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Shanghai Intellectual Property Court: Using a Trademark in Good Faith to Describe the Function of Goods does not Constitute Infringement

四川高院认定NFT作品转售行为不构成侵权

Sichuan High Court: Resale of NFT Works did not Constitute Infringement

美摄诉字节跳动旗下产品代码抄袭六案一审宣判

MEISHE has Won its First Instance on Computer Software Copyright Infringement against ByteDance

好莱坞获赔2400余万元，合同方未获得欢乐谷“阿凡达特展”场地许可构成违约

Hollywood was Awarded Damages of RMB 24 Million and the Adverse Party Failed to Obtain Venue Permission of Avatar Special Exhibition Constitutes a Breach of Contract

快时尚巨头Shein遭独立设计师联名起诉，涉嫌侵犯版权和违反《反敲诈勒索及腐败组织法案》（RICO）

Fashion Retailer Shein is Facing a Lawsuit Claiming Copyright Violations

法院裁定谷歌 Chromecast 专利侵权，要求其赔付 3.38 亿美元

Google Owes USD 338.7 Million in Chromecast Patent Case

立方竞争法周报 Weekly Competition Law News

市场监管总局附条件批准迈凌收购慧荣科技，次日迈凌宣布取消收购

2023年7月26日，国家市场监督管理总局（“市场监管总局”）发布公告，附条件批准迈凌公司（“迈凌”）收购慧荣科技公司（“慧荣科技”）股权，次日迈凌宣布取消收购。本案于2022年9月15日第一次申报，经申报方补充材料、初步审查、中止、恢复计算审查期限，目前处于进一步审查阶段。市场监管总局认为此项集中对中国境内第三方NAND闪存主控芯片（“闪存芯片”）市场具有或者可能具有排除、限制竞争效果。7月27日，据媒体报道，迈凌在一份声明中表示取消收购，称慧荣科技未能完成部分交割条件，遭受了“重大不利影响”，并且违反了协议。（[查看更多](#)）

SAMR Grants Conditional Approval for MaxLinear's Acquisition of Silicon Motion, Followed by MaxLinear's Cancellation Next Day

On July 26, 2023, the State Administration for Market Regulation (SAMR) issued a public announcement conditionally approving the acquisition of Silicon Motion (Silicon Motion Technology Corp.) by MaxLinear (MaxLinear, Inc.). However, the following day, MaxLinear announced the cancellation of the acquisition. The case was initially filed on September 15, 2022, and has gone through various stages of review, including supplementary materials submission, preliminary examination, suspension, and resumption of the review period. Currently, it is under further scrutiny. The SAMR believes that this merger may have anti-competitive effects on the domestic third-party NAND flash controller chip market in China. On July 27, media reports reveals MaxLinear's announcement of the cancellation, in which it states the cancellation is due to Silicon Motion's failure to meet certain delivery conditions, suffering significant adverse impacts and breaching the agreement. ([More](#))

湖南省市监局纠正两起滥用行政权力排除、限制竞争行为案件

2023年7月24日，湖南省市场监督管理局（“湖南省市监局”）发布两起滥用行政权力排除、限制竞争案件。两起案件的当事人分别为永兴县人民政府和邵阳县人民政府。涉案行政垄断行为涉及组织行政事业单位工作人员体检过程中，以发文的形式限定永兴县各乡镇（街道）和县直机关、事业单位选择永兴县辖区内县级公立医院作为健康检查机构；以开展财政性资金统筹整合试点为由，通过发布《会议纪要》的形式，将邵阳县广告资源一体化经营、教育营养餐一体化经营、人力资源一体化经营和县城物业（保洁）一体化经营，指定授予邵阳县某集团公司。相关行为均构成滥用行政权力排除、限制竞争行为，违反反垄断法。调查期间，当事人均主动采取措施停止相关行为，消除相关竞争限制。（[查看更多](#)）

Hunan AMR Releases Two Cases of Administrative Monopoly

On July 24, 2023, the Hunan Administration for Market Regulation (“Hunan AMR”) announced two cases of abuse of administrative power to exclude and restrict competition. The parties involved in these cases were the People's Governments of Yongxing County and Shaoyang County. The administrative

monopoly practices in question involved restricting the choice of county-level public hospitals within Yongxing County for medical examinations of personnel in administrative institutions. Additionally, a company in Shaoyang County was designated and granted exclusive rights for integrated management of advertising resources, educational nutrition meals, human resources, and city property (cleaning) under the pretext of conducting a pilot project for integrating financial funds. These actions were found to constitute abuses of administrative power to exclude and restrict competition, violating the anti-monopoly law. During the investigation, both parties voluntarily took measures to stop the relevant practices and eliminate the competition restrictions. ([More](#))

山西发布《山西省经营者反垄断合规指引》

2023年7月17日，山西省市场监督管理局（“山西省市监局”）修订并发布了《山西省经营者反垄断合规指引》（“《指引》”），2021年12月31日发布的同名指引文件同时废止。《指引》共分五章二十五条，对反垄断合规制度制定、风险识别防范、风险应对处置等问题做出了详细规定。（[查看更多](#)）

Shanxi Publishes Guidelines for Antitrust Compliance of Operators

On July 17, 2023, the Shanxi Administration for Market Regulation (“Shanxi AMR”) revised and issued the *Shanxi Province Guidelines for Antitrust Compliance of Operators* (“*Guidelines*”), which replaced the previously issued guidelines with the same title published on December 31, 2021. The *Guidelines* consist of five chapters and twenty-five articles, providing detailed regulations on the establishment of antitrust compliance systems, risk identification and prevention, as well as risk response and disposal. ([More](#))

FTC和Surescripts就非法垄断案达成拟议和解

2023年7月27日，联邦贸易委员会（FTC）发布拟议命令，禁止健康信息技术公司Surescripts从事排他性行为以及与现任和前任员工签署或执行反竞争协议，拟议命令期限为20年。该和解协议遵循联邦法院一项支持的裁决，其中法院认定Surescripts在电子处方服务方面拥有近乎完全的垄断力量，即95%的“超级份额”。2019年4月，FTC起诉Surescripts涉嫌采取纵向和横向限制来维持其对“路由”和“资格”两个电子处方市场的垄断地位。路由电子处方市场的技术使医疗保健提供者能够将电子处方直接发送到药房，而资格电子处方市场使医疗保健提供者能够通过获取保险范围和福利信息（通常是通过药房福利经理）以电子方式确认患者获得处方保险资格。目前，FTC和Surescripts签署了拟议命令达成拟议和解，Surescripts同意在法院执行或驳回拟议命令之前遵守该命令。（[查看更多](#)）

FTC and Surescripts Reach Proposed Settlement in Illegal Monopoly Case

On July 27, 2023, the Federal Trade Commission (FTC) issued a proposed order to prohibit the health information technology company Surescripts from engaging in exclusive practices and signing or enforcing non-compete agreements with current and former employees. The proposed order is set to last for 20 years. This settlement agreement follows a federal court's ruling, which found that Surescripts

had almost complete monopolistic power in the e-prescription services, holding a 95% “super share.” In April 2019, the FTC sued Surescripts for alleged vertical and horizontal restrictions to maintain its monopoly position in the e-prescription markets for “routing” and “eligibility”. The routing e-prescription market’s technology allows healthcare providers to directly send electronic prescriptions to pharmacies, while the eligibility e-prescription market enables healthcare providers to electronically verify a patient’s prescription insurance eligibility by obtaining insurance coverage and benefit information (typically through pharmacy benefit managers). Currently, FTC and Surescripts have reached a proposed settlement with the agreement that Surescripts will comply with the proposed order before it is either enforced or rejected by the court. ([More](#))

亚马逊承诺改变Marketplace平台规则以解决竞争担忧

2023年7月26日，据媒体报道，亚马逊在反垄断调查后承诺改变其在Marketplace平台上对待第三方卖家的方式，以应对英国竞争与市场管理局（CMA）的竞争担忧。2022年7月，CMA对亚马逊的英国业务展开调查，担心该公司滥用其强大的市场地位，为自己的零售业务和在其Marketplace平台上使用其服务的卖家提供相对于第三方商家的不公平优势。具体来说，亚马逊已提出限制其对市场卖家数据的使用，以避免获得相对于其他竞争者的不公平优势，并保证其电子商务市场Buy Box中的所有产品受到平等对待。此外，该公司还允许第三方企业使用其Marketplace平台来直接与Prime配送服务的独立提供商协商自己的费率。CMA已就亚马逊拟议的承诺展开磋商，并初步表示亚马逊的提议解决了其竞争担忧。（[查看更多](#)）

Amazon Commits to Amending Marketplace Platform Policies to Address Competition Concerns

On July 26, 2023, according to media, Amazon pledged to change its approach to third-party sellers on the Marketplace platform in response to concerns raised by the Competition and Markets Authority (CMA) in the UK, following an antitrust investigation. In July 2022, the CMA launched an investigation into Amazon’s UK operations, fearing the company was abusing its dominant market position to gain unfair advantages for its retail business and sellers using its services on the Marketplace platform, compared to third-party merchants. Specifically, Amazon has proposed limiting its use of marketplace seller data to avoid gaining unfair advantages over other competitors and ensuring equal treatment of all products in its Buy Box, a prominent feature in its e-commerce marketplace. Additionally, the company allows third-party businesses to negotiate their own rates with independent providers of Prime delivery services through the Marketplace platform. The CMA has engaged in discussions with Amazon regarding their proposed commitments and has preliminarily stated that Amazon’s proposals address its competition concerns. ([More](#))

澳大利亚因数据使用时误导消费者对Meta处以2000万澳元罚款

2023年7月26日，澳洲竞争与消费者委员会（ACCC）发布公告称，澳洲联邦法院下令社交媒体巨头Meta的两家子公司Facebook Israel和Onavo（Onavo, Inc.）因违反澳大利亚消费者法的误导行为而各支付1000万澳元。Facebook Israel和Onavo还被勒令支付ACCC的费用，同意声明书和讼费令，并与ACCC共同提交有关处罚的意见书。联邦法院宣布，两家公司在Onavo Protect应

用程序的促销中存在误导公众的行为，未能充分披露用户数据将用于提供Onavo Protect应用程序以外的其他目的。Onavo Protect是一款提供虚拟专用网络（VPN）服务的免费应用程序，2016年2月至2017年10月期间，澳大利亚用户安装了超过270,000次。实际上，Onavo和Facebook Israel以匿名和汇总的形式与母公司Meta共享该应用程序收集的用户个人活动数据，以获取商业利益。（[查看更多](#)）

Australia Imposes AUD 20 Million Fine on Meta for Misleading Consumers in Data Usage

On July 26, 2023, the Australian Competition and Consumer Commission (ACCC) issued a notice stating that two subsidiaries of the social media giant Meta, namely Facebook Israel and Onavo (Onavo, Inc.), have been ordered by the Federal Court of Australia to each pay a fine of AUD 10 million for breaching the Australian Consumer Law through misleading conduct. Additionally, Facebook Israel and Onavo were required to cover ACCC's costs, agree to an enforceable undertaking, and cooperate with ACCC in submitting a joint penalty submission. The Federal Court found that both companies engaged in misleading behaviours during the promotion of the Onavo Protect application, failing to adequately disclose that user data would be used for purposes beyond the provision of the Onavo Protect application. Onavo Protect is a free application that offers virtual private network (VPN) services, and between February 2016 and October 2017, it was installed by over 270,000 Australian users. In reality, Onavo and Facebook Israel shared the user's personally identifiable activity data collected by the application with Meta, their parent company, in an anonymized and aggregated form for commercial gain. ([More](#))

法国竞争管理局对苹果应用跟踪的相关做法发表异议声明

2023年7月25日，据媒体报道，法国竞争管理局（Autorite De La Concurrence）发表了针对苹果公司（Apple Inc.）的异议声明，认为苹果滥用其市场支配地位，对出于广告目的使用用户数据的行为施加了歧视性、不客观和不透明的条件。苹果否认了这一指控，表示其发布的应用跟踪透明机制（APP Tracking Transparency）“要求所有应用程序在跟踪用户之前征求许可，从而为用户提供了更多控制权”，并补充说它将继续与法国监管机构“进行建设性接触”。此前，四个法国在线广告行业组织曾于2020年对苹果公司提起反垄断诉讼，称应用跟踪透明机制仅适用于第三方开发者，不适用于苹果自己的应用程序，因此不符合欧盟隐私规则。（[查看更多](#)）

French Competition Authority Issues Dissenting Statement on Apple's App Tracking Practices

On July 25, 2023, according to media, the French competition authority (Autorite De La Concurrence) issued a dissenting statement against Apple Inc., accusing the company of abusing its dominant market position and imposing discriminatory, non-objective, and opaque conditions on the use of user data for advertising purposes. Apple denies these allegations, stating that its App Tracking Transparency mechanism “requires all applications to seek permission before tracking users, providing users with more control,” and adds that it will continue to engage constructively with French regulatory authorities. Previously, four French online advertising industry organizations filed an antitrust lawsuit against Apple in 2020, arguing that the App Tracking Transparency mechanism only applied to third-party developers and not to Apple's own applications, thus not complying with EU privacy rules. ([More](#))

眼镜制造商依视路因操纵价格遭反垄断起诉

2023年7月24日，据媒体报道，一家美国消费者组织于美国加利福尼亚北区联邦地区法院起诉全球最大的眼镜制造商依视路（EssilorLuxottica SA），指控该公司进行操纵价格的卡特尔行为，将眼镜和太阳镜的价格提至正常价格的11倍。该消费者组织还声称依视路的子公司EyeMed已与数千家眼部保健提供商达成反竞争协议，以“引导数百万消费者购买该集团价格过高的眼镜”，并通过签订公司之间的不公开披露协议掩盖这一非法共谋。对此，依视路尚未做出回应。（[查看更多](#)）

Eyewear Manufacturer EssilorLuxottica Accused of Artificially Inflating Prices

On July 24, 2023, according to media, a U.S. consumer organization filed a lawsuit against EssilorLuxottica SA, the world's largest eyewear manufacturer, in the United States District Court for the Northern District of California. The lawsuit alleges that the company engaged in cartel behaviour by manipulating prices and raising the prices of eyeglasses and sunglasses to 11 times their normal value. The consumer organization also claims that EssilorLuxottica's subsidiary, EyeMed, entered into anti-competitive agreements with thousands of eye care providers to steer millions of consumers into purchasing overpriced eyewear from the group. Additionally, they allegedly attempted to conceal this illegal conspiracy through undisclosed agreements among the companies involved. As of now, EssilorLuxottica has not responded to these allegations. ([More](#))

韩国就疫苗市场共谋行为对多家制药公司处以3190万美元罚款

2023年7月23日，据媒体报道，韩国公平贸易委员会（KFTC）因涉嫌在国家免疫计划中的疫苗生产、分销和批发方面存在市场共谋而对32家制药公司开出3190万美元的罚款。根据KFTC的调查，这些公司在2013年至2019年韩国政府采购机构进行的总共170次疫苗采购招标中进行了共谋商业活动，这170次招标的总价值约为7000亿韩元。KFTC将持续监控疫苗市场中是否存在反竞争行为。（[查看更多](#)）

South Korea Imposes \$31.9 Million Fine on Multiple Pharmaceutical Companies for Collusive Behaviour in Vaccine Market

On July 23, 2023, media reports revealed that the Korean Fair Trade Commission (KFTC) fined 32 pharmaceutical companies a total of \$31.9 million for alleged market collusion in vaccine production, distribution, and wholesale activities within the national immunization program. The investigation conducted by the KFTC found evidence of collusive practices among these companies during 170 vaccine procurement tenders conducted by South Korean government agencies from 2013 to 2019, with a combined value of approximately 7 trillion Korean won. The KFTC will continue to monitor the vaccine market for any anti-competitive behaviour. ([More](#))

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

《中国人民银行业务领域数据安全管理办法（征求意见稿）》公开征求意见

2023年7月24日，由中国人民银行起草的《中国人民银行业务领域数据安全管理办法(征求意见稿)》（以下简称《管理办法（征求意见稿）》）正式对外公开征求意见。意见反馈截止时间为2023年8月24日。《管理办法（征求意见稿）》根据《中华人民共和国数据安全法》等有关法律、行政法规制定，适用于在我国境内开展中国人民银行业务领域数据相关处理活动的数据处理者，旨在指导督促相关数据处理者依法依规开展中国人民银行业务领域数据处理活动，履行数据安全保护义务。

《管理办法（征求意见稿）》共八章五十七条，就数据分类分级、数据安全保护总体要求、数据安全保护管理措施、数据安全保护技术措施、风险监测、评估审计与事件处置措施、法律责任等作出了规定。（[查看更多](#)）

Administrative Measures on Data Security in Business Field of the People's Bank of China (Draft for Public Comments) Open for Public Comments

On 24 July 2023, the People's Bank of China publicly released the *Administrative Measures on Data Security in Business Field of the People's Bank of China (Draft for Public Comments)* (the "Draft Measures"). The Draft Measures are open for public comments until 24 August 2023. The Draft Measures, prepared in accordance with the *Cybersecurity Law of the People's Republic of China* and other laws and administrative regulations, are applicable to data processors who carry out data-related processing activities in the business field of the People's Bank of China within the territory of China. The aim is to guide and urge data processors to conduct data processing activities in the business field of the People's Bank of China in accordance with applicable laws and regulations, and to fulfill their data security obligations.

The Draft Measures consist of 8 chapters and 57 articles, including provisions on data classification and grading, general requirements for data security protection, administrative measures for data security protection, technical measures for data security protection, risk monitoring and assessment, audit and incident response measures, as well as legal liabilities. ([More](#))

工信部、国家标准委联合印发《国家车联网产业标准体系建设指南（智能网联汽车）（2023版）》

2023年7月26日，为适应我国智能网联汽车发展新阶段的新需求，工业和信息化部、国家标准化委员会近日联合修订印发《国家车联网产业标准体系建设指南(智能网联汽车)(2023版)》（以下简称《指南》）。这是《国家车联网产业标准体系建设指南》的第二部分，是对《国家车联网产业标准体系建设指南（智能网联汽车）（2018版）》的继承、延伸与完善，是在对第一阶段标准体系建设情况进行客观总结、对智能网联汽车产业新需求和新趋势进行深入分析

后，形成的框架更加完善、内容更加全面、逻辑更加清晰的标准体系建设指南，为智能网联汽车产业高质量发展奠定了坚实基础。

根据《指南》，智能网联汽车标准体系主要包括基础标准、通用规范标准、产品与技术应用标准3个部分，其中通用规范标准包括了网络安全与数据安全标准。（[查看更多](#)）

MIIT and SAC Jointly Issue *Guidance for the Construction of the National Standards System for Internet of Vehicles Industry (Intelligent and Connected Vehicles) (2023 Edition)*

On 26 July 2023, in order to meet the new requirements of the development of intelligent and connected vehicles, the Ministry of Industry and Information Technology (the “MIIT”) and Standardization Administration of China (the “SAC”) recently jointly revised and issued *the Guidance for the Construction of the National Standards System for Internet of Vehicles Industry (Intelligent and Connected Vehicles) (2023 Edition)* (the “Guidance”). It constitutes the second part of *the Guidance for the Construction of the National Standards System for Internet of Vehicles Industry*, and represents the carrying forward, extension and improvement of *the Guidance for the Construction of the National Standards System for Internet of Vehicles Industry (Intelligent and Connected Vehicles) (2018 Edition)*. Based on an objective summary of the first stage of the standard system construction work and an in-depth analysis of new demands and trends in the intelligent and connected vehicle industry, *the Guidance* provides a more comprehensive and logically clearer framework, laying a solid foundation for the high-quality development of the intelligent and connected vehicle industry.

According to *the Guidance*, the standards system for intelligent and connected vehicles mainly consists of three parts, *i.e.*, basic standards, general specification standards and product and technology application standards. The general specification standards include network security and data security standards. ([More](#))

国家金融监督管理总局就《银行保险机构操作风险管理办法（征求意见稿）》公开征求意见

2023年7月28日，为进一步完善银行保险机构操作风险监管规则，提升银行保险机构的操作风险管理水平，国家金融监督管理总局起草了《银行保险机构操作风险管理办法(征求意见稿)》（以下简称《办法》），并向社会公开征求意见。

《办法》共六章五十条及附录，包括总则、风险治理和管理责任、风险管理基本要求、风险管理流程和方法、监督管理、附则。《办法》细化了管理流程和管理工具，规定了内部控制、业务连续性管理、数据安全、业务外包管理等操作风险控制、缓释措施的基本要求，建立操作风险情况和重大操作风险事件报告机制，应用操作风险损失数据库等三大基础管理工具以及新型工具，强化变更管理。（[查看更多](#)）

Measures for Operational Risk Management of Banking and Insurance Institutions (Draft for Public Comments) Issued by National Administration of Financial Regulation is Open for Public Comments

On 28 July 2023, to further improve the operational risk supervision regulations for banking and insurance institutions and enhance their operational risk management capabilities, National Administration of Financial Regulation drafted *the Measures for Operational Risk Management of Banking and Insurance Institutions (Draft for Public Comments)* (the “Draft Measures”), which is open for public comments.

The Draft Measures consist of 6 chapters, 50 articles and an appendix, including general provisions, risk governance and management responsibilities, basic requirements for risk management, risk management processes and methods, supervision and management, and supplementary provisions. *The Draft Measures* elaborate on management processes and tools, stipulate basic requirements for operational risk control and mitigation measures such as internal control, business continuous management, data security, business outsourcing management, etc. In addition, *the Draft Measures* establish mechanisms for reporting operational risk situations and significant operational risk events and utilize three fundamental management tools including operational risk loss databases and new tools to strengthen change management. ([More](#))

《上海市促进浦东新区数据流通交易若干规定（草案）》公开征求意见

根据上海市人大常委会办公厅2023年7月25日公告，上海市第十六届人大常委会第四次会议对《上海市促进浦东新区数据流通交易若干规定（草案）》（以下简称《草案》）进行了审议，并公开征求意见。《草案》主要包括界定各方责任，明确促进数据流通交易的总体要求；结合落实《中共中央 国务院关于构建数据基础制度更好发挥数据要素作用的意见》，探索细化数据产权分置机制；建立数据流通交易的系列规则，进一步培育壮大场内交易，并对场外交易作出适度规范引导；进一步培育数据市场生态，营造良好发展环境。（[查看更多](#)）

Regulations on Promoting Data Circulation and Transaction in Pudong, Shanghai (Draft) Open for Public Comments

According to the announcement by the Office of the Standing Committee of Shanghai Municipal People’s Congress on 25 July 2023, *the Regulations on Promoting Data Circulation and Transaction in Pudong, Shanghai (Draft)* (the “Draft Regulations”) was reviewed by the Fourth Session of the Standing Committee of the 16th Shanghai Municipal People’s Congress and is open for public comments. The main contents of *the Draft Regulations* include defining the liabilities of each party and clarifying the overall requirements for promoting data circulation transactions. In accordance with the implement of *the Opinions of the CPC Central Committee and the State Council on Building a Data Basic System to Better Play the Role of Data Elements*, *the Draft Regulations* explore a detailed data property rights allocation mechanism, establish a series of rules for data circulation and transactions to further cultivate and expand trading in the field, and provide moderate regulation and guidance for OTC trading. The Draft Regulations also further cultivate the data market ecosystem and create a favorable development environment. ([More](#))

北京市通信管理局发布《北京地区电信领域数据安全实施细则》

2023年7月24日，北京市通信管理局发布《北京地区电信领域数据安全实施细则》（以下简称《细则》）。《细则》共五章三十条，适用于北京地区的电信领域数据处理者开展数据

处理活动及其安全监管，对基础性数据安全保护要求、数据全生命周期安全保护要求及支持与保障进行了规范。

《细则》规定，电信领域数据处理者应当对数据处理活动负安全主体责任，建立健全全流程数据安全管理制度，针对不同级别数据，制定数据收集、存储、使用、加工、传输、提供、公开等环节的具体分级防护要求和操作规程。电信领域数据处理者在中华人民共和国境内收集和产生的重要数据和核心数据，法律、行政法规有境内存储要求的，应当在境内存储，确需向境外提供的，应当依法依规进行数据出境安全评估。跨主体提供、转移、委托处理核心数据的，电信领域数据处理者应当评估安全风险，采取必要的安全保护措施，并报送北京市通信管理局。北京市通信管理局按照有关规定进行审查后报工业和信息化部。（[查看更多](#)）

Beijing Communications Administration Issues the *Rules for Implementation of Data Security Management in the Telecommunications Field in Beijing*

On 24 July 2023, Beijing Communications Administration issued *the Rules for Implementation of Data Security Management in the Telecommunications Field in Beijing (the “Rules”)*. The Rules consist of 5 chapters and 30 articles and are applicable to data processors in the telecommunications field in Beijing in their data processing activities as well as security supervision. The Rules stipulate the basic data security protection requirements, data lifecycle security protection requirements, and support and guarantees.

According to *the Rules*, data processors in the telecommunications field are responsible for the security of data security management systems. They are required to establish and improve comprehensive data security management systems and develop specific grade-level based protection requirements and operating procedures for data collection, storage, usage, processing, transmission, provision and disclosure based on different levels of data. For important and core data collected and generated within the territory of the People’s Republic of China, if there are domestic storage requirements under applicable laws and administrative regulations, they must be stored domestically. If there is a genuine need to provide data overseas, a security assessment for outbound transfer of data shall be conducted in accordance with applicable laws and regulations. In cases of inter-entity provision, transfer or entrusted processing of core data, data processors in the telecommunications field shall assess security risks, implement necessary security protection measures, and report to Beijing Communications Administration. Upon review, Beijing Communications Administration will report to the MIIT in accordance with relevant regulations. ([More](#))

武汉地震监测中心遭受网络攻击

据武汉市公安局江汉分局警情通报，2023年7月25日，该局接到武汉市应急管理局地震监测中心报警称，该中心发现部分地震速报数据前端台站采集点网络设备被植入后门程序。该行为对国家安全构成严重威胁。目前，武汉市公安局江汉分局已经根据中华人民共和国《刑法》第285条之规定，对此案立案侦查，并对提取到的后门样本进一步开展技术分析，该后门程序能非法控制并窃取地震速报前端台站采集的地震烈度数据。初步判定，此事件为境外具有政府背景的黑客组织和不法分子发起的网络攻击行为。（[查看更多](#)）

Wuhan Earthquake Monitoring and Application Center Was Hit by Cyber Attack

According to police briefing from Jiangnan Branch of the Wuhan Public Security Bureau, on 25 July 2023, the Branch had received an alarm from Wuhan Earthquake Monitoring and Application Center, reporting that some of the network devices at the collecting points for collecting earthquake rapid report data, which are located at the front-end stations, were implanted with a backdoor program, which poses a serious threat to national security. As of the briefing, the Bureau had filed a case investigation in accordance with Article 285 of *the Criminal Law of People's Republic of China* and conducted further technical analyses on the extracted backdoor program samples. The backdoor program may illegally control, and steal earthquake intensity data collected by the front-end stations. It was preliminarily determined that this incident is a network attack carried out by a foreign hacker organization with government background and illegal elements. ([More](#))

西安警方：补习学校非法获取中学生及家长个人信息两名负责人被刑拘

据西安市公安局警情通报消息，2023年7月23日，西安市公安局在办案中发现，一补习学校为招揽生源，借中考招生牟利，非法获取中学生及家长的公民个人信息。目前，公安机关已将涉嫌侵犯公民个人信息罪的学校负责人陈某、张某依法刑事拘留，案件正在进一步侦办中。

([查看更多](#))

Xi'an Police: Two Responsible Individuals of a Tutoring School Who Illegally Obtained Personal Information from Students and Their Parents Subject to Criminal Detention

According to the police briefing from Xi'an Public Security Bureau, on 23 July 2023, the Bureau found during the investigation that a tutoring school illegally obtained personal information of middle school students and their parents to attract students and make profits by taking advantage of the high school enrollment exam. As of the briefing, the Bureau had detained two responsible individuals for infringing on citizens' personal information. The case is under further investigation. ([More](#))

外包服务商遭受网络攻击影响英国部分地区救护车患者数据系统

据2023年7月26日消息，医疗软件公司Ortivus遭受网络攻击，导致多家英国国民健康服务（NHS）的救护车机构难以记录患者数据，或将数据传递给其他医疗服务提供商。Ortivus是一家总部位于瑞典的软件供应商。该公司发表声明，表示于2023年7月18日遭受网络攻击，攻击影响了其托管数据中心环境中的英国客户系统。 ([查看更多](#))

Ambulance Patient Records System Impacted after Cyber-attack

According to reporting on 26 July 2023, several UK NHS ambulance organizations have been struggling to record patient data and pass it to other providers following a cyber-attack aimed at health software company Ortivus. In a statement, the Sweden-headquartered software vendor said it was subject to a cyberattack on 18 July, which hit UK customer systems within its hosted datacenter environment. ([More](#))

七家美国领先的人工智能公司在白宫作出自律承诺

2023年7月21日，美国总统拜登与七家美国领先的人工智能公司负责人会面。七家公司分别为谷歌、微软、Meta、OpenAI、亚马逊、Anthropic和Inflection。白宫宣布，该七家公司已经自愿承诺在发展人工智能技术中强调安全性、保障性和可信性。（[查看更多](#)）

Seven Tech Giants Pledge AI Safety and Security at White House

US President Joe Biden met with Google, Microsoft, Meta, OpenAI, Amazon, Anthropic and Inflection on 21 July 2023 at the White House. These companies pledged to emphasize "safety, security and trust" when developing AI technologies. ([More](#))

知识产权 Intellectual Property

上海知产法院：为说明产品功能而善意使用标识不构成侵权

近日，上海知识产权法院就素湃科技（上海）有限公司与深圳减字科技有限公司侵害商标权纠纷案作出二审判决，驳回上诉，维持原判。此前一审法院判决认定被诉行为未构成商标侵权，驳回原告诉讼请求。

本案争议焦点在于，被上诉人在防晒衣上使用“全波段防晒”是否构成《中华人民共和国商标法》第五十九条第一款规定的正当使用。法院认定，被诉侵权人为描述或者说明其产品或者服务的特点而善意合理地使用具备描述性含义的标识的，可以依法认定为正当使用而不构成侵权。本案中，“全波段防晒”具备描述防晒产品功能的含义，而被上诉人在“全波段防晒”下方使用的文字内容系对该防晒功能的进一步解释和说明，充分说明其使用“全波段防晒”系用于描述被诉侵权产品的防晒功能，同时考虑到被上诉人还同时在其产品包装上明确标注了其自有商标的事实，该种使用方式足以使相关公众将被上诉人使用的“全波段防晒”理解为被诉侵权产品的防晒功能，而非据此识别商品来源。因此，被诉行为构成对“全波段防晒”的描述性使用。

来源：上海知识产权法院

Shanghai Intellectual Property Court: Using a Trademark in Good Faith to Describe the Function of Goods does not Constitute Infringement.

Recently, Shanghai Intellectual Property Court issued a second-instance judgement on the trademark infringement dispute between Su Pai Limited versus Jian Zi Limited. The court rejected the appeal and upheld the original judgement. Previously, the first-instance court decided the act of the defendant did not constitute trademark infringement and rejected the plaintiff's claims.

The focus of this case was whether the use of ‘全波段防晒’(full-spectrum sun protection) constituted fair use as provided in Article 59(1) of Trademark Law. The court held that if the defendant used the logo with descriptive meaning in good faith and reasonably to describe or explain the features of its goods or services, it could be fair use and did not constitute infringement. In this case, ‘全波段防晒’(full-spectrum sun protection) has a descriptive meaning related to the sun protection function of the goods. The text used by the defendant explains and clarifies the sun protection function, which fully indicate that the use of it is intended to further describe the sun protection function of the accused goods. Additionally, considering that the defendant clearly marked their own trademark on its products, such use sufficiently enables the relevant public to understand that the defendant’s use of ‘全波段防晒’(full-spectrum sun protection) refers to the sun protection function of the accused goods, rather than identifying the source of the goods. Therefore, the accused acts constitute a descriptive use of ‘全波段防晒’(full-spectrum sun protection).

Source: [Shanghai Intellectual Property Court](#)

四川高院认定NFT作品转售行为不构成侵权

近日，四川省高级人民法院就王某玉诉海南链盒科技有限公司（以下简称链盒公司）侵害作品信息网络传播权纠纷案作出终审判决，二审依法驳回王某玉的上诉请求，维持一审判决。

二审针对王某玉上诉主张数字藏品交易中的转售行为构成侵权以及转售收入亦属于侵权人违法所得的主张，二审法院认为，被控侵权数字藏品的转售行为不构成著作权法上的侵权行为，购买人将其购买的NFT作品再次转售所获得的收入并不归于链盒公司，故购买人在其后的交易活动中，转售被控数字藏品获得的收入亦不能认为构成链盒公司违法所得。

来源：四川省高级人民法院

Sichuan High Court: Resale of NFT Works did not Constitute Infringement

Recently, Sichuan High People’s Court made a final judgement on the case between a natural person (the plaintiff) versus Lian He Limited (the defendant). The second instance rejected the plaintiff’s appeal and upheld the judgement of the first instance.

The plaintiff claimed that the resale of digital collection transactions constitutes infringement and the profits of the resale is also the illegal gains of the defendant. The second instance court held that the accused acts of digital collection resale does not constitute infringement. Additionally, the profits obtained from resale of the NFT works does not belong to the defendant. Therefore, in the subsequent trading activities of the buyer, the profits obtained from resale of the accused digital collection cannot be considered as the illegal gains of the defendant.

Source: [Sichuan High People’s Court](#)

美摄诉字节跳动旗下产品代码抄袭六案一审宣判

近日，北京知识产权法院就北京美摄网络科技有限公司（以下简称美摄公司）诉字节跳动旗下巨量创意等6款软件产品代码抄袭案作出6份一审判决，分别认定字节跳动旗下巨量创意、Faceu激萌、图虫、轻颜相机、多闪、火山引擎共六款软件侵犯美摄SDK软件的著作权。

法院认为，软件中的类和函数的命名本应为自主命名，与其他软件完全相同的可能性较低，但被控侵权软件中的函数不仅命名与美摄SDK软件实质性相似，且函数参数包含函数个数、参数定义的类型、参数的顺序也完全相同，此类相同不符常理；同时，被控侵权软件中还包含了与美摄SDK软件相同的错误内容，如美摄SDK软件某函数名中将Format拼错为Foramt，而被控侵权软件中也出现了相同的错误，有悖常理。而抖音公司等被告亦未能就被控侵权软件中相关代码是否系独立研发，以及该软件与美摄SDK软件之间存在的相同或实质性相似之处是否有其他来源等方面作出合理解释，更未提出相应证据予以证明，最终法院认定被控侵权软件的部分代码与美摄SDK软件的部分代码构成实质性相似。

来源：北京知识产权法院

MEISHE has Won its First Instance on Computer Software Copyright Infringement against Byte Dance

Recently, Beijing Intellectual Property Court made six first-instance judgements of computer copyright infringement between MEISHE Limited versus Tiktok Limited and other six companies.

The court held that classes and functions in software should be autonomously named, in order to make it unlikely to be substantially similar with other software. However, the functions of the accused software were not only substantially similar with the SDK software of the plaintiff, but also the number of function, the type of parameter definition and the order of parameters were exactly the same. Such identical are contrary to common sense. Additionally, the accused software also contained the same errors as MEISHE's SDK software, such as misspelling 'Format' as 'Foramt' in a certain function name. The defendants failed to provide a reasonable explanation regarding whether the accused software was independently developed or whether the similarities between those software and MEISHE's SDK software had any other source. Furthermore, it failed to provide evidence to prove their claims. In the end, the court ultimately recognized that certain portions of the accused software's code were substantially similar to certain portions of MEISHE's software.

Source: Beijing Intellectual Property Court

好莱坞获赔2400余万元，合同方未获得欢乐谷“阿凡达特展”场地许可构成违约

近日，北京高级人民法院就好莱坞（中国）投资集团有限公司、好莱坞文化娱乐产业发展（深圳）有限公司与Global Experience Specialists, Inc. (简称GES公司)、Mactus Live Pte.Ltd. (简称Mactus公司)、美胜（上海）文化传播有限公司（简称美胜公司）著作权许可使用合同纠纷案

作出二审判决，驳回上诉，维持原判。此前一审法院判决Mactus公司、美胜公司连带赔偿好莱坞深圳公司人民币24304547.5元。

本案中，法院认定，GES公司虽然在协议中被列明为“全球伙伴”“丙方”，部分协议条款涉及GES公司的权利，但是GES公司并未在协议中签字盖章，无法体现出GES公司的意思表示；且无充分证据证明GES公司知晓协议的签署、主要内容或授权他人代为签署，无法认定其为合同的一方当事人。Mactus公司、美胜公司在确认北京欢乐谷为办展地点后，未能获取在该地举办“阿凡达探索潘多拉”特展的合法有效许可，上述情形构成违约，Mactus公司、美胜公司应就此承担违约责任。

来源：北京高级人民法院

Hollywood was Awarded Damages of RMB 24 Million and the Adverse Party Failed to Obtain Venue Permission of Avatar Special Exhibition Constitutes a Breach of Contract

Recently, Beijing High People's Court issued a second-instance judgement on the copyright license contract dispute between Hollywood China GES, Mactus and Meisheng. The court rejected the appeal and upheld the original judgement. In the previous first-instance judgement, Mactus and Mershon jointly compensated Hollywood Shenzhen in the amount of RMB 24,304,547.5.

In this case, the court held that though GES was listed as 'global partner' and Party C, with certain clauses involving GES's rights, GES did not sign or seal the agreement, thereby failing to demonstrate its intention. Furthermore, there was no sufficient evidence to prove that GES knows the signing of the agreement, the main content, or authorized others to sign on its behalf, and it cannot be identified as party to the contract. After confirming Beijing Happy Valley as the exhibition venue, Mactus and Meisheng failed to obtain a legal and valid permit for hosting the "Avatar Exploration of Pandora" exhibition at that location. Therefore, these acts constituted a breach of contract, and Mactus and Meisheng shall bear liability for breach.

Source: Beijing High Court

时尚巨头Shein遭独立设计师联名起诉，涉嫌侵犯版权和违反《反敲诈勒索及腐败组织法案》（RICO）

7月11日，三名独立设计师（Krista Perry、Larissa Martinez、Larissa Martinez）向加州联邦地区法院联名起诉快时尚巨头Shein侵犯版权，且涉嫌违反《反敲诈勒索及腐败组织法案》（RICO）。

根据诉状，三名原告指控Shein在未经授权的情况下复制了他们的艺术作品，这种行为属于其不道德商业行为的一部分。诉状进一步列出了Shein造成的其他“社会威胁”，包括环境污染、血汗工厂与恶劣劳工条件等，且该公司商业模式的“骗局”可能会蔓延到其他行业。原告要求Shein立即下架并停止销售这些仿制品，并寻求“足以阻止Shein行为的”损害赔偿。

来源: CBS News

Fashion Retailer Shein is Facing a Lawsuit Claiming Copyright Violations

Recently, three independent designers (Krista Perry, Larissa Martinez, Larissa Martinez) jointly filed a lawsuit against fast fashion giant Shein for copyright infringement and alleged violations of Racketeer Influenced and Corrupt Organizations Act (RICO) in the California Federal District Court.

According to the complaint, the three plaintiffs alleged that Shein made unauthorized copies of their artistic works, which constitutes a part of their unethical practices. The complaint further lists other 'social threats' posed by Shein, including environmental pollution and poor labor conditions, and that the 'scam' of the company's business model could spread to other industries. The plaintiffs ask Shein to immediately remove and stop selling the imitations, and seek damages.

Source: CBS News

法院裁定谷歌 Chromecast 专利侵权，要求其赔付 3.38 亿美元

根据路透社7月24日报道，经过陪审团讨论后法院于7月21日作出裁决，认定谷歌旗下的 Chromecast 设备存在专利侵权行为，要求谷歌赔偿软件开发商3.387亿美元。经过陪审团商议，谷歌旗下的 Chromecast 等多款设备侵犯了 Touchstream Technologies 持有的投屏专利。

Touchstream 声称，谷歌的 Chromecast 侵犯了三项专利。并且，谷歌的 Home 和 Nest 智能扬声器以及配备 Chromecast 功能的第三方电视和扬声器也侵犯了他们的专利。谷歌的代表表示，谷歌计划对判决提出上诉。

来源: 路透社

Google Owes USD 338.7 Million in Chromecast Patent Case

Alphabet's Google violated a software developer's patent rights with its remote-streaming technology and must pay \$338.7 million in damages, a federal jury in Waco, Texas decided on 21 July 2023.

The jury found that Google's Chromecast and other devices infringe patents owned by Touchstream Technologies related to streaming videos from one screen to another.

Touchstream said that Google's Chromecast copied its innovations and infringed three of its patents. It also said its patents were infringed by Google's Home and Nest smart speakers and third-party televisions and speakers with Chromecast capabilities.

Source: Reuters

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