



No.349

2023.6

立方要闻周报

Weekly News By Lifang & Partners

NO.88

立方竞争法周报 Weekly Competition Law News

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The Cyberspace Administration of China Releases the Guidance to the Filing of Standard Contracts for the Cross-border Transfer of Personal Information (First Edition)

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人民数据正式发布中国首部《中国数据产权制度蓝皮书》

People Data Officially Releases China's First "Blue Book on China's Data Property Rights System

《四川省企业首席数据官制度建设指南（试行）》公开征求意见

Public Comments Solicited to the Guide to the Establishment of the Chief Data Officer System for Enterprises in Sichuan Province (for Trial Implementation)

英国信息专员办公室发布对《数据保护和数字信息法案》的回应

ICO Publishes Response to Data Protection and Digital Information Bill



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知识产权 Intellectual Property

中法专利审查高速路（PPH）试点将于2023年6月1日启动

China-French Patent Prosecution Highway (PPH) Pilot Will be Launched

《金庸群侠传》游戏被诉侵犯改编权，法院判赔1000万元

Video Game the Heroes of Jin Yong Sued for Infringement, the Court Awarded Damages of RMB 1 Million

北京高院认定“大疆”构成驰名商标，予以跨类保护

Beijing High Court Recognized DJI as Famous Trademark, Giving Cross-class Protection

法院认定“沱茶”系通用名称，商标注册不得损害他人在先知名商品特有包装、装潢

The Court Recognized Tuocha as Common Name: Trademark Registration Shall not Damage Others Prior to Unique Packaging and Decoration of Well-known Product

二审改判不侵权：酒企在同类商品上使用“贵宾”标志进行宣传构成正当使用

The Second Trial Ruled not to Infringe: the Use of the "VIP" Logo on Similar Product by Wine Companies for Publicity Constitutes Fair Use

慕尼黑法院就一起生物技术纠纷颁布反禁诉令

10x Genomics Wins Permanent Injunction Against NanoString's CosMx Products

赔偿3250万美元，谷歌专利权案败诉Sonos

US Jury Says Google Owes Sonos \$32.5 Million in Smart-speaker Patent Case

立方竞争法周报 Weekly Competition Law News

西宁中院一审宣判青海首例垄断纠纷案

2023年5月31日，据媒体报道，青海省西宁市中级人民法院（“西宁中院”）公开一审宣判青海省首例垄断纠纷案件。原告华泽公司燃气器具商贸有限公司民和分公司（“华泽公司”）与村民签订壁挂炉购销合同并依约进行安装，后被告青海省川中公司石油天然气有限责任公司（“川中公司”）受理村民天然气接气申请时，以拒绝接气申请要挟村民安装其燃气壁挂炉，导致华泽公司壁挂炉无法使用。西宁中院认为，川中公司的行为属于滥用市场支配地位实施搭售和附加不合理交易条件，判令川中公司赔偿华泽公司损失。2020年5月14日，青海省市场监督管理局（“青海省市监局”）曾因川中公司滥用市场支配地位无正当理由搭售商品对其处以2017年度销售额9%的罚款约446万元。川中公司还因阻碍调查被罚70万元。（[查看更多](#)）

Xining Intermediate Court Renders First-instance Verdict in Qinghai's First Monopoly Case

On May 31, 2023, according to media, the Intermediate People's Court of Xining City in Qinghai Province (“Xining Intermediate Court”) publicly announced the first instance verdict of a monopoly case in Qinghai Province. The plaintiff, Huaze Company Gas Appliance Trading Co., Ltd. Minhe Branch (“Huaze”), signed wall-mounted boiler purchase and sales contracts with villagers and carried out installations as agreed. However, the defendant, Qinghai Chuanzhong Petroleum and Natural Gas Co., Ltd. (“Chuanzhong”), refused the villagers' gas connection application as a means to coerce them into installing its gas wall-hung boilers, which resulted in Huaze Company's inability to use its wall-mounted boilers. The Xining Intermediate Court determined that Chuanzhong's behavior constituted abuse of market dominance by engaging in tie-in sales and imposing unreasonable transaction conditions. It ordered Chuanzhong to compensate Huaze for its losses. On May 14, 2020, the Qinghai Provincial Administration for Market Regulation (“Qinghai AMR”) had previously fined Chuanzhong approximately CNY 4.46 million, equivalent to 9% of its sales revenue in 2017, for unjustifiably abusing market dominance by tying the sale of goods. Chuanzhong was also fined CNY 700,000 for obstructing investigation. ([More](#))

北京紫竹医药因垄断协议遭罚超千万

2023年5月29日，国家市场监督管理总局（“市场监管总局”）发布北京紫竹医药经营有限公司（“紫竹医药”）达成并实施垄断协议案行政处罚决定书。经北京市市场监督管理局（“北京市市监局”）立案调查，2015年至2021年期间，当事人与交易相对人就两类口服紧急避孕药，在全国范围内达成并实施了固定向第三人转售商品的价格和限定向第三人转售商品的最低价格的垄断协议。北京市市监局责令当事人停止违法行为，并处以2020年度销售额2%的罚款约1200万元。（[查看更多](#)）

Beijing Zizhu-pharm Fined Over Ten Million for Monopoly Agreement

On May 29, 2023, the State Administration for Market Regulation (“SAMR”) issued an administrative

penalty decision regarding the monopoly agreement case reached and implemented by Beijing Zizhu-pharm. management Co., Ltd. (“Zizhu-pharm.”). Following an investigation by the Beijing Municipal Administration for Market Regulation (Beijing AMR), it was found that between 2015 and 2021, the party involved and its counterparties reached and implemented monopoly agreements on two types of oral emergency contraceptives, setting fixed resale prices to third parties nationwide and limiting the minimum resale prices to third parties. The Beijing AMR ordered the party involved to cease the illegal activities and imposed a fine of approximately CNY 12 million, equivalent to 2% of their sales revenue in 2020. ([More](#))

原料药企因垄断协议和滥用行为被罚共计约3.2亿元

2023年5月28日，市场监管总局对远大医药（中国）有限公司（“远大医药”）和武汉汇海医药有限公司（“武汉汇海”）达成并实施垄断协议、滥用市场支配地位行为作出行政处罚。经查，2016年6月至2019年7月，远大医药和武汉汇海达成并实施了关于销售去甲肾上腺素原料药和肾上腺素原料药的垄断协议；2010年5月至2021年4月，当事人滥用在中国去甲肾上腺素原料药和肾上腺素原料药市场的支配地位，无正当理由，要求制剂企业接受向其低价销售去甲肾上腺素注射液和盐酸肾上腺素注射液、向其返利、按照其要求的区域和价格销售制剂等不合理交易条件。市场监管总局认为上述行为构成限制商品的生产数量或者销售数量，以及没有正当理由搭售商品，或者在交易时附加其他不合理的交易条件，违反反垄断法，责令其停止违法行为，没收两家企业违法所得并罚款共计约3.2亿元。（[查看更多](#)）

Pharmaceutical Companies Involved in Monopoly Agreements and Abusive Practices Fined Approximately CNY 320 Million

On May 28, 2023, the SAMR imposed administrative penalties on Grand Pharma (China) Co. Ltd. (“Grand”) and Wuhan Huihai Pharmaceutical Co., Ltd. (“Wuhan Huihai”) for engaging in monopolistic agreements and abusing their dominant market positions. According to the investigation, from June 2016 to July 2019, Grand and Wuhan Huihai reached and implemented monopolistic agreements regarding the sale of APIs for adrenaline and norepinephrine. From May 2010 to April 2021, the parties abused their dominant positions in the Chinese market for APIs of adrenaline and norepinephrine by unreasonably demanding formulation companies to sell adrenaline injection and norepinephrine hydrochloride injection to them at low prices and provide rebates, and imposing unreasonable transaction conditions such as regional and pricing requirements. The SAMR deemed these actions as restricting the production or sale quantities of goods, engaging in unjustified tying sales, or imposing other unreasonable transaction conditions, which violated the *Anti-Monopoly Law*. The companies were ordered to cease their illegal activities, and their illegal gains were confiscated, with a total fine of approximately CNY 320 million. ([More](#))

最高院二审撤销扬子江药业原料药垄断案一审判决

2023年5月25日，最高人民法院（“最高院”）对扬子江药业集团广州海瑞药业有限公司等（“扬子江药业”）与合肥医工医药股份有限公司（“合肥医工”）等垄断纠纷案作出二审判决，认定原审被告不构成滥用市场支配地位。药品片剂“贝雪”的生产商扬子江药业主张原审

被告合肥医工等完全控制片剂“贝雪”上游原料药的供应，在中国枸地氯雷他定原料药市场具有支配地位，实施了滥用市场支配地位限定交易、搭售、不公平高价和附加其他不合理交易条件行为。一审法院认定被告滥用行为成立。最高院指出，尽管原料药和制剂之间存在严格对应和深度绑定关系，构成单独相关市场，但也应结合个案情况对相关市场中的竞争约束进行具体和充分分析。若排除、限制竞争效果是依法正当行使特定知识产权的必然结果，且并未超出法律赋予的合法效力范围，则不属于反垄断法意义上的排除、限制竞争效果。最高院最终驳回上诉，撤销一审判决。（[查看更多](#)）

SPC Overturned First-instance Judgment of the Yangtze River Pharmaceutical API Monopoly Case in Second-instance Trial

On May 25, 2023, the Supreme People's Court (SPC) issued the second-instance judgment on the monopoly case between Yangtze River Pharmaceutical Group Guangzhou Hairui Pharmaceutical Co., Ltd. ("Yangtze River Pharmaceutical") and Hefei Medical and Pharmaceutical Co., Ltd. ("Hefei Medical and Pharmaceutical"), ruling that the defendants in the original trial did not constitute an abuse of market dominance. Yangtze River Pharmaceutical, the manufacturer of the drug tablet "Beixue," claimed that the defendants in the original trial, including Hefei Medical and Pharmaceutical, had complete control over the upstream raw active pharmaceutical ingredient (API) supply of the tablet "Beixue" and held a dominant position in the market for API of Levocetirizine Dihydrochloride in China. They allegedly engaged in the abusive practices of tying, bundling, unfair high pricing, and imposing other unreasonable transaction conditions. The first-instance court found that the defendants' abusive conducts were established. The SPC pointed out that although there is a strict correspondence and deep integration between API and formulations, thus constituting separate relevant markets, the specific and comprehensive analysis of the competitive constraints in the relevant market should be conducted in light of the specific circumstances of the case. If the exclusion or restriction of competition is a lawful and legitimate exercise of specific intellectual property rights and does not exceed the scope of legal effectiveness conferred by the law, it does not fall within the meaning of the *Anti-monopoly Law's* exclusion or restriction of competition effects. The SPC ultimately dismissed the appeal and overturned the judgment of the first instance. ([More](#))

FTC、DOJ发布联合制药合并分析研讨会问题简报

2023年6月1日，美国联邦贸易委员会（FTC）和司法部（DOJ）反垄断局发布联合制药合并分析研讨会问题简报。研讨会于2022年6月14日至6月15日举行，FTC和DOJ工作人员、各州总检察长办公室、国际执法伙伴及专家学者出席，探讨了制药行业反垄断法执行的新方法。简报记录了各发言人讲话内容，概述了关于制药行业市场集中度、并购补救措施、制药并购的创新方面以及制药公司行为与并购分析之间的交叉点的小组讨论。（[查看更多](#)）

FTC, DOJ Issue Summary on Joint Pharmaceutical Merger Analysis Workshop

On June 1, 2023, the Federal Trade Commission (FTC) and the Department of Justice (DOJ) Antitrust Division released a summary on a joint pharmaceutical merger analysis workshop. The workshop took place from June 14 to June 15, 2022, and was attended by FTC and DOJ staff, offices of state attorneys

general, international enforcement partners, and other experts. The participants discussed new approaches to enforcing antitrust laws in the pharmaceutical industry. The summary documented the speeches given by various speakers and provided an overview of group discussions on topics such as market concentration in the pharmaceutical industry, remedies for mergers and acquisitions, innovation aspects of pharmaceutical mergers, and the intersection between pharmaceutical company behavior and merger analysis. ([More](#))

欧盟将就亚马逊的iRobot交易做出决定

2023年6月1日，据媒体报道，欧盟委员会（European Commission）将于2023年7月6日前做出关于是否批准亚马逊（Amazon.com, Inc.）对机器人吸尘器制造商iRobot（iRobot Corporation）价值约17亿美元的拟议收购。2023年8月，亚马逊宣布收购iRobot以扩大其智能设备范围，该交易正同时受到FTC和英国竞争机构的审查。（[查看更多](#)）

EU to Decide On Amazon's iRobot Deal

On June 1, 2023, according to media, the European Commission is expected to make a decision before July 6, 2023, regarding the approval of Amazon (Amazon.com, Inc.)'s proposed acquisition of iRobot (iRobot Corporation), a robotic vacuum cleaner manufacturer, valued at approximately \$1.7 billion. In August 2023, Amazon announced its acquisition of iRobot to expand its range of smart devices. This transaction is currently under review by FTC and the UK competition authority. ([More](#))

欧盟发布最新《横向指南》及两份横向集体豁免条例

2023年6月1日，欧盟委员会（European Commission）发布公告，正式采纳经修订的《研发协议横向集体豁免条例》和《专业化协议横向集体豁免条例》（“HBERs”）及经修订的《横向指南》（Horizontal Guidelines）。主要变化包括：1 在《横向指南》中新增关于可持续性协议的章节，明确反垄断规则不会妨碍竞争对手间签订的追求可持续性目标的协议；2 在集体豁免条例中引入更灵活、清晰的方式计算市场份额以适用集体豁免，突出对创新竞争的保护；3 新增对协同行为、潜在竞争、目的和效果限制以及辅助限制等关键概念的最新判例法；4 对与移动通信、采购、投标、信息数据和标准化协议相关的内容进行了修订。新的集体豁免条例将于2023年7月1日生效，而《横向指南》将在《欧盟官方公报》上发布后生效。（[查看更多](#)）

European Commission Adopts New Horizontal Guidelines and Two Horizontal Block Exemption Regulations

On June 1, 2023, the European Commission has today adopted revised Horizontal Block Exemption Regulations on Research and Development and Specialisation agreements (“HBERs”), accompanied by revised Horizontal Guidelines. The key changes include: (1) Adding a new chapter on sustainability agreements in the *Horizontal Guidelines*, clarifying that antitrust rules will not impede agreements among competitors that aim to achieve sustainability goals; (2) Introducing more flexible and clearer methods for calculating market share in the HBERs, emphasizing the protection of competition in innovative markets; (3) Incorporating the latest case law on crucial concepts such as concerted practices, potential competition, object and effect restrictions, and ancillary restraints; (4) Revisions related to

agreements concerning mobile communications, procurement, bidding, information data, and standardization protocols. The new HBERs will come into effect on July 1, 2023, while the Horizontal Guidelines will become effective upon their publication in the Official Journal of the European Union. ([More](#))

FTC: 万事达卡不得阻止竞争借记支付网络的使用

2023年5月30日，FTC敲定了一项同意令（consent order），以解决对万事达卡（Mastercard）使用非法商业策略迫使商家通过其支付网络进行借记卡支付的指控。根据FTC的命令，万事达卡需向竞争借记支付网络提供处理借记支付所需的客户账户信息。FTC认为万事达卡阻止商家使用竞争网络处理某些电子商务借记支付的策略违反了2010年《多德·弗兰克法案》（Dodd-Frank Act）中的相关规定，即银行在每张借记卡上应至少启用两个非关联的网络，禁止支付卡网络阻碍商家使用其他网络。 ([查看更多](#))

FTC Requires Mastercard to Stop Blocking the Use of Competing Debit Payment Networks

On May 30, 2023, the FTC finalized a consent order to address allegations against Mastercard for using illegal business tactics to force merchants to accept debit card payments through its payment network. According to the FTC's order, Mastercard is required to provide customer account information necessary for processing debit payments to competing debit payment networks. The FTC believes that Mastercard's strategies of blocking merchants from using competing networks for certain e-commerce debit payments violate relevant provisions of the 2010 Dodd-Frank Act, which mandates that banks enable at least two unaffiliated networks on each debit card and prohibits payment card networks from impeding merchants' use of other networks. ([More](#))

吉利德科学和梯瓦制药被诉延迟仿制药进入市场，与原告达成和解

2023年5月26日，据媒体报道，以吉利德科学（Gilead Sciences, Inc.）和梯瓦制药（Teva Pharmaceutical Industries Ltd.）为被告的涉HIV药物反垄断庭审原本应于2023年5月25日开始，但两家企业在最后一刻与作为原告的各大药店达成了和解。吉利德科学还与直接购买者达成了和解，其余的索赔将提交给加利福尼亚联邦陪审团。在本案中，原告曾声称吉利德科学和梯瓦制药达成了一项阻止仿制药生产商进入特定HIV药物市场的协议，导致药物成本上升，违反了联邦反垄断法。 ([查看更多](#))

Gilead and Teva Sued for Delaying the Entry of Generic Drugs into the Market, Settlement Reached with Plaintiffs

On May 26, 2023, according to media, the antitrust trial involving Gilead (Gilead Sciences, Inc.) and Teva (Teva Pharmaceutical Industries Ltd.), related to HIV drugs, was supposed to begin on May 25, 2023. However, at the last moment, both companies reached a settlement with the major pharmacies that served as plaintiffs. Gilead also reached a settlement with direct purchasers, while the remaining claims will be submitted to a California federal jury. In this case, the plaintiffs alleged that Gilead and Teva had entered into an agreement to block generic drug manufacturers from entering the specific HIV drug market, resulting in increased drug costs, which violated federal antitrust laws. ([More](#))

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

信安标委发布《网络安全标准实践指南—网络数据安全风险评估实施指引》

2023年5月29日，为贯彻落实《数据安全法》关于数据安全风险评估的要求，全国信息安全标准化技术委员会（以下简称“信安标委”）秘书处编制并发布了《网络安全标准实践指南——网络数据安全风险评估实施指引》（以下简称《指南》），用于指导开展网络数据安全风险评估工作。

《指南》旨在围绕网络安全法律法规政策、标准、网络安全热点和事件等主题，宣传网络安全相关标准及知识，提供标准化实践指引。《指南》给出了网络数据安全风险评估思路、工作流程和评估内容，可用于指导数据处理者、第三方机构开展数据安全评估，也可有关主管监管部门组织开展检查评估提供参考。（[查看更多](#)）

NISSTC Issues Cyber Security Standardization Practical Guidance-Implementation of Cyber Data Security Risk Assessment

On 29 May 2023, to implement the requirements of the *Data Security Law* on data security risk assessment, the secretariat of the National Information Security Standardization Technical Committee (the “NISSTC”) compiled and issued the *Cyber Security Standardization Practical Guidance-Implementation of Cyber Data Security Risk Assessment* (the “Guidance”) to guide cyber data security risks assessment.

By focusing on the topics about cyber security legislations, standardizations and hot topics and events, the *Guidance* is aimed at publicizing the standardizations and knowledge about cyber security and providing practical implementation guidance on standardization. The *Guidance* provides the way of thinking, workflow, and evaluation content for network data security risk assessment, which can be used to guide data processors and third-party institutions in conducting data security assessments, and also provide reference for relevant regulatory authorities to organize inspections and evaluations. ([More](#))

19项网络安全国家标准获批发布

根据国家市场监督管理总局、国家标准化管理委员会2023年5月23日发布的中华人民共和国国家标准公告（2023年第2号），全国信息安全标准化技术委员会（以下简称“信安标委”）归口的19项网络安全国家标准正式发布。

本次发布的网络安全国家标准主要为信息安全技术标准，其中包括云计算服务安全、信息管理体系、电子政务系统、区块链、网络身份服务和个人信息处理等内容，该19项标准均自2023年12月1日起实施。（[查看更多](#)）

19 National Standards for Cyber Security Released

According to the National Standards Announcement of China (No. 2 of 2023) issued by the State Administration of Market Regulation and the Standardization Administration on 23 May 2023, 19 national standards for cyber security subject to the authority of the NISSTC were officially released.

The 19 national standards for cyber security mainly cover the field of information security technology standards, which include cloud computing service security, information management system, e-government system, blockchain, network identity services and personal information processing, etc. The 19 national standards are all to be implemented beginning 1 December 2023. ([More](#))

《人工智能安全标准化白皮书（2023版）》发布

2023年5月29日，在全国信息安全标准化技术委员会2023年第一次标准周“人工智能安全与标准研讨会”上，信安标委大数据安全标准特别工作组发布《人工智能安全标准化白皮书（2023版）》（以下简称《白皮书》）。《白皮书》由中国电子技术标准化研究院等20家单位共同编写，梳理了人工智能技术与应用发展现状，分析了人工智能面临的新的安全风险，结合国内外人工智能安全政策与标准现状，指出了人工智能安全标准需求，提出了下一步开展人工智能安全标准化工作的建议，为规范引导人工智能安全标准化工作提供参考。（[查看更多](#)）

Artificial Intelligence Security Standardization White Paper (2023 Edition) Released

On 29 May 2023, at the "Artificial Intelligence Security and Standards Workshop" of the first standards week of 2023 of the NISSIC, the Task Force on Big Data Security Standards of the NISSIC released the "Artificial Intelligence Security Standardization White Paper (2023 Edition)" (the "White Paper"). Jointly prepared by 20 organizations, including the Chinese Electronics Standardization Institute, the White Paper lays out the current situation of AI technology and application development, analyzes the new security risks facing AI. Drawing upon the current situation of AI security policies and standards both at home and abroad, the White Paper points out the demands for AI security standards, and puts forward suggestions for the next step of AI security standardization work, so as to provide reference for standardizing and guiding AI security standardization work. ([More](#))

国家互联网信息办公室发布《个人信息出境标准合同备案指南（第一版）》

2023年5月30日，国家互联网信息办公室发布《个人信息出境标准合同备案指南（第一版）》（以下简称《指南》），以指导和帮助个人信息处理者规范、有序备案个人信息出境标准合同。

《指南》对个人信息出境标准合同备案方式、备案流程、备案材料等具体要求作出了说明，并提供了备案材料要求简表以及经办人授权委托书、承诺书、标准合同、个人信息保护影响评估报告等文件模板。（[查看更多](#)）

The Cyberspace Administration of China Releases the Guidance to the Filing of Standard Contracts for the Cross-border Transfer of Personal Information (First Edition)

On 30 May 2023, the Cyberspace Administration of China released the *Guidance to the Filing of Standard Contracts for the Cross-border Transfer of Personal Information (First Edition)* (the “Guidance”), which aims to guide and help personal information processors to standardize and to orderly file standard contracts for cross-border transfer of personal information.

The Guidance provide explanations on the filing method, filing process, filing materials and other specific requirements with respect to cross-border transfer of personal information, and provides a short list of filing material requirements as well as templates for the authorization letter for handling the filing process, commitment letter, standard contract, personal information protection impact assessment report and other documents.[\(More\)](#)

首个区块链技术领域国家标准正式发布

根据工业和信息化部2023年5月31日消息，近日《区块链和分布式记账技术 参考架构》国家标准（GB/T 42752-2023）正式发布。这是我国首个获批准发布的区块链技术领域国家标准。

区块链是分布式网络、加密技术、智能合约等多种技术集成的新型数据库软件，是新一代信息技术的重要组成部分，是发展数字经济的重要技术支撑。《区块链和分布式记账技术参考架构》国家标准是指导我国区块链技术应用和产业发展的基础性、通用性标准，规范了区块链系统的功能架构、核心要素等，为产业界统一对区块链概念的认识、建设完善区块链系统、选择使用区块链服务提供参考指引，目前已在上百家典型区块链企业中得到应用。（[查看更多](#)）

The First National Standard in the Field of Blockchain Technology was Officially Released

According to the news from the Ministry of Industry and Information Technology on 31 May 2023, the National Standard Blockchain and Distributed Bookkeeping Technology Reference Architecture (GB/T 42752-2023) (the “Standard”), was officially released recently. This is the first national standard in the field of blockchain technology approved for official release in China.

Blockchain is a new database software integrated with distributed network, cryptography, smart contract, and other technologies, which is an important part of the new generation of information technology and an important technical support for the development of digital economy. The Standard is a fundamental and universal standard to guide the application and industrial development of blockchain technology in China, which regulates the functional architecture and core elements of blockchain system, providing reference guidelines for the industry as enterprises unify their understanding of blockchain concept, establish and improve blockchain systems, and choose to implement specific blockchain services . The Standard has been applied in over a hundred typical blockchain enterprises. [\(More\)](#)

人民数据正式发布中国首部《中国数据产权制度蓝皮书》

2023年5月27日，中国首部《中国数据产权制度蓝皮书》（以下简称《蓝皮书》）在2023年中国国际大数据产业博览会上正式发布。《蓝皮书》从理论、研究、产业等多角度、广视野对我国数据产权制度的研究内容、发展现状、存在问题、确权方式、技术发展、产业实践、国际视野等方面进行梳理和探究，为各界在数据产权制度建设方面提供一定的参考。人民数据董事长、总经理郑光魁在发布蓝皮书时指出，《蓝皮书》将助力我国数据要素的高质量发展，促进我国数据产权制度体系建设。

《蓝皮书》包括五个章节：我国数据产权制度研究的背景；我国数据产权制度内涵；主要发达国家数据要素产权发展介绍；探索建立数据产权制度、推进技术发展；建立健全数据要素各参与方合法权益保护制度的思考。（[查看更多](#)）

People Data Officially Releases China's First "Blue Book on China's Data Property Rights System"

On 27 May 2023, China's first "Blue Book on China's Data Property Rights System" (the "Blue Book") was officially released at the 2023 China International Big Data Industry Expo. The Blue Book summarizes and explores the research content, development status, existing problems, ways of confirming rights, technical development, industrial practice and international perspective of China's data property rights system from multiple dimensions and perspectives including theory, research and industry, and provides reference for all parties involved in the construction of data property rights system. Zheng Guangkui, chairman and general manager of People Data, pointed out that the Blue Book will help the high-quality development of China's data elements and promote the construction of China's data property rights system.

The Blue Book includes five chapters: background of the study of China's data property rights system; connotation of China's data property rights system; introduction to the development of property rights of data elements in major developed countries; exploration of establishing a data property rights system and promoting technological development; and thoughts on establishing a sound system for protecting the legitimate rights and interests of various participants of data elements. ([More](#))

《四川省企业首席数据官制度建设指南（试行）》公开征求意见

2023年5月30日，四川省经济和信息化厅发布《四川省企业首席数据官制度建设指南（试行）（征求意见稿）》（以下简称《意见稿》），于2023年6月30日前面向社会征求意见。

《意见稿》以政府引导、企业主体、权责一致、效益优先为建设原则，明确企业首席数据官制度建设的各方职责、岗位设置与岗位职责，并规定了企业首席数据官的奖惩与考核。（[查看更多](#)）

Public Comments Solicited to the Guide to the Establishment of the Chief Data Officer System for Enterprises in Sichuan Province (for Trial Implementation)

On 30 May 2023, the Sichuan Provincial Department of Economy and Information Technology issued the *Guide to the Establishment of the Chief Data Officer System for Enterprises in Sichuan Province (for Trial Implementation) (Draft for Comments)* (the "Draft for Comments") to solicit public comments by 30 June 2023.

The Draft for Comments set guidance by the government, enterprises as the key players, consistency in power and responsibility, and efficiency as priority as the guiding principles for establishment the chief data officer system. The Draft for Comments also clarified the responsibilities of relevant parties in the establishment of the chief data officer system, setting up of the post of chief data officers and their responsibilities, and stipulated the rewards and punishments and assessment of the enterprise chief data officer. ([More](#))

英国信息专员办公室发布对《数据保护和数字信息法案》的回应

英国信息专员办公室 ("ICO") 于2023年5月31日宣布，在信息专员于2023年5月初向下议院提交审查《数据保护和数字信息（第2号）法案》（以下简称《法案》）的证据后，其已经发表了对该《法案》的书面回应。该回应对《法案》所引入的条款持欢迎态度，并注意到ICO与英国政府为最终确定该法案而进行的建设性对话。在这方面，该回应提供了一份摘要，说明它认为《法案》可以通过起草进一步予以澄清的地方，或者现有的起草方式未能反映政策意图的地方。
([查看更多](#))

ICO Publishes Response to Data Protection and Digital Information Bill

The Information Commissioner's Office (the "ICO") announced on 31 May 2023, that it had published its written response to the Data Protection and Digital Information (No.2) Bill, following the submission of evidence by the Information Commissioner at the House of Commons, scrutinizing the Bill, earlier in May 2023. In particular, the response welcomes the provisions introduced by the Bill and notes the ICO's constructive dialogue with the Government towards finalizing the Bill. In this regard, the response provides a summary of where it thinks the Bill could provide further clarity through drafting, or where the existing drafting does not reflect policy intent. ([More](#))

知识产权 Intellectual Property

中法专利审查高速路（PPH）试点将于2023年6月1日启动

根据《中华人民共和国国家知识产权局与法兰西共和国国家工业产权局关于专利审查高速路试点项目的谅解备忘录》，中法专利审查高速路（PPH）试点项目将于2023年6月1日正式启动，为期五年，至2028年5月31日止。

申请人可以按照《在中法专利审查高速路（PPH）试点项目下向中国国家知识产权局（CNIPA）提出PPH请求的流程》向CNIPA提出PPH请求及提交必要文件；按照《在中法专利审查高速路（PPH）试点项目下向法兰西共和国国家工业产权局（INPI）提出PPH请求的流程》向INPI提出PPH请求及提交必要文件。

来源：国家知识产权局

China-French Patent Prosecution Highway (PPH) Pilot Will be Launched

According to the *Memorandum of Understanding between the China National Intellectual Property Administration and the National Institute of Industrial Property of the French Republic (INPI) on the Patent Prosecution Highway Pilot (the PPH) Project*, the China-French PPH Pilot Project will be officially launched on 1 June 2023 for a period of five years until 31 May 2028.

The applicant may submit a PPH request to the CNIPA in accordance with the "*Procedure for Filing a PPH Request with the (CNIPA) under the China-French (PPH) Pilot Project*" and submit the necessary documents to the CNIPA; and submit a PPH request to the INPI in accordance with the "*Procedure for Filing a PPH Request with the INPI under the China-French (PPH) Pilot Project*."

Source: CNIPA

《金庸群侠传》游戏被诉侵犯改编权，法院判赔1000万元

近日，北京市知识产权法院就北京畅游天下网络技术有限公司诉深圳扑雷猫网络科技有限公司（以下简称“扑雷猫公司”）等著作权权属、侵权纠纷案发布二审判决，重新就各被告的责任进行了分配。此前一审判决四被告停止侵权并连带赔偿原告经济损失1000,000元及合理开支170,000元

二审法院认为，扑雷猫公司未经许可通过改编涉案作品开发涉案游戏，月球漫步公司在明知涉案游戏未获许可的情况下，实施独家代理运营涉案游戏并参与对外授权、收取费用等行为，均构成对畅游公司享有的改编权的侵害。多个侵权人之间对侵权损害的发生无共同侵害的故意，且无共同过失，各自行为造成不同损害的发生，侵权人之间不应承担连带责任，应根据各方过错行为分别承担相应责任。本案中，当乐公司与爱九游公司属于不同游戏推广方，亦经营完全独立的游戏网站，在案证据不能证明该二者之间互相就对方公司经营的游戏网站的侵权行为存在共同侵权的意思联络，所造成的损害后果亦并不相同，故当乐公司与爱九游公司之间不应当承担共同侵权的连带责任，故判决对四被告的民事责任进行了重新分配。

来源：北京知识产权法院

Video Game the Heroes of Jin Yong Sued for Infringement, the Court Awarded Damages of RMB 1 Million

Recently, Beijing IP court issued the judgement of infringement on copyright dispute between

Changyou Limited, versus the defendant Puleimao Limited and others. The court reallocated the responsibilities of each defendant. Previously, the first trial ruled that the four defendants shall stop infringing and jointly compensate the damages of RMB 1 million.

The court held that multiple defendants do not have the intention of joint infringement. Each behavior caused by different damages, which means they shall take separate responsibilities. In this case, there is no evidence shows that the defendants constitute joint infringement. The court reallocated the responsibilities to each other.

Source: Beijing IP court

北京高院认定“大疆”构成驰名商标，予以跨类保护

近日，北京市高级人民法院就睢宁恒一商贸有限公司（以下简称“恒一公司”）与国家知识产权局、深圳市大疆创新科技有限公司（以下简称“大疆公司”）商标权无效宣告请求行政纠纷案作出终审判决。法院认定“大疆”构成驰名商标，应当予以跨类保护。

法院认为，诉争商标与引证商标一在文字组合、呼叫、含义、外观等方面基本相同，构成对引证商标一的复制、摹仿。“大疆”商标在大疆公司的“航空器”商品上已达到驰名程度。恒一公司的“办公家具”商品与引证商标据以驰名的“航空器”商品不属于类似商品，但二者在销售渠道、消费群体等方面存在一定的交叉和重合，属于关联程度较高的商品，且考虑到引证商标一的显著性、知名度、诉争商标的摹仿程度等因素，诉争商标在“家具；办公家具”等商品上的注册和使用，容易使相关公众产生联想，从而对商品的来源产生误认。即便部分相关公众不会对商品来源产生误认，但相关公众的前述联想，亦会割裂引证商标一与大疆公司提供的“航空器”商品之间的固有联系，从而导致减弱大疆公司驰名商标显著性的损害后果，损害大疆公司的合法权益。

来源：北京市高级人民法院

Beijing High Court Recognized DJI as Famous Trademark, Giving Cross-class Protection

Recently, Beijing High Court issued final judgment of administrative dispute over request for declaration of invalidity of trademark rights between Hengyi Limited and CNIPA, DJI Limited. The court recognized that DJI as the famous trademark, which shall be protected cross classes.

The court held that The "DJI" trademark is well-known for DJI's "aircraft" products. Hengyi's "office furniture" products and the cited trademark based on the famous "aircraft" products do not belong to similar class, but the two in the sales channels, consumer groups and other aspects of a certain cross and overlap, belong to a high degree of relevance of products. The aforementioned association of the relevant public will also sever the inherent connection between the cited trademark and the "aircraft" products provided by DJI, thus leading to the damage of diminishing the distinctiveness of DJI's well-known trademark and damaging the legitimate rights and interests of DJI.

Source: Beijing High Court

法院认定“沱茶”系通用名称，商标注册不得损害他人在先知名商品特有包装、装潢

日前，北京市高级人民法院就邹某某与国家知识产权局、云南下关沱茶（集团）股份有限公司（以下简称“下关公司”）商标权无效宣告请求行政纠纷案作出终审判决。法院认定诉争商标的注册违反“申请商标注册不得损害他人现有的在先权利”的规定，驳回邹某某请求撤销无效宣告裁定的请求。

法院认为，沱茶系普洱茶的一种，是茶商品的通用名称，“tuocha”系中文“沱茶”的拼音及英文翻译。根据社会公众的普遍认知水平及认知能力，一般会将诉争商标标志中“the Tuocha”“Tuocha”与“沱茶”相对应。该诉争商标标志所传递的含义与核定使用商品相结合，可视为对产品成分的描述，使其与沱茶相关联，容易使社会公众对诉争商标核定使用商品的成分等特点产生错误认识。

其次，根据在先行政判决，下关公司的云南沱茶构成知名商品，在云南沱茶上的特有包装、装潢为“知名商品特有的包装、装潢”。“Tuocha”位于“知名商品特有的包装、装潢”突出显示位置，属于“知名商品特有的包装、装潢”的重要识别特征。诉争商标包含的“Tuocha”与下关公司独有的“Tuocha”完全相同，诉争商标使用于核定使用商品，容易引人误认为是下关公司的商品或者与其存在特定联系，诉争商标的注册使用，侵害了下关公司就涉案知名商品特有的包装、装潢享有的在先合法权益。

来源：北京市高级人民法院

The Court Recognized Tuocha as Common Name: Trademark Registration Shall not Damage Others Prior to Unique Packaging and Decoration of Well-known Product

Recently, Beijing High Court issued the final judgement of administrative dispute over request for declaration of invalidity of trademark rights between Zou and CNIPA, Tuocha Xiaguan Limited. The court recognized the registration of sued trademark violated the provision that “the application for trademark registration shall not damage the existing prior rights of others”, rejecting Zou’s request for revocation of the invalidation decision.

The court held that first, Tuocha, translated from the name of one of the Pu-erh teas, is the common name of tea product, which is likely to make the relevant public misunderstand the composition and other characteristics of the products approved for use of the trademark at issue. Second, based on the prior administrative judgment, the Tuocha produced by Xiaguan Limited is recognized as famous product, whose Special packaging, decoration can be protected by law. The registered use of the disputed trademark infringes the prior legitimate rights and interests of Xiaguan Limited in relation to the packaging and decoration of the well-known product.

Source: Beijing High Court

二审改判不侵权：酒企在同类商品上使用“贵宾”标志进行宣传构成正当使用

近日，北京知识产权法院就王某某与北京顺鑫农业股份有限公司牛栏山酒厂、酒仙网络科技有限公司侵害商标权纠纷案作出二审裁判，撤销一审判决，驳回原告诉讼请求。

原告王某某通过受让取得“贵宾”商标，被告牛栏山酒厂的包装盒上印有金色字体的“贵宾”标识，原告据此起诉被告侵犯其商标权。一审认定被告侵权，判赔经济损失及合理支出费用33000元。

二审法院认为，“贵宾”系日常生活中经常使用的固定词语，在酒类商品领域使用时，存在一定具有指示商品消费对象、描述商品质量或档次的含义，因此“贵宾”一词作为酒类商品的注册商标本身显著性较低，不能阻止他人在同类产品上正当使用“贵宾”标志进行宣传。本案中牛栏山酒厂在其生产的涉案产品中使用的“贵宾”文字，从使用字样所占位置、比例、字体等来看，均未超出说明或客观描述商品适用人群、档次等特点的正当使用“贵宾”一词第一含义的界限。并且涉案产品外包装、酒瓶瓶身的显著位置上均使用了知名度较高的“牛栏山”商标，相关公众在选购商品时，不会对商品来源产生混淆误认。最终，二审法院认定牛栏山酒厂使用“贵宾”字样未构成商标侵权。

来源：北京知识产权法院

The Second Trial Ruled not to Infringe: the Use of the "VIP" Logo on Similar Product by Wine Companies for Publicity Constitutes Fair Use

Recently, Beijing IP Court issued the judgment of infringement on trademark dispute between Wang, versus the defendants Niulanshan Distillery Factory and others. The first trial judgment is reversed and the plaintiff's claim is dismissed.

The court held that the “VIP” is a fixed word often used in daily life, which has a meaning of describing the quality or grade of products in the field of alcoholic beverages. Therefore, the word “VIP” has low distinctiveness as a registered trademark for alcoholic beverages. The defendants’ use of “VIP” do not exceed the limits of the first meaning. And the outer packaging of the product, the bottle of wine in a prominent position on the use of high-profile “Niulanshan” trademark, the relevant public in the purchase of products, will not be confused with the source of goods misunderstanding.

Source: Beijing IP Court

慕尼黑法院就一起生物技术纠纷颁布反禁诉令

2023年5月17日，10x Genomics, Inc.宣布，该公司在针对NanoString Technologies, Inc.和NanoString Technologies Germany GmbH的专利诉讼中赢得了禁令。慕尼黑地区法院禁止NanoString在德国销售和供应CosMx空间分子成像仪(CosMx SMI)仪器以及用于RNA检测的

CosMx试剂。法院还对NanoString公司在美国提出的申请下达了反禁诉令，以禁止该公司通过在美国的禁诉令阻止德国判决的宣判和执行。

10x Genomics已就超过12项其他专利对NanoString提起法律诉讼，其中一些与在德国主张的专利有关。除了在德国发布的禁令外，10x Genomics还进行了寻求针对NanoString的GeoMx和CosMx产品的禁令。

来源：美通社

10x Genomics Wins Permanent Injunction Against NanoString's CosMx Products

On 17 May 2023, 10x Genomics, Inc claimed that it has won an injunction in its patent litigation against NanoString Technologies, Inc. (Nasdaq: NSTG) and NanoString Technologies Germany GmbH.

The Munich Regional Court issued a permanent injunction today that - once provisionally enforced against a security bond - requires NanoString to stop selling and supplying the CosMx Spatial Molecular Imager (CosMx SMI) instruments as well as CosMx reagents for RNA detection in Germany. The Munich Regional Court issued the injunction based on its finding that the CosMx products infringe European Patent Number 2794928B1, which relates to in situ detection of analytes. In its decision, the Munich Regional Court referenced an earlier preliminary opinion by the German Federal Patent Court finding the asserted claims of the patent valid.

Source: PR Newswire

赔偿3250万美元，谷歌专利权案败诉Sonos

旧金山联邦陪审团5月26日决定，谷歌必须支付3250万美元的赔偿金，因为它在无线音频设备中侵犯了智能扬声器制造商Sonos, Inc.(SONOS)的一项专利。

此案是这两个前合作者之间庞大的知识产权纠纷的一部分，还包括在美国、加拿大、法国、德国和荷兰的其他诉讼。

这两家公司之前曾合作，即将总部位于加州山景城的谷歌的流媒体音乐服务整合到Sonos产品中。Sonos于2020年在洛杉矶和美国国际贸易委员会首次起诉谷歌专利侵权，指责这家科技巨头在他们合作的设备（包括Google Home和Chromecast Audio）中抄袭其技术。

来源：路透社

US Jury Says Google Owes Sonos \$32.5 Million in Smart-speaker Patent Case

Alphabet Inc's (GOOGL.O) Google must pay \$32.5 million in damages for infringing one of smart-speaker maker Sonos Inc's (SONO.O) patents in its wireless audio devices, a San Francisco federal jury decided on 26 May 2023.

The case is part of a sprawling intellectual property dispute between the former collaborators that includes other lawsuits in the U.S., Canada, France, Germany and the Netherlands.



The companies previously worked together to integrate Mountain View, California-based Google's streaming music service into Sonos products. Sonos first sued Google for patent infringement in Los Angeles and at the U.S. International Trade Commission in 2020, accusing the tech giant of copying its technology during their collaboration in devices including Google Home and Chromecast Audio.

Source: Reuters

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