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Several Measures to Promote the Innovation and Development of Large-Scale Artificial Intelligence Models in Shanghai (2023-2025) was Officially Released

《数据空间发展倡议》正式发布

Data Space Development Initiative was Officially Released

世界互联网大会发布《发展负责任的生成式人工智能研究报告及共识文件》

World Internet Conference Releases the Study Report and Consensus Document on Developing Responsible Generative Artificial Intelligence

西班牙数据保护机构对Digi Spain Telecom非法数据处理行为罚款20万欧元

AEPD Fines Digi Spain Telecom €200,000 for Unlawful Data Processing

知识产权 Intellectual Property

国务院常务会议审议通过《中华人民共和国专利法实施细则（修正草案）》

State Council Executive Meeting Passes the Rules for the Implementation of the Patent Law of the People's Republic of China (Draft Amendment)

宁德新能源科技起诉珠海冠宇专利侵权，索赔1100万元

CATL Sues Zhuhai CosMX for Patent Infringement, Claims RMB 11 Million

浙江高院：“施华蔻”商标侵权案判赔1500万

Zhejiang High Court: The Trademark Infringement Case of Schwarzkopf Won RMB 15 Million

西安雁塔区法院：权利商标转让后又提起商标侵权之诉，构成恶意诉讼



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长江存储在美起诉美光专利侵权

YMTC Sues Micron for Patent Infringement in U.S.

Medallia侵犯软件商业秘密，判赔2570万美元

Medallia Awarded \$25.7 Million in Trade Secret Theft Lawsuit

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Nike Sues New Balance, Skechers for Patent Infringement over "Flyknit" Technology

立方竞争法周报 Weekly Competition Law News

市场监管总局与欧盟委员会竞争总司共同举办第26届中欧竞争政策周

2023年11月10日，国家市场监督管理总局（“市场监管总局”）发布公告，宣布其与欧盟委员会竞争总司共同以线上线下相结合方式举办第26届中欧竞争政策周。双方围绕纵向经营者集中审查方法、国家援助和公平竞争审查制度等议题进行了深入讨论。双方表示，将进一步深化反垄断领域交流合作，维护公平竞争秩序，促进双方经贸关系持续发展。（[查看更多](#)）

SAMR and European Commission Directorate General for Competition jointly Organize 26th China-EU Competition Week

On November 10, 2023, the State Administration for Market Regulation (“SAMR”) issues an announcement announcing that it and the European Commission Directorate General for Competition jointly organize the 26th China-EU Competition Week in a combined online and offline manner. The two sides conduct in-depth discussions on issues such as vertical concentration review methods, state aid and fair competition review systems. The two sides state that they will further deepen exchanges and cooperation in the field of anti-monopoly, maintain the order of fair competition, and promote the sustainable development of economic and trade relations between the two sides. ([More](#))

HKCC就网上外卖平台Deliveroo户户送作出的新承诺展开咨询

2023年11月10日，香港竞争事务委员会（HKCC）就香港网上外卖平台Deliveroo户户送（Deliveroo Hong Kong Limited）依据香港《竞争条例》（“《条例》”）第60条作出的新承诺展开咨询。2023年1月，HKCC曾对Deliveroo户户送及另一个外卖平台Foodpanda（Delivery Hero Food Hong Kong Limited）展开调查，发现Deliveroo户户送及Foodpanda对合作餐厅施加的某些要求，可能会妨碍新成立的平台、小型平台进入市场及扩充业务，削弱市场竞争，违反《条例》下的第一行为守则。为应对HKCC的担忧，两平台各自提出了承诺，修订或删除有关条文，让餐厅与新成立的平台、小型平台合作，或是在自家销售渠道及其他平台订餐定价时享有更大的自由度。本次Deliveroo户户送作出的新承诺与首次咨询所建议的承诺大致相同，主要的修订为新承诺不会涵盖与Deliveroo户户送订立了利润保证条款或分店扩充条款的合作餐厅。（[查看更多](#)）

HKCC Consults on Proposal to Accept New Commitment Offered by Deliveroo

On November 10, 2023, The Hong Kong Competition Commission (HKCC) commences a consultation on the newly proposed commitment offered under section 60 of the Hong Kong Competition Ordinance by Deliveroo Hong Kong Limited (“Deliveroo”), an online food delivery platform in Hong Kong. In January 2023, HKCC launched an investigation into Deliveroo Toto Delivery and another takeaway platform, Delivery Hero Food Hong Kong Limited (“Foodpanda”) and found that certain requirements imposed by Deliveroo and Foodpanda on their partnering restaurants may hinder entry and expansion by new and/or smaller platforms and/or soften competition in the market, potentially in contravention of the First Conduct Rule of the Ordinance. To address the Commission’s concerns, the two platforms

each offered commitments to amend or remove the relevant provisions to allow restaurants greater freedom in partnering with new and/or smaller platforms and in pricing menu items on their own channels and other platforms. The New Commitment proposed by Deliveroo largely mirrors its proposed commitment that underwent the First Consultation, except for the key change of excluding restaurants partnering with Deliveroo under Profit Guarantee Terms or Outlet Expansion Terms from the scope of the New Commitment. ([More](#))

杭州市21家混凝土生产企业达成并实施垄断协议，共罚没1.74亿元

2023年11月9日，市场监管总局发布了由浙江省市场监督管理局（“浙江省市监局”）作出的行政处罚决定。2022年6月21日，浙江省市监局根据杭州市余杭区人民法院《司法建议书》对杭州市21家混凝土生产企业涉嫌达成并实施垄断协议行为进行立案调查。经查，在2016年年中至2018年9月期间，杭州市21家混凝土生产企业共同采取了成立行业协会、分配企业生产配额、统一提高商品混凝土销售价格等一系列行为，达成并实施了固定商品价格、分割销售市场和限制商品生产销售数量的垄断协议。2023年7月27日，浙江省市监局作出处罚决定，对牵头企业和参与企业分别处以2017年度销售额的5%和2%的罚款，共计约1.74亿元。（[查看更多](#)）

21 Concrete Production Companies in Hangzhou Reached and Implemented Monopoly Agreement, Resulting in Total Fine of CYN 174 Million

On November 9, 2023, the SAMR issues an administrative penalty decision made by the Zhejiang Provincial Administration for Market Regulation (“Zhejiang Provincial AMR”). On June 21, 2022, the Zhejiang AMR launched an investigation into 21 concrete production companies in Hangzhou on suspicion of reaching and implementing monopoly agreements based on the Judicial Recommendation of the Yuhang District People’s Court of Hangzhou. It was found that during the period from mid-2016 to September 2018, 21 concrete production companies in Hangzhou jointly took a series of actions, such as establishing industry associations, allocating production quotas to companies, and uniformly increasing the sales price of commercial concrete, to reach and implement a monopoly agreement to fix the price of goods, divide the sales market and limit the quantity of goods to be produced and sold. On July 27, 2023, the Zhejiang AMR made a penalty decision, imposing fines of 5% and 2% of 2017 sales on the leading company and participating companies respectively, totalling approximately CYN 174 million. ([More](#))

中央全面深化改革委员会第三次会议：健全自然垄断环节监管体制机制

2023年11月7日，据新华社消息，中央全面深化改革委员会第三次会议顺利召开。会议审议通过了有关建设美丽中国、国有资本经营预算、自然垄断环节监管、专家参与公共决策行为监督管理、生态环境分区管控的相关文件，其中包括《关于健全自然垄断环节监管体制机制的实施意见》。会议指出，电力、油气、铁路等行业的网络环节具有自然垄断属性，是我国国有经济布局的重点领域。要健全监管制度体系，加强监管能力建设，重点加强对自然垄断环节落实国家重大战略和规划任务、履行国家安全责任、履行社会责任、经营范围和经营行为等方面的监管，推动处于自然垄断环节的企业聚焦主责主业，增加国有资本在网络型基础设施上投入，提

升骨干网络安全可靠性。要对自然垄断环节开展垄断性业务和竞争性业务的范围进行监管，防止利用垄断优势向上下游竞争性环节延伸。（[查看更多](#)）

Third Meeting of Central Committee for Comprehensively Deepening Reforms: Improving Supervision System and Mechanism for Natural Monopoly Networks

On November 7, 2023, according to Xinhua News Agency, the third meeting of the Central Committee for Comprehensively Deepening Reforms is successfully held. The meeting reviews and adopts a set of guidelines on building a Beautiful China, the budget system of state capital operations, supervision mechanism for natural monopoly networks, supervision over professionals participating in public decision-making, and region-specific management and control of the ecological environment, including the *Implementation Opinions on Improving the Supervision System and Mechanism for Natural Monopoly Network*. The meeting points out that network networks in industries such as electricity, oil and gas, and railways have natural monopoly attributes and are key areas of my country's state-owned economic layout. It is necessary to improve the regulatory system, strengthen regulatory capacity building, focus on strengthening the supervision of the natural monopoly networks in the implementation of major national strategies and planning tasks, the fulfilment of national security responsibilities, the fulfilment of social responsibilities, business scope and business behaviour, and promote the natural monopoly networks. Enterprises focus on their main responsibilities and businesses, increase state-owned capital investment in network infrastructure, and improve the security and reliability of backbone networks. It is necessary to supervise the scope of monopolistic and competitive businesses carried out in natural monopoly networks to prevent the use of monopoly advantages from extending to upstream and downstream competitive networks. ([More](#))

FTC质疑100多项橙皮书专利以降低药品价格

2023年11月7日，美国联邦贸易委员会（FTC）宣布已向几家主要制药商和医疗器械公司发出通知函，对美国食品药品监督管理局（FDA）橙皮书中列出的100多项专利的准确性和相关性提出质疑，此举旨在解决药品价格上涨问题并促进制药行业的公平竞争。这些目标专利包括与哮喘吸入器和肾上腺素自动注射器等关键医疗设备相关的专利。橙皮书是FDA批准的安全有效的药品清单。当品牌制药公司在橙皮书中列出专利时，可能会导致法定中止，通常会在30个月内阻止竞争药品的推出，包括成本较低的仿制药替代品。如果按照法律规定，在橙皮书中列出专利不恰当，则可能会对竞争条件产生负面影响。2023年9月，FTC已经警告制药商，如果他们向FDA不当列出专利，可能会面临法律后果。（[查看更多](#)）

FTC Challenges More than 100 Orange Book Patents to Lower Drug Prices

On November 7, 2023, the U.S. Federal Trade Commission (FTC) announces that it issued notice letters to several major pharmaceutical manufacturers and medical device companies, challenging the U.S. Food and Drug Administration (FDA) has questioned the accuracy and relevance of more than 100 patents listed in the FDA's Orange Book, a move intended to address rising drug prices and promote fair competition in the pharmaceutical industry. The targeted patents include those related to critical medical devices such as asthma inhalers and epinephrine auto-injectors. The Orange Book is a list of FDA-approved drugs that are safe and effective. When a brand-name pharmaceutical company lists a patent in the Orange Book, it can result in a statutory stay that typically blocks the introduction of

competing drug products for 30 months, including lower-cost generic alternatives. If listing a patent in the Orange Book is inappropriate under the law, it may have a negative impact on competitive conditions. In September 2023, the FTC warned drug manufacturers that they may face legal consequences if they improperly list patents with the FDA. ([More](#))

Epic Games在反垄断审判中指控谷歌“封锁和收买”

2023年11月6日，据媒体报道，热门游戏《堡垒之夜》（Fortnite）的创造者Epic Games在反垄断审判中对科技巨头谷歌提出了“封锁和收买”的指控。这场审判将持续到12月，在美国加利福尼亚北区联邦地区法院展开，有可能重塑安卓应用商店的格局。Epic Games指出，谷歌采取了“封锁和买通”的行为，对所有应用内购买收取30%的巨额佣金，这项费用为谷歌带来了“超额利润”，同时也导致消费者选择有限和成本增加，包括Epic Games在内的应用程序开发商也因这一做法而蒙受损失，而希望建立自己应用程序商店的个人也遇到了障碍。此外，谷歌还向任天堂、动视暴雪和Riot Games等竞争对手支付巨额资金以换取其不建立应用商店，激励手机制造商不要在安卓设备上预装竞争应用商店，确保大多数安卓手机只安装谷歌应用商店（Google Play Store）。([查看更多](#))

Epic Games Accuses Google of Blocking and Bribing in Antitrust Trial

On November 6, 2023, according to media reports, Epic Games, the creator of the popular game Fortnite, accuses the technology giant Google of “blocking and buying” in the antitrust trial. The trial, which will last until December in the U.S. District Court for the Northern District of California, has the potential to reshape the Android app store. Epic Games pointed out that Google has adopted a “blocking and buying” behaviour and charges a huge 30% commission on all in-app purchases. This fee has brought “extraordinary profit” to Google, while also leading to limited consumer choices and increased costs. App developers, including Epic Games, have also suffered losses from the practice, while individuals looking to set up their own app stores have also encountered obstacles. In addition, Google has paid huge sums of money to competitors such as Nintendo, Activision Blizzard and Riot Games in exchange for not building app stores, incentivizing phone manufacturers not to pre-install competing app stores on Android devices, ensuring that most Android phones ship exclusively with Google Play Store.. ([More](#))

美国地区法院指令T-Mobile面对反竞争行为指控

2023年11月5日，据媒体报道，美国伊利诺伊北区联邦地区法院裁定，T-Mobile必须面对AT&T和Verizon用户提起的诉讼，上述用户主张T-Mobile与竞争对手Sprint的合并对竞争产生了负面影响，并导致无线服务支出增加数十亿美元，应撤销2020年T-Mobile与Sprint的合并。法院于2023年11月2日作出了一份长达41页的裁决，称原告提出了“可信的”论据，证明价格上涨是合并的直接后果。此前一些州曾就T-Mobile与Sprint之间的交易提起诉讼，纽约南区联邦地区法院在2020年作出了不利于这些州的裁决，为合并的继续进行扫清了道路。美国司法部没有参与此前的诉讼，但与合并后的公司达成了和解协议，要求将部分资产剥离给卫星运营商DISH Network。目前，此案将进入庭审阶段，双方将在庭审中提出各自的论点和证据。([查看更多](#))

U.S. District Court Orders T-Mobile to Face Suit Alleging Anti-Competitive Practices

On November 5, 2023, according to media reports, the U.S. Federal District Court for the Northern District of Illinois rules that T-Mobile must face lawsuits filed by AT&T and Verizon users who claim that T-Mobile's merger with rival Sprint negatively impacted competition, led to billions of dollars in additional expenses for wireless services and the 2020 T-Mobile-Sprint merger should be reversed. The court issued a 41-page ruling on November 2, 2023, saying that the plaintiffs presented "credible" arguments that the price increases were a direct result of the merger. Some states had previously filed lawsuits over the deal between T-Mobile and Sprint, and the U.S. District Court for the Southern District of New York ruled against those states in 2020, clearing the way for the merger to proceed. The U.S. Department of Justice was not involved in the previous lawsuit, but reached a settlement agreement with the merged company, requiring it to divest some assets to satellite operator DISH Network. At present, the case will enter the trial stage, in which both parties will present their respective arguments and evidence. ([More](#))

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

市场监管总局发布《“双十一”网络集中促销合规提示》

2023年11月10日，为规范促销经营行为，维护“双十一”期间网络交易市场秩序，保护消费者合法权益，市场监管总局向电商平台企业发出《“双十一”网络集中促销合规提示》（以下简称《合规提示》），主要包括九方面内容：严格落实主体责任、严格规范促销行为、严格加强广告内容审核、严格禁止不正当竞争行为、严格规范直播行为、严格防范经营假冒伪劣商品行为、严格禁止销售违法违禁商品、妥善化解网络消费纠纷、强化政企沟通协作。其中，《合规提示》指出，就不正当竞争而言，要严格禁止“二选一”等违法行为，公平参与市场竞争。

([查看更多](#))

SAMR Issues the “Double Eleven” Compliance Tips for Online Focused Promotions

On 10 November 2023, in order to regulate business promotional activities, to maintain the market order of online transactions during the "Double Eleven" period, and to protect the legitimate rights and interests of consumers, State Administration for Market Regulation (the "SAMR") issued the "Double Eleven" Compliance Tips for Online Focused Promotions (the "Compliance Tips"), which mainly includes nine aspects: strict implementation of the primary responsibility of businesses, strict regulation of promotional activities, strict enhancement of advertising review, strict prohibition of unfair competition, strict regulation of live broadcasting behaviors, strict prevention of the operation of counterfeit and shoddy goods, strict prohibition of the sale of illegal and prohibited goods, proper resolution of online consumer disputes, and strengthening of the communication and collaboration between government and enterprises. Among them, the *Compliance Tips* stated that, as far as unfair competition is concerned, it is necessary to strictly prohibit illegal behaviors such as "choose one or the other", and to participate in the market competition fairly. ([More](#))

国家金融监管总局新设科技监管司

2023年11月10日，中国政府网发布《国家金融监督管理总局职能配置、内设机构和人员编制规定》。作为今年在中国银行保险监督管理委员会基础上组建的国务院直属机构，国家金融监督管理总局大部分沿用了原银保监会的组织架构，共有27个正司局级内设机构。在本轮改革中新设了科技监管司：负责拟订相关信息科技发展规划和信息科技风险监管制度并组织实施。按分工承担网络安全、数据安全、关键信息基础设施监管等工作，推动数字化信息化建设。（[查看更多](#)）

National Financial Regulatory Administration Newly Establishes Science and Technology Supervision Department

On 10 November 2023, the Chinese government website published the *Provisions on the Functional Configuration, Internal Institutions and Staffing of the National Financial Regulatory Administration*. As an organization directly under the State Council formed on the basis of the China Banking and Insurance Regulatory Commission (CBIRC) this year, the National Financial Regulatory Administration mostly adopted the organizational structure of the former CBIRC, with a total of 27 internal organizations at the level of departments and bureaus. In this round of reform, the Department of Science and Technology Supervision has been newly established: it is responsible for formulating relevant information technology development planning and information technology risk supervision system and organizing its implementation. It undertakes network security, data security, critical information infrastructure supervision and other work in accordance with the division of responsibilities, and promotes the construction of digital information technology. ([More](#))

《北京数据基础制度先行区创建方案》正式发布

2023年11月10日，北京数据基础制度先行区启动活动在北京数据先行区管理服务中心成功举办。启动仪式上，北京市经济和信息化局局长姜广智发布了《北京数据基础制度先行区创建方案》。

据介绍，北京将打造“2+5+N”的数据先行区基础架构。其中，“2”是数据先行区基础设施层，包含智能算力基础设施和国家区块链网络枢纽；“5”是数据先行区业务中台层，包含数据资产登记平台、数据资产评估平台、数据资产托管平台、数据交易节点、数字资产管理平台等；“N”是数据应用层，即金融数据、政务数据、“三医”数据、自动驾驶数据、航运贸易数据、文旅数据等数据专区与应用。（[查看更多](#)）

Beijing Data Infrastructure System Pioneer Zone Creation Programme was Officially Released

On 10 November 2023, the Beijing Data Infrastructure System Pioneer Zone was successfully launched at the Beijing Data Pioneer Zone Management Service Centre. At the launching ceremony, Jiang Guangzhi, Director of the Beijing Municipal Bureau of Economy and Information Technology, released the *Beijing Data Infrastructure System Pioneer Zone Creation Programme*.

It is reported that Beijing will build a “2+5+N” data pioneer zone infrastructure. The “2” is the infrastructure layer of the Data Pioneer Zone, including the intelligent computational infrastructure and the national block chain network hub; the “5” is the business center layer of the Data Pioneer Zone, including the data asset registration platform, the data asset evaluation platform, the data asset custodian platform, the data transaction node, the digital asset management platform, etc.; and the “N” is the data application layer, namely, the data zone and application of the financial data, the governmental data, the medical-related data, the self-driving data, the shipping trade data, and the cultural and tourism data. ([More](#))

《上海市推动人工智能大模型创新发展若干措施（2023-2025年）》正式发布

2023年11月7日，为深入贯彻国家发展新一代人工智能的战略部署，落实《上海市促进人工智能产业发展条例》，推动上海大模型创新发展，营造通用人工智能创新生态，加快打造世界级人工智能产业集群，《上海市推动人工智能大模型创新发展若干措施（2023-2025年）》（以下简称《措施》）正式发布。

《措施》围绕支持大模型创新能力、提升创新要素供给能级、推进大模型创新应用、营造一流创新环境四个方面发布了11条举措，包含建立大模型测试评估中心、实施大模型智能算力加速计划、构建智能芯片软硬协同生态、语料数据资源共建共享等。 ([查看更多](#))

Several Measures to Promote the Innovation and Development of Large-Scale Artificial Intelligence Models in Shanghai (2023-2025) was Officially Released

On 7 November 2023, in order to deeply implement the national strategic plan for the development of a new generation of Artificial Intelligence (“AI”), enforce the *Shanghai Municipal Regulations on Promoting the Development of Artificial Intelligence Industry*, promote the innovative development of Shanghai's large-scale models, create a general AI innovation ecosystem, and accelerate the creation of a world-class AI cluster, the *Several Measures to Promote the Innovation and Development of Large-Scale Artificial Intelligence Models in Shanghai (2023-2025)* (the “Measures”) was officially released.

The *Measures* released 11 measures around four aspects of supporting the innovation capacity of large-scale models, enhancing the supply capacity of innovation elements, promoting the innovative application of large-scale models and creating a first-class innovation environment, including the establishment of a large-scale model testing and evaluation center, the implementation of a large-scale model intelligent computational acceleration plan, the construction of an intelligent chip software-hardware synergy ecology, and the common construction and sharing of corpus data resources. ([More](#))

《数据空间发展倡议》正式发布

据2023年11月8日北京经济技术开发区官网消息，11月6日，由北京国际数据实验室和国际数据空间协会（IDSA）联合主办的“数据空间国际产业论坛”正式面向全球发布《数据空间发展倡议（Data Spaces Development Initiative）》（以下简称《倡议》），旨在推动数据空间发展，提高数据利用效率，释放数据价值，通过全球产业界的合作，促进数字经济的繁荣和数字社会的进步。

《倡议》具体内容包括：凝聚统一共识——凝聚最广泛的国际共识，基于一套核心理念和参考框架持续贡献并开展各项活动；推动互联互通——建立完善的数据空间标准体系和互操作技术框架，确保全球数据空间互联互通；鼓励包容创新——鼓励数据空间理论研究、技术研发和管理模式创新，包容任何有价值、有创意的数据空间产品和解决方案；加速应用实践——推动数据空间在各个领域的应用，开展多样化场景与多模式部署的探索，最终形成千行百业大规模应用；完善生态构建——大力发展多元化的数据空间生态伙伴，完善产业链条，推动数据空间可持续发展。（[查看更多](#)）

Data Space Development Initiative was Officially Released

According to news on the official website of the Beijing Economic-Technological Development Area (the “BDA”) on 8 November 2023, on 6 November, the Data Spaces International Industry Forum, jointly hosted by the Beijing International Data Lab and the International Data Spaces Association (the “IDSA”), officially launched the *Data Spaces Development Initiative* (the “Initiative”), which is aimed at promoting the development of data spaces, improving the efficiency of data utilization, unleashing the value of data, and fostering the prosperity of the digital economy and the advancement of the digital society through the cooperation of the global industrial community.

The *Initiative*’s contents include: building a unified consensus - to build the broadest international consensus, make continuous contributions and carry out activities based on a set of core concepts and reference frameworks; and promoting interconnection - to establish a sound data space standard system and an interoperable technical framework, and to ensure the interconnection and interoperability of the global data space; encouraging inclusive innovation - to encourage theoretical research, technology research and development and management mode innovation in data space, and to accommodate any valuable and creative data space products and solutions; accelerating application practice - to promote the application of data space in various fields, to carry out the exploration of diversified scenarios and multi-mode deployment, and to ultimately form large-scale applications in a variety of industries; perfecting the construction of ecosystems - to vigorously develop diversified ecological partners of data space and to improve the industrial chain, so as to push forward the sustainable development of data space. ([More](#))

世界互联网大会发布《发展负责任的生成式人工智能研究报告及共识文件》

2023年11月9日，2023年世界互联网大会正式发布《发展负责任的生成式人工智能研究报告及共识文件》（以下简称《研究报告》）。作为大会的重要成果，《研究报告》由世界互联网大会人工智能工作组编写。工作组成立于今年8月，成员来自全球40余家产业链企业和高端智库、国际组织、高校等，致力于推动发展负责任的人工智能。

《研究报告》提出，应正确认识生成式人工智能所蕴含的巨大潜力和可能风险，遵循统筹发展和安全、平衡创新与伦理、均衡效益与风险的理念，推动生成式人工智能负责任地发展。一方面，应积极推动创新、可持续、包容开放的发展，提升生成式人工智能算力高效、数据高质、算法创新、人才多元、生态开放的能力；另一方面，以高度负责任的态度发展可靠可

控、透明可释、数据保护、多元包容、明确责任、价值对齐的生成式人工智能。（[查看更多](#)）

World Internet Conference Releases *the Study Report and Consensus Document on Developing Responsible Generative Artificial Intelligence*

On 9 November 2023, the *Study Report and Consensus Document on Developing Responsible Generative Artificial Intelligence* (the “*Study Report*”) was officially released at the World Internet Conference 2023. As an important outcome of the conference, the *Study Report* was prepared by the Artificial Intelligence Working Group of the World Internet Conference. Established in August this year, the Working Group, with members from more than 40 industrial chain enterprises and top think tanks, international organizations and universities around the world, is committed to promoting the development of responsible AI.

The *Study Report* points out that the huge potential and possible risks inherent in generative AI should be recognized correctly, and that the concepts of integrating development and safety, balancing innovation and ethics, and balancing benefits and risks should be followed in order to promote the responsible development of generative AI. On the one hand, innovative, sustainable, inclusive and open development should be actively promoted, so as to enhance the ability of generative AI in terms of high computational efficiency, high data quality, algorithmic innovation, diversified talents and ecological openness; on the other hand, a highly responsible attitude should be adopted to develop generative AI that is reliable and controllable, transparent and releasable, data-protected, diversified and inclusive, with clear responsibilities and aligned values. ([More](#))

西班牙数据保护机构对Digi Spain Telecom非法数据处理行为罚款20万欧元

2023年11月6日，西班牙数据保护机构（AEPD）在编号为 PS-00317-2023 的诉讼案中公布了一项裁决，根据个人提交的投诉，该机构对Digi Spain Telecom, S.L.U.公司处以20万欧元的罚款，理由是其违反了《通用数据保护条例》。

AEPD特别指出，投诉人是Digi Spain Telecom的客户，他声称后者未经其同意，向未经授权的第三方提供了其SIM卡的副本，使该第三方能够从投诉人的银行账户进行银行转账。根据调查，AEPD发现Digi Spain Telecom向未经授权的第三方发放了重复的SIM卡，而没有对请求者的身份进行尽职调查。随后，AEPD指出，Digi Spain Telecom在处理投诉人的个人数据时没有适当的法律依据，违反了《通用数据保护条例》第6(1)条。（[查看更多](#)）

AEPD Fines Digi Spain Telecom € 200,000 for Unlawful Data Processing

On 6 November 2023, the Spanish data protection authority (AEPD) published its decision in Proceeding No. PS-00317-2023, in which it imposed a fine of €200,000 on Digi Spain Telecom, S.L.U., for violations of the *General Data Protection Regulation* (the “*GDPR*”), following a complaint submitted by an individual.

In particular, the AEPD stated that the complainant, a client of Digi Spain Telecom, alleged that the latter had provided, without their consent, a duplicate of their SIM card to an unauthorized third party, which allowed the same to conduct bank transfers from the complainant’s bank account. In light of its

investigation, the AEPD found that Digi Spain Telecom had issued the duplicate SIM card to the unauthorized third party without due diligence on the part of Digi Spain Telecom regarding the identity of the individual requesting it. Subsequently, the AEPD noted that Digi Spain Telecom, in failing to rely on an appropriate legal basis for processing the complainant's personal data, had violated Article 6 (1) of the *GDPR*. ([More](#))

知识产权 Intellectual Property

国务院常务会议审议通过《中华人民共和国专利法实施细则（修正草案）》

2023年11月3日，国务院常务会议审议通过《中华人民共和国专利法实施细则（修正草案）》。此次修改有三个方面的特点：一是贯彻落实党中央、国务院关于加强知识产权保护的决策部署，进一步提升我国专利创造、运用、保护、管理和服务水平。二是依照修改后的专利法细化、完善相关制度，维护专利制度的一致性、稳定性。三是与加入的相关国际条约做好衔接，积极落实国际条约义务、进一步融入国际规则。

修改主要涉及五个方面：一是完善专利申请制度，便利申请人和创新主体；二是完善专利审查制度，提高专利审查质量；三是加强专利行政保护，维护专利权人合法权益；四是加强专利公共服务，促进专利转化运用；五是新增外观设计国际申请特别规定，加强与海牙协定的衔接。

来源：司法部

State Council Executive Meeting Passes the Rules for the Implementation of the Patent Law of the People's Republic of China (Draft Amendment)

On 3 November 2023, State Council executive meeting deliberates and passes the *Rules for the Implementation of the Patent Law of the People's Republic of China (Draft Amendment)*. The amendment is characterised by three aspects: firstly, it implements the decisions and deployments of the CPC Central Committee and the State Council on strengthening the protection of intellectual property, and further enhances the level of China's patent creation, application, protection, management and services. The second is to refine and improve the relevant systems in accordance with the amended Patent Law, and to maintain the consistency and stability of the patent system. Thirdly, it will establish a good connection with the relevant acceded international treaties, actively implement the international treaty obligations, and further integrate into the international rules.

The amendment mainly involves five points: firstly, improving the patent application system to facilitate applicants and innovation subjects; secondly, improving the patent examination system to enhance the quality of patent examination; thirdly, strengthening the administrative protection

Source: the Ministry of Justice

宁德新能源科技起诉珠海冠宇专利侵权，索赔1100万元

据上海证券报2023年11月11日消息，珠海冠宇电池股份有限公司（以下简称“珠海冠宇”）于近日收到福建省福州市中级人民法院送达的关于宁德新能源科技有限公司（简称“ATL”）以专利侵权为由起诉公司的起诉状等相关材料。

原告ATL称公司生产和销售的相关产品侵害了其ZL201580082766.1号专利的专利权，并据此请求法院判令公司立即停止制造、使用、销售、出口涉诉专利相关产品，赔偿原告经济损失人民币1000万元及为制止侵权行为而支出的合理费用人民币100万元，承担相应的诉讼费用等。

来源：上海证券报

CATL Sues Zhuhai CosMX for Patent Infringement, Claims RMB 11 Million

As reported by SSJ on 11 November 2023, Zhuhai CosMX Battery Co., Ltd. (the "Zhuhai CosMX") has recently received notice from Fuzhou Intermediate People's Court in Fujian Province regarding the lawsuit filed by Contemporary Amperex Technology Co. Limited (the "CATL") for patent infringement.

The plaintiff, CATL, claimed that the relevant products manufactured and sold by Zhuhai CosMX infringed its ZL201580082766.1 patent, and accordingly requested the court to order the company to immediately stop the manufacture, use, sale, and export of the products related to the patent, to pay damages of RMB 10 million and reasonable expenses of RMB 1 million, and to bear the corresponding Litigation costs, etc.

Source: The Shanghai Securities Journal

浙江高院：“施华蔻”商标侵权案判赔1500万

近日，浙江高院就上诉人徐某（原审被告）、抚州易谦美容美发有限公司（原审被告）、谭某泽（原审被告）与被上诉人汉高股份有限及两合公司（原审原告）侵害商标权纠纷案作出二审判决。判决认定被告构成商标侵权，需赔偿原告经济损失及合理费用1500元。

法院认为，被告对其抢注和恶意受让相关商标明确知晓，但是在上述其抢注的系列商标被异议无效后，依然持续使用侵权标识，实施侵权行为，侵权故意十分明显。且被告侵权期间长、侵权范围遍布全国、获利巨大。被告自称涉案施华蔻美发连锁店数量达到1000多家，遍布全国多个城市，大量收取所谓加盟费及管理费，造成全国各地大量消费者混淆，已经构成侵权情节严重。

来源：浙江高院

Zhejiang High Court: The Trademark Infringement Case of Schwarzkopf Won RMB 15 Million

Recently, Zhejiang High Court issued a second instance judgement on trademark infringement between HENKEL AG & CO. KGaA (the Plaintiff) and Xu X and others (the Defendants). The judgement found that the defendants constituted trademark infringement and had to pay damages of RMB 15 million to the plaintiffs for economic losses and reasonable expenses.

The Court held that the Defendants were clearly aware of the trademarks "Schwarzkopf " they had squatting on and maliciously assigned, but after the above series of trademarks had been invalidated by the opposition, they still continued the infringement, and the malicious intention of infringement was obvious. The Defendants infringed for a long period of time, covering the whole country, making huge profits. The Defendant claimed that the number of Schwarzkopf hairdressing chain shops involved reached more than 1,000, spreading over many cities nationwide, charging a large amount of the so-called franchise fee and management fee, which caused confusion to a large number of consumers all over the country, and had constituted a severe infringement.

Source: Zhejiang High Court

西安雁塔区法院：权利商标转让后又提起商标侵权之诉，构成恶意诉讼

近日，西安市雁塔区人民法院就西安碑林国星口腔门诊部有限公司（原告）与西安凯文医院有限公司（被告）恶意提起知识产权诉讼损害责任纠纷案作出一审判决。判决认定被告构成恶意诉讼，需赔偿原告经济损失及合理费用3万元。

法院认为，判断被告凯文公司是否存在恶意诉讼行为，应当从侵害行为、损害结果、侵害行为与损害结果之间的因果关系以及行为人的主观过错等几方面进行审查。本案中，判断被告是否具有恶意是关键。被告在提起诉讼之前，已经将涉案商标转让给案外人，应当知晓其自身已经丧失权利基础，且难以认定被告的行为属于以依法维权为目的、正当行使其诉讼权利的行为，因此认定被告具有主观上的恶意。

来源：西安市雁塔区人民法院

Yanta District People's Court of Xi'an: The Filing of a Trademark Infringement Claim after the Trademark Assignment Constitutes a Malicious Prosecution

Recently, Yanta District People's Court of Xi'an issued a first instance judgement on malicious indictment of intellectual property damage liability between Xi'an Beilin Guoxing Dental Clinic Co., Ltd (the Plaintiff) and Xi'an Kevin Hospital Co., Ltd. (the Defendant). The judgement found that the Defendant constituted a malicious litigation, and were required to pay damages of RMB 30,000 in economic losses and reasonable expenses.

The court held that to determine whether the Defendant had acted maliciously in litigation, it shall be examined the act of infringement, the result of the damage, the causal relationship between the act of infringement and the result of the damage, as well as the subjective fault of the conductor, and so on. In this case, it was crucial to decide whether the Defendant was malicious. Before filing the lawsuit, the

Defendant had already assigned the trademark in question to an outsider, and should have known that it had lost its rights, it is unable to affirm that the Defendant's actions were the legitimate exercise of its litigation rights for the purpose of defending its rights in accordance with the law, and therefore it is determined that the Defendant has malice.

Source: Yanta District People's Court of Xi'an

长江存储在美起诉美光专利侵权

据第一财经2023年11月11日消息，长江存储科技有限责任公司（以下简称“长江存储”）已于11月9日起诉美光科技有限公司（下称“美光”）及全资子公司美光消费产品集团有限责任公司侵犯其8项美国专利。

长江存储是国内最大的3D NAND Flash（闪存芯片制造）厂商。长江存储在起诉书中提到，美光使用长江存储的专利技术，以抵御来自长江存储的竞争，并获得和保护市场份额。诉讼旨在解决以下问题的一个方面：美光试图通过迫使长江存储退出3D NAND Flash（闪存）市场来阻止竞争和创新。

来源：第一财经

YMTC Sues Micron for Patent Infringement in U.S.

As reported by CBN on 11 November 2023, YANGTZE MEMORY TECHNOLOGIES CO.,LTD. (the "YMTC") filed the lawsuit against Micron Technology, Inc. (the "Micron") and unit Micron Consumer Products Group on 9 November for infringement of eight US patents.

YMTC is the largest 3D NAND Flash (flash memory chip manufacturing) manufacturer in China. According to the lawsuit, Micron turned to YMTC's patented technology to fend off competition from YMTC and to gain and protect market share. The lawsuit seeks to address Micron's attempt to prevent competition and innovation by forcing YMTC out of the 3D NAND Flash market.

Source: China Business Network

Medallia侵犯软件商业秘密，判赔2570万美元

据市场观察2023年11月3日报道，2023年11月1日，美国加利福尼亚州北区地方法院组成的陪审团认定Medallia公司应为盗用商业秘密承担责任，并向EchoSpan公司支付了1170万美元的补偿性赔偿金。陪审团还认定Medallia故意实施侵权行为，并据此向EchoSpan追加了1400万美元的惩罚性赔偿。

诉讼历时两年多，起因是在2021年，Medallia指示一名总监级员工注册EchoSpan基于网络的360度反馈软件的免费试用账户。当时，Medallia向EchoSpan谎称自己是EchoSpan软件的合法潜在

被许可人。庭审中出示的证据显示，Medallia试图使用EchoSpan的软件并非为了评估购买该软件，而是为了收集情报以复制和开发竞争产品。

来源：市场观察

Medallia Awarded \$25.7 Million in Trade Secret Theft Lawsuit

As reported by Market Watch on 3 November 2023, on 1 November 2023, a jury empaneled in the United States District Court for the Northern District of California found Medallia liable for trade secret misappropriation and awarded EchoSpan \$11.7 million in compensatory damages. The jury separately concluded that Medallia had engaged in willful misconduct and, on that basis, awarded EchoSpan an additional \$14 million in exemplary damages.

The lawsuit spanned more than two years, and it centered on Medallia's 2021 decision to instruct a director-level employee to sign up for a free trial account of EchoSpan's web-based 360-degree feedback software. At that time, Medallia misrepresented itself to EchoSpan as a legitimate potential licensee of EchoSpan's software. Evidence produced at trial showed that Medallia sought out access to EchoSpan's software not for evaluating purchase of that software, however, but for the purpose of gathering intelligence to replicate and develop a competing product.

Source: MarketWatch

耐克起诉新百伦、斯凯奇侵犯Flyknit专利技术

据纽约邮报2023年11月6日消息，鞋业巨头耐克公司于当地时间周一对竞争对手新百伦（New Balance）和斯凯奇（Skechers）提起联邦诉讼，指控二者侵犯了其耐克运动鞋鞋面制造技术的相关专利。

诉讼称，新百伦的几款运动鞋和斯凯奇的几款运动鞋滥用了耐克拥有的一项名为“Flyknit”的用于跑步、足球和篮球鞋的专利技术。耐克在其官网称，其Flyknit技术“使用高强度纤维制造轻质鞋面，并有针对性地增加支撑力、伸展性和透气性”，同时在诉讼中称该项专利能减少制鞋过程中的材料使用量和污染。New Balance在一份声明中说，“耐克并不拥有以行业内使用了几十年的传统制造方法，来设计和生产鞋类产品的专有权”。耐克在最新提出的诉讼中，要求被告提供金钱赔偿，并且永久禁止新百伦和斯凯奇使用该项侵权技术。具体赔偿金额目前尚未对外公布。

来源：纽约邮报

Nike Sues New Balance, Skechers for Patent Infringement over "Flyknit" Technology

According to the New York Post on 6 November 2023, footwear giant Nike filed federal lawsuits on Monday against rivals New Balance and Skechers, accusing them of infringing patents related to Nike's technology for making upper portions of sneakers.

The lawsuits said that several New Balance athletic shoes and Skechers sneakers misuse Nike's patented "Flyknit" technology for running, soccer and basketball shoes. Nike's website said that its "Flyknit" technology "uses high-strength fibers to create lightweight uppers with targeted areas of support, stretch and breathability." The lawsuits said the patented technology allows it to make high-performance uppers with reduced materials and waste. New Balance said in a statement that it "fully respects competitors' intellectual property rights, but Nike does not own the exclusive right to design and produce footwear by traditional manufacturing methods that have been used in the industry for decades." Nike asked the courts for an unspecified amount of money damages and court orders permanently blocking New Balance and Skechers from infringing the patents.

Source: [New York Post](#)

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