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立方竞争法周报 **Weekly Competition Law News**

市场监管总局与北京知识产权法院建立反垄断行政执法和司法衔接机制

SAMR and Beijing Intellectual Property Court Establish Joining Mechanism of Anti-Monopoly Administrative Enforcement and Judicial Actions

广东省市监局发布《广东省互联网平台经营者竞争合规指引（反垄断）》

Guangdong AMR Issues *Guidelines on Competition Compliance for Internet Platform Operators in Guangdong Province (Antitrust)*

CMA接受亚马逊和Meta的反垄断承诺

CMA Has Secured Commitments from Amazon and Meta

FTC附条件同意ICE以131亿美元收购Black Knight

FTC Conditionally Agrees to ICE's \$13.1 Billion Acquisition of Black Knight

CMA批准Cameco和博枫以79亿美元收购西屋电气

CMA Approves \$7.9 Billion Acquisition of Westinghouse Electric by Cameco and Brookfield

欧盟委员会批准电信巨头沃达丰与长江和记实业在英国的移动业务合并

European Commission Approves Vodafone and CK Hutchison Mobile Merger in the UK

荷兰竞争监管机构认定苹果应用商店佣金制度违反欧盟竞争法

Dutch Competition Regulator Finds Apple App Store Commission System Violates EU Competition Law



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—粤港澳大湾区跨境个人信息保护要求（征求意见稿）》

NISSTC Issues the Cybersecurity Standard Practice Guidelines - Requirements for Protection of Cross-border Personal Information in Guangdong, Hong Kong and Macao Greater Bay Area (Draft for Comments)

广东省高级人民法院发布个人信息保护典型案例

Guangdong Higher People's Court Releases Typical Cases on Personal Information Protection

北京互联网法院发布个人信息保护典型案例

Beijing Internet Court Releases Typical Cases on Personal Information Protection

《个人信息保护检察公益诉讼蓝皮书》在京发布

Blue Book on Prosecutorial Public Interest Litigation for Personal Information Protection Released in Beijing

浙江省发布《浙江省汽车数据处理管理规定》

Administrative Provisions on Automobile Data Processing in Zhejiang Province Issued by Zhejiang Government

网信部门依法查处“夸克”、“网易CC”破坏网络生态违法案件

Cyberspace Administration Authorities Investigated and Dealt with the Infringements of “Quark” and “NetEase CC” that Undermined the Cyber-ecology

国家安全部依法查处非法采集和跨境传输气象数据行为

Ministry of State Security Investigates and Deals with Illegal Collection and Cross-border Transfer of Meteorological Data in accordance with the Law

2023年第二次“标准周”全体会议在武汉召开

The Second Plenary Session of Standards Week 2023 Held in Wuhan

28国签署《布莱切利宣言》

28 Countries Sign Bletchley Declaration

欧盟与日本就数据跨境流动达成协议



NEWSLETTER

LIFANG & PARTNERS **立方观评**



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No. **368**

2023.11

EU and Japan Conclude Agreement on Cross-border Data Flows

知识产权 Intellectual Property

最高人民法院发布电影知识产权保护典型案例

SPC Releases Typical Cases on Film Intellectual Property Protection

“美团小黄车” 商标不具有欺骗性，获准注册

“Meituan Xiaohuangche” Trademark Obtained Registration with no Misleading Effect

四川高院：使用“咬咬乐”标识不构成商标侵权

Sichuan High Court: The Use of the "Yaoyaole" Mark Does Not Constitute Trademark Infringement for Generic Name Regression

KKV店铺所使用的明黄色墙面等元素构成“有一定影响的商品服务装潢”

The Bright Yellow Colour of the Walls and Other Elements Used in KKV's Shops Constitute a “Trade and Service Decoration with a Certain Influence”

诺基亚起诉惠普与亚马逊侵犯视频流专利

Nokia Sues Amazon, HP for Patent Infringement over Video Streaming Technology

无聊猿NFT作品商标侵权案胜诉：获赔超1000万

Bored Apes NFT Trademark Case: Damages Over RMB 10 Million Awarded

立方竞争法周报 Weekly Competition Law News

市场监管总局与北京知识产权法院建立反垄断行政执法和司法衔接机制

2023年11月1日，国家市场监督管理总局（“市场监管总局”）与北京知识产权法院召开反垄断行政执法和司法衔接机制座谈会。会议指出，加强反垄断行政执法与司法衔接，对于贯彻落实党中央、国务院有关决策部署，维护统一的公平竞争制度、推动加快全国统一大市场建设、营造公平稳定透明可预期的营商环境，具有十分重要的意义。双方同意建立日常沟通联络机制，加强数据信息共享，研究建立案件线索通报和调查取证衔接机制，开展典型案例交流，加强研讨与培训，相互提供专业技术支持，共同促进反垄断行政执法与民事司法形成合力，提升反垄断工作质效。（[查看更多](#)）

SAMR and Beijing Intellectual Property Court Establish Joining Mechanism of Anti-Monopoly Administrative Enforcement and Judicial Actions

On November 1, 2023, the State Administration for Market Regulation (“SAMR”) and the Beijing Intellectual Property Court hold a seminar on the joining mechanism of anti-monopoly administrative enforcement and judicial actions. The seminar points out that strengthening the joining mechanism between anti-monopoly administrative enforcement and judicial actions is of great significance to the implementation of the relevant decisions and deployments of the CPC Central Committee and the State Council, to safeguard the unified fair competition system, to promote the acceleration of the construction of a unified national market, and to create a fair, stable, transparent and a predictable business environment. Both sides agree to establish a daily communication and liaison mechanism, strengthen data and information sharing, study the establishment of a mechanism for notification of case leads and joining mechanism of investigations and evidence collection, carry out exchanges of typical cases, strengthen seminars and training, and provide each other with professional and technical support, so as to jointly promote the formation of synergy between administrative anti-monopoly law enforcement and civil judicial actions, and to enhance the quality and effectiveness of anti-monopoly work. ([More](#))

广东省市监局发布《广东省互联网平台经营者竞争合规指引（反垄断）》

2023年11月1日，广东省市场监督管理局（“广东省市监局”）发布《广东省互联网平台经营者竞争合规指引（反垄断）》（“《指引》”）。《指引》由总则、垄断协议、滥用市场支配地位、经营者集中、滥用行政权力排除和限制竞争、法律责任与配合调查义务、经营者内部合规管理和附则共8章、24条、7个专题构成，对涉及《平台反垄断指南》适用问题作出了较为细化的提示。《指引》的制定和出台，进一步完善了广东省反垄断监管制度规则，有利于提高平台经济领域反垄断执法的统一性、科学性和有效性，有利于实现平台经营者自治管理，倡导守法经营，预防和降低违法风险。（[查看更多](#)）

Guangdong AMR Issues Guidelines on Competition Compliance for Internet Platform Operators in Guangdong Province (Antitrust)

On November 1, 2023, the Guangdong Administration for Market Regulation (“Guangdong AMR”)

issues the *Guidelines on Competition Compliance for Internet Platform Operators in Guangdong Province (Antitrust)* (“*Guidelines*”). The *Guidelines* consists of 8 chapters, 24 articles and 7 topics on General Provisions, Monopoly Agreements, Abuse of Dominant Market Position, Concentration of undertakings, Abuse of Administrative Powers to Exclude and Restrict Competition, Legal Liability and Obligation to Cooperate with Investigations, Undertakings’ Internal Compliance Management and Supplementary Provisions, which provide a more detailed reminder on the issues relating to the application of the Anti-Monopoly Guidelines for Platforms. The formulation and issuance of the *Guidelines* have further improved the rules of the Guangdong Province’s antitrust regulatory system, which is conducive to improving the uniformity, scientificity and effectiveness of antitrust enforcement in the platform economy, as well as to realising the self-governance of platform undertakings, advocating law-abiding operation, preventing and reducing the risk of violation of the law. ([More](#))

CMA接受亚马逊和Meta的反垄断承诺

2023年11月3日，英国竞争与市场管理局（CMA）接受了亚马逊（Amazon.com, Inc.）和Meta（Meta Platforms, Inc.）两家大型科技公司提出的一系列承诺。这些承诺将有助于保护亚马逊市场和Facebook市场两个平台的公平竞争环境。在亚马逊市场方面，亚马逊承诺为使用市场的独立卖家提供其产品“购买框”（Buy Box）中出现的公平机会。此外，亚马逊将不再利用从第三方卖家处获得的市场数据为自己带来不公平的竞争优势，并允许卖家直接与Prime配送服务的独立供应商协商自己的配送价格。在Facebook市场方面，Meta也作出了类似承诺，不再利用其广告客户的数据，今后Facebook市场的竞争者在Meta平台上投放广告时可以“选择退出”，不再将其数据用于改进Facebook市场。此外，Meta还承诺在开发产品时限制其使用广告数据的方式。（[查看更多](#)）

CMA Has Secured Commitments from Amazon and Meta

On November 3, 2023, the UK’s Competition and Markets Authority (CMA) has accepted sets of commitments from 2 major tech corporations - Amazon and Meta - as a result of separate investigations. These will help protect fair competition on each of their retail platforms – Amazon Marketplace and Facebook Marketplace. In the Amazon marketplace, Amazon is committed to providing independent sellers who use the market with fair opportunities for their products to appear in the “Buy Box”. In addition, Amazon would no longer use Marketplace data obtained from third-party sellers to give itself an unfair competitive advantage and allow sellers to negotiate their own delivery rates directly with independent suppliers of Prime delivery services. In the Facebook marketplace, Meta has made a similar commitment not to use the data of its advertisers, and future competitors in the Facebook marketplace can “opt out” of using their data to improve the Facebook marketplace when running ads on the Meta platform. In addition, Meta undertakes to limit the way it uses advertising data when developing products. ([More](#))

FTC附条件同意ICE以131亿美元收购Black Knight

2023年11月3日，美国联邦贸易委员会（FTC）发布公告，宣布附条件同意美国洲际交易所（ICE）以131亿美元（约953亿人民币）收购Black Knight（Black Knight Inc.）。FTC敲定了一项同意令（consent order），以解决FTC于2023年3月提出的指控，即ICE与Black Knight的交易将

两家顶级抵押贷款技术提供商合并在一起，会推高成本、减少创新并限制贷款人对抵押贷款发放工具的选择。根据同意令的条款，Black Knight的Optimal Blue和Empower业务（在抵押贷款发放过程中提供关键服务）连同某些相关产品将被剥离给抵押贷款相关工具和软件供应商Constellation（Constellation Web Solutions Inc.）。为了确保以上剥离的成功，ICE和Black Knight被要求在Optimal Blue和Empower成功剥离给Constellation之前维持其生存，并提供过渡援助，使Constellation能够按照Black Knight经营这些业务的相同方式经营这些业务。（[查看更多](#)）

FTC Conditionally Agrees to ICE's \$13.1 Billion Acquisition of Black Knight

On November 3, 2023, the Federal Trade Commission (FTC) issues a notice, announcing it conditionally agrees to ICE's \$13.1 billion acquisition of Black Knight. The FTC has finalized a consent order to resolve the administrative complaint made in March 2023, that ICE's deal with Black Knight, which combines the two top mortgage technology providers, would drive up costs, reduce innovation, and limit lenders' choices for mortgage origination tools. Under the terms of the final consent order, Black Knight's Optimal Blue and Empower businesses, which provide critical services in the mortgage origination process, are divested to Constellation Web Solutions Inc. (Constellation), a provider of mortgage-related tools and software, along with certain related products. To ensure the success of these divestitures, ICE and Black Knight are required to maintain the viability of Optimal Blue and Empower until they are successfully divested to Constellation and are required to provide transition assistance to enable Constellation to operate the businesses along the same lines that Black Knight has operated them. ([More](#))

CMA批准Cameco和博枫以79亿美元收购西屋电气

2023年11月3日，英国竞争与市场管理局（CMA）发布公告，宣布批准Cameco（Cameco Corporation）和博枫（Brookfield Corporation）以79亿美元（约575亿人民币）收购西屋电气（Westinghouse Electric Company）。CMA于2023年8月2日开始初步审查，考虑根据《2002年企业法》的合并条款，如果该交易生效，是否会导致产生《2002年企业法》规定的相关合并情况，如果会导致相关情况，那么这种情况的产生是否会导致英国任何一个或多个商品或服务市场内的竞争大幅减少。经审查，CMA没有发现任何需要进行更深入调查的重大问题，因此不会对合并进行进一步审查。（[查看更多](#)）

CMA Approves \$7.9 Billion Acquisition of Westinghouse Electric by Cameco and Brookfield

On November 3, 2023, the CMA announces the approval of the \$7.9 billion (CYN 57.5 billion) acquisition of Westinghouse Electric (Westinghouse Electric Company) by Cameco (Cameco Corporation) and Brookfield (Brookfield Corporation). The CMA began its preliminary review on August 2, 2023 and has considered whether it is or may be the case that this transaction, if carried into effect, will result in the creation of a relevant merger situation under the merger provisions of the Enterprise Act 2002 and, if so, whether the creation of that situation may be expected to result, in a substantial lessening of competition within any market or markets in the UK for goods or services. Upon review, the

CMA did not identify any significant issues requiring more in-depth investigation and therefore would not review the merger further. ([More](#))

欧盟委员会批准电信巨头沃达丰与长江和记实业在英国的移动业务合并

2023年11月2日，据媒体报道，欧盟委员会宣布沃达丰（Vodafone）和长江和记实业（CK Hutchison Holdings Limited）在英国进行的价值190亿英镑（约1701.55亿人民币）的移动业务合并不存在竞争问题，这标志着拟议合并向前迈出了重要一步。电信巨头沃达丰和长江和记实业旨在打造英国最大的移动运营商。他们的申请于10月30日正式提交，最终决定的截止日期定在12月6日。在移动业务合并方面，欧洲委员会与英国竞争与市场管理局（CMA）立场形成了鲜明对比，CMA在类似的合并案中进行了严格审查。目前CMA还未公布对该拟议合并的审查结果，该审查结果关系到英国最大移动运营商是否会顺利成立。 ([查看更多](#))

European Commission Approves Vodafone and CK Hutchison Mobile Merger in UK

On November 2, 2023, according to media reports, the European Commission has announced that Vodafone and CK Hutchison's £19 billion (CYN 170 billion) mobile merger in the United Kingdom has been deemed free from competition concerns by EU antitrust regulators. The European Commission issues this declaration in a recent filing, marking a significant step forward for the proposed merger. The telecommunications giants, Vodafone and CK Hutchison, sought approval from the EU competition enforcer for their ambitious bid, aimed at creating the largest mobile operator in the UK. Their request is officially submitted on October 30 and the decisive deadline for the European Commission's final decision is December 6. The European Commission contrasts with the CMA position on mobile mergers, which have been scrutinised in similar merger cases. The CMA has not released the results of its review of the proposed merger, which concerns the success of the UK's largest mobile operator. ([More](#))

荷兰竞争监管机构认定苹果应用商店佣金制度违反欧盟竞争法

2023年10月31日，据媒体报道，荷兰消费者和市场管理局（ACM）裁定苹果（Apple, Inc.）对订阅某些应用程序收取的佣金违反了欧盟竞争法。ACM在裁定中指出，苹果的佣金制度不公平地针对了提供订阅服务的公司，使这些公司的应用程序销售中缴纳的佣金高于不提供付费数字内容的公司。ACM认为，苹果公司向这些公司收取“不明原因的额外高额费用”，损害了这些公司的利益。ACM的裁决可能会为欧盟27国对苹果不同应用程序的收费结构的公平性进行更严格的反垄断审查铺平道路。欧盟委员会已经开始调查苹果公司如何限制应用程序向用户告知应用程序商店之外更便宜的订阅服务。 ([查看更多](#))

Dutch Competition Regulator Finds Apple App Store Commission System Violates EU Competition Law

On October 31, 2023, according to media reports, the Dutch Consumer and Markets Authority (ACM) rules that Apple's commission on certain app subscriptions violates the European Union's antitrust

rules. In its ruling, ACM notes that Apple's commission system unfairly targeted companies that offered subscription services, making them pay higher commission rates in app sales than companies that did not provide paid digital content. According to ACM, Apple harms these companies by charging them "an additional and inexplicably higher fee". The ACM's ruling could pave the way for greater antitrust scrutiny across the 27-nation EU regarding the fairness of Apple's fee structure for different apps, per the report. The European Commission is already investigating how Apple restricts apps from informing users about cheaper subscriptions available outside the app store. ([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—粤港澳大湾区跨境个人信息保护要求（征求意见稿）》

2023年11月1日，全国信息安全标准化技术委员会（以下简称“信安标委”）发布《网络安全标准实践指南—粤港澳大湾区跨境个人信息保护要求（征求意见稿）》（以下简称《实践指南》），以促进粤港澳大湾区个人信息跨境安全有序流动，推动粤港澳大湾区高质量发展。本次意见征求时间截至11月15日。

《实践指南》适用于大湾区内个人信息处理者依据《关于促进粤港澳大湾区数据跨境流动的合作备忘录》以认证方式开展个人信息跨境处理活动。《实践指南》规定了粤港澳大湾区跨境处理个人信息应遵循的基本原则和保护要求，为实施粤港澳大湾区个人信息保护认证提供了认证依据，也为大湾区个人信息处理者规范个人信息跨境处理活动提供参考。 ([查看更多](#))

NISSTC Issues the Cybersecurity Standard Practice Guidelines - Requirements for Protection of Cross-border Personal Information in Guangdong, Hong Kong and Macao Greater Bay Area (Draft for Comments)

On 1 November 2023, to promote the safe and orderly flow of cross-border personal data in the Guangdong-Hong Kong-Macao Greater Bay Area, and to promote the high-quality development of the Greater Bay Area, the National Information Security Standardization Technical Committee ("NISSTC") issued the *Cybersecurity Standard Practice Guidelines - Requirements for Protection of Cross-border Personal Information in Guangdong, Hong Kong and Macao Greater Bay Area (Draft for Comments)* (the "*Practice Guidelines*"), which is open for public comments until 15 November.

The *Practice Guidelines* applies to personal data processors in the Greater Bay Area in carrying out cross-border processing of personal data by way of certification in accordance with the *Memorandum of Co-operation on Facilitating Cross-border Flows of Data in the Guangdong, Hong Kong and Macao Greater Bay Area*. The *Practice Guidelines* stipulates the basic principles and protection requirements that should be followed in cross-border processing of personal data in the Greater Bay Area, providing the basis for certification for the implementation of personal data protection certification, as well as a reference for the regulation of cross-border personal data processing activities by personal data processors in the Greater Bay Area. ([More](#))

广东省高级人民法院发布个人信息保护典型案例

2023年10月31日,《中华人民共和国个人信息保护法》施行两周年之际,广东省高级人民法院发布7起个人信息保护典型案例,涉及依法保护个人信息查阅复制权、个人信息的界定、恶意公布个人信息等内容。

其中,在某科技公司与某房地产公司商品房委托代理销售合同纠纷案中,法院认为,房地产公司在未经有关机关许可、也未征得客户同意前提下,出于经营目的,在售楼现场设置人脸图像采集设备,长时间收集、储存客户人脸信息,侵犯了个人信息权益。通过该方式收集的证据为非法证据,不得作为认定案件事实的根据。法院依法否定违法采集公民个人图像信息作为民事证据的效力,切实维护个人信息权益,保护人民群众“脸面”安全。(查看[更多](#))

Guangdong Higher People's Court Releases Typical Cases on Personal Information Protection

On 31 October 2023, during the second anniversary of the implementation of the *Personal Information Protection Law of the People's Republic of China*, the Guangdong Higher People's Court released seven typical cases on the protection of personal information, involving the protection of the right to inspect and copy personal information in accordance with the law, the definition of personal information, and the publication of personal information in bad faith.

In a dispute between a technology company and a real estate company over a contract for the commissioned sale of commercial properties, the court held that the real estate company had infringed the rights and interests of personal information by setting up face image collection equipment at the sales site for business purposes, and collecting and storing customer face information for a long period of time without the permission of the relevant authorities or the consent of the customers. Evidence collected in this way is illegal and may not be used as a basis for determining the facts of the case. The court denied the validity of the illegal collection of citizens' personal image information as civil evidence in accordance with the law, effectively safeguarding the rights and interests of personal information and protecting the "face" safety of the public. ([More](#))

北京互联网法院发布个人信息保护典型案例

2023年11月1日,《中华人民共和国个人信息保护法》实施两周年之际,北京互联网法院召开个人信息保护案件审理情况新闻通报会,发布了8起涉个人信息保护典型案例。北京互联网法院呼吁,要尽快出台司法解释以明确民法典和个人信息保护法的具体适用标准,强化个人信息处理合规体系建设,并建议有关部门普及个人信息维权救济手段,降低维权成本。据了解,围绕APP非法收集和泄露个人信息、公开个人信息处理、死者个人信息保护、个人信息查阅复制权行使等问题,此次通报会一共通报了8起个人信息保护典型案例,并对案件裁判规则和典型意义进行了介绍。

围绕APP非法收集和泄露个人信息的现象，典型案例中提供了相关参考。在吕某与某信息技术有限公司个人信息保护纠纷案中，法院认为，涉案汽车APP在诉讼中提交的后台授权数据存在异常，IP地址、备注姓名均与原告真实情况不一致，不能认定其获得了有效授权同意，其未经同意向其他经销商提供个人信息，构成侵权。（[查看更多](#)）

Beijing Internet Court Releases Typical Cases on Personal Information Protection

On 1 November 2023, during the second anniversary of the implementation of the *Personal Information Protection Law of the People's Republic of China*, the Beijing Internet Court held a press briefing on the trial of personal information protection cases and released eight typical cases of personal information protection. The Beijing Internet Court called for a judicial interpretation to be issued as soon as possible to clarify the specific application standards of the *Civil Code* and the *Personal Information Protection Law*, to strengthen the construction of a compliance system for the personal information processing, and recommended that the relevant authorities popularize the remedies for personal information rights and reduce the cost of protection. It is reported that, regarding the issues of illegal collection and leakage of personal information by APPs, processing of personal information in the public domain, protection of the deceased's personal information, and the exercise of the right to inspect and copy personal information, the briefing introduced the adjudication rules and significance of eight typical cases of personal information protection.

Relevant references are provided in typical cases regarding the phenomenon of APPs illegally collecting and leaking personal information. In the case of personal information protection instituted between Lv X and an information technology company, the court held that there were anomalies in the background authorized data submitted by the automobile APP operator involved in the litigation, and that the IP address and note name were inconsistent with the plaintiff's real situation, so it could not be assumed that it had obtained valid authorized consent, and that it had infringed on the plaintiff's rights by providing personal information to other dealerships without his consent. ([More](#))

《个人信息保护检察公益诉讼蓝皮书》在京发布

2023年11月1日，《个人信息保护检察公益诉讼蓝皮书》（以下简称《蓝皮书》）发布会在北京举行。《蓝皮书》从理论、实践等方面深入分析了个人信息保护的现状和挑战。

《蓝皮书》包括个人信息保护检察公益诉讼发展进程、工作开展概况、诉源治理、未来展望四个部分，回顾了这项工作的发展历程，梳理了北京、河北、上海、浙江、重庆、广东等地的实践情况，并对实践成效进行总结，还聚焦App个人信息违法、人脸识别、隐私面单等重点问题作了专题报告。（[查看更多](#)）

Blue Book on Prosecutorial Public Interest Litigation for Personal Information Protection Released in Beijing

On 1 November 2023, the press conference of the *Blue Book on Prosecutorial Public Interest Litigation for Personal Information Protection* (the "Blue Book") was held in Beijing. The *Blue Book* provides an in-depth analysis of the current situation and challenges of personal information protection from theoretical and practical aspects.

The *Blue Book* includes four parts: the development process of prosecutorial public interest litigation for personal information protection, the overview of the work carried out so far, the governance on the source of the lawsuits, and the future outlook, reviewing the development course of this work, sorting out the practice in Beijing, Hebei, Shanghai, Zhejiang, Chongqing, Guangdong and other places, and summarizing the effectiveness of the practice. The *Blue Book* also focuses on key issues such as App personal information violation, face recognition, and privacy waybill. ([More](#))

浙江省发布《浙江省汽车数据处理管理规定》

2023年11月4日，据网信浙江消息，为进一步规范浙江省汽车数据处理活动，促进汽车数据合理开发利用和汽车行业健康有序发展，省委网信办、省发展改革委、省经信厅、省公安厅、省交通运输厅联合印发《浙江省汽车数据处理管理规定》（以下简称《管理规定》）。《管理规定》自2023年11月1日起施行。

《管理规定》明确定义汽车数据为包括汽车设计、生产、销售、使用、运维等过程中涉及的个人信息和重要数据。汽车数据处理者，是指开展汽车数据处理活动的组织，包括汽车制造商、零部件和软件供应商、经销商、维修机构以及出行服务企业等。《管理规定》明确，汽车数据处理必须具有明确、合理的目的，处理的汽车数据类型应与实现产品或服务的业务功能直接关联，同时应遵守对重要数据处理的相关规定。直接关联指的是没有上述汽车数据的参与，产品或服务的功能无法实现。汽车数据处理者向境外提供汽车数据，应根据《数据出境安全评估办法》通过省网信部门向国家网信部门申报数据出境安全评估。开展重要数据处理活动的汽车数据处理者，应当在每年十二月十五日前向省网信部门和有关部门报送年度汽车数据安全情况。（[查看更多](#)）

Administrative Provisions on Automobile Data Processing in Zhejiang Province Issued by Zhejiang Government

On 4 November 2023, according to the news of Zhejiang Cyberspace Administration, in order to further regulate the automobile data processing activities in Zhejiang province, and promote the reasonable development and utilization of automobile data and the healthy and orderly development of the automobile industry, the Zhejiang Cyberspace Administration, the Provincial Development and Reform Commission, the Provincial Department of Economics and Information Technology, the Provincial Department of Public Security and the Provincial Department of Transportation jointly issued the *Administrative Provisions on Automobile Data Processing in Zhejiang Province* (the “*Administrative Provisions*”). The *Administrative Provisions* came into force on 1 November 2023.

The *Administrative Provisions* clearly define automotive data as including personal information and important data involved in the process of automobile design, production, sales, use, operation and maintenance. Automotive data processors are organizations that carry out automotive data processing activities, including automotive manufacturers, parts and software suppliers, dealers, maintenance organizations and travel service enterprises. The *Administrative Provisions* clarify that automotive data processing must have a clear and reasonable purpose, and that the type of automotive data processed should be directly related to the realization of the business function of the product or service, as well as complying with the relevant provisions on the processing of important data. A direct rela-

tion means that the function of a product or service cannot be realized without the participation of the said automotive data. Automotive data processors that provide automotive data abroad shall, in accordance with the *Measures for the Security Assessment of Outbound Data Transfer*, submit for the security assessment of data transfer through the Zhejiang Cyberspace Administration to the Cyberspace Administration of China (the “CAC”). Automotive data processors carrying out important data processing activities shall report their annual automotive data security management to the Zhejiang Cyberspace Administration and relevant departments by 15 December every year. ([More](#))

网信部门依法查处“夸克”、“网易CC”破坏网络生态违法案件

2023年10月30日，据国家网信办官网消息，针对“夸克”平台和“网易CC”直播平台破坏网络生态问题，国家网信办指导广东省网信办依法约谈相关平台负责人，对“夸克”平台实施50万元罚款处罚，责令“网易CC”暂停“舞蹈”版块信息更新7日，同时责令2家平台立即全面深入整改，严肃处理相关责任人。

网信部门通报，“夸克”平台未遵守相关管理要求，搜索结果呈现大量淫秽色情信息，并向用户推荐色情低俗关键词，违反《网络安全法》《网络信息内容生态治理规定》《互联网信息服务搜索服务管理规定》等有关规定，在平台信息内容安全审核管理方面存在严重漏洞，破坏网络生态，情节特别严重。“网易CC”直播平台多个账号主播在直播过程中存在言行低俗、打色情擦边球等问题。“网易CC”直播平台未对上述低俗直播进行有效整治，并在首屏“娱乐”频道“舞蹈”版块等重点环节呈现，反映其在网络信息内容安全管理责任上存在严重缺失，违反《网络安全法》《网络信息内容生态治理规定》等有关规定，破坏网络生态，性质恶劣，情节严重。（[查看更多](#)）

Cyberspace Administration Authorities Investigated and Dealt with the Infringements of “Quark” and “NetEase CC” that Undermined the Cyber-ecology

On 30 October 2023, according to the official website of the CAC, in response to the issue of “Quark” and live broadcasting platforms “NetEase CC” undermining the cyber-ecology, the CAC instructed the Guangdong Cyberspace Administration to have a regulatory talk with the persons in charge of the relevant platforms in accordance with the law. The platform “Quark” was fined RMB 500,000 and “NetEase CC” was ordered to suspend the information update of the “Dance” section for 7 days, while the two platforms were ordered to immediately carry out comprehensive and thorough rectification, and to take disciplinary action against the relevant responsible persons.

The cyberspace administration authorities reported that the “Quark” platform failed to comply with relevant administrative requirements, presented a large amount of pornographic information in its search results, and recommended pornographic and vulgar keywords to its users, violating the relevant provisions of the *Cybersecurity Law*, the *Provisions on Ecological Governance of Internet Information Content*, and the *Provisions on the Administration of Internet Information Search Services*, etc. There are serious loopholes in the review and control of information content on the platform, damaging the network ecology, seriously undermining the network ecology. On the “NetEase CC” live broadcasting platform, several account holders were involved in vulgarity and pornography in the course of live broadcasting. “NetEase CC” has not effectively regulated the above vulgar live broad-

casting platform, and presented it on the first screen of “Dance” section on the “Entertainment” channel and other key links, reflecting a serious lack of responsibility for the management of information content safety on the network. This reflects a serious lack of responsibility for the safety management of network information content, violating the relevant provisions of the *Cybersecurity Law* and the *Provisions on Ecological Governance of Network Information Content*, and damaging the network ecology, which is a severe violation and egregious in nature. ([More](#))

国家安全部依法查处非法采集和跨境传输气象数据行为

据国家安全部2023年10月31日消息，今年以来，国家安全机关会同气象、保密等部门在全国范围内依法开展涉外气象探测专项治理，调查境外气象设备代理商10余家，检查涉外气象站点3000余个，发现数百个非法涉外气象探测站点实时向境外传输气象数据，广泛分布在全国20多个省份，对我国国家安全造成风险隐患。

国家安全机关提示，气象数据作为基础数据，与军事安全、粮食安全、生态安全、气候变化、公共利益密切相关，非法采集和跨境传输气象数据的行为危害我国国家主权、安全、发展利益。如发现非法涉外气象数据探测活动，可通过12339举报受理电话、国家安全部微信公众号举报受理平台向国家安全机关举报，或通过其他方式向气象部门举报。 ([查看更多](#))

Ministry of State Security Investigates and Deals with Illegal Collection and Cross-border Transfer of Meteorological Data in accordance with the Law

According to the Ministry of State Security news on 31 October 2023, since this year, the State security organs, together with meteorological, confidentiality and other departments, have carried out nationwide special rectification activities with respect to foreign-related meteorological detection in accordance with the law, investigated more than 10 agents of foreign meteorological equipment, inspected more than 3,000 foreign-related meteorological stations, and found that hundreds of illegal foreign meteorological detection stations engage in transferring meteorological data to foreign countries in real time. These stations are widely distributed in more than 20 provinces across the country, posing a risk to our national security.

The national security authorities suggest that meteorological data, used as basic data, are closely related to military security, food security, ecological security, climate change and the public interest, and that the illegal collection and cross-border transfer of meteorological data endangers the sovereignty, security and development interests of our country. Anyone who discovers illegal foreign meteorological data detection activities can report them to the national security authorities through the reporting and acceptance telephone number 12339, the WeChat public number reporting and acceptance platform of the Ministry of State Security, or to the meteorological departments through other means. ([More](#))

2023年第二次“标准周”全体会议在武汉召开

2023年11月2日，信安标委2023年第二次标准周“数据跨境流动安全研讨会”在武汉召开。数据跨境流动安全研讨会作为本次标准周活动的重要内容之一，研讨国内外数据跨境流动安全相关的政策法规、标准合规、技术应用以及标准化实践等，为各相关方共同做好数据跨境流动安全

工作共享信息、分享经验，为相关标准研制工作开拓思路，促进数据跨境流动安全有序发展，助力提升各行业数据安全保护水平。信安标委成员单位代表、数据安全相关科研机构专家、企业代表等300余人参加了本次研讨会。（[查看更多](#)）

The Second Plenary Session of Standards Week 2023 Held in Wuhan

On 2 November 2023, NISSTC held the Second Standards Week 2023, “Seminar on Security of Cross-border Data Transfer” in Wuhan.

As one of the important contents of this Standards Week, the Cross-border Data Transfer Security Seminar discusses domestic and international policies and regulations on cross-border data transfer security, standards compliance, technology application and standardization practice, etc., shares information and experiences for all relevant parties to do a good job in cross-border data transfer security, exploring the development of relevant standards, promotes the orderly development of cross-border data transfer security, and helps to enhance the level of data security protection in various industries. More than 300 people, including representatives of NISSTC member units, experts from data security related scientific research institutions, and enterprise representatives etc., attended the seminar. ([More](#))

28国签署《布莱切利宣言》

2023年11月1日至2日，首届全球人工智能安全峰会在英国布莱切利园举行，包括中国、英国、美国在内的28个国家在会议期间联合发布《布莱切利宣言》。

《布莱奇利宣言》针对前沿人工智能带来的机会和风险建立了共识，强调各国政府需要在前沿人工智能安全 and 研究方面共同合作，以应对挑战。（[查看更多](#)）

28 Countries Sign Bletchley Declaration

On 1-2 November 2023, the first Global AI Safety Summit was held at Bletchley Park in the UK, during which 28 countries, including China, the UK and the US, jointly released the *Bletchley Declaration*.

The *Bletchley Declaration* established a consensus on the opportunities and risks posed by frontier artificial intelligence (AI), emphasizing the need for all governments to work together on frontier AI safety and research in order to address AI risks. ([More](#))

欧盟与日本就数据跨境流动达成协议

2023年10月28日，欧盟委员会宣布与日本在大阪举行的七国集团贸易部长会议期间签署了一项关于跨境数据流动的协议。这一协议将使包括金融服务、运输、机械和电子商务在内的众多行业受益，让这些行业得以在无须满足“繁琐”的行政管理和数据存储要求的前提下，有效处理数据。欧盟委员会指出，具体而言，将不要求公司在本地实际存储数据。欧盟委员会确认，协议条款一旦获得批准，将纳入《欧盟-日本经济伙伴关系协定》。（[查看更多](#)）

EU and Japan Conclude Agreement on Cross-border Data Flows

On 28 October 2023, the European Commission announced that it had concluded an agreement with Japan focused on cross-border data flows on the sidelines of the G7 Trade Ministers' meeting in Osaka. The agreement will benefit a wide range of industries, including financial services, transport, machinery and e-commerce, by allowing them to handle data efficiently without cumbersome administrative or storage requirements. More specifically, the Commission noted that companies will not be required to physically store their data locally. The European Commission confirmed that, once ratified, the agreed provisions will be included in the *EU-Japan Economic Partnership Agreement*. ([More](#))

知识产权 Intellectual Property

最高人民法院发布电影知识产权保护典型案例

2023年11月3日，为加强电影领域法治宣传，进一步激发电影产业创新创造活力，促进社会主义文化繁荣兴盛，最高人民法院发布了电影知识产权保护典型案例。典型案例既包括刑事案件，也包括民事案件，涉及盗录传播院线电影、保护作品完整权、改编权、信息网络传播权、著作权合理使用、商业秘密保护等多方面内容，具体案例目录如下：

1. 马某予、马某松等侵犯著作权罪案（江苏省扬州市中级人民法院（2020）苏10刑初11号刑事判决书）
2. 梁某平侵犯著作权罪案（上海市第三中级人民法院（2021）沪03刑初101号刑事判决书）
3. 上海美术电影制片厂有限公司与重庆云媒信息科技有限公司等著作权侵权纠纷案（重庆市第五中级人民法院（2019）渝05民初3828号民事判决书）
4. 余某竹与浙江东阳美拉传媒有限公司等著作权权属、侵权纠纷案（四川省成都市中级人民法院（2018）川01民初1122号民事判决书）
5. 北京爱奇艺科技有限公司与上海俏佳人文化传媒有限公司侵害作品信息网络传播权纠纷案（北京知识产权法院（2021）京73民终2496号民事判决书）
6. 浙江盛和网络科技有限公司与株式会社传奇IP确认不侵害著作权纠纷案（杭州互联网法院（2021）浙0192民初10369号民事判决书）
7. 新丽传媒集团有限公司与北京派华文化传媒股份有限公司侵害商业秘密纠纷案（北京市朝阳区人民法院（2017）京0105民初68514号民事判决书）

8. 星辉海外有限公司与广州正凯文化传播有限公司等不正当竞争纠纷案（广州知识产权法院（2020）粤73民终2289号民事判决书）

来源：最高人民法院

SPC Releases Typical Cases on Film Intellectual Property Protection

On 3 November 2023, in order to strengthen the publicity of the rule of law in the field of film, further stimulate the innovation and creativity of the film industry, and promote the prosperity of socialist culture, the Supreme People's Court (the "SPC") released typical cases on the protection of intellectual property in films. Typical cases include both criminal and civil cases, involving pirated recording and dissemination of cinema films, protection of the right of integrity, the right of adaptation, the right of information network dissemination, reasonable use of copyright, protection of trade secrets, etc. The cases is as follows:

Case of Copyright Infringement by Ma Xyu, Ma Xsong and Others [Criminal Judgement No. 11 of the Intermediate People's Court of Yangzhou City, Jiangsu Province (2020) Su 10 Xing Chu].

Case of Copyright Infringement by Liang Xping [Criminal Judgement No. 101 of Shanghai 3rd Intermediate People's Court (2021) Hu 03 Xing Chu]

Case of Copyright Infringement between Shanghai Animation Film Studio Co., Ltd. and Chongqing Yunmei Information Technology Co., Ltd. and Others [Civil Judgement No. 3828 of the Fifth Intermediate People's Court of Chongqing Municipality (2019) Yu 05 Min Chu]

Case of Copyright Ownership and Infringement between Yu Xzhu and Zhejiang Dongyang Meira Media Company Limited and Others [Civil Judgement No. 1122 of the Intermediate People's Court of Chengdu City, Sichuan Province (2018) Chuan 01 Min Chu]

Case of the Right of Information Network Infringement Dissemination between Beijing iQIYI Technology Co., Ltd. and Shanghai Qiaojiaren Cultural Media Co., Ltd. [Civil Judgement No. 2496 of Beijing IP Court (2021) Jing73 Min Zhong]

Case of Confirmation of Non-infringement of Copyright between Zhejiang Shenghe Network Science and Technology Co., Ltd. and Legend IP [Hangzhou Internet Court (2021) No. 10369 Civil Judgement of Zhejiang 0192 Min Chu]

Case of Trade Secrets Infringement between Xinli Media Group Company Limited and Beijing Paihua Culture Media Co., Ltd. [Civil Judgement No. 68514 of Chaoyang District People's Court of Beijing (2017) Jing 0105 Min Chu]

Case of Unfair Competition Infringement between Star Overseas Ltd. and Guangzhou Zhengkai Culture Communication Co., Ltd. and Others [Civil Judgement No. 2289 of Guangzhou IP Court (2020) Yue 73 Min Zhong]

Source: [The Supreme People's Court](#)

“美团小黄车”商标不具有欺骗性，获准注册

近日，北京知识产权法院就北京三快科技有限公司（原告）与国家知识产权局商标申请驳回复审行政纠纷一案作出一审判决。判决认定被告关于“美团小黄车”的相关认定有误，判令被告就驳回复审申请重新作出决定。

法院认为，虽然公众对商品或服务本身固有属性的误认可能进而会对提供主体产生错误认识，但是《商标法》第十条第一款第（七）项所规制的误认情形仅为商标标志或者构成要素本身所导致的对商品或者服务固有属性的误认，而服务提供主体不属于商品或者服务的固有属性，因此被告认定诉争商标构成《商标法》第十条第一款第（七）项情形有误。

来源：北京知识产权法院

"Meituan Xiaohuangche" Trademark Obtained Registration with no Misleading Effect

Recently, the Beijing IP Court issued a first instance judgement of the administrative dispute on the refusal of trademark application between Beijing Sankuai Technology Co., Ltd. (the Plaintiff) and the China National Intellectual Property Administration (the Defendant). The judgement found that the Defendant's decision on "Meituan Xiaohuangche" was incorrect, and ordered the Defendant to return to its decision on the rejection of the application for review.

The court held that although the public's misunderstanding of the inherent nature of the goods or services may in turn lead to a misunderstanding of their providers, the misunderstanding regulated by Article 10(1)(g) of the Trademark Law refers to the inherent nature of the goods or services caused by the trademark or its constituent elements, and that the service providers do not belong to the inherent nature of the goods or services, it was wrong to conclude that the use of trademark constituted an infringement of Article 10(1)(g) of the Trademark Law.

Source: Beijing IP Court

四川高院：使用“咬咬乐”标识不构成商标侵权

近日，四川省高级人民法院就上诉人东莞亲亲我实业有限公司（原审原告）与被上诉人摩宁科技成都有限公司（原审被告）侵害商标权纠纷一案作出二审判决，判决认定被告使用“咬咬乐”标识的行为不构成商标侵权，驳回原告全部诉讼请求。

法院认为，在被诉侵权行为发生当时及之前，“咬咬乐”已被普遍认为是一种婴儿喂食器或婴儿咀嚼器，可见，“咬咬乐”已经成为商品通用名称。并且，由于被告是将“咬咬乐”作为产品的类别及名称使用，且市场上存在大量其他品牌的“咬咬乐”产品，被告并非“咬咬乐”产品的唯一提供者。因此，“咬咬乐”商标并未与被告形成唯一、稳定的联系，不会导致相关公众的混淆、误认。

来源：四川省高级人民法院

Sichuan High Court: The Use of the "Yaoyaole" Mark Does Not Constitute Trademark Infringement for Generic Name Regression

Recently, the Sichuan High Court issued a second instance judgement on trademark infringement between Dongguan Kidsme Industrial Co., Ltd. (the Plaintiff) and Moning Technology of Chengdu Co., Ltd. (the Defendant). The judgement found that the Defendant's use of the mark "Yaoyaole" does not constitute a trademark infringement, and rejected all of the Plaintiff's claims.

The court held that, at the time of and prior to the alleged infringement, "Yaoyaole" had been generally recognized as a baby feeder or baby chewer, and it was evident that "Yaoyaole" had become a generic name for the goods. Moreover, since Defendant is using "Yaoyaole" as the category and name of the product, and there are a large number of other brands of "Yaoyaole" on the market, the Defendant are not the sole providers. Therefore, the "Yaoyaole" did not form a unique and stable link with the Defendant, and would not lead to confusion or misunderstanding among the relevant public.

Source: [Sichuan High Court](#)

KKV店铺所使用的明黄色墙面等元素构成“有一定影响的商品服务装潢”

近日，浙江省高级人民法院就广东快客电子商务有限公司（原审原告）与义乌三威品牌管理有限公司等（原审被告）不正当竞争纠纷案作出二审判决。判决认定被告使用与原告相同或近似服务装潢的行为，构成不正当竞争。

法院认为，综合相关公众的知悉程度，商品销售的时间、区域、数额和对象，宣传的持续时间、程度和地域范围，标识受保护的情况等因素，应认定原告开办的KKV店铺的装修设计已构成有一定影响的服务装潢。受到法律保护的服务装潢并不一定具有独创性，往往表现为经营者具有独特风格和装饰的经营场所、餐饮用具和营业人员服装所构成的整体营业形象。这种整体形象与现有同类服务的店铺具有显著区别、能使相关公众将该店铺装潢与服务提供者紧密稳定联系在一起。

来源： [浙江省高级人民法院](#)

The Bright Yellow Colour of the Walls and Other Elements Used in KKV's Shops Constitute a "Trade and Service Decoration with a Certain Influence"

Recently, the Zhejiang High Court issued a second instance judgement on unfair competition infringement between Guangdong Kuaike Electronic Commerce Co., Ltd. (the Plaintiff) and Yiwu Sanwei Brand Management Co., Ltd. and others (the Defendants). The judgement found that the Defendants' use of the same or similar service decorations as the Plaintiff constituted unfair competition.

The court held that, combining factors such as the degree of awareness of the relevant public, the time, area, amount and target of the sale of goods, the duration, degree and geographical scope of publicity, and the protection of the logo, it should be concluded that the decoration design of the KKV shop run by the Plaintiff had constituted a service decoration with a certain degree of influence. The legally protected service decoration may not be original, but is often expressed as an overall business image consisting of the operator's space, catering equipment and the clothing of the personnel in a distinctive

style and ornamentation. This overall image is distinguishable from existing establishments offering similar services and enables the relevant public to associate the shop's decor with the service provider in a strong and stable manner.

Source: Zhejiang High Court

诺基亚起诉惠普与亚马逊侵犯视频流专利

2023年10月31日，芬兰电信公司诺基亚在美国特拉华州联邦法院起诉亚马逊和惠普公司，诺基亚称，亚马逊的Prime Video和Twitch流媒体服务以及惠普的计算机产品侵犯了其与视频流压缩、内容交付、内容推荐和硬件相关方面的专利。

在该诉讼中提到，目前已有数十家公司已经获得了诺基亚的视频编码和解码专利许可，这些专利可以实现更高质量和更低带宽和数据存储需求的视频流。其中一些专利对于国际电信联盟视频编码技术标准至关重要，诺基亚已向亚马逊和惠普提供了公平的专利许可邀约。诺基亚请求法院下令禁止亚马逊和惠普的侵权行为并寻求赔偿，金额尚未公布。

来源：路透社

Nokia Sues Amazon, HP for Patent Infringement over Video Streaming Technology

On 31 October 2023, Finnish telecom company Nokia (NOKIA.HE) on Tuesday sued Amazon. (AMZN.O) and HP Inc. (HPQ.N) in Delaware federal court. Nokia said that Amazon's Prime Video and Twitch streaming services and HP's computers violate its patents related to streaming video compression, delivery, recommendation and hardware.

The lawsuit said that dozens of companies have now obtained licences for Nokia's video encoding and decoding patents, which enable higher-quality video streams with lower bandwidth and data storage requirements. Some of these patents are essential to the International Telecommunication Union's technical standards for video coding, and Nokia has offered Amazon and HP fair offers to license the patents. Nokia is asking the court to order an injunction against Amazon and HP's infringement and to seek damages in an undisclosed amount.

Source: Reuters

无聊猿NFT作品商标侵权案胜诉：获赔超1000万

2023年11月1日，据路透社报道，美国上诉法院确认驳回Ryder Ripps的上诉请求。而在10月底，洛杉矶的一名联邦法官判决Ryder Ripps和他的商业伙伴Jeremy Cahen需赔偿Yuga Labs超150万美元。

美国第九巡回上诉法院表示，Ryder Ripps和Jeremy Cahen不能受到加州保护言论自由的法律保护。据了解，Yuga Labs在去年的一场诉讼中指控Ripps和Cahen以讽刺为幌子伪造Bored Ape代币，从中赚取了数百万美元。Ripps将自己的复制品描述为挪用艺术作品，讽刺Yuga Labs的NFT作品。

法官在今年4月份作出了裁决，认为Ripps的NFT“并不比销售一个假冒手袋更有艺术性”。法官表示，Ripps的复制品可能会迷惑潜在买家，并在今年夏天展开了一场庭审以确定Yuga Labs的损害赔偿和其他救济的范围。

来源：[路透社](#)

Bored Apes NFT Trademark Case: Damages Over RMB 10 Million Awarded

On 1 November 2023, according to Reuters, a U.S. appeals court has affirmed a ruling denying artist Ryder Ripps' bid. And in late October, a federal judge in Los Angeles determined that Ryder Ripps and Jeremy Cahen owe Yuga Labs more than \$1.5 million in damages.

The 9th U.S. Circuit Court of Appeals said on Monday that Ripps and his business partner Jeremy Cahen were not protected by a California law protecting free speech. Yuga Labs accused Ripps and Cahen in a lawsuit last year of making millions of dollars from counterfeiting its Bored Ape tokens under the guise of satire. Ripps has described his copies as appropriation art that lampoon Yuga's NFT artworks.

The judge found in April that Ripps' NFTs was "no more artistic than the sale of a counterfeit handbag" and likely to confuse consumers, and then a trial was launched this summer to define the scope of Yuga Labs' damages and other remedies.

Source: [Reuters](#)

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