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First Case of Copyright Infringement for Stealing and Broadcasting the Live Broadcast Picture of Electronic Sports

黑莓宣布将以 9 亿美元的价格出售其移动设备相关专利

BlackBerry Announced it will Sell its Mobile Device Patents for USD 900 million

立方竞争法周报 Weekly Competition Law News

市场监管总局发布四部反垄断法配套规章

2023年3月24日，国家市场监督管理总局（“市场监管总局”）发布《制止滥用行政权力排除、限制竞争行为规定》、《禁止垄断协议规定》、《禁止滥用市场支配地位行为规定》和《经营者集中审查规定》四部反垄断法配套规章，自2023年4月15日起施行。此次修订，一是细化了《反垄断法》的有关规定；二是优化监管执法程序；三是强化有关主体的法律责任。（[查看更多](#)）

SAMR Introduces Four Supporting Regulations for Anti-monopoly Law

On March 24, 2023, the State Administration for Market Regulation (“SAMR”) issued four supporting regulations for the *Anti-monopoly Law* (“AML”), including the *Regulation on Prohibiting Abusing Administrative Powers to Exclude or Restrict Competition*, the *Regulation on Prohibiting Monopoly Agreements*, the *Regulation on Prohibiting Abusing of Dominant Market Position*, and the *Regulation on the Review of Concentrations of Undertakings*, all of which will come into effect on April 15, 2023. These regulations refine relevant provisions of the AML, optimize regulation and enforcement procedures, and fortify the legal liabilities of relevant subjects. ([More](#))

市场监管总局发布天津金耀案行政处罚决定书

2023年3月22日，市场监管总局发布了天津市市场监督管理委员会（“天津市市监委”）作出的天津金耀药业（“天津金耀”）滥用市场支配地位案行政处罚决定书。本案于2020年9月24日立案，相关市场为中国卡莫司汀注射液市场。2017年6月至2020年9月间，天津金耀滥用在相关市场的支配地位，以不公平高价销售卡莫司汀注射液，损害消费者利益和社会公共利益。2023年3月14日，天津市市监委根据修改前的《反垄断法》做出处罚决定，处天津金耀2019年度销售额2%的罚款，计27721311.36元。（[查看更多](#)）

SAMR Issues Administrative Penalty Decision on Tianjin Jinyao Case

On March 22, 2023, the SAMR released an administrative penalty decision made by the Tianjin Municipal Administration for Market Regulation (“Tianjin AMR”) in the case of Tianjin Jinyao Pharmaceutical Co., Ltd. (“Tianjin Jinyao”) abusing its market dominance. The case was filed on September 24, 2020, and the relevant market was the Chinese market for camostat mesylate injection. Between June 2017 and September 2020, Tianjin Jinyao abused its dominant position in the relevant market by selling camostat mesylate injections at unfairly high prices, harming the interests of consumers and the public. On March 14, 2023, the Tianjin AMR made a penalty decision based on the previous AML and imposed a fine of 2% of Tianjin Jinyao's 2019 sales, amounting to CNY 27,721,311.36. ([More](#))

HKCC指控多家企业及个人操纵新冠肺炎政府资助计划投标

2023年3月22日，香港竞争事务委员会（HKCC）宣布已向审裁处就四家企业及三名个人提起诉

讼。委员会指出，2020年5月至2021年9月间，涉案企业在根据新冠疫情资助计划“遥距营商计划(D-Biz)”提交有关方案报价时从事掩护式投标等行为，构成固定价格、划分市场、围标及/或分享影响竞争敏感资料，属严重反竞争行为。据此，委员会向审裁处申请宣布涉案企业及个人违反《竞争条例》，向其施加罚款，取消一人董事资格，并要求涉案企业推行有效合规计划。这是香港首宗滥用政府新冠疫情资助计划的竞争法案件，涉案的获批政府资助额合计约1300万港元。（[查看更多](#)）

HKCC Accuses Multiple Companies and Individuals of Manipulating Bids for Government-funded Programs Related to COVID-19

On March 22, 2023, the Hong Kong Competition Commission (HKCC) announced that it had filed a lawsuit against four companies and three individuals with the Competition Tribunal. The HKCC alleges that these companies engaged in anti-competitive behavior between May 2020 and September 2021 by engaging in bid-rigging, price-fixing, dividing market and sharing sensitive information, among other actions, while submitting proposals for the government's COVID-19 funding scheme, the Distance Business Programme (D-Biz). The HKCC is seeking fines, the cancellation of one directorship, and the implementation of effective compliance programs for the companies and individuals involved. This is the first competition case in Hong Kong involving the abuse of a government COVID-19 funding scheme, with a total approved funding amount of approximately HKD 13 million. ([More](#))

香港或考虑适用其他司法辖区的数字经济领域救济措施

2023年3月22日，据媒体报道，香港竞争事务委员会（HKCC）的一名高级官员表示，委员会正在考虑是否可以对境内的数字公司适用其他司法辖区竞争监管机构采纳的行为性救济措施。（[查看更多](#)）

Hong Kong May Rely on Remedy Packages from Other Jurisdictions in Digital Economy

On March 22, 2023, according to the media, the HKCC is considering whether it can apply behavioral remedies approved by other competition enforcers against digital companies within the territory, a top official at the agency has said. ([More](#))

多省区持续推进反垄断工作

近日，多省区（江苏、浙江、河北、山西、内蒙古、四川、河南、青海、广东、山东）市场监督管理局（“市监局”）陆续发布公告，将在各自管辖范围内开展2023年民生领域反垄断执法专项行动。黑龙江省市场监督管理局（“黑龙江省市监局”）继2023年3月上旬宣布开展民生领域反垄断执法专项行动后，于2023年3月22日发布公告称，将于2023年3月至10月在全省开展制止滥用行政权力排除、限制竞争执法专项行动。（[查看更多](#)）

Multiple Provinces and Regions Continue to Promote Anti-monopoly Works

Recently, the Administration for Market Regulation (“AMRs”) in several provinces and regions, including Jiangsu, Zhejiang, Hebei, Shanxi, Inner Mongolia, Sichuan, Henan, Qinghai, Guangdong, and Shandong, have successively issued announcements that they will launch special anti-monopoly law enforcement campaigns in the field of people's livelihoods within their respective jurisdictions in 2023. Following the announcement of the launch of a special anti-monopoly law enforcement action in the field of people's livelihoods in early March 2023, the Administration for Market Regulation of Heilongjiang Province announced on March 22, 2023, that it would launch a special law enforcement action to stop the abuse of administrative power to exclude or restrict competition from March to October 2023 throughout the province. ([More](#))

FTC就云计算供应商商业实践公开征集意见

2023年3月22日，美国联邦贸易委员会（FTC）发布公告，公开征集关于云计算供应商商业实践的相关信息，包括这些企业的市场力量、对竞争的影响以及潜在安全风险问题，FTC尤其关注云计算对医疗保健、金融、交通、电子商务及国防等特定领域的影响。此次意见征集截止日期为2023年5月22日。 ([查看更多](#))

FTC Seeks Comment on Business Practices of Cloud Computing Providers

On March 22, 2023, the Federal Trade Commission (FTC) of the United States issued a notice seeking information on the business practices of cloud computing providers including issues related to the market power of these companies, impact on competition, and potential security risks. The FTC is particularly interested in the impact of cloud computing on specific industries including healthcare, finance, transportation, e-commerce, and national defense. The public will have until May 22, 2023 to submit a comment. ([More](#))

CMA认定博通收购威睿或将对英国市场产生不利影响

2023年3月22日，英国竞争与市场管理局（CMA）在结束第一阶段调查后，宣布博通（Broadcom）以610亿美元收购威睿（VMware）的交易可能会导致创新减少，抬升政府、银行和电信行业使用计算机部件的成本。CMA担忧这一交易可能会使博通阻止其竞争对手供应与威睿兼容的硬件组件，减少竞争并最终减少客户的选择。调查还发现，交易可能导致博通获得其竞争对手目前向威睿提供的商业敏感信息，例如新计划产品的详细信息。CMA担心这可能会损害创新，并使客户处于更加不利的境地，包括更少地推出产品更新或新功能。CMA将在10个工作日内决定是否进入第二阶段调查。 ([查看更多](#))

CMA Announces that the Acquisition of VMware by Broadcom Could Adversely Impact the UK Market

On March 22, 2023, the UK Competition and Markets Authority (CMA) announced the completion of its Phase 1 investigation and declared that Broadcom's USD 61 billion acquisition of VMware could lead to reduced innovation and increased costs for government, banking, and telecommunications in-

dustries using computer components. CMA is concerned that the acquisition could lead to Broadcom blocking its competitors from supplying hardware components compatible with VMware, reducing competition and ultimately decreasing customer choice. The investigation also found that the acquisition could give Broadcom access to commercially sensitive information that its competitors currently provide to VMware, such as detailed information about new planned products. CMA is worried that this could harm innovation and put customers in a more disadvantageous position, including less frequent product updates or new features. CMA will decide within 10 working days whether to enter the Phase 2 investigation. ([More](#))

FTC以法庭之友身份参与药品反垄断诉讼

2023年3月21日，美国联邦贸易委员会（FTC）发布公告，其在特拉华地区联邦地区法院的一起仿制药垄断诉讼中以法庭之友（Amicus Curiae）身份提交了一份陈述文件。该案原告为仿制药企业Sage Chemical Inc.（Sage）及其营销伙伴TruPharma, LLC（TruPharma），被告为以Supernus Pharmaceuticals Inc.（Supernus）为代表的多家制药公司，案件主要涉及用于治疗晚期帕金森症的注射阿扑吗啡药物Apokyn的低成本仿制药。原告Sage和TruPharma声称，包括Supernus在内的多名被告采取了多种非法策略以推迟Apokyn的仿制药进入市场，其中一个典型策略就是控制Apokyn的注射器（美国食品药品监督管理局FDA要求该设备必须与阿扑吗啡药筒一起使用）。FTC认为，此案可能会对依赖阿扑吗啡治疗晚期帕金森症的患者产生重大影响，且由于本案中的反竞争策略与其他专利药制药公司用于阻止仿制药竞争的策略相似，本案中的法律问题牵涉广泛的公众利益。（[查看更多](#)）

FTC Files Amicus Brief in a Drug Antitrust Lawsuit

On March 21, 2023, the FTC filed a brief as *Amicus Curiae* in the U.S. District Court for the District of Delaware in a generic drug monopoly case in support of the plaintiff, Sage Chemical Inc., and its marketing partner, TruPharma, LLC, against several pharmaceutical companies, including Supernus Pharmaceuticals Inc., for allegedly being engaged in numerous unlawful strategies to delay or block entry of a generic version of the branded apomorphine drug, Apokyn, an injectable morphine drug used to treat advanced Parkinson's disease, into the market. One of the defendants' typical strategies was to leverage their control over the Apokyn pen injector used with Apokyn, which is required by the FDA. The FTC believes that this case could have a significant impact on patients who rely on Apokyn and that the legal issues involved in this case have broad public interest as the anti-competitive strategies employed in this case are similar to those used by other patent drug manufacturers to prevent generic competition. ([More](#))

欧盟委员会对红牛实施突击检查

2023年3月21日，欧盟委员会（European Commission）发布公告，宣布于2023年3月20日对一家活跃于各欧盟成员国的能量饮料公司（红牛）的办公场地进行突击检查。欧盟委员会认为该公司可能违反了《欧盟运行条约》（TFEU）第101条和《欧洲经济区协议》（EEA协议）第53条禁止卡特尔和限制性商业行为的规定。此外，该公司可能还违反了禁止滥用市场支配地位的欧盟反垄断规则。（[查看更多](#)）

European Commission Carries Out Unannounced Inspections at the Premises of Red Bull

On March 21, 2023, the European Commission announced that on March 20, 2023, they have started unannounced inspections at the premises of a company (Red Bull) active in the energy drinks sector in various Member States. The Commission has concerns that the inspected company may have violated EU antitrust rules that prohibit cartels and restrictive business practices (Article 101 of the *Treaty of the Functioning of the European Union* (TFEU) and Article 53 of the *European Economic Area Agreement* (EEA)). Additionally, the company may have also violated EU antitrust rules prohibiting the abuse of dominant market positions. ([More](#))

Meta高管需出席数据反垄断诉讼接受质询

2023年3月21日，据媒体报道，美国旧金山联邦地区法院法官周五裁定，Meta首席执行官马克·扎克伯格（Mark Zuckerberg）和前首席运营官谢丽尔·桑德伯格（Sheryl Sandberg）必须出席正在进行的反垄断诉讼，并接受三小时质询。原告指控Meta通过实施具有欺骗性的数据保护措施误导用户和广告商，以维持其市场力量。该法院文件显示目前尚未对扎克伯格的传讯进行排期，而桑德伯格预计将在5月2日接受质询。 ([查看更多](#))

Meta Management Must Face Questioning In Data Antitrust Suit

On March 21, 2023, according to the media, a federal judge in San Francisco ruled that Meta CEO Mark Zuckerberg and former COO Sheryl Sandberg must attend an ongoing antitrust lawsuit and face three hours of interrogations. The plaintiffs allege that Meta misled users and advertisers by implementing deceptive data protection measures to maintain its market power. Zuckerberg's deposition has not been scheduled, the filing said, and Sandberg is set to sit for questioning on May 2. ([More](#))

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

国家网信办发布《网信部门行政执法程序规定》

2023年3月18日，国家网信办正式公开发布《网信部门行政执法程序规定》（以下简称《规定》），自2023年6月1日起施行。网信部门实施行政处罚等行政执法，适用《规定》。《规定》分总则、管辖和适用、行政处罚程序、执行和结案、附则五章，共五十八条。在行政处罚程序方面，规范了立案、调查取证、听证、行政处罚决定和送达等各环节的具体程序要求。

《规定》同时明确了行政处罚的执行与监督制度。当事人对行政处罚决定不服，可以依法申请行政复议或者提起行政诉讼。网信部门实施行政处罚应当接受社会监督，公民、法人或者其他组织对网信部门实施行政处罚的行为，有权申诉或者检举。 ([查看更多](#))

Cyberspace Administration of China Promulgates the *Provisions on Procedures for Administrative Law Enforcement by Cyberspace Authorities*

On 18 March 2023, the Cyberspace Administration of China officially promulgated the *Provisions on Procedures for Administrative Law Enforcement by Cyberspace Authorities (the "Provisions")*, effective from 1 June 2023. The Provisions shall apply to administrative law enforcement by cyberspace authorities such as imposing administrative penalties. The Provisions consist of 58 articles in five chapters, namely, general provisions, jurisdiction and application, procedures for administrative penalties, enforcement and closure of cases, and supplementary provisions. In terms of procedures for administrative penalties, the Provisions standardize the specific procedural requirements for various stages such as case filing, investigation and evidence collection, hearings, decisions on and service of administrative penalties. The Provisions also clarify the enforcement and supervision frameworks of the administrative penalties. If the parties concerned refuse to accept decisions on administrative penalties, they may apply for administrative reconsideration or file an administrative lawsuit according to law. The imposition of administrative penalties by cyberspace authorities shall be subject to social supervision. Citizens, legal persons or other organizations have the right to file an appeal or accusation against administrative penalties imposed by cyberspace authorities. ([More](#))

市场监管总局公布《互联网广告管理办法》

2023年3月24日，据国家市场监督管理总局消息，该局修订发布了《互联网广告管理办法》（以下简称《办法》），并于2023年5月1日起施行。《办法》进一步明确了广告主、互联网广告经营者和发布者、互联网信息服务提供者的责任。《办法》明确规定，互联网平台经营者提供信息服务的，要履行记录并保存相关信息；主动监测、排查和制止违法广告行为；建立有效的投诉、举报受理和处置机制；配合市场监督管理部门调查互联网广告违法行为等互联网信息服务提供者义务。（[查看更多](#)）

State Administration for Market Regulation Promulgates the *Measures for the Administration of Internet Advertising*

On 24 March 2023, according to the State Administration for Market Regulation (the "SAMR"), the SAMR has issued the revised *Measures for the Administration of Internet Advertising (the "Measures")*, effective from 1 May 2023. The Measures further clarify the responsibilities of advertisers, Internet advertising agents and publishers, and Internet information service providers. The Measures specify that Internet platform operators that provide information services shall fulfill obligations of Internet information service providers such as recording and keeping relevant information; taking the initiative to monitor, investigate and stop illegal advertising activities; establishing an effective mechanism for accepting and handling complaints and reports; and cooperating with the administrations for market regulation to investigate illegal Internet advertising activities. ([More](#))

《中国信息安全》杂志、中国产业互联网发展联盟等发布《2023产业互联网安全十大趋势》报告

2023年3月21日，《中国信息安全》杂志、中国产业互联网发展联盟、南方日报、中国网络空间新兴技术创新论坛、腾讯安全、腾讯研究院联合推出《2023产业互联网安全十大趋势》。报告

指出，面向数字新征程，企业既要基于安全谋发展，又要以发展促安全，且随着数据生产要素的加速流通，企业系统性安全建设被赋予更高要求。报告从宏观态势、产业实践、技术演进三个维度对产业安全的核心议题进行分析研判，给产业互联网健康可持续发展提供指引。（[查看更多](#)）

China Information Security Magazine, IDAC and Others Release Report on Ten Key Trends for Industrial Internet Security 2023

On 21 March 2023, China Information Security magazine, Internet+ Development Association of China (the "IDAC"), Nanfang Daily, China Forum for Emerging Technologies Innovation in Cyberspace, Tencent Security and Tencent Research Institute jointly released the Ten Trends for Industrial Internet Security 2023. The report points out that in the face of the new digital journey, enterprises should not only seek development based on security, but also promote security with development. With the accelerated circulation of data production elements, the achievement of systematic security of enterprises is subject to higher requirements. The report analyzes and studies the core issues of industrial security from three dimensions, namely, macro situation, industrial practice and technological evolution, in order to provide guidance for the healthy and sustainable development of the industrial Internet. ([More](#))

内蒙古通信管理局通报下架侵害用户权益APP（2023年第1批）

2023年3月15日，经内蒙古通信管理局（以下简称“内蒙古通管局”）复检发现，在前期公开通报存在侵害用户权益行为的APP名单中，仍有6款问题APP未按要求完成整改。依据相关法律法规和规范性文件要求，内蒙古通管局决定对上述6款问题APP进行下架。本次下架的APP涉及问题包括“APP强制、频繁、过度索取权限”、“违规收集个人信息”。（[查看更多](#)）

Inner Mongolia Communications Administration Publicizes and Removes APPs Infringing on Users' Rights and Interests (the First Batch of 2023)

On 15 March 2023, upon the re-inspection by the Inner Mongolia Communications Administration, it was found that out of those APPs previously notified to have infringed on users' rights and interests, there are still six problematic APPs that have not completed rectification as required. In accordance with relevant laws, regulations and normative documents, the Inner Mongolia Communication Administration has decided to remove the above-mentioned six problematic APPs. The issues involving the APPs removed this time include "forced, frequent and excessive requests for authorizations by Apps" and "illegal collection of personal information". ([More](#))

浙江省通信管理局下架42款侵害用户权益APP

2023年3月21日，经浙江省通信管理局（以下简称“浙江省通管局”）复检发现，在前期公开通报存在侵害用户权益行为的APP名单中，仍有42款问题APP未按要求完成整改，浙江省通管局组织对上述42款APP进行下架。本次下架的APP涉及问题包括“APP强制、频繁、过度索取权限”、“违规收集个人信息”、“超范围收集个人信息”等。（[查看更多](#)）

Zhejiang Communication Administration Removes 42 APPs Infringing on Users' Rights and Interests

On 21 March 2023, upon the re-inspection by the Zhejiang Provincial Communications Administration, it was found that out of those APPs previously notified to have infringed upon users' rights and interests, there are still 42 problematic APPs that have not completed the rectification as required. Therefore, the Zhejiang Communication Administration organized the removal of the aforesaid 42 APPs. Issues relating to the removed APPs this time include "forced, frequent and excessive requests for authorizations by APPs", "illegal collection of personal information", "collection of personal information beyond the requisite scope" and so on. ([More](#))

川渝两地通管局通报川渝两地侵害用户权益APP

2023年3月27日，重庆市通信管理局和四川省通信管理局组织第三方检测机构对川渝两地主流应用商店移动互联网应用程序(APP)进行了检查。截止目前，仍有19款APP未按要求完成整改，主要涉及问题包括：APP强制、频繁、过度索取权限；未明示个人信息处理规则；违规收集个人信息等。上述APP要求按照规定在4月4日前进行整改，逾期不整改的，将依法依规进行处置。 ([查看更多](#))

Sichuan and Chongqing Communications Administrations Publicize List of APPs Infringing on Users' Rights and Interests

On 27 March 2023, the Chongqing Communications Administration and the Sichuan Communications Administration organized third-party testing institutions to conduct inspection of the mobile Internet applications (APPs) of the mainstream APP stores in Sichuan and Chongqing. So far, there are still 19 APPs failing to complete the rectification as required, mainly involving problems such as frequent and excessive requests for authorizations by APPs; failure to expressly publicize the rules for the processing of personal information; illegal collection of personal information, etc. These APPs are required to make rectification according to the provisions by 4 April. If the rectification is not implemented properly, the relevant APPs will be dealt with in accordance with applicable laws and regulations. ([More](#))

全国首例“非法获取公民车辆位置信息”案宣判

2023年3月24日，全国首例全链条打击“非法获取公民车辆位置信息”案，在南京市鼓楼区人民法院公开开庭审理并当庭宣判。经法院审理查明，被告人非法获取车辆停车位置信息，或者根据客户需求在车辆底部等位置安装GPS设备，非法跟踪车辆行踪轨迹，给指定车辆安装GPS设备。法院认为，停车信息及车辆行踪轨迹，反映特定自然人的生活、工作等活动情况，属于公民个人信息，应受法律保护。两名被告人明知他人非法获取公民车辆位置信息并从中牟利，仍制作软件程序，供他人使用，情节特别严重，被告人构成侵犯公民个人信息罪。两名被告人因犯侵犯公民个人信息罪分别被判处有期徒刑四年十一个月和三年三个月。 ([查看更多](#))

Court Judgment on First Case of "Illegally Obtaining Citizen's Vehicle Location Information" Pronounced

On 24 March 2023, the first case involving the whole-chain crackdown on "illegally obtaining citizen's vehicle location information" was heard in the Nanjing Gulou District People's Court and a judgment was pronounced at court. The court heard and ascertained that the defendants illegally obtained vehicle parking location information, or installed GPS devices on the bottom of vehicles and other positions according to needs, illegally tracked vehicle whereabouts, and installed GPS devices on designated vehicles. The court held that the parking information and vehicle whereabouts reflect the life, work and other activities of specific natural persons, which information constitutes citizens' personal information and shall be protected by law. The two defendants, who were fully aware that others had illegally obtained the vehicle location information of citizens and sought profits from it, still made software programs for others to use. The circumstances were particularly serious, and the defendants' action constituted the crime of infringing on citizens' personal information. The two defendants were sentenced to fixed-term imprisonments of four years and 11 months and three years and three months, respectively, for the crime of infringing on citizens' personal information. ([More](#))

韩国麦当劳因泄露487万名客户个人信息被罚6.96亿韩元

2023年3月22日，麦当劳韩国公司被韩国个人信息保护委员处以6.96亿韩元（约合365万元人民币）的罚款，原因是该公司疏于数据管理，导致487万名顾客的个人数据泄露给黑客。根据委员会的调查结果，韩国麦当劳没有执行充分的访问权限管控，保留了顾客的个人数据的备份文件，并且可以通过文件共享协议访问。韩国麦当劳还被发现没有销毁已过数据保留期的超过70万名顾客的个人数据，且没有及时通知当局和顾客有关数据泄露的情况。（[查看更多](#)）

McDonald's Korea Fined 696 Million Won for Breach of 4.87 Million Customers' Personal Data

On 22 March 2023, McDonald's Korea was given a fine of 696 million won (RMB 3.65 million) after the personal data of 4.87 million customers was leaked to hackers due to the firm's lax data management. According to the Personal Information Protection Commission's findings, McDonald's Korea did not perform sufficient access control, leaving a backup file containing the personal data of its restaurant and McDelivery customers accessible via protocols for file sharing. McDonald's Korea was also found to have not destroyed the personal data of more than 700,000 customers for whom the data retention period had expired, and belatedly notified authorities and customers of the data leakage. ([More](#))

知识产权 Intellectual Property

国家版权局发布关于2022年全国著作权登记情况的通报

近日，国家版权局发布关于2022年全国著作权登记情况的通报。从总体情况来看，2022年全国著作权登记总量达6353144件，同比增长 1.42%。从作品类型看，登记量最多的是美术作品

2133962件，占登记总量的47.24%。据中国版权保护中心计算机软件著作权登记信息统计，2022年全国共完成计算机软件著作权登记1835341件，计算机软件著作权登记区域主要分布在东部地区，占登记总量的64%，其中占比最高的是广东省，高达13%。

来源：国家知识产权局

Announcement of NCA on National Copyright Registration Report in 2022

Recently, the National Copyright Administration ("NCA") has issued a circular on the national copyright registration in 2022. Overall, the number of copyrights registered nationwide in 2022 reached 6,353,144, up 1.42 percent on last year's same period. From the type of works, the most registered is works of art, accounting for 47.24% of the total registered. According to the statistics of computer software copyright registration information of the Copyright Protection Center of China, a total of 1,835,341 computer software copyrights were registered nationwide in 2022, with the registration of computer software copyright mainly located in the eastern region, accounting for 64% of the total registered amount, with Guangdong Province accounting for the highest proportion, accounting for 13%.

Source: CNIPA

OpenAI公司在中国申请GPT4商标

欧爱运营有限责任公司（OPENAI OPCO, LLC）近期申请注册了“GPT-4”商标，国际分类为科学仪器，当前商标状态为申请中。此前，该公司还申请注册了一枚国际分类为网站服务的“WHISPER”商标。据悉，Whisper为OpenAI此前发布的神经网络，声称其在英语语音识别方面已接近人类水平。

来源：IT之家

OpenAI Applies for the GPT4 Trademark in China

OPENAI OPCO, LLC recently applied for the registration of the trademark "GPT-4", which is internationally classified as Scientific Instruments and currently in the status of application. Previously, the company also applied to register an international classification for the Web site services "WHISPER" trademark. Whisper, an OpenAI neural network, claims to be close to human level in English speech recognition.

Source: IT Home

珠海冠宇再被宁德新能源起诉

珠海冠宇发布公告称，公司近日收到德国慕尼黑地方法院送达的关于宁德新能源科技有限公司（以下简称“宁德新能源”）以专利侵权为由起诉公司及子公司珠海冠宇电源有限公司（以下简称“冠宇电源”）、冠宇电源金湾分公司的起诉状等相关材料。原告宁德新能源称公司及冠

宇电源、冠宇电源金湾分公司生产和销售的相关产品侵害了原告的EP3627606B1号专利的专利权，并请求法院判决被告停止在德国提供、销售、进口涉诉产品并赔偿经济损失。

据悉，珠海冠宇与宁德新能源已有多次专利之争。宁德新能源为新能源科技有限公司（AMPEREX TECHNOLOGY LIMITED，以下简称“ATL”）全资子公司，早在珠海冠宇正式上市前的2021年6月，就收到了宁德新能源委托律师发送的《侵权告知函》，以及ATL及其子公司委托美国律师发送的侵权告知邮件。

来源：中国经济网

Zhuhai CosMX is Sued Again by CATL

According to the announcement, Zhuhai CosMX Battery Co., Ltd. (Zhuhai CosMX) recently received the complaint and other relevant materials from the Munich District Court of Germany. The materials are about the lawsuit filed by Contemporary Amperex Technology Co., Limited (CATL) against the Zhuhai CosMX and its subsidiaries Zhuhai CosMX POWER Co., Ltd. (CosMX POWER) and Zhuhai CosMX POWER Golden Bay Branch on the grounds of patent infringement. The plaintiff CATL claimed that the relevant products produced and sold by CosMX POWER and CosMX POWER Golden Bay Branch infringed upon its patent right for EP3627606B1, and requested the court to order the two defendants to stop providing, selling or importing the products involved in the lawsuit in Germany and pay the damages.

Zhuhai CosMX and CATL have had several patent disputes. CATL is a wholly-owned subsidiary of AMPEREX TECHNOLOGY LIMITED (ATL). As early as June 2021 before the formal listing, Zhuhai CosMX received the Infringement Notification Letter from CATL and the Infringement Notification Letter from the U.S. lawyer entrusted by ATL and its subsidiaries.

Source: China Economic Network

北京首例短视频平台数据集合不正当竞争纠纷案

近日，北京知识产权法院审结上诉人北京创锐文化传媒有限公司（简称创锐公司）与被上诉人北京微播视界科技有限公司（简称微播公司）不正当竞争纠纷一案，判决驳回上诉，维持原判，判决创锐公司刊登声明、消除影响，赔偿微播公司经济损失500万元。该案是首例短视频平台数据集合不正当竞争纠纷案。

创锐公司未经许可，直接抓取搬运抖音平台数据集合中的5万余条短视频文件、1万多个用户信息、127条用户评论内容，并在刷宝App进行展示和传播。据此，微播公司提起诉讼。法院认为，涉案短视频整体、用户信息、用户评论的集合，具有数据集合的属性，构成了抖音平台的数据集合，对于微播公司具有独立的商业价值，能够为其带来竞争优势。创锐公司作为刷宝App的运营主体，采取不正当手段抓取搬运抖音App中的非独创性数据集合的实质性内容，攫取了微播公司的竞争资源，削弱了微播公司的竞争优势，损害了消费者福利，破坏了短视频行

业的市场竞争秩序。被诉行为造成的损害远远大于消费者及社会公众基于该行为获得的利益。因此，创锐公司的被诉行为违反了诚实信用原则和商业道德，构成不正当竞争行为。

来源：北京知识产权法院

The First Unfair Competition Dispute over Data Collection on Short Video Platform

Recently, the Beijing Intellectual Property Court (Beijing IP Court) concluded a case of unfair competition dispute, and upheld the original judgment. The defendant was ordered to pay the damages of RMB 5 million. This case is the first case of unfair competition dispute over short video platform data collection.

Without permission, the defendant directly grabbed and carried over 50,000 short video clips, with more than 10,000 user information and 127 user comments in the data collection of Douyin, and displayed and spread such contents on the Shuabao App. The court held that the collection of the short videos, user information, and user comments involved in the case constitute data collection of Douyin, which had independent commercial value to the plaintiff, and could bring competitive advantages to the plaintiff. The defendant, as the operator of the Shuabao App, obtained the substantial content of the non-original data set in the Douyin App by improper means, grabbing the plaintiff's competitive resources, weakening the plaintiff's competitive advantage and damaging the interests of consumers. Therefore, the defendant's act violates the principle of good faith and business ethics, constituting unfair competition.

Source: Beijing IP Court

通过搜索平台购买关键词引流并在网页中虚假宣传的构成侵权

江苏省高级人民法院就浪琴表公司弗朗西龙有限公司（下称“浪琴公司”）与北京精时恒达钟表有限公司、北京精时恒达钟表有限公司南京分公司（下称被告）侵害商标权及不正当竞争纠纷案作出二审判决，驳回上诉，维持原判。一审法院责令被告停止侵权，并赔偿浪琴公司经济损失250万元。

法院认为，通过在搜索引擎购买关键词进行引流，并在引流后的网页中进行虚假宣传，构成反不正当竞争法所规制的不正当竞争行为。本案中，被告与浪琴表公司并不存在授权许可或者合作关系，但其却购买“longines售后维修中心”“浪琴售后维修”等关键词进行引流，并在引流后的网页中多处出现“浪琴官方售后维修服务中心”“官方售后服务中心”“售后服务中心授权书”等宣传内容，使人误认其是浪琴表公司官方的售后维修中心或经授权开展浪琴表售后服务的客户服务中心，构成不正当竞争。

来源：江苏省高级人民法院

Purchasing Keywords on the Search Platform to Attract Traffic and False Promotion on Webpage Constitutes Unfair Competition

The Jiangsu High People's Court issued a final judgment on a trademark infringement and unfair competition, and upheld the original judgment. The court of first instance ordered the defendants to stop infringement and pay the damages of RMB2.5 million for Longines.

The court held that attracting traffic by purchasing keywords in a search platform and carrying out false promotion in the webpage constituted unfair competition under the Anti-Unfair Competition Law. Although the defendant did not have any licensing or cooperation relationship with Longines, it purchased keywords such as "longines maintenance center" to attract attention. Besides, the defendant's website contained such promotion as "Official Maintenance Service Center", "Official Service Center" and "Power of Attorney for After-sales Service Center", which misled public into thinking that it was the official maintenance center of Longines Watch Company, or the customer service center authorized to provide after-sales service for Longines Watch.

Source: [Jiangsu High People's Court](#)

最高法院再审改判不侵权：关于对外观设计整体视觉效果的考量认定

最高人民法院就苏州宝时得电动工具有限公司（原审原告）与广州市绿采素贸易有限公司（原审被告）侵害外观设计专利权纠纷案作出终审判决，撤销一审、二审判决，驳回原审原告诉讼请求。

法院认为，认定外观设计是否相同或者近似时，应当根据授权外观设计、被诉侵权设计的设计特征，以外观设计的整体视觉效果进行综合判断；对于主要由技术功能决定的设计特征以及对整体视觉效果不产生影响的产品的材料、内部结构等特征，应当不予考虑。下列情形，通常对外观设计的整体视觉效果更具有影响：（一）产品正常使用时容易被直接观察到的部位相对于其他部位；（二）授权外观设计区别于现有设计的设计特征相对于授权外观设计的其他设计特征。被诉侵权设计与授权外观设计在整体视觉效果上无差异的，人民法院应当认定两者相同；在整体视觉效果上无实质性差异的，应当认定两者近似。本案中，被诉侵权设计与涉案专利同为电钻，属于相同种类产品，可以进行比对。涉案专利很多设计特征是行业内通用的，而涉案专利与被控产品手柄等部位的区别，是“授权外观设计区别于现有设计的设计特征”，因此，被诉侵权设计与涉案专利不构成近似，未落入涉案专利的保护范围。

来源：最高人民法院

Supreme People's Court: Determination of the Overall Visual Effect of Appearance of the Design

The Supreme People's Court (SPP) made a final judgment on the dispute over infringement of design patent rights, rescinded the judgments of first and second instance, and dismissed the claims of the plaintiff.

The court held that when determining whether the appearance design is identical or similar, the comprehensive judgment shall be made based on the design characteristics of the authorized appearance design and the sued infringing appearance design as well as the overall visual effect of the appearance design. Design features determined primarily by technical function and features of the product such as materials and internal construction that have no effect on the overall visual effect shall not be considered. The following circumstances generally have greater influence on the overall visual effect of the appearance design: 1. the parts of a product that are easier to be directly observed in normal use, compared with other parts; 2. the design characteristics of the authorized appearance design that distinguish it from the existing design, compared with other design characteristics of the authorized appearance design. Where there is no difference in overall visual effect between the alleged infringing design and the authorised design, the People's Court shall rule that the two designs are identical. Where there is no substantive difference in the overall visual effect, the two shall be ruled as similar. The alleged infringing design and the patent involved are both electric drills, belonging to the same kind of products, and can be compared. Many design features of the patent involved are common in the industry, and the difference between the patent involved and the handle of the alleged product is the "design features that distinguish the authorized appearance design from the existing design". Therefore, the alleged infringing design is not similar to the patent involved and does not fall within the protection scope of the patent.

Source: SPP

国内首次认定电竞赛事直播画面系著作权法保护的作品，擅自盗播的构成著作权侵权

广州知识产权法院就广州虎牙信息科技有限公司（下称“虎牙公司”）与武汉斗鱼网络科技有限公司（下称“斗鱼公司”）侵害其他著作财产权及不正当竞争纠纷案作出二审纠纷，驳回上诉，维持原判。原审法院责令斗鱼公司赔偿虎牙公司经济损失100万元。

法院认为，涉案ESL赛事直播画面主要由连续的游戏动态画面组成，通过节目制作者对比赛中参赛选手游戏画面的选择、编辑、切换和衔接，并加入主播的解说等元素，整体表现为有伴音的连续动态画面，属于具有一定独创性的表达，亦符合《中华人民共和国著作权法实施条例》对类电作品的定义。直播行为属于著作权法规定的非交互式传播行为，应当由著作权人享有的其他权利规制。本案中，斗鱼公司作为网络直播平台运营方，属于网络服务提供者，但其对被诉侵权直播行为的发生具有过错，且由于斗鱼公司未采取必要措施，构成帮助侵权，其应当与涉案网络主播承担连带责任。

来源：广州知识产权法

First Case of Copyright Infringement for Stealing and Broadcasting the Live Broadcast Picture of Electronic Sports

The Guangzhou Intellectual Property Court made a second instance dispute over copyright infringement and unfair competition, and upheld the original judgment. The court of first instance ordered Douyu Company to pay the damages of RMB 1million for Huya Company.

The court held that the live video of the ESL event involved in the case mainly consisted of continuous dynamic video of the game. Through the selection, editing, switching and connection of the video of the game of the contestants in the game by the program producers and the introduction of the commentary of the anchors and other elements, the overall performance was a continuous dynamic video with accompanying sounds, which is the expression with certain originality, and was in line with the definition of works created using methods similar to film making in the Implementing Regulations of the Copyright Law. Live broadcasting is non-interactive dissemination stipulated in the Copyright Law, and shall be regulated by other rights enjoyed by copyright owners. In this case, Douyu, as the operator of the online live-streaming platform, was an online service provider, but it was at fault for the occurrence of the alleged infringement of live-streaming, and Douyu failed to take necessary measures, which constituted the infringement, so it shall bear joint and several liability with the network anchor involved in the case.

Source: [Guangzhou IP Court](#)

黑莓宣布将以 9 亿美元的价格出售其移动设备相关专利

近日，加拿大软件公司黑莓（BlackBerry Ltd）周二宣布，将以高达 9 亿美元（约合 61.92 亿元人民币）的价格出售其主要涉及移动设备的专利，此前该公司与 Catapult IP Innovations Inc 的交易告吹。黑莓去年表示，正在探索出售其专利的其他选择，因为与 Catapult IP Innovations Inc 的计划交易耗时过长，导致排他性丧失。

来源: [路透社](#)

BlackBerry Announced it will Sell its Mobile Device Patents for USD 900 million

Recently, BlackBerry Ltd., a Canadian software company, announced that it would sell its patents, mainly for mobile devices, for as much as USD 900 million (RMB 6.122 billion) after a deal with Catapult IP Innovations Inc fell through. BlackBerry last year said it was exploring other options for selling its patents because the planned deal with Catapult IP Innovations Inc took too long and led to a loss of exclusivity of its patent.

Source: [Reuters](#)

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 www.lifanglaw.com

 Email: info@lifanglaw.com

 Tel: +8610 64096099

 Fax: +8610 64096260/64096261