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Japan's Tokyo District Court Rejects AI Inventions: Inventor Must Be Human

立方竞争法周报 Weekly Competition Law News

四部门：营造公平竞争市场环境，加强重点领域反垄断监管执法

近日，国家发展和改革委员会办公厅、工业和信息化部办公厅、财政部办公厅、人民银行办公厅四部门发布了《关于做好2024年降成本重点工作的通知》（“《通知》”），其中提出了降低实体经济企业成本的7个方面22项任务。在营造公平竞争市场环境任务中，《通知》提出持续深入开展民生领域反垄断执法专项行动，加强重点领域反垄断监管执法。（[查看更多](#)）

Four Departments: Create Fair Competition Market Environment and Strengthen Anti-Monopoly Regulation and Enforcement in Key Areas

Recently, four departments, namely the General Office of the National Development and Reform Commission, the General Office of the Ministry of Industry and Information Technology, the General Office of the Ministry of Finance and the General Office of the People's Bank of China, issued the *Notice on Carrying out Key Work of Reducing Costs for the Year of 2024* (“[Notice](#)”), which put forward 22 tasks in 7 aspects to reduce the costs of enterprises in the real economy. In the task of creating a fair competition market environment, the *Notice* proposed to continue carrying out in-depth special anti-monopoly enforcement actions in the field of people's livelihood, and strengthening anti-monopoly regulation and enforcement in key areas. ([More](#))

上海市市监局宣贯《国务院关于经营者集中申报标准的规定》

近日，上海市市场监督管理局（“上海市市监局”）采取了多项举措宣贯修订后的《国务院关于经营者集中申报标准的规定》，包括强化部门联动，同上海市国有资产监督管理委员会、中国证券监督管理委员会上海监管局等部门加强协作；举办专题培训，邀请行业协会商会、总部在沪央企、本市国企、外企、民企等40余家主体参加线下培训；完善风险提示机制，针对企业年报中营业额数据超过8亿元的企业开展重点风险提示；便利企业咨询申报，利用线上线下渠道为企业提供普法、答疑。（[查看更多](#)）

Shanghai AMR Publicises Provisions of the State Council on the Declaration Standards for Concentration of Business Operators

Recently, the Shanghai Municipal Administration for Market Regulation (“Shanghai AMR”) took a number of measures to publicise the revised *Provisions of the State Council on the Declaration Standards for Concentration of Business Operators*, including strengthening departmental collaborations, collaborating with the Shanghai Municipal State-owned Assets Supervision and Administration Commission, the Shanghai Branch of the China Securities Regulatory Commission and other departments; holding special training, inviting industry associations and chambers of commerce, central enterprises headquartered in Shanghai, state-owned enterprises in Shanghai, foreign enterprises, private enterprises and other more than 40 entities to participate in offline training; improving the risk alert mechanism, carrying out the key risk alerts for enterprises with turnover data of more than CNY 800 million in its annual report; facilitating declaration consultations for enterprises, making use of online and offline channels to provide legal knowledge and answer questions for enterprises. ([More](#))

DOJ起诉要求拆分理想国演艺

2024年5月23日，美国司法部（DOJ）提起诉讼，要求拆分Ticketmaster的母公司理想国演艺（Live Nation Entertainment），指控其在现场活动行业中实施了垄断行为。DOJ认为，理想国演艺在多个音乐会推广和一级票务市场非法维持垄断地位，并从事其他影响现场音乐会场馆的排他性行为。理想国演艺还采取了飞轮（flywheel）的商业模式，它从演唱会粉丝和赞助商那里获取费用和收入，利用这些收入锁定艺人的独家推广协议，然后利用其强大的现场内容资源与场馆签订长期独家票务协议，并形成循环。（[查看更多](#)）

DOJ Sues to Split up Live Nation Entertainment

On May 23, 2024, the U.S. Department of Justice (DOJ) filed a lawsuit seeking to break up Ticketmaster's parent company, Live Nation Entertainment, alleging that the company engaged in monopolistic practices in the live events industry. The DOJ argued that Live Nation Entertainment unlawfully maintained monopolies in several concert promotions and primary ticketing markets and engaged in other exclusionary conduct affecting live concert venues. Live Nation Entertainment also adopted the flywheel business model, where it captured fees and revenue from concert fans and sponsorship, used that revenue to lock up artists to exclusive promotion deals, and then used its powerful cache of live content to sign venues into long term exclusive ticketing deals, thereby starting the cycle all over again. ([More](#))

亿滋因限制欧盟成员国之间的跨境贸易被罚款3.375亿欧元

2024年5月23日，欧盟委员会对亿滋（Mondelēz）处以3.375亿欧元（26.43亿人民币）的罚款，原因是亿滋阻碍了欧盟成员国之间巧克力、饼干和咖啡产品的跨境贸易。亿滋是世界上最大的巧克力和饼干产品生产商之一。欧盟委员会查明，亿滋参与了22项反竞争协议和协同行为，包括限制7家批发客户转售亿滋产品的地区或客户，阻止10家独家经销商回复其他欧盟成员国客户的销售请求，为防止转售而拒绝向德国的中间商供货，为防止出口而停止在荷兰供货。（[查看更多](#)）

Mondelēz Fined EUR 337.5 Million for Cross-Border Trade Restrictions between EU Member States

On May 23, 2024, the European Commission imposed a fine of EUR 337.5 million (CNY 2.643 billion) on Mondelēz for impeding cross-border trade in chocolate, biscuit, and coffee products between EU member states. Mondelēz is one of the world's largest producers of chocolate and biscuit products. The European Commission found that Mondelēz engaged in twenty-two anticompetitive agreements or concerted practices, including limiting the territories or customers to which seven wholesale customers could resell Mondelēz's products, preventing 10 exclusive distributors from responding to sales requests from customers in other EU member states, refusing to supply a broker in Germany in order to prevent resale, and ceasing the supply in the Netherlands in order to prevent export. ([More](#))

苹果就针对其应用商店限制的18.4亿欧元罚款出上诉

2024年5月22日，据媒体报道，苹果已就欧盟委员会作出的18.4亿欧元（144亿人民币）罚款向欧盟普通法院提出上诉。欧盟委员会指控苹果公司滥用向iPhone和iPad用户分发音乐流媒体应用程序市场的支配地位，，阻碍了Spotify和其他流媒体竞争对手的发展。本案的核心在于苹果的禁止转介规则，该规则禁止Spotify和其他竞争公司引导iOS系统用户绕过苹果内置的购买系统，订阅他们的服务。（[查看更多](#)）

Apple Appeals EUR 1.84 Billion EU Fine over App Store Restrictions

On May 22, 2024, according to media reports, Apple filed an appeal with the European Union's General Court against a EUR 1.84 billion (CNY 14.4 billion) fine imposed by the European Commission. The European Commission accused Apple of abusing its dominant market position for the distribution of music streaming apps to iPhone and iPad users, hindering the growth of Spotify and other streaming competitors. The case centred on Apple's anti-steering rules, which prohibited Spotify and other competitors from directing iOS users to subscribe to their services outside Apple's in-app purchase system. ([More](#))

谷歌向美国政府支付赔偿金以避免陪审团审判

2024年5月20日，据媒体报道，在DOJ对谷歌（Google Inc.）的数字广告业务提起的反垄断诉讼中，谷歌已先行向美国政府支付了赔偿金以避免出现陪审团审判。谷歌认为，其支付的款项涵盖了在线广告业务被指控超收的费用，如果没有涉及金钱的损害赔偿要求，政府便无需要求陪审团审判。DOJ去年指控谷歌在数字广告领域的垄断行为，并要求谷歌剥离其广告管理业务。（[查看更多](#)）

Google Pays Damages to US Government in Attempt to Avoid Jury Trial

On May 20, 2024, according to media reports, Google pre-emptively paid damages to the US government to avoid a jury trial in the DOJ's antitrust lawsuit against Google's digital advertising business. Google argued that its payment covers alleged overcharges in its online advertising business, and the absence of a monetary damages claim should preclude the need for a jury trial. DOJ filed the lawsuit last year, accusing Google of monopolistic practices in the digital advertising sector and called for the company to divest its ad manager suite. ([More](#))

法院驳回美电信巨头T-Mobile在Sprint合并反垄断案中的上诉请求

2024年5月16日，据媒体报道，美国第七巡回上诉法院驳回了T-Mobile的上诉请求，再次确认了原告Verizon和AT&T用户的反垄断诉讼原告资格，T-Mobile以260亿美元（1880亿人民币）收购Sprint而面临的反垄断诉讼仍在继续。2020年，T-Mobile在联邦通信委员会、DOJ和各州总检察长等主管部门的严格审查下完成了与Sprint的合并。本案原告主张T-Mobile与Sprint的合并减少了竞争，导致服务价格上涨，对他们造成了不利影响。（[查看更多](#)）

Court Rejects T-Mobile's Appeal Bid in Antitrust Case Over Sprint Merger

On May 16, 2024, according to media reports, the Seventh Circuit Court of Appeals rejected T-Mobile's request for an appeal, reaffirming the plaintiffs' standing in the antitrust lawsuit of Verizon and AT&T subscribers. The antitrust litigation facing T-Mobile over its USD 26 billion (CNY 188 billion) acquisition of Sprint continues. In 2020, T-Mobile completed its merger with Sprint under intense scrutiny from authorities including the Federal Communications Commission, DOJ and state attorneys general. However, the plaintiffs in this case alleged that adversely affected them by reducing competition and leading to increased service prices. ([More](#))

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

网信办等四部门发布《互联网政务应用安全管理规定》

2022年5月22日，据“网信中国”消息，《互联网政务应用安全管理规定》（以下简称《管理规定》）由中央网络安全和信息化委员会办公室、中央机构编制委员会办公室、工业和信息化部、公安部联合制定，2024年5月15日发布，共计八章四十四条。《管理规定》所称互联网政务应用，是指机关事业单位在互联网上设立的门户网站，通过互联网提供公共服务的移动应用程序（含小程序）、公众账号等，以及互联网电子邮件系统。《管理规定》在互联网政务应用的开办和建设、信息安全、网络和数据安全、电子邮件安全、监测预警和应急处置等方面加以规定，以保障互联网政务应用安全稳定运行和数据安全。（[查看更多](#)）

Four Departments Including the OCCAC Issue *Internet Government Application Security Management Regulations*

On 22 May 2022, according to the news of "Cyberspace China", *Internet Government Application Security Management Regulations (the "Regulations")* were jointly formulated by the Office of the Central Cyberspace Affairs Commission, the State Commission Office of Public Sectors Reform, the Ministry of Industry and Information Technology, and the Ministry of Public Security. The *Regulations* was officially released on 15 May 2024, comprising eight chapters and forty-four articles. The term "Internet Government Application" as defined in the *Regulations* refers to the official websites established by government agencies or public institution, mobile applications (including mini-programs) or public accounts that provide public services through the Internet, and Internet email systems. The *Regulations* stipulates the establishment and construction of Internet Government Applications, information security, network and data security, email security, monitoring, early warning, and emergency response to ensure the safe and stable operation of Internet Government Applications and the security of data. ([More](#))

国家数据局印发《数字中国建设2024年工作要点清单》

2024年5月21日，据“国家数据局”消息，近日，国家数据局印发《数字中国建设2024年工作要点清单》（以下简称《工作要点》），对2024年数字中国建设工作作出部署。按照《数字中国

建设整体布局规划》要求,《工作要点》围绕高质量构建数字化发展基础、数字赋能引领经济社会高质量发展、强化数字中国关键能力支撑作用、营造数字化发展良好氛围环境等四个方面部署重点任务。主要包括:加快推动数字基础设施建设扩容提速,着力打通数据资源大循环堵点,深入推进数字经济创新发展,健全完善数字政府服务体系,促进数字文化丰富多元发展,构建普惠便捷的数字社会,加快推进数字生态文明建设,加强数字技术协同创新运用,稳步增强数字安全保障能力,不断完善数字领域治理生态,持续拓展数字领域国际合作交流空间。
([查看更多](#))

National Data Bureau Issues *Key Points List for the Construction of Digital China in 2024*

On 21 May 2024, according to the news of "National Data Bureau", the National Data Bureau recently issued the "*Key Points List for the Construction of Digital China in 2024*" (the "**Key Points**"), which outlines the deployment for the construction of Digital China in 2024. In accordance with the requirements of the "*Overall Layout Planning for the Construction of Digital China*", the *Key Points* focus on four main areas: high-quality construction of digital development infrastructure, leading high-quality economic and social development through digital empowerment, strengthening the supporting role of key capabilities for Digital China, and creating a favorable atmosphere and environment for digital development. The main tasks include: accelerating the expansion and acceleration of digital infrastructure construction, focusing on resolving the blockage in the large cycle of data resources, deeply promoting the innovative development of the digital economy, improving and perfecting the digital government service system, promoting the rich and diverse development of digital culture, building an inclusive and convenient digital society, accelerating the construction of digital ecological civilization, strengthening the collaborative innovation and application of digital technology, steadily enhancing the ability to ensure digital security, continuously improving the governance ecosystem of the digital field, and continuously expanding the space for international cooperation and exchange in the digital field.
([More](#))

数据合规与数字检察高质量发展研讨会召开

2024年5月22日,据最高人民检察院消息,由最高人民检察院数字检察办公室指导、检察日报社数字检察专刊主办的数据合规与数字检察高质量发展研讨会于5月15日在广东省深圳市召开,来自全国各行业、各领域嘉宾围绕数据法治的基础理论、数字检察最新发展以及如何构建适应数字经济发展的数据合规与数字检察监督体系等内容进行深入交流。([查看更多](#))

Data Compliance and High-Quality Development of Digital Supervision Seminar is Held

On 22 May 2024, according to the Supreme People's Procuratorate("SPP"), the Data Compliance and High-Quality Development of Digital Supervision Seminar, guided by the Digital Supervision Office of SPP and hosted by the Digital Supervision Special Edition of the Procuratorate Daily, was held in Shenzhen, Guangdong Province on May 15. Guests from various industries and fields across the country engaged in in-depth exchanges on the basic theories of data governance, the latest developments in digital supervision, and how to build a data compliance and digital supervision system adapted to the development of the digital economy. ([More](#))

北京市网信办发布《关于受理生成式人工智能服务备案的公告》

2024年5月22日，据“网信北京”消息，北京市互联网信息办公室发布《关于受理生成式人工智能服务备案的公告》（以下简称《公告》）。《公告》明确：具有舆论属性或社会动员能力的、直接面向境内公众提供的生成式人工智能服务，应开展生成式人工智能服务备案及安全评估。备案服务包括但不限于具备文字生成、图片生成、声音生成、视频生成等功能的生成式人工智能服务。不具有舆论属性或者社会动员能力的生成式人工智能服务无需备案。行业组织、企业、教育及科研机构、公共文化机构以及相关专业机构，在研发和应用生成式人工智能技术时，若其服务未面向境内公众提供，则不适用《生成式人工智能服务管理暂行办法》的相关规定。（[查看更多](#)）

Beijing Cyberspace Administration Releases *Announcement on Accepting Filings for Generative AI Services*

On 22 May 2024, according to the news of “Cyberspace Beijing”, the Beijing Cyberspace Administration released the “*Announcement on Accepting Filings for Generative AI Services*” (the “*Announcement*”). The *Announcement* clarifies that generative AI services with public opinion attributes or social mobilization capabilities, directly provided to the public within the territory, should carry out the filing and security assessment of generative AI services. The filing services include but are not limited to generative AI services with text generation, image generation, voice generation, video generation, and other functions. Generative AI services without public opinion attributes or social mobilization capabilities do not need to file. Industry organizations, enterprises, education and research institutions, public cultural institutions, and related professional institutions, when researching and applying generative AI technology, if their services are not provided to the public within the territory, are not subject to the provisions of the “*Interim Measures for the Management of Generative AI Services*.” ([More](#))

江苏省开展全省数据出境情况摸底调查

2024年5月21日，据“网信江苏”消息，江苏省互联网信息办公室、江苏省商务厅、江苏省数据局联合在全省范围内组织开展数据出境情况摸底调查。摸底调查的对象为在境内开展数据处理活动并向境外提供数据的省内各党政部门、企事业单位、社会组织等。具有下列数据出境行为之一的省内数据处理者需填报：

- （1）数据处理者将在境内运营中收集和产生的数据传输、存储至境外；
- （2）数据处理者收集和产生的数据存储在国内，境外的机构、组织或者个人可以查询、调取、下载、导出；
- （3）符合《个人信息保护法》第三条第二款情形，在境外处理境内自然人个人信息等其他数据处理活动。（[查看更多](#)）

Jiangsu Province Conducts Thorough Investigation on Data Abroad Transfer Situation

On 21 May 2024, according to the news of "Jiangsu Cyberspace," the Jiangsu Cyberspace Administration, the Jiangsu Provincial Department of Commerce, and the Jiangsu Provincial Data Bureau jointly organized and conducted a thorough investigation on data abroad transfer situation throughout the Jiangsu province. The thorough investigation targets various party and government departments, enterprises and public institutions, and social organizations within the province that carry out data processing activities and provide data abroad. Data processors within the province with one of the following data abroad behaviors need to fill in the report:

- (1) Data processors transfer and store data collected and generated in domestic operations [abroad](#);
- (2) Data collected and generated by data processors is stored domestically, and foreign institutions, organizations, or individuals can inquire, retrieve, download, and export the data;
- (3) In accordance with the second paragraph of Article 3 of the *"Personal Information Protection Law"*, other data processing activities such as processing personal information of domestic persons abroad. ([More](#))

上海市发布《生成式人工智能服务登记信息公告》

2024年5月21日，据“网信上海”消息，上海市网信办发布《生成式人工智能服务登记信息公告》（以下简称《公告》），根据《公告》，上海市网信办按照《生成式人工智能服务管理暂行办法》要求，有序开展上海市生成式人工智能服务备案工作。同时，对直接调用已备案模型的API上线面向境内公众提供具有舆论属性或者社会动员能力的生成式人工智能服务开展登记工作，现将相关信息予以公告。《公告》还明确，已上线的生成式人工智能应用或功能，应在显著位置或产品详情页面标明所取得的上线编号。（[查看更多](#)）

Shanghai Releases *Announcement on the Registration of Generative AI Services*

On 21 May 2024, according to the news of "Shanghai Cyberspace", the Shanghai Cyberspace Administration released the *"Announcement on the Registration of Generative AI Services"* the *"Announcement"*). According to the *Announcement*, the Shanghai Cyberspace Administration is orderly carrying out the filing work of generative AI services in Shanghai in accordance with the requirements of the *"Interim Measures for the Management of Generative AI Services"*. At the same time, it carries out the registration work for generative AI services that directly call the filed model API and are online to provide public opinion attributes or social mobilization capabilities to the public within the territory, and now announces the relevant information. The *Announcement* also clarifies that generative AI applications or functions that have been launched should indicate the obtained online number in a prominent position or on the product details page. ([More](#))

欧盟委员会对Meta启动正式调查

2024年5月16日，欧盟委员会启动了正式调查，以评估Facebook和Instagram的提供商Meta是否在与未成年人保护相关的领域违反了《数字服务法》（以下简称“DSA”）。此次调查程序启动的

基础是对Meta公司于2023年9月发送的风险评估报告的初步分析、Meta公司对欧盟委员会正式信息请求（关于未成年人保护和风险评估方法）的答复、可公开获得的报告以及委员会自己的分析。启动正式调查程序后，欧盟委员会将有权采取进一步的执法措施，如采取临时措施和做出不合规决定。欧盟委员会还有权接受Meta为纠正调查程序中提及的问题而做出的承诺。这些正式调查程序的启动解除了欧盟成员国的数字服务协调员或任何其他主管当局就涉嫌违反第28(1)条的行为监督和执行DSA的权力。（[查看更多](#)）

EU Commission Opens Formal Proceedings Against Meta

On 16 May 2024, the European Commission(“**Commission**”) initiated a formal proceedings to assess whether Meta, the provider of Facebook and Instagram, may have violated the *Digital Services Act* (the “**DSA**”) in areas linked to the protection of minors. The opening of proceedings is based on a preliminary analysis of the risk assessment report sent by Meta in September 2023, Meta's replies to the Commission's formal requests for information (on the protection of minors and the methodology of the risk assessment), publicly available reports as well as the Commission's own analysis. The opening of formal proceedings empowers the Commission to take further enforcement steps, such as adopting interim measures and non-compliance decisions. The Commission is also empowered to accept commitments made by Meta to remedy the issues raised in the proceedings. The opening of these formal proceedings relieves Digital Services Coordinators, or any other competent authority of EU Member States, of their powers to supervise and enforce the DSA in relation to a suspected infringement of Article 28 (1). ([More](#))

欧洲理事会表决通过《人工智能法案》

2024年5月21日，欧洲理事会批准《人工智能法案》（以下简称《法案》），《法案》根据风险对不同类型的人工智能进行分类。仅呈现有限风险的人工智能系统将受到非常轻的透明度义务约束，而高风险的人工智能系统可以获得授权，但要遵守一系列进入欧盟市场的要求和义务。如认知行为操纵和社会评分等人工智能系统将被欧盟禁止，因为其风险被认为是不可接受的。《法案》还禁止使用人工智能进行基于特征分析的预测性警务，以及使用生物识别数据根据种族、宗教或性取向等具体类别对人进行分类的系统。（[查看更多](#)）

European Council Approves the *Artificial Intelligence Act*

On 21 May 2024, the European Council approved the *Artificial Intelligence Act* (the “**Act**”), The *Act* categorises different types of artificial intelligence according to risk. AI systems presenting only limited risk would be subject to very light transparency obligations, while high-risk AI systems would be authorised, but subject to a set of requirements and obligations to gain access to the EU market. AI systems such as, for example, cognitive behavioural manipulation and social scoring will be banned from the EU because their risk is deemed unacceptable. The *Act* also prohibits the use of AI for predictive policing based on profiling and systems that use biometric data to categorise people according to specific categories such as race, religion, or sexual orientation. ([More](#))

知识产权 Intellectual Property

《产权组织知识产权、遗传资源和相关传统知识条约》成功缔结

5月13日至24日，世界知识产权组织（WIPO）缔结知识产权、遗传资源和遗传资源相关传统知识国际法律文书外交会议在瑞士日内瓦召开，会议成功缔结《产权组织知识产权、遗传资源和相关传统知识条约》（下称《条约》）。《条约》谈判历经25年最终达成。《条约》包含遗传资源和相关传统知识在专利申请过程的公开要求、制裁和救济等内容，在专利领域确立和协调了各国对遗传资源和相关传统知识进行强制披露的机制，有助于提升专利制度在遗传资源和相关传统知识保护方面的有效性、透明度和质量。

来源：国家知识产权局

WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge Successfully Concluded

The World Intellectual Property Organization (WIPO) Diplomatic Conference on the Conclusion of International Legal Instruments on Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources was held in Geneva, Switzerland, from May 13th to 24th. The Conference successfully concluded the WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge (hereinafter referred to as “the Treaty”). The Treaty was negotiated over a period of 25 years. The Treaty contains disclosure requirements, sanctions and remedies for genetic resources and associated traditional knowledge in the patent application process, and establishes and harmonizes the mechanism for mandatory disclosure of genetic resources and associated traditional knowledge in the patent field, which helps to enhance the effectiveness, transparency and quality of the patent system in the protection of genetic resources and associated traditional knowledge.

Source: CNIPA

上海法院案例：判赔980万元！长期变换使用“地素”商标，适用两倍惩罚性赔偿

近日，浦东新区人民法院审结一起侵害商标权及不正当竞争纠纷案。该案中；原告某时尚公司主营中高端女装的设计、推广及销售，系“地素”商标的所有人。被告某商行在淘宝店铺“某家高端女装”中售卖的各款女装商品名称中大量使用“地素”“福地素雅”“极地素雅”“云地素”“发地素材”等文字，与原告的“地素”商标近似，构成商标侵权。法院经审理后认为，涉案店铺网页宣传中使用的商标一直围绕“地素”二字不断变更、涉案店铺销售的女装绝大部分系“地素”品牌的高仿，具有侵害原告知识产权的明显恶意，侵权情节严重，应当适用两倍惩罚性赔偿，判令被告赔偿原告经济损失980万元及全部合理费用。

来源：上海市浦东新区人民法院

Shanghai Court Case: 9.8 Million Yuan Awarded! Long-term Change of the Use of the Trademark 'DAZZLE', the Application of Twice the Punitive Damages

Recently, the Pudong District People's Court concluded a case of trademark infringement and unfair competition dispute. In this case, a fashion company(Plaintiff), mainly engaged in the design, promotion and sales of high-end women's clothing, is the owner of the trademark 'DAZZLE'. A firm (Defendant) in TAOBAO store 'a high-end women's clothing' sold in the women's clothing commodity name of a large number of use of 'DAZZLE', 'Fu DAZZLE Ya', 'Super DAZZLE Ya', 'Cloud DAZZLE', 'Fa DAZZLE Cai' and other words, similar to the plaintiff's 'DAZZLE' trademark, constituting trademark infringement. The court held that the trademark used in the webpage publicity of the store in question had been constantly changing around the word 'DAZZLE', and most of the women's clothing sold in the store were high imitations of the brand 'DAZZLE', which was obviously malicious in infringing on the intellectual property rights of the plaintiff, and the infringement was serious and twice the penalty should be applied. Serious circumstances, should be applied twice punitive damages, ordered the defendant to compensate the plaintiff 9.8 million yuan of economic losses and all reasonable expenses.

Source: Pudong District People's Court in Shanghai

内蒙古法院案例：建筑外观高度相似认定构成侵权，开创建筑作品侵权认定先例

近日，内蒙古自治区高级人民法院对美克国际家居用品股份有限公司因与被上诉人内蒙古蓝熙餐饮管理有限公司乌海分公司、内蒙古蓝熙餐饮管理有限公司著作权权属、侵权纠纷案作出判决。判决厘定了建筑作品实质性相似的认定标准，就同类案件的审理具有重要的参考价值。

法院认定，尽管被控侵权建筑与美克洞学在入口两侧墙体长度，墙面翻折，墙体坐落形状上存在部分细节差异，但基于二者整体设计风格及视觉效果极为近似，足以认定构成实质性相似。鉴于原告建筑作品在先发表且具有较高知名度，被告存在接触原告建筑作品的可能性，构成未经许可实质性复制了原告作品，故被告行为已侵犯原告对案涉建筑作品享有的复制权。

来源：内蒙古自治区高级人民法院

Inner Mongolia Court Case: Highly Similar Architectural Appearance Determined to Constitute Infringement, Setting a Precedent for the Determination of Infringement of Architectural Works

Recently, the Higher People's Court of Inner Mongolia Autonomous Region issued a judgment on the case of copyright ownership and infringement dispute between Markor International Home Furnishings Ltd. (Plaintiff) and Inner Mongolia Lanxi Catering Management Co., Ltd. Wuhai Branch(Defendant 1), Inner Mongolia Lanxi Catering Management Co.(Defendant 2). The judgment defines the criteria for the determination of substantial similarity of architectural works, which is an important reference value for the trial of similar cases.

The court found that although there were some differences in details between the allegedly infringing building and Markor Dongxue in terms of the length of the walls on both sides of the entrance, the folding of the walls, and the shape of the walls sitting on the wall, it was sufficient to recognize the substan-

tial similarity of the two based on their overall design styles and visual effects, which were very similar. In view of the plaintiff's architectural works published first and has a high reputation, the defendants has access to the possibility of the plaintiff's architectural works, constitutes a substantial copy of the plaintiff's work without permission, so the defendant act has violated the plaintiff's right to copy the architectural works in the case.

Source: Inner Mongolia Autonomous Region Higher People's Court

陕西法院案例：银石外观设计专利案改判判赔531万

近日，陕西高院审结一件外观设计专利权纠纷案。该案中，银石公司依据法院调查令涉税数据统计侵权产品销售额数据，同时依据被告公司年报中披露的营业利润率，计算出被告公司的获利为约1771万元，应予赔偿。二审法院审理认为，计算侵权人获得的利益时也应限于侵权人因侵犯专利权行为所获得的利益，并应当扣除因其他权利所产生的利益，即亦应考虑专利贡献率的问题。陕西高院综合考虑涉案产品的功能、用途、外观设计专利本身的价值及其在实现成品利润中的作用等因素，酌情确定涉案专利对产品利润的贡献率为30%，故二审改判赔偿额为531万。

来源：陕西省西安市中级人民法院

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Source: Inner Mongolia Autonomous Region Higher People's Court

北京法院案例：认定“A2”商标在牛奶等商品上具有显著性

近日，北京高院审结一件商标权无效宣告请求行政纠纷。该案中，诉争商标由文字“A2”构成。法院经审理认为，在案证据亦无法证明“A2”使用在诉争商标核定使用的“牛奶、牛奶制

品”等全部商品上，公众依据其通常认知能够当然联想到“维生素A2”或“A2 β -酪蛋白”，进而对商品的质量等特点产生误认。另外，诉争商标“A2”并非字母与数字的固定搭配，不具有固有含义，其本身具有可识别性，诉争商标“2”与其核定使用的“牛奶、牛奶制品”等商品并无直接或固定联系，且“A2”品牌经过长期宣传使用在中国相关公众中已具有一定知名度和影响力，具备商标应有的显著特征。一审法院判决驳回诉讼请求，二审维持原判。

来源：北京市高级人民法院

Beijing Court Case: Finding the “A2” Trademark Distinguished in Milk and Other Goods

Recently, the Beijing High Court concluded an administrative dispute over a trademark invalidation request. In this case, the trademark in dispute consisted of the word “A2”. The court held that the evidence in the case did not prove that “A2” was used in all the goods such as “milk and milk products” for which the trademark was authorized to be used, and that the public, based on their common knowledge, could ipso facto associate the word “vitamin A2” or “vitamin A2” with “milk products”. A2” or ‘A2 β -casein’, which may lead to misidentification of the quality and other characteristics of the goods. In addition, the disputed trademark “A2” is not a fixed collocation of letters and numbers, does not have inherent meaning, and has its own recognizability, and the disputed trademark “2” does not have any direct relationship with its approved use of “milk, milk products” and other goods. The disputed trademark “2” had no direct or fixed connection with its authorized use of “milk, milk products” and other commodities, and the brand “A2” had a certain degree of popularity and influence among the relevant public in China after a long period of publicity and use, and possessed the distinctive features that a trademark should have. The Court of First Instance dismissed the claim and the Court of Second Instance upheld the original judgment.

Source: Beijing Higher People's Court

欧盟通过全球首部人工智能法案

2024年5月21日，欧盟理事会正式批准《人工智能法案》，该法案将在公布20天后正式生效。该法案为世界上首部针对人工智能进行监管的主要法律。

该法案中，将人工智能按照风险水平进行了分类，并对于风险评估为“不可接受”的人工智能进行法律层面的禁止。低风险的人工智能系统将面临最低的透明度要求，而高风险的人工智能系统则必须满足严格的标准才能获准在欧盟使用。欧盟委员会将有权对违反《人工智能法案》的公司处以高达3500万欧元（3800万美元）或其全球年收入7%的罚款，以较高者为准。

来源：CNBC

World's First Major Law for Artificial Intelligence Gets Final EU Green Light

On May 21, 2024, the EU Council officially approved the AI Act, which will come into force 20 days after its publication. The AI Act is the world's first major law for artificial intelligence.

The Act categorizes AI according to risk level. The law prohibits applications of AI that are considered “unacceptable” in terms of their risk level. a. Low-risk AI systems will be subject to minimal transparency requirements, while high-risk AI systems will have to meet strict criteria to be authorized for use in the EU. The EU Commission will have the power to fine companies that violate the AI Act up to 35 million euros (\$38 million) or 7 percent of their annual global revenue, whichever is higher.

Source: CNBC

日本东京地方法院驳回AI发明：发明人必须为人类

近日，日本东京地方法院就 AI“发明”的设备是否能获得专利一事作出裁决。原告为人工智能自主发明的设备申请了专利，但专利局予以驳回，因而原告提起诉讼要求撤销该决定。

东京地方法院首席法官中岛元治驳回原告诉讼，指出《知识产权基本法》对发明的定义是“人类活动创造的产物”。另一方面，他敦促在国会进行讨论，称现行法律没有设想人工智能的发明，并导致许多问题。

来源：NHK

Japan's Tokyo District Court Rejects AI Inventions: Inventor Must Be Human

Recently, the Tokyo District Court ruled on the patentability of a device “invented” by an AI. The plaintiff had applied for a patent for a device invented by an AI, but the Patent Office rejected it, and the plaintiff filed a lawsuit to set aside the decision.

The Chief Judge of the Tokyo District Court, Genji Nakajima, dismissed the plaintiff's lawsuit, noting that the Basic Law of Intellectual Property defines an invention as “a product of human activity”. On the other hand, he urged a discussion in the Diet, saying that the current law does not envision the invention of artificial intelligence and has led to many problems.

Source: NHK

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