



# NEWSLETTER

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全国网安标委发布《网络安全标准实践指南——个人信息保护合规审计要求（征求意见稿）》

TC260 Releases the *Cybersecurity Standard Practice Guidelines - Personal Information Protection Compliance Audit Requirements (Draft for Public Comments)*

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USA: Trump Enters Another Copyright Dispute, Judge Rejects His Request for Exemption

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

### 最高检：知识产权检察厅首次亮相，2024年反垄断和反不正当竞争公益诉讼共立案60件

2025年4月23日，最高人民检察院（“最高检”）举行新闻发布会，通报检察机关加强知识产权司法保护工作整体情况，发布典型案例并答记者问。在发布会上最高检知识产权检察厅首次亮相，标志着中国知识产权司法保护进一步迈入专业化、综合化的发展阶段。2024年，全国检察机关共立案知识产权领域公益诉讼案件896件，反垄断和反不正当竞争公益诉讼持续加强，共立案60件，同比上升81.8%。最高检还将其办理的壳牌公司被诉滥用市场支配地位纠纷诉讼监督案作为典型案例，该案经依法抗诉获得改判。同时推动在最新制定的司法解释中明确，垄断案件中当事人不能通过协议约定的仲裁条款排除法院管辖权，将个案监督成果上升为类案裁判规则。（[查看更多](#)）

### The Supreme People's Procuratorate: The Intellectual Property Prosecution Office Makes its Debut, 60 Public Interest Anti-monopoly and Anti-unfair Competition Lawsuits Filed in 2024

On April 23, 2025, the Supreme People's Procuratorate (“the Supreme Procuratorate”) held a press conference to brief on the overall situation of the procuratorial organs' efforts to strengthen judicial protection of intellectual property rights, release typical cases and answer questions from journalists. At the press conference, the Intellectual Property Prosecution Office of the Supreme People's Procuratorate made its debut, marking that China's judicial protection of intellectual property rights has further entered a stage of professional and comprehensive development. In 2024, procuratorial organs nationwide filed a total of 896 public interest litigations in the field of intellectual property rights; besides, public interest litigations in the areas of anti-monopoly and anti-unfair competition continued strengthening, with a total of 60 cases filed exhibiting a year-on-year increase of 81.8%. The Supreme People's Procuratorate also took the litigation supervision case it handled as a typical case, which involved Shell Company being accused of abusing its market dominance, overturned after being protested according to the law; meanwhile, it promoted the clarification in the newly promulgated judicial interpretation that in monopoly cases, the parties cannot exclude the jurisdiction of the court through the arbitration clause in the agreement, making the result of an individual procuratorial case elevated to the adjudicating rules of similar cases. ([More](#))

### 最高法：2024年全国法院认定构成垄断案件31件，同比增长2.1倍

2025年4月21日，最高人民法院（“最高法”）举行新闻发布会，发布2024年人民法院知识产权典型案例并答记者问。发布会披露，2013-2024年间全国法院共受理垄断民事一审案件1145件，审结1071件。自2019年1月1日成立至2024年12月底，最高人民法院知识产权法庭共受理垄断民事和行政二审案件282件，审结243件，其中2024年审结97件。2024年，全国法院认定构成垄断的案件有31件，同比增长2.1倍；其中一审法院认定构成垄断案件14件，同比持平；最高人民法院知识产权法庭二审认定构成垄断案件17件，同比增长4.6倍。（[查看更多](#)）

## The Supreme People's Court: Courts Nationwide Determines 31 Cases Where Monopolies Are Established, Exhibiting a Year-on-Year Increase of 2.1 Times

On April 21, 2025, the Supreme People's Court ("the Supreme Court") held a press conference, releasing typical intellectual property cases of the people's courts in 2024 and answer questions from journalists. The press conference disclosed that from 2013 to 2024, courts nationwide accepted a total of 1,145 first-instance civil cases related to monopoly and concluded 1,071 of them. From its establishment on January 1, 2019 to the end of December 2024, the Intellectual Property Tribunal of the Supreme People's Court has accepted 282 civil and administrative second-instance cases related to monopolies and concluded 243 cases, among which 97 cases were concluded in 2024. In 2024, courts nationwide determined 31 cases where monopolies were established, exhibiting a year-on-year increase of 2.1 times: among them, the first-instance court determined 14 cases which remained the same as the previous year; The Intellectual Property Tribunal of the Supreme People's Court determined 17 cases where monopolies were established in the second instance, exhibiting an year-on-year increase of 4.6 times. ([More](#))

## 北京市市场监督管理局开展公平竞争审查专题培训

2024年4月21日，北京市市场监督管理局（“北京市市监局”）发布消息，近日该局对全市90名领导干部开展公平竞争审查专题培训。培训聚焦《公平竞争审查条例》和《公平竞争审查条例实施办法》的核心要义，结合北京优化营商环境工作实际，通过理论讲解、案例剖析与政策解读相结合的方式解析审查标准体系，通过典型案例剖析政策制定中的常见误区与解决路径。  
([查看更多](#))

## The Beijing Administration for Market Regulation Conducts a Special Training Session on Fair Competition Review

On April 21, 2024, the Beijing Administration for Market Regulation ("Beijing AMR") announced that it had recently conducted a special training session on fair competition review for 90 leaders and cadres across Beijing. The training focuses on the core essence of *the Regulation on Fair Competition Review* and *the Measures for the Implementation of the Regulation on Fair Competition Review*, and combines the actual work of optimizing the business environment in Beijing, analyzes the review standards regime through a combination of theoretical explanations, case analyses and policy interpretations, and analyzes common misunderstandings and solutions in the field of policy formulation through typical cases. ([More](#))

## 比利时竞争局对强生等三家医药企业处反垄断罚款，合计超千万欧元

2025年4月24日，比利时竞争局宣布对强生、勃林格殷格翰（Boehringer Ingelheim SComm）和赫力昂（Haleon Belgium NV）三家企业处以11,249,280.48欧元的反垄断罚款。上述三公司联合达成了一项有关在特定药店内非处方药摆放位置的品类管理安排，比利时竞争局认为该安排有如下反竞争特点：在制定和执行药房非处方药药品陈列平面图过程中排除竞争对手及其产品、优待自身产品、并对药品陈列平面图的执行情况进行监督。因此，比利时竞争局认定该行为违



反比利时和欧盟竞争法，对三公司处以罚款，并因达成和解依法减免10%的罚款，最终合计超一千万欧元。（[查看更多](#)）

### **The Belgian Competition Authority Imposes Antitrust Fines on Three Pharmaceutical Companies including Johnson&Johnson, Totaling over EUR 10 Million**

On April 24, 2025, The Belgian Competition Authority (“BCA”) announced that it has imposed a combined antitrust fine of EUR 11,249,280.48 on Johnson & Johnson Consumer NV, Boehringer Ingelheim SComm and Haleon Belgium NV. The above-mentioned three companies jointly reached a category management arrangement regarding the placement of over-the-counter drugs in certain pharmacies, and the BCA believes that the said arrangement has the following anti-competitive characteristics: in the process of formulating and implementing the planograms used for the placement of over-the-counter medicines excluding competitors and their products, favoring their own products, and monitoring the implementation of the planograms. Therefore, the BCA determined that such conduct constituted an infringement of the Belgian and European Union competition rules, imposed fines on the three companies, and reduced the fines of 10% in accordance with the law for having entered into a settlement, the total amount eventually exceeded 10 million euros. ([More](#))

### **欧盟委员会宣布对环球音乐拟收购某版权公司案展开调查**

2025年4月27日，据媒体报道，欧盟委员会已经对环球音乐集团（UMG）拟收购Downtown Music的交易启动正式调查。UMG是全球最大的音乐集团之一，Downtown Music及其子公司为大量独立音乐人和音乐公司提供关键服务，如发行、版权管理和基础设施支持；数个行业参与者对该交易表示担忧，认为该交易可能进一步巩固UMG在欧洲市场的支配地位、阻碍竞争。荷兰竞争监管机构最先对该交易表示担忧，促使欧盟出面展开进一步审查。此前，奥地利和荷兰已对该交易展开了审查，之后由欧盟委员会接手主导调查。（[查看更多](#)）

### **The European Commission Initiates a Formal Investigation into Universal Music Group’s (UMG) Proposed Acquisition of Downtown Music**

On April 27, 2025, according to media reports, the European Commission has launched a formal investigation into Universal Music Group’s (“UMG”) proposed acquisition of Downtown Music. UMG is one of the largest music conglomerates in the world, Downtown Music and its subsidiaries provide critical services such as distribution, rights management and infrastructure support for a significant portion of the independent musicians and music companies; several industry players expressed concerns about the deal, worrying that it might further consolidate UMG’s dominant position in the European market and hinder competition. The Dutch competition regulator was the first to express concerns about the deal, prompting the European Union to step in and conduct a further review. Previously, Austria and the Netherlands had reviewed the deal, and the European Commission took over to lead the investigation afterwards. ([More](#))

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

### 七部门联合印发《终端设备直连卫星服务管理规定》

2025年4月30日，国家网信办等七部门联合印发了《终端设备直连卫星服务管理规定》（以下简称《规定》），于2025年6月1日起施行。《规定》支持终端设备直连卫星服务数据依法开发利用，促进数据资源优化配置和数据要素价值释放。《规定》强调，终端设备直连卫星服务提供者应当履行网络安全、数据安全和个人信息保护义务，落实网络安全等级保护、通信网络安全防护、数据分类分级保护和商用密码应用安全性评估等制度，采取必要措施保障数据和个人信息安全。（[查看更多](#)）

### Seven Departments Jointly Issue the *Provisions on the Administration of Directly Connected Satellite Services for Terminal Equipment*

On April 30, 2025, seven departments including CAC jointly issued the *Provisions on the Administration of Directly Connected Satellite Services for Terminal Equipment (Provisions)*, which will take effect on June 1, 2025. The Provisions support the development and utilization of terminal equipment directly connected satellite service data in accordance with the law, and promote the optimal allocation of data resources and the release of the value of data elements. The Provisions emphasize that providers of terminal equipment directly connected to satellite services shall fulfil their obligations for cybersecurity, data security and personal information protection, implement systems for cybersecurity level protection, communication cybersecurity protection, data classification and protection, and security assessment of commercial cryptographic applications, and take necessary measures to safeguard the security of data and personal information. ([More](#))

### 中央网信办部署开展“清朗·整治AI技术滥用”专项行动

2025年4月30日，中央网信办印发通知，在全国范围内部署开展为期三个月的“清朗·整治AI技术滥用”专项行动。本次专项行动分两个阶段：第一阶段强化AI技术源头治理，清理整治违规AI应用程序，加强AI生成合成技术和内容标识管理，推动网站平台提升检测鉴伪能力；第二阶段聚焦利用AI技术制作发布谣言、不实信息、色情低俗内容，假冒他人、从事网络水军活动等突出问题，集中清理相关违法不良信息，处置处罚违规账号、MCN机构和网站平台。（[查看更多](#)）

### CAC Launches the Special Action on “Clear and Bright - Rectifying the Abuse of AI Technology”

On April 30, 2025, the CAC issued a notice, launching a three-month nationwide special action on “Clear and Bright - Rectifying the Abuse of AI Technology”. This special action is divided into two phases: The first phase strengthens the governance of AI technology at the source, cleans up and rectifies illegal AI applications, strengthens the management of AI generation and synthesis technology and content labeling, and promotes website platforms to enhance the ability of detecting and identifying forgeries. The second phase focuses on prominent issues such as the use of AI technology to create and

release rumors, false information, pornographic and vulgar content, impersonating others, and engaging in online troll activities. It also concentrates on cleaning up related illegal and bad information, and deal with and punish non-compliant accounts, MCN agencies, and website platforms. ([More](#))

### 国家数据局印发《构建数据基础制度更好发挥数据要素作用2025年工作要点》

2025年4月28日，国家数据局印发了《构建数据基础制度更好发挥数据要素作用2025年工作要点》（以下简称《工作要点》）。《工作要点》落实“数据二十条”的任务部署，包括：（1）建立保障权益、合规使用的数据产权制度，如推进公共数据、企业数据、个人数据确权授权使用；（2）建立合规高效、场内外结合的数据要素流通和交易制度，如制定数据流通交易标准示范合同；（3）建立体现效率、促进公平的数据要素收益分配制度，如建立健全公共数据价格管理制度；（4）建立安全可控、弹性包容的数据要素治理制度，如依法依规培育数据流通安全服务市场。（[查看更多](#)）

### *The National Data Administration Issues the Work Points for Building Data Base System to Better Leverage the Role of Data Elements in 2025*

On April 28, 2025, the National Data Administration issued the *Work Points for Building Data Base System to Better Leverage the Role of Data Elements in 2025 (Work Points)*. The Work Points implement the task deployment of the “Twenty Articles on Data”, including: (1) Establish a data property right system that protects rights and interests and is used in a compliant manner, such as promoting the confirmation and authorization for the use of public data, enterprise data, and personal data. (2) Establish a compliant and efficient system for the circulation and transaction of data elements, which combines on-exchange and off-exchange operations, such as formulating a standard model contract for the circulation and transaction of data. (3) Establish a data element revenue distribution system that reflects efficiency and promotes fairness, such as establishing and improving a public data price management system. (4) Establish a secure, controllable, flexible and inclusive data element governance system, such as fostering a market for security services for data circulation in accordance with laws and regulations. ([More](#))

### 全国网安标委发布《网络安全标准实践指南——个人信息保护合规审计要求（征求意见稿）》

2025年4月28日，全国网安标委发布了《网络安全标准实践指南——个人信息保护合规审计要求（征求意见稿）》（以下简称《实践指南》），向社会公开征求意见，意见反馈截止时间为2025年5月6日。《实践指南》指出，开展个人信息保护合规审计的人员应具备相应能力。按照人员能力和经验不同，个人信息保护合规审计人员分为高级、中级、初级三个等级。《实践指南》明确，处理超过100万、不超过1000万人个人信息的个人信息处理者应指定个人信息保护负责人负责合规审计工作、合理确定合规审计频率，每三年或四年至少开展一次个人信息保护合规审计。（[查看更多](#)）



## **TC260 Releases the *Cybersecurity Standard Practice Guidelines - Personal Information Protection Compliance Audit Requirements (Draft for Public Comments)***

On April 28, 2025, TC260 released the *Cybersecurity Standard Practice Guidelines - Personal Information Protection Compliance Audit Requirements (Draft for Public Comments) (Practice Guidelines)*, which is open for public consultation, with a deadline of May 6, 2025, for feedback. The Practice Guidelines state that personnel conducting personal information protection compliance audits should have appropriate competencies. Personal information protection compliance auditors are categorized into three grades: senior, intermediate, and junior, according to the competence and experience of the personnel. The Practice Guidelines specify that personal information handlers that handle personal information of more than 1 million and no more than 10 million people shall designate a person in charge of personal information protection to be responsible for compliance audits, reasonably determine the frequency of compliance audits, and conduct personal information protection compliance audits at least once every three or four years. ([More](#))

### **上海市网信办处罚一批医疗服务类互联网企业**

2025年4月28日，上海市网信办通报了一批医疗服务类互联网企业未依法履行网络安全、数据安全保护义务的情况，典型问题包括：（1）管理制度方面。部分企业未制定网络数据安全管理制度和操作规程，未明确安全负责人或管理机构，未制定数据分类分级管理、数据访问权限管理、应急预案等制度，网络日志留存不足6个月；（2）安全防护方面。部分企业未按规定开展网络安全等级保护测评，未做访问限制，将数据访问端口开放至互联网，存在未授权访问漏洞；（3）存储环节方面。部分企业信息系统中，大量患者个人信息未加密处于“裸奔”状态，存在数据泄露风险隐患。（[查看更多](#)）

## **The Cyberspace Administration of Shanghai Punishes a Batch of Medical Service Internet Enterprises**

On April 28, 2025, the Cyberspace Administration of Shanghai notified a batch of medical service Internet enterprises that failed to fulfill their cybersecurity and data security protection obligations in accordance with the law. The typical problems include: (1) In terms of management systems, some enterprises have not formulated network data security management systems and operating procedures, have not clearly defined security responsible persons or management institutions, have not established systems such as data classification and grading management, data access permission management, and emergency plans, and the retention period of network logs is less than six months. (2) In terms of safety protection, some enterprises have not conducted the cybersecurity level protection assessment as required, have not imposed access restrictions, and have opened the data access ports to the Internet, resulting in unauthorized access vulnerabilities. (3) In terms of the storage process, in some enterprise information systems, a large amount of patients' personal information is not encrypted and is in a "naked" state, posing a risk of data leakage. ([More](#))

### **马来西亚：PDP发布《个人数据跨境传输指南》**

2025年4月29日，马来西亚个人数据保护局（PDP）发布了《个人数据跨境传输指南》（以下简称《指南》），旨在澄清遵守《个人数据保护法》第129条各项条件的要求，并协助数据控制者

决定跨境传输个人数据可参考哪些条件。《指南》的主要亮点包括：（1）澄清了什么是“实质上类似的法律”和“适当的保护水平”；（2）概述了所需的评估，包括传输影响评估和相关考虑因素；（3）提供了其他适用例外的实例，包括什么是合同履行的“必要条件”和什么是充分的预防措施和尽职调查。（[查看更多](#)）

### **Malaysia: PDP Publishes the *Cross Border Personal Data Transfer Guidelines***

On April 29, 2025, Malaysian Department of Personal Data Protection (PDP) published the *Cross Border Personal Data Transfer Guidelines (Guidelines)*, to clarify the requirements for compliance with each condition specified under Section 129 of the Personal Data Protection Act and to assist data controllers in deciding which condition may be referred to for any cross border personal data transfer. The key highlights of the Guidelines include: (1) Clarifies what qualifies as a “substantially similar law” and “adequate level of protection”. (2) Outlines the required assessments, including TIA and relevant considerations. (3) Provides practical examples of the other applicable exceptions, including what qualifies as “necessary” for contractual performance and what amounts to sufficient precautions and due diligence. ([More](#))

### **爱尔兰：TikTok因数据跨境传输违规遭DPC罚款5.3亿欧元**

2025年5月2日，爱尔兰数据保护委员会（DPC）宣布了对TikTok进行调查后的最终决定。DPC发现，TikTok向中国传输欧盟经济区用户数据的行为和透明度违反了GDPR。在数据传输方面，TikTok向中国传输数据的行为违反了GDPR第46（1）条的规定，因为TikTok没有核实、保证并证明补充措施和标准合同条款能够有效确保通过远程访问传输的欧洲经济区用户的个人数据能够获得基本等同于欧盟内部所保证的保护水平。在透明度方面，TikTok的2021年《隐私政策》并未指明个人数据被传输到包括中国在内的第三国，并且未能明确说明处理行为包括中国人员远程访问存储在新加坡和美国的个人数据。DPC决定对TikTok处以5.3亿欧元的行政处罚并要求其在六个月内使其处理合规。（[查看更多](#)）

### **Ireland: TikTok is Fined €530 Million by DPC for Cross-Border Data Transfer Breach**

On May 2, 2025, Irish Data Protection Commission (DPC) announced its final decision following an inquiry into TikTok. DPC finds that TikTok infringed the GDPR regarding its transfers of EEA user data to China and its transparency requirements. In terms of data transfer, TikTok's transfers to China infringed Article 46(1) GDPR because it failed to verify, guarantee and demonstrate that the supplementary measures and the SCCs were effective to ensure that the personal data of EEA users transferred via remote access were afforded a level of protection essentially equivalent to that guaranteed within the EU. In terms of transparency requirements, TikTok's 2021 Privacy Policy did not name the third countries, including China, to which personal data was transferred, and failed to specify that the processing included remote access to personal data stored in Singapore and the United States by personnel based in China. DPC decides to impose an administrative penalty of €530 million on TikTok and requires it to bring its processing into compliance within six months. ([More](#))

## 知识产权 Intellectual Property

### 国知局就《专利审查指南修改草案（征求意见稿）》公开征求意见

2025年4月30日，国家知识产权局发布关于就《专利审查指南修改草案（征求意见稿）》公开征求意见的通知。本次修改聚焦新领域新业态发展，针对创新主体对专利审查授权确权工作的合理诉求。具体包括在实质审查部分删除对“植物”的定义，增加对“植物品种”的定义。该“植物品种”的定义与《中华人民共和国种子法》对植物品种的要求一致，使无法获得植物新品种权保护的育种材料可能被授予专利权。

来源：国知局

### CNIPA has launched a public consultation on the "Draft Amendment to the Patent Examination Guidelines (for Public Comment)"

On April 30, 2025, China National Intellectual Property Administration issued a notice regarding the solicitation of public opinions on the "Draft Amendment to the Patent Examination Guidelines (for Public Comment)". This revision focuses on the development of new fields and new business models, addressing the reasonable demands of innovation entities for the patent examination, authorization and confirmation processes. Specifically, the definition of "plant" in the substantive examination section is removed, and the definition of "plant variety" is added. The definition of "plant variety" is consistent with the requirements of the "Seed Law of the People's Republic of China" for plant varieties, enabling breeding materials that cannot obtain plant variety patent protection to potentially be granted patent rights.

Source: CNIPA

### 南京数据资源法庭正式成立

2025年4月27日，南京数据资源法庭正式成立，南京数据资源法庭设在雨花台区法院，受理辖区内涉及数据资源的刑事、民事、行政案件，实行“三合一”审判制度。该法庭是南京首家数据资源审判专门法庭，将充分依托软件谷产业集群优势，依法公正高效审理各类数据资源纠纷案件，通过裁判规则体系化提炼与标准化建设，促进创新技术和数据要素有序流动，为南京打造万亿级软件和信息服务业产业集群提供有力司法保障。

来源：南京市中级人民法院

### The Nanjing Data Resources Court has been officially established

On April 27, 2025, the Nanjing Data Resources Court was officially established. It is located in the Yuhuatai District Court and handles criminal, civil and administrative cases related to data resources within its jurisdiction. It implements a "three-in-one" trial system. This court is the first specialized court for data resources trials in Nanjing. It will fully leverage the advantages of the software valley's

industrial cluster, fairly and efficiently hear various data resource dispute cases, and through the systematic refinement and standardized construction of judicial rules, promote the orderly flow of innovative technologies and data elements, providing strong judicial support for Nanjing to build a trillion-dollar software and information service industrial cluster.

Source: [Nanjing Intermediate People's Court](#)

### 《中华人民共和国植物新品种保护条例》将于6月1日施行

2025年5月1日,《中华人民共和国植物新品种保护条例》正式发布,《条例》共计8章49条,将于2025年6月1日起正式施行,《条例》适用于过人工选育或者对发现的野生植物加以改良,具备新颖性、特异性、一致性、稳定性和适当命名的植物品种。《条例》规定,品种权所有人(以下称品种权人)对其授权品种,享有排他的独占权。申请品种权的植物新品种应当属于国家植物品种保护名录中列举的植物的属或者种。植物品种保护名录由国务院农业农村、林业草原主管部门确定和公布。

来源: 国务院

### The "Regulations on the Protection of New Varieties of Plants of the People's Republic of China" will come into effect on June 1st.

On May 1st, 2025, the "Regulations on the Protection of New Varieties of Plants of the People's Republic of China" was officially released. The Regulations consist of 8 chapters and 49 articles and will come into effect on June 1st, 2025. The Regulations apply to plant varieties that have been artificially bred or have been improved by modifying discovered wild plants, and which possess novelty, specificity, consistency, stability, and appropriate naming. The Regulations stipulate that the owner of the variety rights (hereinafter referred to as the variety right holder) has exclusive and exclusive rights to their authorized varieties. The plant new varieties for which a variety right application is made should belong to the genus or species listed in the national plant variety protection list. The plant variety protection list is determined and published by the competent departments of agriculture and forestry under the State Council.

Source: [the State Council](#)

### 最高法: 专利分案申请不符合规定的行政处理方式

近期,最高人民法院知识产权法庭审结一起专利分案申请视为未提出通知及行政复议上诉案件,在明确行政复议案件中审查对象的基础上,进一步阐明了在专利分案申请不符合法律规定的情况下,行政机关如何选择处理方式的问题。

最高院认为,本案中,国家知识产权局认为涉案分案申请不符合专利法实施细则第四十二条规定的分案申请的条件,应以驳回该分案申请的方式进行处理,并给予申请人陈述意见和/或修改申请文件的机会。未以驳回该分案申请的方式处理,而是迳行发出分案申请视为未提出通知



书，不符合相关法律规定。本案中，选择以分案申请视为未提出通知书的方式进行处理，虽可能提高审查效率，但影响了申请人陈述意见以及修改权利要求的基本程序权利的行使，既不符合法律规定，亦不符合程序节约原则的本意。

来源：最高人民法院知识产权法庭

## Supreme Court: Administrative Handling Method for Patent Subdivision Applications that Do Not Comply with Regulations

Recently, the Intellectual Property Court of the Supreme People's Court concluded a case involving a patent subdivision application that was deemed not to have been notified and not to have undergone administrative reconsideration appeal. Based on the clarification of the review objects in administrative reconsideration cases, it further elaborated on how administrative authorities should handle such situations when patent subdivision applications do not comply with the legal provisions.

The Supreme Court held that in this case, the National Intellectual Property Administration believed that the involved subdivision application did not meet the conditions stipulated in Article 42 of the Patent Law Implementing Rules and should be handled by dismissing the application. It also gave the applicant the opportunity to present their opinions and/or modify the application documents. Instead of handling it by dismissing the application, it directly issued a notice stating that the subdivision application was deemed not to have been submitted, which did not comply with the relevant legal provisions. In this case, choosing to handle it by issuing a notice stating that the subdivision application was deemed not to have been submitted may improve the review efficiency, but it also affects the exercise of the basic procedural rights of the applicant to present their opinions and modify the claims, which is not in line with the legal provisions and the intent of the principle of procedural economy.

Source: Intellectual Property Court of the Supreme People's Court

## 北知：“泡泡玛特”遭侵权，对侵权方应适用惩罚性赔偿

近日，北京知识产权法院审结一起著作权侵权案件。一审法院此前判决二被告赔偿原告泡泡玛特公司经济损失及合理开支共计502万元。二被告不服提起上诉，二审法院判决驳回上诉，维持原判。。

北京泡某玛特文化创意有限公司（简称泡某玛特公司）依法享有“Molly”“Labubu”“Skullpanda”“Dimoo”四个卡通美术作品（简称涉案美术作品）的著作权，其主张中山包某服饰店、中山苏某服饰有限公司（简称二被告）生产，并在其运营的多个抖音帐号上以发布短视频、直播销售、开设小店店铺的方式销售带有涉案美术作品形象的服装及箱包侵害了涉案美术作品的著作权。法院认为，泡泡玛特公司提供的在案证据能够证明涉案美术作品具有较高知名度，结合包哥服饰店、苏哼哼公司对用户发布的与涉案美术作品有关的评论内容予以回复，谭某某担任法定代表人的其他企业曾因销售使用他人美术作品的服装被判决承担法律责任，以及包哥服饰店、苏哼哼公司在收到本案起诉材料后，更甚于在苏哼哼公司因利用“中山苏哼哼女装”抖音帐号直播销售或附赠印有“Molly”美术作品图案的衣服和手提袋被行



政处罚后，包哥服饰店、苏哼哼公司直至2022年7月6日仍通过名称为“苏哼哼（包嫂团队）”抖音帐号直播销售涉案产品等情节，足以认定包哥服饰店、苏哼哼公司存在侵权故意。其次，前述谭某某担任法定代表人的其他企业曾因销售使用他人美术作品的服装被判决承担法律责任，苏哼哼公司被行政处罚后，包哥服饰店、苏哼哼公司仍使用不同的抖音账号继续直播销售涉案产品，加之包哥服饰店、苏哼哼公司就涉案产品的宣传推广内容、直播销售方式及规模，能够认定包哥服饰店、苏哼哼公司系多次实施涉案侵权行为，侵权持续时间较长，规模较大，情节严重。因此，本案适用惩罚性赔偿并无不当。

来源：北京知识产权法院

### **Beijing Intellectual Property Court: "POP MART" suffers infringement, and punitive damages should be imposed on the infringing party**

Recently, the Beijing Intellectual Property Court concluded a copyright infringement case. The trial court previously ordered the two defendants to compensate the plaintiff, [POP MART](#) Company, for economic losses and reasonable expenses totaling RMB 5.02 million. The two defendants appealed, but the appellate court upheld the original judgment.

Beijing POP MART Cultural and Creative Co., Ltd. (referred to as POP MART Company) legally enjoys the copyright of four cartoon artworks (referred to as the involved artworks), namely "Molly", "Labubu", "Skullpanda", and "Dimoo". It claims that Zhongshan Baoge Clothing Store and Zhongshan Su Hengheng Clothing Co., Ltd. (referred to as the two defendants) produced and sold clothing and bags with the images of the involved artworks through posting short videos, live streaming sales, and opening small store shops on multiple Douyin accounts, infringing upon the copyright of the involved artworks. The court held that the evidence provided by POP MART Company could prove that the involved artworks had a high degree of popularity. By responding to the comments posted by users related to the involved artworks, Tan, who served as the legal representative of other enterprises, was held legally responsible for selling clothing and bags using others' artworks, and after Baoge Clothing Store and Su Hengheng Company were punished by the administration for using the "Zhongshan Su Hengheng Women's Clothing" Douyin account for live streaming sales or giving away clothes and handbags with the "Molly" artwork pattern as gifts, and even after receiving the lawsuit materials in this case, Baoge Clothing Store and Su Hengheng Company continued to sell the involved products through the Douyin account named "Su Hengheng (BAOSAO Team)" until July 6, 2022, these circumstances were sufficient to prove that Baoge Clothing Store and Su Hengheng Company had an intentional infringement. Secondly, the other enterprises served as the legal representatives of Tan某某 had been held legally responsible for selling clothing using others' artworks, and after Su Hengheng Company was punished by the administration, Baoge Clothing Store and Su Hengheng Company continued to sell the involved products through different Douyin accounts, and the promotional content, live streaming sales methods and scale of Baoge Clothing Store and Su Hengheng Company regarding the involved products could be used to prove that Baoge Clothing Store and Su Hengheng Company repeatedly committed the infringement, with a long duration, large scale and serious circumstances. Therefore, the application of punitive damages in this case is appropriate.

Source: Beijing Intellectual Property Court

## 广东高院：钻石商标案刷单证据不能排除合理怀疑，改判适用惩罚性赔偿

近日，广东高院审结一起商标侵权纠纷案件，本案中，佛山米风公司等在被诉产品机身正面标注“钻石风幕机”且突出“钻石”字样部分产品外包装亦有“钻石风幕机”字样，涉案网店在商品名称商品详情页面等处使用了“钻石”字样，法院认为该使用行为具有识别商品来源的作用，侵犯了三角牌公司的商标专用权。

本案中，被告佛山米风公司等主张网店数据存在刷单的情况。法院认为，即便商家能证明存在刷单及其具体金额，法院在认定侵权获利时也不能“如数扣除”，而应当根据案情酌情予以考虑，本案中，根据佛山米风公司等陈述的刷单模式，刷单公司或人员购买刷单商品并确认收货后，刷单商品的货款要转回其公司。但其提交证据中只有张，向刷单公司或人员转账的记录，没有刷单公司或人员将货款回转张或其公司的记录。佛山米风公司等也未能证明被诉产品所对应的具体订单及其金额。考虑到三角牌公司已经尽力举证，侵权产品的账簿资料主要由侵权人掌握，法院依法责令佛山米风公司等限期提交生产销售侵权产品的数据和相应的账簿资料，并释明逾期或虚假提交的法律后果。佛山米风公司等虽提交了销售数据，但未提交生产数据，所提交的销售数据也仅限于法院从平台取证所涉六家网店的数据，未包括“楚龙电器专营店”（天猫）的数据，也未包括其向“亚路家装建材专营店”供货的数据。显然佛山米风公司等未向本院提交生产销售侵权产品的全部数据。不仅如此，佛山米风公司等还以账簿资料众多且涉及商业秘密为由，未在期限内提交。法院认为其所述理由并非正当理由，否则上述法律规定的证据披露义务及举证妨碍责任将被架空，故佛山米风公司等构成举证妨碍，应承担不利的法律后果，故法院最终认定侵权产品的销售金额为64617433.63元。

来源：广东高院

## Guangdong High People's Court: Evidence of fraud in diamond trademark case cannot be ruled out as beyond reasonable doubt. The case is remanded for application of punitive damages

Recently, the Guangdong High People's Court concluded a trademark infringement dispute case. In this case, the Foshan Meifeng Company and others marked "Diamond Fan Air Conditioner" on the front of the products they were accused of selling and highlighted the word "Diamond" in some product packaging. The online store also used the word "Diamond" in the product name and product details pages. The court held that this usage had the effect of identifying the source of the product and infringed upon the exclusive rights of Triangle Brand Company's trademark.

In this case, the defendant Foshan Meifeng Company and others claimed that the online store data had been manipulated through fraud. The court held that even if the merchants could prove the existence of fraud and the specific amount, the court could not "deduct the amount exactly" when determining the infringement profits. Instead, it should be considered based on the circumstances of the case. In this case, according to the fraud pattern stated by Foshan Meifeng Company and others, the fraud company or personnel would purchase the fraud products and confirm receipt, and then the payment for the fraud products would be transferred back to their company. However, the evidence submitted by them only

included records of transfers from Zhang to the fraud company or personnel, but no records of the fraud company or personnel transferring the payment to Zhang or their company. Foshan Meifeng Company and others also failed to prove the specific orders and amounts corresponding to the accused products. Considering that Triangle Brand Company had made every effort to provide evidence, the accounting records of the infringing products were mainly held by the infringer, the court legally ordered Foshan Meifeng Company and others to submit the production and sales data of the infringing products and the corresponding accounting records within a time limit, and explained the legal consequences of late submission or false submission. Foshan Meifeng Company and others submitted sales data, but did not submit production data. The submitted sales data only included the data of six online stores involved in the court's evidence collection from the platform, did not include the data of "Churong Electrical Appliance Exclusive Store" (Tmall), nor did it include the data of their supply to "Yalu Home Decoration and Building Materials Exclusive Store". Clearly, Foshan Meifeng Company and others did not submit the complete data of production and sales of the infringing products. Moreover, Foshan Meifeng Company and others also claimed that they did not submit the accounting records within the time limit due to the large number of accounting records and the confidentiality of business secrets. The court held that their stated reasons were not valid reasons. Otherwise, the evidence disclosure obligation and the burden of proof obstruction responsibility stipulated by the law would be undermined. Therefore, Foshan Meifeng Company and others constituted obstruction of proof and should bear the adverse legal consequences. Thus, the court ultimately determined that the sales amount of the infringing products was RMB 64,617,433.63.

Source: [Guangdong High People's Court](#)

### 上知：“假小米”马桶被小米起诉，惩罚性判赔3000万

近日，上海知识产权法院审结一起商标侵权纠纷案件，本案中，原告小米公司认为，被告在智能马桶上使用了近似的“小米零度”“M”等标识，且在智能马桶上使用与“小爱同学”语音唤醒指令高度近似的“小爱小爱”作为语音唤醒及操控指令，遂起诉索赔3000万。法院判决认定小米构成驰名商标，被告使用“小米零度”“M”等构成商标侵权，使用“小爱小爱”语音唤醒指令构成不正当竞争，适用惩罚性赔偿判赔3000万元等。

法院认为，本案应当适用惩罚性赔偿。在两原告已将被告零米公司及苏诉至法院并已经实体审理、本案审理过程中被告持有的第 32483813 号商标已被国家知识产权局裁定予以无效宣告的情况下，零米公司无正当理由仍在京东平台持续实施被诉侵权行为，存在明显的侵权故意，且零米公司经营的京东平台被控店铺的销售总额巨大，侵权情节严重。因此，对两原告关于本案应适用惩罚性赔偿的主张，法院予以支持。对于红米零度公司，虽然在本案诉讼过程中，其与零米公司均变更为一入持股公司，但在销售被控侵权商品期间即2023年4月3日之前，未见该公司与零米公司在组织结构人员关系上存在明显的关联关系，考虑到其作为被控商品销售商被控商品已经被拼多多平台禁售，侵权期间不足两个月，销售额有限，其情节尚不足达到侵权获利巨大的严重程度。故对于原告要求其承担惩罚性赔偿的主张不予支持。

来源：上海知识产权法院

## Shanghai Intellectual Property Court: "Fake Xiaomi" toilet is sued by Xiaomi, and punitive damages of RMB 30 million are awarded

Recently, the Shanghai Intellectual Property Court concluded a trademark infringement dispute case. In this case, the plaintiff Xiaomi Company claimed that the defendant used similar marks such as "Xiaomi Zero Degree" and "M" on the smart toilet, and used the voice wake-up instruction "Xiaoi Xiaoi" on the smart toilet that was highly similar to the "Xiaoi Niuso" voice wake-up command. Therefore, the plaintiff filed a lawsuit for compensation of RMB 30 million. The court ruled that Xiaomi constituted a well-known trademark, the defendant's use of "Xiaomi Zero Degree" and "M" constituted trademark infringement, and the use of "Xiaoi Xiaoi" as a voice wake-up and control instruction constituted unfair competition. Punitive damages of RMB 30 million were awarded.

The court held that this case should apply punitive damages. Given that the two plaintiffs had already filed lawsuits against the defendant Zimo Company and Su, and the case had undergone substantive trial, and the defendant's held trademark No. 32483813 had been ruled by the National Intellectual Property Administration to be invalid during the trial of this case, Zimo Company continued to implement the infringing behavior on the JD platform without justifiable reasons, showing obvious intent to infringe, and the sales total of the defendant's controlled store on JD platform was huge, making the infringement situation serious. Therefore, the court supported the plaintiffs' claim that this case should apply punitive damages. For Redmi Zero Degree Company, although both it and Zimo Company changed to one-person holding companies during the litigation process, during the period of selling the alleged infringing goods (April 3, 2023), no obvious association between the organizational structure and personnel relationship of the company and Zimo Company was seen. Considering that it was a seller of the alleged goods and the goods had been banned from sale on the Pinduoduo platform, the infringement period was less than two months and the sales volume was limited, its circumstances were not yet serious enough to reach the level of huge profits from infringement. Therefore, the court did not support the plaintiffs' claim that it should bear punitive damages.

Source: Shanghai Intellectual Property Court

## 东莞中院：反复侵权、伪造证据！适用五倍惩罚性赔偿600万元+罚款20万元，以示惩戒

近日，广东省东莞市中级人民法院就一起著作权侵权纠纷案作出二审判决，此前一审法院判决被告九叶公司立即停止侵犯原告小阔科技公司美术作品著作权的行为；被告九叶公司赔偿原告小阔科技公司经济损失600万元；被告东城笑汀禾贸易商行赔偿原告经济损失30000元。二审法院予以维持。

法院审理认为，九叶公司未经许可，生产被诉商品并在其网店展示和销售，侵犯了小阔科技公司涉案作品的复制权、发行权和信息网络传播权。九叶公司故意侵权，侵权情节严重，且拒不向法院提供其生产销售被诉侵权产品的账务账簿、资料，已构成举证妨碍行为。根据相关电商平台店铺销售数据显示，法院认定九叶公司销售被诉侵权商品实际成交总金额已达782万元。法院支持按照已查明的九叶公司被诉店铺侵权产品销售数额乘以产品利润率的方式确定违法所得，对九叶公司适用五倍惩罚性赔偿，计算得出的赔偿数额已远超出小阔科技公司诉请主张的金额，故法院全额支持了小阔科技公司的诉请。



本案中，法院向天猫平台经营者调取涉案商品的创建时间和商品信息，证实九叶公司提交的证据“牙泰益生菌耀白清新牙膏”在其天猫店铺“牙泰旗舰店”的首次发布情况截图均系伪造的证据，根据该事实，法院认定九叶公司的行为严重妨碍人民法院审理案件，决定对九叶公司罚款 200000 元。

来源：广东省东莞市中级人民法院

### **Dongguan Intermediate People's Court: Repeated infringement, forged evidence! Five times punitive damages of RMB 6 million plus a fine of RMB 200,000 were imposed to serve as a deterrent.**

Recently, the Dongguan Intermediate People's Court of Guangdong Province made a second-instance judgment on a copyright infringement dispute case. The previous first-instance court ruled that the defendant Jiuye Company should immediately stop infringing upon the copyright of the plaintiff Xiaokuo Technology Company for the artistic works; the defendant Jiuye Company should compensate the plaintiff Xiaokuo Technology Company for economic losses of RMB 6 million; the defendant Dongcheng Xiaotinghe Trading Company should compensate the plaintiff for economic losses of RMB 30,000. The second-instance court upheld this decision.

The court held that Jiuye Company, without permission, produced the infringing products and displayed and sold them on its online store, infringing upon the reproduction right, distribution right and information network dissemination right of the artistic works of Xiaokuo Technology Company. Jiuye Company committed intentional infringement, the infringement was serious, and it refused to provide the accounting books and materials of its production and sales of the infringing products to the court, constituting an act of obstructing evidence. Based on the sales data of the defendant's online store on relevant e-commerce platforms, the court determined that the actual transaction total amount of the infringing products sold by Jiuye Company reached RMB 7.82 million. The court supported determining the illegal gains by multiplying the infringing product sales amount of Jiuye Company's infringing store that had been verified by the court by the product profit margin. Jiuye Company was subject to five times punitive damages, and the calculated compensation amount was far beyond the amount claimed by Xiaokuo Technology Company. Therefore, the court fully supported Xiaokuo Technology Company's claim.

In this case, the court obtained the creation time and product information of the involved goods from the Tmall platform operator, confirming that the screenshots of the first release of the "Taite Yitian Baiwei Qingxin Toothpaste" submitted by Jiuye Company in its Tmall store "Taite Store" were forged evidence. Based on this fact, the court determined that Jiuye Company's behavior seriously hindered the court's trial, and decided to impose a fine of RMB 200,000 on Jiuye Company.

Source: Dongguan Intermediate People's Court of Guangdong Province

### **英国：法院裁定苹果须向Optis一次性支付5.02亿美元**

2025年5月1日，英格兰和威尔士上诉法院今日裁定，苹果必须向 Optis Cellular Technology LLC 支付一笔总额为 5.02 亿美元的款项，用于在 2013 年至 2027 年期间使用 iPhone 和 iPad 上的标准必要 4G 专利。这一裁决比 2023 年高等法院最初判决的 5643 万美元大幅增加。除了修改后的



损害赔偿金额外，新的判决还包括利息，可能超过 2 亿美元，使苹果在该案中的总赔偿超过 7 亿美元。该裁决被认为是有史以来英国最大的专利损害赔偿之一。

来源: [ipfray](#)

### **UK: Court rules that Apple must pay Optis \$502 million in a lump sum**

On May 1, 2025, the Court of Appeal of England and Wales ruled that Apple must pay a total of \$502 million to Optis Cellular Technology LLC for the use of standard essential 4G patents on iPhones and iPads during the period from 2013 to 2027. This ruling is a significant increase from the initial judgment of \$56.43 million by the High Court in 2023. In addition to the revised damages amount, the new ruling also includes interest, potentially exceeding \$200 million, bringing Apple's total compensation in this case to over \$700 million. This ruling is regarded as one of the largest patent damages awards in British history.

Source: [ipfray](#)

### **美国：特朗普再陷版权纠纷，法官驳回其豁免请求**

近日，佐治亚州一名联邦法官驳回了关于特朗普的一项动议，该动议要求免除特朗普因在竞选活动中使用美国音乐家Isaac Hayes参与创作的歌曲《Hold On, I'm Coming》而引发的版权侵权赔偿。此前，本次诉讼的被告还包括美国保守联盟（American Conservative Union）、共和党全国委员会（Republican National Committee）和美国全国步枪协会（National Rifle Association），他们被指控主办了特朗普使用这首歌曲的竞选活动等，但这些团体已于去年9月被撤出诉讼，目前仅剩TPA与特朗普及其竞选团队继续应诉。

来源: [law360](#)

### **USA: Trump Enters Another Copyright Dispute, Judge Rejects His Request for Exemption**

Recently, a federal judge in Georgia rejected a motion made by Trump, which sought to exempt him from paying compensation for copyright infringement caused by his use of the song "Hold On, I'm Coming" composed with the participation of American musician Isaac Hayes during his campaign. Previously, the defendants in this lawsuit included the American Conservative Union, the Republican National Committee, and the National Rifle Association, who were accused of organizing Trump's campaign activities that used this song, but these groups were withdrawn from the lawsuit last September. Currently, only TPA, Trump, and his campaign team continue to defend themselves in court.

Source: [law360](#)

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