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Regulation on the Administration of Commercial Cipher Codes Released, to Come into Effect on 1 July

国标《信息安全技术个人信息处理中告知和同意的实施指南》发布，2023年12月1日起实施

National Standard *Information Security Technology Implementation Guidelines for Notices and Consents in Personal Information Processing* released, coming into effect on 1 December 2023

信安标委发布《网络安全标准实践指南—人脸识别支付场景个人信息保护安全要求（征求意见稿）》

NISSTC Issued *Cybersecurity Standards Practice Guide-Personal Information Protection Security Requirements for Facial Recognition Payment Scenarios (Draft for Comments)*

工信部发布《工业领域数据安全标准体系建设指南（2023版）》（征求意见稿）

MIIT Issued *Guide for the Construction of Data Security Standard System in the Industrial Sector (2023) (Draft for Comments)*

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立方竞争法周报 Weekly Competition Law News

蚌埠两家能源公司因垄断协议遭罚款近180万元

2023年5月24日，安徽省市场监督管理局（“安徽省市监局”）发布安徽省蚌埠市安液清洁能源有限公司（“安液公司”）与蚌埠市鑫源气体有限公司（“鑫源公司”）达成并实施垄断协议案行政处罚决定书。据查，2018年，当事人通过一系列口头协议、调价通知及管理规定就瓶装液化气销售价格进行协商统一。当事人申请了听证程序并发表了陈述申辩意见，但未被采纳。安徽省市监局认定，当事人的行为违反了修改前的《反垄断法》第十三条，构成达成并实施固定或变更商品价格的垄断协议行为，决定责令当事人停止违法行为，没收违法所得并处以2019年度销售额4%的罚款，共计近180万元。（[查看更多](#)）

Two Energy Companies in Bengbu Fined Nearly CNY 1.8 Million for Monopoly Agreement

On May 24, 2023, the Anhui Administration for Market Regulation (“Anhui AMR”) issued an administrative penalty decision regulating Bengbu Anye Clean Energy Co., Ltd. (“Anye Company”) and Bengbu Xinyuan Gas Co., Ltd. (“Xinyuan Company”) reaching and implementing the monopoly agreement. It was found that in 2018, the parties negotiated and unified the sales price of bottled liquefied gas through series of oral agreements, price adjustment notices and management regulations. The party applied for a hearing procedure and issued a statement of defense which was not accepted. The Anhui AMR determined that the parties’ conducts violated Article 13 of the pre-amendment *Anti-Monopoly Law* and constituted an act of reaching and implementing monopoly agreements which fixed or changed commodity prices. The authority decided to order the parties to stop the illegal activities, confiscate the illegal gains and impose a fine of 4% of the 2019 sales, totaling nearly CNY 1.8 million. ([More](#))

香港HKCC就涉空调工程合谋案件展开第二轮诉讼

2023年5月23日，香港竞争事务委员会（HKCC）发布公告，就涉及空调工程的合谋案件展开第二轮诉讼。诉讼主体包括两间业务实体及一名自然人，两间业务实体为相互竞争的空调工程供应商。2015年12月14日至2018年6月24日，诉讼主体在香港提供空调工程时合谋定价、瓜分市场及/或围标，被HKCC认定有关行为属严重反竞争行为，违反《竞争条例》的第一行为守则。2022年6月16日，HKCC就涉及在香港提供空调工程的合谋案件展开首轮诉讼，其中一间业务实体已与HKCC订立合作协议，承担法律责任并推行全面竞争合规计划。本案的入禀，标志着HKCC对首轮及第二轮诉讼答辩人的调查已经结束。（[查看更多](#)）

HKCC Commences Second Set of Proceedings Concerning Air-Conditioning Works in Competition Tribunal

On May 23, 2023, the Hong Kong Competition Commission (HKCC) announced the commencement of the second round of proceedings in a collusion case involving air-conditioning works. The subjects in this case include two undertakings and one individual, and the two undertakings are competing providers of air-conditioning works. From December 14, 2015 to June 24, 2018, the parties agreed to fix pric-

es, share the market and/or rig bids when providing air-conditioning works in Hong Kong, and such conduct was determined by the HKCC to be a serious anti-competitive behavior and had violated the First Conduct Rule of the *Competition Ordinance*. On June 16, 2022, the HKCC commenced the first round of proceedings in this collusion case involving air-conditioning works in Hong Kong. One of the undertakings has entered into a cooperation agreement with HKCC to assume legal responsibility and implement a comprehensive competition compliance programme. The filing of this case marks the conclusion of the HKCC's investigation of the respondents in the first and second rounds of litigation. ([More](#))

新巨丰包装表态：收购纷美包装不构成经营者集中

2023年5月19日，国内食品无菌包装公司山东新巨丰科技包装股份有限公司（“新巨丰包装”）发布重大资产购买报告书草案，计划从其同业竞争企业纷美包装有限公司（“纷美包装”）第一大股东JSH Venture Holdings Limited（“JSH”）手中收购纷美包装28.22%的股权。该交易草案表示，根据《境内法律意见书》，本次交易不构成《中华人民共和国反垄断法》第二十五条所规定的经营者集中，无需根据《中华人民共和国反垄断法》第二十六条进行经营者集中申报。（[查看更多](#)）

NJF Declares Acquisition of Greatview Packaging Does Not Constitute Concentration of Operators

On May 19, 2023, Shandong NewJF Technology Packaging Co., Ltd. (“NJF”), a domestic food aseptic packaging company, issued a draft report on the purchase of major assets, planning to acquire 28.22% equity interest from its competitor Greatview Aseptic Packaging Company Limited (“Greatview”)’s largest shareholder JSH Venture Holdings Limited (“JSH”). The draft transaction states that, according to the domestic legal opinion, the transaction does not constitute a concentration of operators under article 25 of the *Anti-Monopoly Law of People Republic of China* and no notification of concentration of operators is required to be made under article 26 of the law. ([More](#))

Meta承诺限制使用其他企业广告数据以解决竞争担忧

2023年5月26日，英国竞争与市场管理局（CMA）发布公告，称Meta承诺不会将竞争对手的广告数据用于其Facebook Marketplace提供的在线分类广告服务，以应对CMA的竞争担忧。Meta表示，将通过实施新的技术系统和员工培训来实现这一目标，此外还将采取措施以限制广告数据在与广告商竞争的其他Meta产品的开发中的使用。CMA于2021年6月启动相关调查，旨在了解Meta是否通过利用使用其广告服务的企业的某些广告数据开发和改进自己的产品，以与这些广告客户竞争。CMA初步认为，Meta目前的承诺解决了竞争担忧，但仍在就所提出的承诺广泛征求意见。征求意见时间于2023年6月26日截止。（[查看更多](#)）

Meta Offers to Limit Use of Other Businesses' Advertising Data to Address Competition Concerns

On May 26, 2023, the UK Competition and Markets Authority (CMA) issued an announcement stating

that Meta promised not to use competitors' advertising data for the online classified advertising service provided by its Facebook Marketplace in response to CMA's competition concerns. Meta said it would achieve this by implementing new technical systems and staff training, in addition to taking steps to limit the use of advertising data in the development of other Meta products that compete with advertisers. The CMA launched a related investigation in June 2021 to understand whether Meta developed and improved its own products by using certain advertising data of businesses using its advertising services to compete with these advertisers. The CMA preliminarily believes that Meta's current commitments address competition concerns but is still consulting widely on the proposed commitments. The period for comments will close on June 26, 2023. ([More](#))

五家主要银行可能违反政府债券相关竞争法

2023年5月24日，CMA初步认定，花旗银行（Citi）、德意志银行（Deutsche Bank）、汇丰银行（HSBC）、摩根士丹利（Morgan Stanley）和加拿大皇家银行（Royal Bank of Canada）等五家主要银行于2009年至2013年间通过参与一对一聊天室对话，非法共享了与英国政府债券买卖相关的具有竞争敏感性的信息。英国政府债券买卖是由英国债务管理办公室（UK Debt Management Office）代表英国财政部（HM Treasury）首先出售国债，随后进行国债和国债资产掉期（gilt asset swaps）的买卖，再由英国银行（Bank of England）回购国债。在这一过程中，涉案银行交换信息的行为可能剥夺了与其交易的各方的竞争性利益。在此初步调查中，德意志银行和花旗银行已承认参与了上述一对一对话，若二者继续配合CMA并遵守宽大处理的条件，德意志银行可免于罚款，花旗银行将获得罚款减免。汇丰银行、摩根士丹利和加拿大皇家银行尚未承认任何违法行为。（[查看更多](#)）

Five Major Banks May Have Violated Government Bond-Related Competition Laws

On May 24, 2023, the CMA preliminarily found that five major banks, including Citi, Deutsche Bank, HSBC, Morgan Stanley and Royal Bank of Canada (RBC) unlawfully shared competitively sensitive information relating to the sale and purchase of UK government bonds by engaging in one-on-one chat room conversations from 2009 to 2013. The sale and purchase of UK government bonds includes the sale of gilts conducted by the UK Debt Management Office via auctions on behalf of HM Treasury, the subsequent buying and selling of gilts and gilt asset swaps and buy-back auctions of gilts by the Bank of England. In the process, the banks involved may have exchanged information that deprived the parties with whom they traded of competing interests. In this preliminary investigation, Deutsche Bank and Citi have admitted to participating in the above-mentioned one-on-one conversations. If the two continue to cooperate with the CMA and abide by the conditions of leniency, Deutsche Bank would be exempted from fines and Citi would receive penalty relief. HSBC, Morgan Stanley and RBC have yet to admit to any wrongdoing. ([More](#))

电子器件公司安富利赢得价格固定反垄断诉讼，获赔2.86亿

2023年5月23日，据媒体报道，旧金山联邦法院陪审团在为期两周的反垄断审判中裁决被告日本贵弥功株式会社（Nippon Chemi-Con Corporation）及其位于伊利诺伊州的子公司United

Chemi-Con, Inc应向原告安富利 (Avnet, Inc.) 支付近2.68亿美元的损害赔偿金。原告安富利是一家美国连接器和半导体器件分销商，被告是知名日本铝电解电容器制造商。原告诉称，自2001年至2014年，被告通过其全球价格固定计划，抬高了通常用于家用电器、手机和个人电脑等电子设备的电容器组件的价格。 ([查看更多](#))

Electronic Device Company Avnet Wins USD 286 Million Price Fixing Antitrust Lawsuit

On May 23, 2023, according to media report, the jury in San Francisco federal court ruled against the defendant Nippon Chemi-Con Corp and its Illinois-based subsidiary United Chemi-Con Inc, awarding nearly USD 268 million in damages to the plaintiff Avnet Inc in a two-week antitrust trial. The plaintiff, Avnet, is a U.S. distributor of connectors and semiconductor devices, and the defendant is a well-known Japanese manufacturer of aluminum electrolytic capacitors. The plaintiff alleged that from 2001 to 2014, the defendant, through its global price fixing program, inflated the prices of capacitor components typically used in electronic devices such as home appliances, cell phones and personal computers. ([More](#))

JFTC就滥用优势议价地位向瑞穗证券发出警告函

2023年5月22日，日本公正交易委员会 (JFTC) 发布公告，称已向瑞穗证券 (Mizuho Securities Co., Ltd.) 发出警告函，认为其行为可能违反《反垄断法案》 (Antimonopoly Act, “AMA”) 第19条有关滥用优势议价地位 (Abuse of Superior Bargaining Position) 的规定。首次公开募股 (IPO) 是在完成推荐审查后进行发行定价的过程，不希望推迟上市日期的初创企业难以在发行定价过程中更换首席承销商，因此即使首席承销商对初创企业提出了极为不利的要求，企业也只能接受。在担任首席承销商的IPO发行定价过程中，瑞穗证券设定了预估发行价格或暂定价格区间，并要求初创企业接受这些设定价格。在前述案件中，IPO开盘价格是发行价格两倍以上，使得初创企业进行IPO筹集的资金减少。JFTC表示，尽管瑞穗证券的行为未被当即视为违反《反垄断法案》，但它可能导致具有强大议价能力的首席承销商单方面设定较低的发行价格，不公平地使初创企业处于不利地位，从而可能对公平自由的竞争产生不利影响。 ([查看更多](#))

JFTC Issues Caution to Mizuho Securities for Abuse of Advantageous Bargaining Position

On May 22, 2023, the Japan Fair Trade Commission (JFTC) issued a caution to Mizuho Securities Co., Ltd. (Mizuho) that its conduct could lead to violation of prohibition of the Article 19 falling under the Item 5, Paragraph 9, Article 2 [Abuse of Superior Bargaining Position] of the Antimonopoly Act (AMA). The Initial Public Offering (IPO) is taken place through the offering pricing process after the completion of the examination of recommendations. For startups that do not wish to postpone their scheduled listing date on a stock exchange, it is difficult for them to change the lead underwriter, during the offering pricing process. Therefore, even if the lead underwriter makes a request that is significantly disadvantageous to the startups, it is considered that the startups will have no choice but to accept it. In the offering pricing process of the IPO for which Mizuho served as the lead underwriter, Mizuho had set an estimated offering price or a tentative price range and requested that these be accepted by the

startups. The opening price of the IPO in the above-mentioned cases was more than double the offering price. The startups could have raised more funds if they had been able to make IPO at the offering price that would have been set based on the estimated offering price or tentative price range that they had claimed. the JFTC holds that although Mizuho's conduct was not immediately deemed a violation of the Antimonopoly Act, it may lead to a lower offering price being set unilaterally by the lead underwriter with strong bargaining power and unfairly put startups at a disadvantage, which might result in adversely affecting fair and free competition. ([More](#))

美欧监管机构无条件批准Viasat收购Inmarsat

近日，据媒体报道，美国联邦通信委员会（FCC）与欧盟委员会（European Commission）相继宣布无条件批准卫星运营商Viasat（Viasat Inc.）收购Inmarsat（Inmarsat Global Ltd.）。Viasat和Inmarsat均为“双向”卫星通信服务供应商。Viasat拥有和运营四颗静止轨道卫星（GEO），Inmarsat拥有和运营十五颗。双方将利用自己的静止轨道卫星容量，在全球范围内向商业航空公司提供宽带机上连接（IFC）服务，并向各行业领域客户提供卫星服务。该交易预计耗资73亿美元。（[查看更多](#)）

U.S. and European Regulators Unconditionally Approve Viasat's Acquisition of Inmarsat

Recently, according to media reports, the U.S. Federal Communications Commission (FCC) and the European Commission have unconditionally granted satellite operator Viasat permission to proceed with its acquisition of Inmarsat. Viasat and Inmarsat are both providers of 'two-way' satellite-based communication services. Viasat owns and operates four geostationary orbit satellites and Inmarsat owns and operates fifteen. The companies plan to use their geostationary satellite capacity to provide broadband in-flight connectivity services to commercial airlines worldwide, as well as satellite services to customers in a variety of industry sectors. The deal is estimated to cost USD 7.3 billion. ([More](#))

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

国家互联网信息办公室发布《数字中国发展报告（2022年）》

2023年5月23日，国家网信办发布《数字中国发展报告（2022年）》（下称《报告》）。《报告》显示，2022年，我国网民规模达10.67亿，互联网普及率达75.6%。数字经济规模达50.2万亿元，稳居世界第二。截至2022年底，我国开通5G基站231.2万个，5G用户达5.61亿户，全球占比超60%。数据资源体系加快建设，数字经济成为稳增长促转型的重要引擎，数字政务协同服务效能大幅提升；数字社会建设推动优质服务资源共享；数字技术创新能力持续提升，2022年，我国信息领域相关PCT国际专利申请近3.2万件，全球占比达37%，数字经济核心产业发明专利授权量33.5万件，同比增长17.5%。数字安全保障体系不断完善，网络安全法律法规和标准体系逐步健全。

展望2023年数字中国发展,《报告》提出了夯实数字中国建设基础、全面赋能经济社会发展、强化数字中国关键能力并筑牢可信可控的数字安全屏障、优化数字化发展环境等发展方向。

([查看更多](#))

CAC Released Digital China Development Report (2022)

On 23 May 2023, the Cyberspace Administration of China (the "CAC") released the *Digital China Development Report (2022)* (the "Report"). According to the Report, in 2022, the size of China's Internet users reached 1.067 billion, with an Internet penetration rate of 75.6%. The size of the digital economy reached 50.2 trillion yuan, ranking second in the world. By the end of 2022, China had set up 2.312 million 5G base stations and the number of 5G users reached 561 million, accounting for more than 60% of the world total. Construction of data resource system has accelerated, and the digital economy has become an important engine to the transformation of the economy and sustained economic growth. The effectiveness of collaborative services for digital government has been greatly improved, and the construction of a digital society has promoted the sharing of quality service resources. In addition, innovation in digital technology has continued to improve. In 2022, China's information field-related PCT international patent applications reached nearly 32,000, accounting for 37% of the global total. Invention patents in the core industries of digital economy reached granted 335,000 in 2022, an increase of 17.5% year-on-year. Digital security protection system has continued to improve, and network security laws and regulations and standards system have gradually improved.

Looking ahead to the development of Digital China in 2023, the Report proposes development directions such as consolidating the foundation of Digital China construction, comprehensively empowering economic and social development, strengthening the key capabilities of Digital China and building credible and controllable digital security safeguards, and optimizing the digital development environment. ([More](#))

《商用密码管理条例》通过, 7月1日起施行

2023年5月24日, 国务院公布《商用密码管理条例》(下称《条例》), 自7月1日起施行。《条例》鼓励商用密码科学技术自主创新, 要求有关部门组织制定商用密码国家、行业标准以规范商用密码的应用, 建立统一认证制度, 制定并公布认证目录和技术规范、规则。《条例》还对电子认证机构资质、商用密码进口许可清单和商用密码出口管制清单、商业密码应用促进和监督管理等事项进行了详细规定。([查看更多](#))

Regulation on the Administration of Commercial Cipher Codes Released, to Come into Effect on 1 July

On 24 May 2023, the State Council promulgated the *Regulations on the Administration of Commercial Cipher Codes* (the "Regulations"), which will come into effect on 1 July. The Regulations encourage independent innovation in commercial cipher code science and technology, and require the relevant departments to organize the development of national and industry standards for commercial cipher code to regulate the application of commercial cipher codes, establishing a unified certification system, and developing and publishing certification directories and technical specifications and rules. The Regulations also provide detailed provisions such as the qualification of electronic certification bodies, the import

license list and the export control list of commercial cipher codes, and the promotion and supervision of their applications. ([More](#))

国标《信息安全技术个人信息处理中告知和同意的实施指南》发布，2023年12月1日起实施

根据国家标准信息公共服务平台显示，由国家标准化管理委员会主管，全国信息安全标准化技术委员会归口、执行的《信息安全技术 个人信息处理中告知和同意的实施指南》（下称《实施指南》）于2023年5月23日发布，将于2023年12月1日起实施。

《实施指南》主要内容分为9个章节，分别针对告知同意的适用情形、免于告知同意的情形、告知同意的基本原则和具体执行方法等进行了详细的说明。同时，标准还针对未成年人个人信息的告知同意、SDK收集使用个人信息场景下的告知同意、IoT场景下的告知同意、公共场合场景下的告知同意、个性化推荐场景下的告知同意、互联网金融场景下的告知同意、车载场景下的告知同意、网上购物场景下的告知同意等场景提出相关建议。 ([查看更多](#))

National Standard Information Security Technology Implementation Guidelines for Notices and Consents in Personal Information Processing released, coming into effect on 1 December 2023

According to the National Public Service Platform for standards information, the national standard entitled Information Security Technology Implementation Guidelines for Notices and Consents in Personal Information Processing (the "Implementation Guidelines"), which is supervised by the National Standardization Administration (the "NSA") and categorized and implemented by the National Information Security Standardization Technical Committee (the "NISSTC"), was released on 23 May 2023 and will be implemented on 1 December 2023.

The Implementation Guidelines has nine chapters, making detailed descriptions of the circumstances under which notices and consents are applicable or otherwise exempted, the basic principles of notices and consents and the specific methods of implementation. At the same time, the Implementation Guidelines also makes recommendations on the notices and consents applicable to personal information of minors, notices and consents requirements applicable to collection and use of personal information by SDKs, as well as notices and consents applicable to IoT scenarios, public places, personalized recommendation scenarios, Internet finance scenarios, on-vehicle scenarios, online shopping scenarios and others. ([More](#))

信安标委发布《网络安全标准实践指南——人脸识别支付场景个人信息保护安全要求（征求意见稿）》

2023年5月23日，全国信息安全标准化技术委员会就《网络安全标准实践指南——人脸识别支付场景个人信息保护安全要求（征求意见稿）》（下称《征求意见稿》）向社会公开征求意见。

人脸识别支付已成为一种常见的支付手段。然而，人脸识别支付设备的多样化发展以及广泛使

用给个人信息保护带来了新的安全挑战。《征求意见稿》依据政策法规要求，针对室内外各区域中的人脸识别支付场景，向人脸识别支付的服务提供方及相关场所管理方提出个人信息保护要求。（[查看更多](#)）

NISSTC Issued Cybersecurity Standards Practice Guide-Personal Information Protection Security Requirements for Facial Recognition Payment Scenarios (Draft for Comments)

On 23 May 2023, the National Information Security Standardization Technical Committee (the "NISSTC") publicly solicited comments to the "Cybersecurity Standards Practice Guide-Personal Information Protection Security Requirements for Facial Recognition Payment Scenarios (Draft for Comments)" (the "Draft for Comments").

Facial recognition payment has become a common means of payment. However, the diverse development and widespread use of facial recognition payment devices has brought about new security challenges to personal information protection. Based on the requirements of policies and regulations, and according to the various facial recognition payment scenarios in various indoor and outdoor areas, the Draft for Comments proposes personal information protection requirements to service providers of facial recognition payment services and the management authorities of relevant venues. ([More](#))

工信部发布《工业领域数据安全标准体系建设指南（2023版）》（征求意见稿）

2023年5月22日，工信部就《工业领域数据安全标准体系建设指南（2023版）》向社会公开征求意见。《征求意见稿》规定了工业领域数据安全标准体系的基本框架，强调了基础共性标准、安全管理标准、技术产品标准、安全评估与产业评价标准等重点领域，并就组织实施提出了加强统筹协调、加快任务落实、强化宣传实施、加强国际合作等要求。（[查看更多](#)）

MIIT Issued Guide for the Construction of Data Security Standard System in the Industrial Sector (2023) (Draft for Comments)

On 22 May 2023, the Ministry of Industry and Information Technology (the "MIIT") released the "Guide for the Construction of Data Security Standard System in the Industrial Sector (2023)" (the "Draft for Comments"). The Draft for Comments provides the basic framework for the construction of the data security standards system in the industrial sector, emphasizing the key areas of basic common standards, security management standards, technical product standards, and security assessment and industrial evaluation standards, and puts forward requirements for the organization and implementation of the construction work for the standard system, including enhancing coordination, accelerating implementation, strengthening publicity, and enhancing international cooperation. ([More](#))

浙江省通信管理局发布关于侵害用户权益行为14款APP的通报（2023年第3批）

近日，浙江省通信管理局持续整治APP侵害用户权益行为，组织第三方检测机构对群众关注的网上购物、学习教育、网络社区等类型APP进行检查，并书面要求违规APP开发运营者限期整

改。截止5月25日,尚有14款APP未按要求完成整改,浙江省通信管理局予以通报并要求上述APP开发运营者在6月5日前完成整改落实工作,整改落实不到位的,将视情采取下架、关停、行政处罚等措施。 ([查看更多](#))

Zhejiang Communications Administration Publicly Issued a Notice about 14 APPs Infringing on Users' Rights and Interests (3rd Batch in 2023)

Recently, the Zhejiang Communications Administration has continued to rectify infringement of user rights and interests by APPs, organizing third-party testing agencies to inspect online shopping, learning and education, online communities and other types of APPs of concern to the public, and requesting in writing that the offending APP developers and operators rectify by a deadline. As of 25 May, there are still 14 APPs that have not completed the rectification as required. The Zhejiang Communications Administration publicly issued a notice and required the above APP developers and operators to complete the rectification and implementation work before 5 June. If rectification and implementation has not been completed by then, such APPs will be taken off the shelves, or ordered to be shut down, or imposed administrative penalties. ([More](#))

浙江首批两家企业通过数据出境安全评估

近日,杭州海康威视数字技术股份有限公司、杭州萤石网络股份有限公司通过国家网信办数据出境安全评估,是浙江省首批通过评估的企业。

自2022年9月1日《数据出境安全评估办法》颁布以来,浙江网信办开通申报通道,制定发布《浙江省数据出境安全评估申报材料指引》、申报工作系列问答,明确申报流程、内容、方式和要求,设立咨询电话、组织专题培训、开展普及宣传,多措并举助力省内企业有序申报数据出境安全评估。截至目前,其已接收正式申报材料70余份,其中通过完备性查验并报送国家网信办32件,主要涉及电商平台、金融、物流、安防、通信等领域。 ([查看更多](#))

The First Two Enterprises in Zhejiang Passed the Cross-border Data Transfer Security Assessment

Hikvision Limited and Ezviz Limited have become the first two enterprises in Zhejiang which passed the cross-border data transfer security assessment.

Since the promulgation of the *Measures for the Security Assessment of Cross-border Data Transfer* on 1 September 2022, the Zhejiang Cyberspace Administration has established an application channel, formulated and released the *Zhejiang Province Cross-border Data Transfer Security Assessment Application Material Guidelines*, a series of questions and answers sessions on the application process, clarified the content, methods and requirements of the declaration process, , set up consultation telephone hotlines, organized special trainings, carried out publicity activities, and taken multiple measures to help enterprises in the province to make applications in an orderly manner. Up to now, the Zhejiang Cyberspace Administration has received more than 70 official applications, of which 32 have passed the completeness check and submitted to the CAC, mainly involving e-commerce platforms, finance, logistics, security, communications and other fields. ([More](#))

美国网络安全和基础设施安全局更新勒索软件应对指南

当地时间2023年5月23日，美国网络安全和基础设施安全局（CISA）等机构发布了应对勒索软件指南（#StopRansomware Guide）的更新版。该机构表示，自2020年指南首次发布以来，勒索软件行为者提高了其战术和技术。本次更新吸取了过去两年的经验教训，包括额外的建议行动、资源和工具，以最大程度提高实践与清单的相关性和有效性，以及持续地帮助减少勒索软件的流行与影响。（[查看更多](#)）

CISA and Partners Update the #StopRansomware Guide, Developed through the Joint Ransomware Task Force

On 23 May 2023, Cybersecurity and Infrastructure Security Agency (“CISA”) and partners update the #StopRansomware guide, developed through the joint ransomware task force (JRTF). CISA said that the ransomware actors have accelerated their tactics and techniques since its initial release in 2020. The update incorporates lessons learned from the past two years and includes additional recommended actions, resources, and tools to maximize its relevancy and effectiveness and to further help reduce the prevalence and impacts of ransomware. ([More](#))

Apria Healthcare披露影响180万用户的数据泄露事件

当地时间2023年5月22日，Apria Healthcare向美国缅因州总检察长提交了一份关于其系统中发生的数据泄露的通知。该通知称，未经授权的第三方成功地访问了含有机密病人信息的文档，包括姓名、社会安全号码、个人详细资料、医疗记录、健康保险信息和财务数据。2021年9月1日，Apria Healthcare曾得到通知，其计算机网络被发现未经授权访问，涉及多达180万人的个人和机密信息。数据泄露事件的受害者Apria Healthcare公司每年为200多万病人提供服务。（[查看更多](#)）

Apria Healthcare Discloses Major Data Breach Impacting 1.8M Users

On 22 May 2023, Apria Healthcare filed a notice with the Maine Attorney General regarding a data breach that occurred on its systems. An unauthorized party successfully accessed files containing confidential patient information, including names, Social Security numbers, personal details, medical records, health insurance information, and financial data.

On 1 September 2021, Apria Healthcare was notified that unauthorized access had been detected in its computer network, compromising the personal and confidential information of up to 1.8 million individuals. Apria Healthcare, the victim of the data breach, serves more than 2 million patients annually. ([More](#))

知识产权 Intellectual Property

全国首个“知识产权联合保护办公室”在滨海新区揭牌

5月19日，滨海新区法院（天津自贸区法院）与滨海新区检察院共同设立的知识产权联合保护办公室正式揭牌。

作为全国首个“知识产权联合保护办公室”，这是滨海新区法院与滨海新区检察院加强知识产权法律实施与法律监督，全面提升知识产权保护工作质效的重要举措。依托知识产权联合保护办公室，滨海新区法检两院将围绕案件信息与数据信息共享、行刑衔接机制与证据标准完善、业务调研与宣传引导等领域加强协作配合，进一步推动知识产权司法保护职能延伸、多元解纷与协同保护机制构建，不断提升知识产权审判、检察队伍专业化建设。

来源：天津滨海新区法院

The First National "Joint Intellectual Property Protection Office" Established in Tianjin Binhai New Area

On 19 May, 2023 by the Tianjin Binhai New Area Court and the Binhai New Area Procuratorate.

As the first joint office for IP protection, it plays a big role in law enforcement and legal supervision, which aims to promote the level of IP protection and data sharing.

Source: Binhai New Area Court

德国法院判决海能达不侵犯摩托罗拉专利

深市上市公司海能达（002583.SZ）一季度报告显示，其与摩托罗拉在德国杜塞尔多夫高等法院的一起专利案件，在2023年3月16日庭审之后，于2023年4月20日做出二审判决：法院判决海能达胜诉，海能达不构成专利侵权。海能达与摩托罗拉之间的知识产权诉讼横跨美国、德国、澳大利亚和中国等主要司法管辖区。

自2017年开始，摩托罗拉及其子公司针对海能达在不同国家提起多项诉讼，涉及商业秘密、版权、专利、不正当竞争等多种案由。

实际上，在这前后，涉及到美国知名公司的华裔商业秘密案呈现出一波小高潮，这也与美国政府提出的旨在打击中国对美国商业秘密窃取的“中国倡议”行动相吻合。海能达与摩托罗拉之间的知识产权问题，不应当简单理解为是两家公司之间的知识产权纠纷，更是当前中美科技竞争环境下的一个缩影。

来源：德国杜塞尔多夫高等法院

German Court Judge: Hytera Does Not Infringe Motorola's Patents

A case of infringement on patent between Motorola and Hytera was issued by High Court of Justice, Düsseldorf, Germany on 20 April 2023. The court ruled that Hytera didn't constitute patent infringement. The IP dispute between Motorola and Hytera spans main jurisdictions including America, Germany, Australia and China.

Since 2017, Motorola and its subsidiaries has filed the lawsuits against Hytera in different areas, involving trade secret, copyright, patent and unfair competition.

Source: [High Court of Justice, Düsseldorf](#)

法院对专利纠纷4000万赔偿全额支持：公司整顿不能成为拒绝提交相关账簿资料的正当理由

最高人民法院对京信网络系统股份有限公司、京信通信技术（广州）有限公司与广东晖速通信技术股份有限公司侵害发明专利权纠纷案作出二审判决，认定被告侵害原告专利权，判赔4000万元。

本案中，被告晖速公司以公司整顿为由，拒不提交相关账簿资料。法院认为，上市公司应当具有严格正规的财务账册及保管制度，公司整顿不能成为拒绝提交的正当理由，当事人应承担举证妨碍的不利后果。法院综合考虑到涉案专利为发明专利，涉案专利的经济效益及市场份额、社会效益及发展前景；并结合相关专家的证人证言，法院认定涉案专利技术价值高，社会经济效益大，应予重点保护从而鼓励科技创新，进而采纳京信网络公司、京信通信公司主张的60%的专利贡献率，据此全额支持京信网络公司、京信通信公司4000万元赔偿数额的主张。

来源：最高人民法院

Court Supports full patent compensate of RMB 40 Million: Company Restructuring is Not a Valid Reason for Refusing to Submit Relevant Financial Information

The Supreme Court issues the final judgement of infringement on patent dispute between Jingxin Limited, versus defendant Huisu Guangdong Limited. The court recognized that the defendant constitute infringement on patent, and awarded damages of RMB 40 million.

In this case, Huisu Limited refused to submit the relevant financial information with excuse of company restructuring. The court held that, as a listed company, Huisu shall have strict and regulated Financial books and maintenance system. Company restructuring isn't a valid reason for refusing to submit relevant information. The defendant shall bear the adverse consequences of the obstruction of evidence. Considering the invent patent's economical profits and development prospects, the court recognized high-technology value of this patent, which shall be protected vigorously to promote innovation, and approved 60% patent contribution asserted by the plaintiff.

Source: [the Supreme People's Court of China](#)

网易诉阿里游戏侵权案：法院确立电子游戏规则比对标准

5月23日，网易旗下游戏《率土之滨》和阿里灵犀互娱旗下《三国志·战略版》先后在微博上发表声明，公开两款游戏著作权诉讼一审结果。广州互联网法院判决认为，《三国志·战略版》系对《率土之滨》的改编，《三国志·战略版》需修改侵权内容，并向网易赔偿5000万元。

法院认为，电子游戏属于“符合作品特征的其他智力成果”，其基础规则属于思想范畴，不受著作权法的保护。而对于具体游戏规则，尽管其符合表达要件，但因独立的具体游戏规则只有与其他规则结合，才能发挥在游戏系统中的效能。因此在比对时，需动态地对规则之间的相互联系机制进行比对。在对比二者各项规则后，法院认定被告各项游戏机制均结构性使用了原告的独创性表达，侵害原告游戏的改编权和互联网信息传播权。

来源：[广州互联网法院](#)

Netease v. Alibaba: the Court Establishes Video Game Rules Comparison Standard

On 23 May, Netease's game, Mmortal Conquest and Alibaba's game, Three Kingdoms Tactics issued announcement to publicizing the results of the first instance of infringement on copyright dispute between them. The court recognized the defendant constituted infringement on copyright, ordering the defendant to modify the game and award the damages of RMB 50 million.

The court held that the video game is "other intellectual achievements that meet the characteristics of works". Its basic rules are ideas instead of expressions, which can not be protected by copyright law. As for the specific game rules, they shall combine with each other to play in the game. Therefore, when comparing, the interconnection mechanism between rules needs to be compared.

After comparing the rules of the two, the court found that the defendant's game mechanics structurally used the plaintiff's original expression, and infringed the plaintiff's right of adaptation and right of communication through information network.

Source: [Guangzhou Internet Court](#)

最高法院裁判：同一案件涉及两个不同法律关系，法院不能据此驳回起诉

最高人民法院就大连博迈科技发展有限公司与何克江、苏州麦可旺志生物技术有限公司侵害技术秘密及专利权权属纠纷一案作出裁定，支持了原告博迈公司撤销原审裁定，指令原审法院进行实体审理的请求。

原审法院认为，博迈公司在案件中提出的诉讼请求，包括要求确认专利权权属和主张被告承担侵害技术秘密的侵权责任，属于不同性质的诉讼标的不属于同一法律关系，所涉及的被告主体亦不相同，不应在本案中同时进行主张。最高法在二审裁定中认为，法律允许将诉争的两个不同的法律关系合并在一个案件中进行审理。而且，在特定情况下，将基于同一事实或者其他原

因存在密切关系的不同法律关系在同一诉讼中解决，有利于查清案件事实、明确法律责任和避免裁判冲突，有利于保护当事人利益和实现诉讼经济的目标。据此，最高法支持了原告的请求。

来源：最高人民法院

Supreme Court: One Case Involves Two Different Legal Relationships is not Ground for Dismissal of Case

The Supreme Court issued the ruling of infringement on technology secret and patent dispute between Bomai Limited, versus He Kejiang and Microwants Limited. The plaintiff Bomai's request to revoke the ruling and direct the court to conduct a substantive trial was supported.

The court of first instance held that the claims made by Bomai in the case, including the request to recognize the ownership of the patent right and claim the defendant to assume the infringement of technical secrets, are different legal relationship. The supreme court ruled that the law allows two different legal relations in a case to be heard, if this could improve the efficiency of the case and offer better protection of parties, and such situation shall not be ground for the court to dismiss the case.

Source: the Supreme People's Court of China

全额判赔300万元：利用技术手段屏蔽“青少年模式”弹窗的行为构成不正当竞争

天津自由贸易试验区人民法院就深圳市腾讯计算机系统有限公司、腾讯科技（深圳）有限公司、腾讯数码（天津）有限公司与北京爱橙子科技有限公司不正当竞争纠纷案作出判决，认定被告的行为构成不正当竞争，综合涉案产品知名度等因素，酌定被告赔偿原告经济损失及合理支出300万元，全额支持了原告的索赔请求。

法院认为，认定不正当竞争行为时，不仅要考虑其他经营者的合法权益，还要同时考虑市场竞争秩序和消费者的合法权益。被告采用技术措施屏蔽腾讯产品青少年模式入口弹窗的功能，妨碍、破坏腾讯产品的正常运行，因此双方之间存在竞争关系；国家要求网络平台必须设置“青少年模式”，而涉案软件屏蔽青少年模式弹窗的行为，使得青少年模式功能形同虚设，与国家关于保护未成年人网络安全的相关规定背道而驰，具有不正当性。

来源：天津自由贸易试验区人民法院

Full Compensate of RMB 3 Million Supported: the Use of Technical Means to Block the "Teen Mode" Pop-up Constitutes Unfair Competition

Tianjin Free Trade Zone Court issued the judgment of unfair competition dispute between Tencent Limited, versus defendant Iorange Limited. Considering the fame and other elements, the court supported full compensate of RMB 3 million.

The court held that not only other operators' profits, but also market competition order and consumers'

interests shall be taken into consideration. China requires the Internet platform shall establish a “Teen Mode” to protect teenagers. The defendant break the mode, which is contrary to the relevant national regulations on the protection of minors' online safety, and constitute unfair competition.

Source: Tianjin Free Trade Zone Court

北京知产法院：特定期间低于成本促销是常见的商业手段，不构成不正当竞争行为

北京知识产权法院近日对北京耀莱新天地商业发展有限公司与北京京东金禾贸易有限公司、杭州庞谷贸易有限公司低价倾销不正当竞争纠纷案作出二审判决，认定被告行为不构成不正当竞争，驳回原告诉讼请求。

原告耀莱公司针对被告于“双十一”期间通过商品预售、发放优惠券等方式使得相关产品实际销售价格低于进货成本的行为提起诉讼。法院认为，价格竞争是一种典型的“市场竞争行为”，以降价促销的形式吸引消费者属于商业上常见的竞争手段。在特定时期的市场博弈中，经营者采取短暂性的低于成本促销行为以获取更多的交易机会、市场份额和竞争优势，该价格竞争行为被商业伦理标准所容纳。只有当经营者的价格行为违背了自愿、平等、公平、诚信的竞争原则或公认的商业道德，从而扰乱市场经济秩序、损害其他经营者或消费者合法权益时，才具有不正当性或者可归责性。“双十一”期间电商竞争激烈，促销规模大该短时期降价符合“双十一”期间电商平台促销的商业惯例以及消费者的合理预期，不存在也无法达到排挤竞争对手、独占市场等扰乱市场竞争秩序的情形。

来源：北京知识产权法院

Beijing IP Court: Below-cost Promotion During a Specific Period is a Common Business Tactic and Does Not Constitute an Act of Unfair Competition

Beijing Ip Court issued the second instance judgment of unfair competition between Yaolai Limited, versus defendants Jingdong Limited and Panggu Limited. The court recognized that the defendants' act doesn't constitute the unfair competition.

During “November 11” commercial events, the defendants sold the products with a cheap price, which is lower than purchase price. The court held that price competition is a typical competitive market behavior to attract consumers. Only when the sellers' price behavior violates the basic principle of market, disrupting the market economic order, may this constitute unfair competition.

Source: Beijing IP Court

印度法院就域外管辖权争议作出判决

在近期作出的一份判决书中，德里高等法院（以下简称为“法院”）认为：印度法院可以对位于

印度境外的被告网站行使管辖权，但前提是，需要相应证据证明该网站是有意针对印度客户的。

原告Tata Sons Private Limited是印度著名的塔塔集团的一家控股公司，是“TATA”商标的权利人。其向法院提起诉讼，指控在英、美两国运营网站提供加密货币买卖交易服务的二被告侵犯其“TATA”商标权，并要求对法院被告发出临时禁令，以阻止被告继续在其网站上使用“TATA”商标。但是，两被告既未在印度设立分部，也未在印度境内进行任何公开的生产或营销活动。

法院认为，为了使印度法院对互联网活动行使管辖权，不仅具有侵权内容的被告网站必须在法院管辖地域内可以访问，而且被告所开展的活动应当以实质性的方式有目的地指向法院管辖地域。如果没有这一点，印度法院就没有针对非居民（即外国被告）采取行动的“长臂管辖权”（long-arm jurisdiction）。基于此，法院驳回了原告关于临时禁令的请求。

来源：德里高等法院

Indian Court Rules on Extraterritorial Jurisdiction Dispute

In a recent judgment, the Delhi High Court held that Indian courts may exercise jurisdiction over a defendant's website located outside India, provided that there is evidence that the website was intended to target Indian customers.

The plaintiff, Tata Sons Private Limited, a holding company of the well-known Tata Group in India, is the owner of the "TATA" trademark. It filed a lawsuit against the two defendants, who operates websites in the United Kingdom and the United States to provide cryptocurrency trading services. The plaintiff claims to stop defendants' use of its trademark. However, the two defendants didn't establish any subsidiaries in India, either operating any commercial activities.

The court held that in order to exercise jurisdiction over Internet activity, not only must the defendant's website with infringing content be accessible within the court's jurisdictional territory, but the activities undertaken by the defendant shall be directed in a substantial and purposeful manner to the court's jurisdictional territory. Without that, Indian courts would not have "long-arm jurisdiction" to act against non-residents. On this basis, the court denied the plaintiff's request for a temporary injunction.

Source: the Delhi High Court

立方律师事务所编写《立方观评》的目的仅为帮助客户及时了解中国法律及实务的最新动态和发展，上述有关信息不应被看作是特定事务的法律意见或法律依据，上述内容仅供参考。

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