements Online](#)

## **The famous movie "Hello Mr. Billionaire" was found by court non-infringement on copyrights**

On the afternoon of September 29, The Beijing Intellectual Property Court publicly ruled on the copyright infringement dispute of " Hello Mr. Billionaire ", ruling that Wang's claim that the movie " Hello Mr. Billionaire " copied his screenplay was insufficient, rejecting the appeal and maintaining the non-infringement judgment of the first instance.

Source: [Beijing Intellectual Property Court](#)

## **Avanci subsidiary sued Ford for patent infringement**

L2 Mobile Technologies LLC, a Longhorn IP LLC subsidiary, announced that it has filed a patent infringement complaint in the US District Court for the district of Delaware on October 1, 2021, against Ford Motor Company. The patents at issue relate to various wireless communications technologies and cover a multitude of standard essential features.

Source: [longhornip.com](#)

## **Ericsson accused Apple of using unfair tactics in 5G patent dispute**

On October 4, Ericsson filed a lawsuit against Apple in the Federal Court in Texas, accusing apple of using unfair tactics in the 5G patent dispute to obtain the necessary license for 5G technology. Ericsson expects to speed up 5G technology licensing negotiations with Apple and filed a lawsuit on Monday, asking for a ruling that Apple honor its commitments to the European Telecommunications Standards Association and is prepared to deal on fair, reasonable and non-discriminatory (FRAND) terms, cnBeta reported.

Source: [cnbeta.com](#)

## **American enterprise has filed a section 337 investigation application against Chinese electronic devices having wireless communication capabilities and components, including Lenovo, Motorola, TCL and OnePlus**

On September 27, 2021, Bell Northern Research, LLC filed an application with the U.S. International Trade Commission under Section 337 of the U.S. Tariff Act of 1930. Alleging the export to, import from, and sale in the United States of specific electronic devices having wireless communication capabilities and components infringe its patent right.

Lenovo Group Ltd., China Lenovo Group, Lenovo (United States), Inc., Morrisville, NC, Motorola Mobility LLC, Chicago, IL, TCL Electronics Holdings Limited, Hong Kong, TCT Mobile (US) Inc., Irvine, CA, TTE Technology, Inc., Corona, CA, BLU Products, Inc., Doral, FL, BBK Electronics Corp., China, OnePlus Technology Co., Ltd., HMD Global Oy, Finland, HMD America, Inc., Miami, FL, Sonim Technologies, Inc., Austin, TX are defendants.

Source: [CHINA TRADE REMEDIES INFORMATION](#)

## Cybersecurity and Data Protection

### **Nine Departments Including CAC Issued *Guiding Opinion on Strengthening the Comprehensive Governance of Internet Information Service Algorithms***

On September 29, 2021, Nine departments including the Cyberspace Administration of China (CAC), Publicity Department of the Communist Party issued *Guiding Opinion on Strengthening the Comprehensive Governance of Internet Information Service Algorithms (The Opinion)*. Which aims to strengthen the comprehensive governance of the Internet information service algorithm and promote the healthy and orderly prosperous development of the industry. *The Opinion* proposes to use three years to gradually establish an algorithm security comprehensive governance pattern with sound governance mechanism, well-established regulatory system, and standardized algorithm ecology. ([More](#))

### **MIIT Issued *Measures for Data Security Management in Industry and Information Technology (for Trial Implementation) (Exposure Draft)***

On September 29, 2021, the Ministry of Industry and Information Technology (MIIT) issued *the Measures for Data Security Management in Industry and Information Technology (for Trial Implementation) (Draft for Comments) (The Measure)* for public comment until 30 October. *The Measure* aims to implement the Data Security Law, etc., accelerate the institutionalization and standardization of data security management, enhance the data security protection capability and prevent data security risks in the field of industry and information technology.

*The Measure* proposes that important data collected and generated by industrial and telecommunication data processors within the territory shall be stored in China in accordance with the requirements of laws and regulations, if it is necessary to provide the data outside the territory, the data security assessment shall be conducted, and the data to be transmitted abroad shall be conducted under the premise of ensuring security and strengthening the tracking and management of the data after the abroad; core data shall not be exported. ([More](#))

### **Eight Departments Including MIIT Issued *the Three-Year Action Plan for the Construction of New Infrastructure of the Internet of Things (2021-2023)***

On September 29, 2021, Eight Department including MIIT Issued *the Three-Year Action Plan for the Construction of New Infrastructure of the Internet of Things (2021-2023) (The Plan)*. *The Plan* specifies that the demand for modernization of social governance is the guide to actively expand application scenarios; the demand for industrial transformation is the guide to promote the deep integration of the Internet of Things with traditional industries; the demand for consume upgrading is the guide to promote the development and application of intelligent products. Promoting the transformation and upgrading of traditional infrastructures such as transportation, energy, municipal administration and health. Accelerating the deployment of sensing terminals, networks and platforms in key areas such as smart cities, digital villages and intelligent transportation. ([More](#))

### **PBC Issued *Administrative Measures on Credit Investigation Business to further strengthening the protection of the rights of individual***

On September 30, 2021, People's Bank of China (PBC) issued *Administrative Measures on Credit Investigation Business (The Measure)*. *The Measure*, which came into effect on January 1, 2022, mainly focus on the compliance management of the entire process of credit information collection, collation, keeping, processing and security, with a focus on clarifying the boundaries of credit investigation business and strengthening the protection of the rights and interests of individual. *The Measure* is in accordance with the principle of protection of personal information and limited sharing, and fully converge

with the provisions of the *Personal Information Protection Law* on the protection of the rights and interests of the subjects of personal information. ([More](#))

### **NISSTC Issued *Cybersecurity Standards Practice Guidance - Data Classification and Hierarchy Guidelines (Draft for Comments)***

On September 30, 2021, in order to guide data processors in their data classification and hierarchy activities, the National Information Security Standardization Technical Committee (NISSTC) issued *Cybersecurity Standards Practice Guidance - Data Classification and Hierarchy Guidelines (Draft for Comments)* (*The Guideline*). The deadline for comments is October 13, 2021. *The Guideline* examines data classification and hierarchy from the perspective of national data security management, and gives the principles, framework and rules of data classification and hierarchy, which can provide reference for regulatory authorities and data processors to carry out data classification and hierarchy protection work. ([More](#))

### **NISSTC Issued *Safety Guidelines for Processing Data for Collected from Vehicles***

On October 8, 2021, NISSTC Issued *Safety Guidelines for Processing Data for Collected from Vehicles (TC260-001)* (*The Guideline*). *The Guideline* sets out the security requirements for processing activities such as the transmission, storage and abroad of data collected from vehicles. *The Guideline* applies to the design, production, sale, use, DevOps of vehicles carried out by vehicle manufacturers, as well as to the supervision, management and assessment of vehicle data collection and processing activities by regulatory authorities, third-party assessment bodies and others. It does not apply to the data collected by automobiles as police vehicles, fire engines, ambulances, engineering rescue vehicles, etc. when performing emergency tasks, or data collected from vehicles equipped with special device while performing operational activities in enclosed premises. ([More](#))

### **Shanghai Issued *Shanghai Municipal Data Regulations (Draft for Comments)***

On September 30, 2021, Shanghai Municipal People's Congress issued *Shanghai Municipal Data Regulations (Draft for Comments)* (*The Draft*) for public comment until 20 October. *The Draft* consists of ten chapters, 91 articles, divided into general provisions, data rights and interests' protection, public data, data elements market, data resources development and application, data reform in Pudong New Area, data cooperation in the Yangtze River Delta region, data security, legal responsibilities and by-laws. The focus of *The Draft* is: suggestions on rights and interests of data property and data transaction; suggestions on public data sharing, openness and authorized operation; suggestions on digital economy development and digital transformation of cities, etc. ([More](#))

### **Guangzhou Court of the Internet Set Up a Panel for Data-Related Disputes**

On September 26, 2021, Guangzhou Court of the Internet set up a panel for data-related disputes which is the first in China, ten typical cases involving data and virtual property were also released. The panel for data-related disputes will hear cases of first instance involving collection, storage, use, processing, transmission, provision, disclosure and deletion of personal data, corporate data and public data under the centralized jurisdiction of the Guangzhou Court of the Internet. ([More](#))

### **NIST Publishes *2020 Cybersecurity and Privacy Program Annual Report***

On September 30, 2021, U.S. National Institute of Standards and Technology (NIST) just released Special Publication (SP) 800-214, *2020 Cybersecurity and Privacy Program Annual Report*, which details the Information Technology Laboratory (ITL) Cybersecurity and Privacy Program's responses to numerous challenges and opportunities in security and privacy. This year's Annual Report is grouped into



nine priority areas for NIST, with most – but not all – of the work being conducted by ITL and in close collaboration with the private and public sectors. ([More](#))

### **Germany: National Coordination Center for Cybersecurity is Established**

On 6 October 2021, The Federal Office for Information Security (BSI) announced, that the German National Coordination Center for Cybersecurity in Industry, Technology and Research (NKCS) has officially started its work. In particular, the BSI stated that the federal ministries involved (Federal Ministry of the Interior, Building and Community, Federal Ministry of Education and Research, Federal Ministry for Economic Affairs and Energy, and Federal Ministry of Defense) agreed to establish the NKCS as a cooperation platform with a central role for the BSI. ([More](#))

### **Denmark: Datatilsynet Issues Guidance on Choice of Standard Contracts for Processor Agreements**

On 6 October 2021, the Danish data protection authority (Datatilsynet) published *guidance on organisations' choice of standard contracts when entering into processor agreements* pursuant to Article 28(1) of the General Data Protection Regulation (Regulation (EU) 2016/679) (GDPR). In particular, the Datatilsynet stated that organisations have a choice between the template for a standard processor agreement that the Datatilsynet had published in 2018, and the set of standard contract provisions published by the European Commission (EC) on 4 June 2021, including the standard contractual provisions for the transfer of personal data to third countries. ([More](#))

### **New EU SCCs go into Effect Sept. 27**

Starting on September 27, 2021, new data transfer agreements need to use the new SCCs. Organizations will have until December. 27, 2022, to migrate existing SCC arrangements to the new SCCs. Last June, the European Commission published modernized standard contractual clauses under the EU General Data Protection Regulation. The modernized SCCs will replace three sets of SCCs that were adopted under the EU Data Protection Directive 95/46/EC, according to Alston & Bird. ([More](#))

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