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立方要闻周报

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立方竞争法周报 Weekly Competition Law News

市场监管总局局长罗文：以公平竞争市场环境促进民营经济高质量发展

2025年8月16日，国家市场监督管理总局（“**市场监管总局**”）官网转载局长罗文发表在《求是》上的文章，该文章多次提到民营经济领域的反垄断工作。 在着力维护公平竞争市场秩序领域，文章指出要纵深推进全国统一大市场建设，有力加强公平竞争监管执法，强化平台经济、自然垄断、技术创新等重点难点领域反垄断，开展民生领域反垄断执法专项行动，依法打击滥用市场支配地位等垄断和不正当竞争行为，破除地方保护和行政性垄断，扎实推进中央、省、市、县四级政府全覆盖的公平竞争审查制度；同时，文章指出要加强制度规则制定，健全细化反垄断、反不正当竞争配套规则，构建以反垄断法、反不正当竞争法为核心，以相关行政法规和规章为骨架，覆盖平台经济、原料药等领域的完整治理网络，强化制度刚性约束。（查看更多）

Director of the SAMR Wen LUO: Promoting High-quality Development of the Private Economy in the Fair Competition Environment

On 16 August 2025, the State Administration for Market Regulation (“**SAMR**”) website re-published Director Wen LUO’s article in *Qiushi*, which repeatedly mentioned antitrust enforcement work in the private sector. The article states that the SAMR shall advance the construction of the unified national market, enhance the fair-competition regulation enforcement, intensify antitrust enforcement in important and difficult fields such as in the fields of the platform economy, natural monopolies and technological innovation, launch special antitrust actions in the field of people’s livelihood, legally combat abuse of dominance and other monopolistic or conduct of unfair competition, eliminate local protectionism and administrative monopolies, and fully implement the fair-competition review system covering central, provincial, municipal and county governments. The article also points out that the SAMR shall improve the regime of regulations, refine ancillary rules under *the Anti-Monopoly Law* and *the Anti-Unfair Competition Law* and build a comprehensive governance framework anchored in those laws, supported by administrative regulations and rules, covering fields such as the platform economy and active pharmaceutical ingredients, therefore imposing institutional constraints. (More)

广西出台公平竞争审查抽查工作指引

2025年8月12日，市场监管总局发布广西壮族自治区市场监督管理局（“**广西市监局**”）印发《广西公平竞争审查抽查工作指引》（以下简称“**《指引》**”）的有关情况。《指引》对公平竞争审查抽查的范围、程序、结果处理等作出全面规定，为广西开展相关工作提供了明确操作规范。《指引》共分7章33条，明确了公平竞争审查抽查是自治区市场监管局对广西各地区、各部门公开发布的涉及经营者经济活动的政策措施进行随机抽取，并对涉嫌违反公平竞争审查制度的政策措施开展核查处理。在操作流程上，《指引》创新引入第三方机构参与政策措施抽取，并明确第三方机构须具备相应技术能力且与被审查单位无利害关系；同时，建立专家评审机制，评审专家须依据公平竞争审查标准独立提出意见，确保核查结果公正权威。（查看更多）

Guangxi Promulgates Guidelines for Fair-Competition Review Spot-Check Work

On 12 August 2025, the SAMR announced the issuance by the Guangxi Zhuang Autonomous Region Administration for Market Regulation ("**the Guangxi AMR**") of *the Guidelines for Guangxi Fair Competition Review Spot-Check Work* ("***the Guidelines***"). *The Guidelines* comprehensively regulates the scope, procedure and disposition of findings for fair-competition review spot-checks and provide clear operational norms for Guangxi's implementation work thereof. *The Guidelines* consists of seven chapters, totalling thirty-three articles; it specifies that the fair-competition review spot-check shall be the random selection by the Guangxi AMR of policies and measures publicly issued by locations and departments within the region that affect economic activities of businesses, and shall include the inspection and handling of any measures suspected of contravening the fair-competition review regime. In terms of operational details, *the Guidelines* innovatively permit qualified third-party organisations to participate in the random selection of policies and measures, provided that such organisations possess the requisite technical capacities and have no conflict of interest with the entity under review. Meanwhile, *the Guidelines* establishes an expert review mechanism under which designated experts must issue independent opinions in accordance with the fair-competition review standards to ensure that inspection results are impartial and authoritative. (More)

迪士尼子公司指控InterDigital垄断视频压缩专利市场

2025年8月12日，据报道，华特迪士尼公司（Walt Disney Co.）某子公司已针对InterDigital Inc.提起反垄断诉讼，指控该无线技术公司滥用其对关键视频压缩专利的控制，索要虚高的专利许可费。根据原告方在8月8日提交给美国特拉华州联邦地区法院的起诉状，该迪士尼子公司主张InterDigital在美国和国际流媒体必要技术市场中从事垄断行为，诉讼的焦点是与H.264和H.265视频编码标准相关的专利，原告方表示这些专利对于Hulu、Disney+和ESPN+等平台跨设备无缝传输内容至关重要。迪士尼子公司在声明中称，现有协议要求InterDigital提供"合理且无歧视的"许可条款，但该公司据称未能遵守该要求，并进一步指控InterDigital在全球视频压缩和流媒体技术市场中维持非法垄断，实际上限制了竞争并抬高必要技术的成本。（查看更多）

One Disney's Subsidiary Accuses InterDigital of Monopolizing the Market for Video Compression Patents

On August 12, 2025, according to reports, a subsidiary of the Walt Disney Co. has filed an antitrust lawsuit against InterDigital Inc., alleging the wireless technology company is abusing its control over key video-compression patents to demand inflated royalty payments. According to the complaint filed on August 8 in the US District Court for the District of Delaware, the Disney subsidiary claims that InterDigital has engaged in monopolistic conduct in both the US and international markets for technologies essential to streaming, and the litigation centers on patents relevant to the H.264 and H.265 vid-encoding standards, which the plaintiff says are crucial for delivering content seamlessly across devices for platforms such as Hulu, Disney+, and ESPN+. Per the statement, the Disney subsidiary alleges that existing agreements require InterDigital to offer "reasonable and non-discriminatory" licensing terms, but InterDigital has allegedly failed to comply therewith, and the Disney subsidiary further accuses InterDigital of maintaining an unlawful monopoly over video compression and streaming technology worldwide, effectively limiting competition and inflating costs for essential technology. (More)

欧委会附条件批准Naspers收购Just Eat Takeaway.com

2025年8月11日，欧盟委员会（“欧委会”）附条件批准了 Naspers 通过其子公司 Prosus 对 Just Eat Takeaway.com（“JET”）的收购。JET 在多个欧盟成员国运营在线食品配送平台。Prosus 是 Naspers 的投资公司，持有多家投资组合公司的股份，并持有 JET 竞争对手 Delivery Hero 27.4% 的少数股权。欧委会担忧，原始申报的交易将导致的 JET 和 Delivery Hero 之间产生结构性联系，这种联系可能削弱JET 在两家公司活跃的五个成员国以及整个欧洲经济区 （EEA）与 Delivery Hero 竞争的动机，增加JET和Delivery Hero之间默示协调的可能性，这可能导致价格上涨、退出市场和/或阻止公司进入欧洲经济区的新市场，因此欧委会对该交易与欧盟内部市场兼容性问题提出质疑。为了解决欧委会的担忧，Naspers提出在12个月内大幅减持其在Delivery Hero的股权至某特定比例，并履行一系列额外承诺，如不行使与其在 Delivery Hero 剩余有限股权相关的投票权等，以确保Naspers不会对Delivery Hero的商业决策或战略施加影响或享有实质性利益。经市场测试，欧委会认为申报方提出的承诺完全解决了其竞争担忧，因此决定附条件批准该收购。（查看更多）

The European Commission Conditionally Approves Nasper’s Acquisition of Just Eat Takeaway.com

On August 11, 2025, the European Commission (“**the Commission**”) conditionally approved the acquisition of Just Eat Takeaway.com (“**JET**”) by Naspers through its subsidiary Prosus. Prosus is Naspers’ investment company, holding stakes in several portfolio companies as well as a minority share of 27.4% in JET’s competitor Delivery Hero. The Commission had concerns that the transaction as initially notified could have created structural link between JET and Delivery Hero, and that such link could have decreased JET’s incentives to compete with Delivery Hero in the five Member States where both companies are active and across the European Economic Area (“**EEA**”); it could also increased the likelihood of tacit coordination between JET and Delivery Hero, possibly leading to higher prices or market exits and/or prevented these companies’ entry in new markets in the EEA. Therefore the Commission had serious doubts with the transaction as to its compatibility with the internal market. To address the Commission’s concerns, Naspers offered to significantly reduce its shareholding in Delivery Hero below a specified percentage within 12 months and to implement a set of additional commitments, including not exercising the voting rights associated with its remaining limited shareholding in Delivery Hero, in order to ensure that Naspers will have no influence over nor material interest in Delivery Hero’s commercial decisions or strategy. (More)

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

全国网安标委发布数据安全与个人信息保护国家标准体系的征求意见稿

2025年8月15日，全国网安标委发布了《数据安全国家标准体系（2025版）（征求意见稿）》和《个人信息保护国家标准体系（2025版）（征求意见稿）》，向社会公开征求意见，意见反馈

截止时间为2025年8月29日。数据安全国家标准体系以数据为核心，以数据分类分级保护为基础，覆盖全流程数据处理活动，标准化对象涉及与数据紧密相关的组织、产品、服务等。其主要内容包括基础共性、数据安全技术和产品、数据安全管理、数据安全测评和认证、产品和服务数据安全、行业与应用数据安全六大类标准。个人信息保护国家标准体系以个人信息权益保护为核心，涉及与个人信息紧密相关的组织、产品、服务等标准化对象，涵盖个人信息处理活动，保障个人信息的知情权、决定权、限制处理、拒绝处理等权利。其主要内容包括基础共性、个人信息保护技术、个人信息保护管理与权益保障、个人信息保护测评和认证、产品和服务个人信息保护、行业与应用个人信息保护六大类标准。（查看更多）

TC260 Releases Drafts for Comments on National Standard Systems for Data Security and Personal Information Protection

On August 15, 2025, the TC260 released the *National Standard System for Data Security (2025 Edition) (Draft for Comments)* and the *National Standard System for Personal Information Protection (2025 Edition) (Draft for Comments)* to solicit public opinions, with the deadline for feedback being August 29, 2025. The national standard system for data security takes data as the core, is based on classified and hierarchical protection of data, covers the entire process of data processing activities, and the standardization objects involve organizations, products, services, etc., which are closely related to data. Its main contents include six categories of standards: basic commonality, data security technologies and products, data security management, data security evaluation and certification, data security for products and services, and data security for industries and applications. The national standard system for personal information protection takes the protection of personal information rights and interests as the core, involves standardization objects such as organizations, products, and services closely related to personal information, covers personal information processing activities, and safeguards rights such as the right to know, right to decide, right to restrict processing, and right to refuse processing of personal information. Its main contents include six categories of standards: basic commonality, personal information protection technologies, personal information protection management and rights protection, personal information protection evaluation and certification, personal information protection for products and services, and personal information protection for industries and applications. (More)

最高人民法院发布入库参考案例：网络“开盒”构成侵犯公民个人信息罪

2025年8月14日，最高人民法院发布了一则入库参考案例。本案中，被告人非法获取他人的公民信息后，撰写诋毁他人的内容在网络上发帖，阅读、转发及跟帖回复人数总计超过200万，给被害人的工作、生活及其所任职学校造成严重不良影响。法院形成如下裁判要旨：（1）对于通过网络“开盒”等方式公开曝光他人个人信息，符合刑法第二百五十三条之一规定的，以侵犯公民个人信息罪定罪处罚。（2）对于《最高人民法院、最高人民检察院关于办理侵犯公民个人信息刑事案件适用法律若干问题的解释》第五条第一款第十项规定的“其他情节严重的情形”，可以结合行为人非法获取、提供公民个人信息的主观动机、获取方式、具体用途、造成的危害等情节予以考量，综合判断其社会危害性。对于所涉行为的社会危害程度与其他列明的情形相当的，可以认定为“情节严重”。（查看更多）

SPC Releases a Reference Case for Inclusion in the Database: Online "Doxxing" Constitutes the Crime of Infringing on Citizens' Personal Information

On August 14, 2025, the SPC released a reference case for inclusion in the database. In this case, the defendant, after illegally obtaining other people's citizen information, wrote defamatory content and posted it online, with the total number of readers, reposters and commenters exceeding 2 million, which caused serious adverse impacts on the victim's work, life and the school where he worked. The court formed the following key points of judgment: (1) For the act of publicly exposing others' personal information through means such as online "doxxing", if it conforms to the provisions of Article 253-1 of the Criminal Law, it shall be convicted and punished as the crime of infringing on citizens' personal information. (2) For the "other circumstances of serious nature" specified in Item 10 of Paragraph 1 of Article 5 of the *Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in the Handling of Criminal Cases Involving Infringement of Citizens' Personal Information*, consideration may be given to factors such as the actor's subjective motivation for illegally obtaining or providing citizens' personal information, the means of obtaining, the specific purpose of use, and the harm caused, so as to comprehensively judge its social harmfulness. If the social harm of the act in question is equivalent to that of other listed circumstances, it may be identified as "circumstances of serious nature". (More)

国家计算机病毒应急处理中心检测发现70款违法违规收集使用个人信息的App

2025年8月13日，国家计算机病毒应急处理中心检测发现了70款违法违规收集使用个人信息的App，所涉问题包括但不限于：（1）在App首次运行时未通过弹窗等明显方式提示用户阅读隐私政策等收集使用规则；隐私政策难以访问；个人信息处理者在处理个人信息前，未以显著方式、清晰易懂的语言真实、准确、完整地向个人告知个人信息处理者的名称或者姓名、联系方式、个人信息的保存期限等；（2）隐私政策未逐一列出App（包括委托的第三方或嵌入的第三方代码、插件）收集使用个人信息的目的、方式、范围等；（3）个人信息处理者向其他个人信息处理者提供其处理的个人信息的，未向个人告知接收方的名称或者姓名、联系方式、处理目的、处理方式和个人信息的种类，并取得个人的单独同意；（4）未向用户提供撤回同意收集个人信息的途径、方式；个人信息处理者未提供便捷的撤回同意的方式；（5）个人信息处理者处理不满十四周岁未成年人个人信息的，未制定专门的个人信息处理规则；收集未成年人信息未取得监护人单独同意；（6）未采取相应的加密、去标识化等安全技术措施。（查看更多）

National Computer Virus Emergency Response Center Detects 70 Apps That Illegally Collect and Use Personal Information

On August 13, 2025, the National Computer Virus Emergency Response Center detected 70 Apps that illegally collect and use personal information. The involved issues include but are not limited to: (1) Failing to prompt users to read privacy policies and other collection and usage rules through obvious means such as pop-ups when the App is first run; privacy policies being difficult to access; personal information processors failing to truthfully, accurately, and completely inform individuals in a prominent manner and in clear and understandable language of the name or title of the personal information processor, contact information, retention period of personal information, etc., before processing personal information. (2) Privacy policies failing to list one by one the purposes, methods, scopes, etc., for

which the App (including entrusted third parties or embedded third-party codes and plug-ins) collects and uses personal information. (3) When personal information processors provide personal information they process to other personal information processors, failing to inform individuals of the name or title of the recipient, contact information, processing purposes, processing methods, and types of personal information, and failing to obtain individuals' separate consent. (4) Failing to provide users with channels and methods to withdraw consent to the collection of personal information; personal information processors failing to provide convenient ways to withdraw consent. (5) Personal information processors failing to formulate special personal information processing rules when processing personal information of minors under the age of 14; failing to obtain separate consent from guardians when collecting minors' information. (6) Failing to take corresponding security technical measures such as encryption and de-identification. (More)

江苏发布自贸区数据出境负面清单

2025年8月13日，江苏发布了《中国（江苏）自由贸易试验区数据出境负面清单管理办法（试行）》（以下简称《办法》）和《中国（江苏）自由贸易试验区数据出境管理清单（负面清单）（2025版）》（以下简称《清单》）。《办法》共七章二十五条，自发布之日起施行，试行期两年。《办法》适用于在江苏自贸试验区内开展的数据出境活动，以及相关促进、保障、监管工作。《清单》仅涉及医药行业，列明了需要通过数据出境安全评估的数据清单，例如一定规模以上的群体诊疗、健康生理状况、医疗救援保障数据、特定药品实验数据等。《清单》也明确了需要通过个人信息出境标准合同备案、个人信息保护认证出境以及需要通过其他合法合规路径出境的数据清单。（查看更多）

Jiangsu Releases Negative List for Data Export in Free Trade Zone

On August 13, 2025, Jiangsu released the *Measures for the Administration of the Negative List for Data Export in China (Jiangsu) Pilot Free Trade Zone (Trial)* (Measures) and the *List for Data Export Administration in China (Jiangsu) Pilot Free Trade Zone (Negative List) (2025 Edition)* (List). The Measures consist of seven chapters with 25 articles, which shall come into force on the date of issuance and be valid for a trial period of two years. The Measures apply to data export activities carried out in the Jiangsu Pilot Free Trade Zone, as well as relevant promotion, guarantee, and supervision work. The List only involves the pharmaceutical industry and specifies the list of data that need to pass the data export security assessment, such as group diagnosis and treatment of a certain scale or above, health and physiological status, medical rescue support data, specific drug experiment data, etc. The List also clarifies the list of data that need to go through the filing of standard contracts for personal information export, personal information protection certification for export, and other legal and compliant channels for export. (More)

北京发布《加快北京市公共数据资源开发利用的实施意见》

2025年8月12日，北京发布了《加快北京市公共数据资源开发利用的实施意见》，提出了以下六方面共二十条意见：（1）夯实公共数据资源开发利用基础：完善公共数据目录；提升公共数据质量；开展公共数据资源登记。（2）畅通公共数据资源开发利用渠道：高效开展政务数据共享；有序推动公共数据开放；规范管理公共数据授权运营；（3）加强公共数据资源开发利用服

务能力：建立授权运营价格形成机制；强化监督管理；布局新型数据基础设施。（4）释放数据要素市场创新活力：丰富数据应用场景；加强央地协同和区域合作发展；促进公共数据产品流通交易；繁荣数据产业发展生态。（5）统筹发展和安全：加大创新激励；强化安全管理；鼓励先行先试。（6）健全工作机制：加强组织领导；强化资金保障；增强支撑能力；加强评价监督。（查看更多）

Beijing Releases *Implementation Opinions on Accelerating the Development and Utilization of Public Data Resources in Beijing*

On August 12, 2025, Beijing released the *Implementation Opinions on Accelerating the Development and Utilization of Public Data Resources in Beijing*, putting forward a total of 20 opinions in the following six aspects: (1) Consolidate the foundation for the development and utilization of public data resources: Improve the public data catalog; enhance the quality of public data; carry out registration of public data resources. (2) Smooth the channels for the development and utilization of public data resources: Efficiently carry out government data sharing; promote the opening of public data in an orderly manner; standardize the management of authorized operation of public data. (3) Strengthen the service capacity for the development and utilization of public data resources: Establish a price formation mechanism for authorized operation; strengthen supervision and management; deploy new-type data infrastructure. (4) Release the innovation vitality of the data element market: Enrich data application scenarios; strengthen central-local coordination and regional cooperative development; promote the circulation and transaction of public data products; prosper the development ecosystem of the data industry. (5) Coordinate development and security: Increase innovation incentives; strengthen safety management; encourage pilot trials. (6) Improve the working mechanism: Strengthen organizational leadership; enhance fund guarantee; improve supporting capabilities; strengthen evaluation and supervision. (More)

英国：ICO澄清《数据保护法》如何适用于面部识别技术

2025年8月13日，英国信息专员办公室（ICO）澄清了《数据保护法》如何适用于面部识别技术（FRT）。FRT受《数据保护法》的保护，该法要求对个人数据（包括生物识别数据）的任何使用都必须合法、公平和成比例。警察使用FRT时，必须以尊重人民权利和自由的方式部署，并采取适当的保障措施。由于其潜在的利益和风险，FRT是ICO的优先事项。ICO在确保警察遵守《数据保护法》和保护人民权利方面发挥着重要作用，包括就FRT的使用提供明确的指导，并对警察部队进行定期审计，以便公众对如何使用该技术有信心。（查看更多）

UK: ICO Clarifies How Data Protection Law Applies to Facial Recognition Technology

On August 13, 2025, the UK Information Commissioner's Office (ICO) clarified how the data protection law applies to facial recognition technology (FRT). FRT is covered by data protection law, which requires any use of personal data, including biometric data, to be lawful, fair and proportionate. When used by the police, FRT must be deployed in a way that respects people's rights and freedoms, with appropriate safeguards in place. FRT is a priority for the ICO due to its potential benefits and risks. ICO plays an important role ensuring police are compliant with data protection law and that people's

rights are protected, including by providing clear guidance on the use of FRT and undertaking regular audits of police forces, so that the public can have confidence in how the technology is used. (More)

加拿大：OPC发布《生物识别技术指南》

2025年8月11日，加拿大隐私专员办公室（OPC）发布了《生物识别技术指南》（以下简称《指南》）。在当今的数字环境中，组织希望提供对商品和服务的高效访问，同时也适应不断变化的安全风险。例如，指纹可以用来进入建筑物，或者面部图像可以解锁手机。虽然生物识别技术可以增强安全性并帮助提供服务，但其也可能引发隐私问题。生物识别信息与个人的身体密切相关，且通常是独一无二的，不太可能随着时间的推移而发生显著变化。它可能泄露敏感信息，如健康信息或有关种族和性别特征的信息。《指南》阐述了组织在计划和实施涉及生物识别技术的举措时的关键考虑因素。它强调必须确保收集、使用和披露生物识别信息具有适当目的，并认真评估所涉及的风险，包括潜在隐私影响的比例。《指南》还澄清了生物识别举措的同意要求，以及围绕透明度、数据保护和准确性的考虑，包括生物识别系统的测试。（查看更多）

Canada: OPC Releases *Guidance on Biometric Technology*

On August 11, 2025, the Office of the Privacy Commissioner of Canada (OPC) released the *Guidance on Biometric Technology* (Guidance). In today's digital environment, organizations are looking to provide efficient access to goods and services while also adapting to evolving security risks. For example, a fingerprint may be used to gain access to a building, or a facial image can unlock a phone. While biometrics can enhance security and help in service delivery, they can also raise privacy issues. Biometric information is intimately linked to an individual's body and is often unique, and unlikely to vary significantly over time. It can reveal sensitive information such as health information or information about race and gender characteristics. The Guidance addresses key considerations for organizations when planning and implementing initiatives involving biometric technology. It emphasizes the importance of ensuring that there is an appropriate purpose for collecting, using, and disclosing biometric information, and of carefully assessing the risks involved, including the proportionality of potential privacy impacts. The Guidance also clarifies consent requirements for biometric initiatives, as well as considerations around transparency, safeguarding data, and accuracy, including testing for biometric systems. (More)

知识产权 Intellectual Property

最高人民知法庭：侵害技术秘密案件自主研发抗辩的审查认定

最高人民法院知识产权法庭审结重庆建某公司诉冉某、罗某某、张某、常州康某公司等侵害技术秘密纠纷案，认定康某公司关于被诉侵权技术系自主研发的抗辩不成立，改判康某公司等方担责。

建某公司主张其旋叶式汽车空调压缩机转子、叶片等核心部件的设计参数为技术秘密。冉某、罗某某、张某系建某公司前员工，离职后于2014至2015年相继入职康某公司技术研发部门。2017年，建某公司公证购得康某公司生产的压缩机，经拆解比对发现其外观、内部布局及零配件公差系数均与建某公司产品高度一致。经公安机关委托鉴定，被诉侵权产品与建某公司主张的密点存在多个相同或实质相同点。康某公司辩称技术为自主研发，并提交2012-2013年图纸等证据。一审法院认为被诉技术源于康某公司自主研发，驳回建某公司诉请。

最高人民法院二审认定，第一，康某公司无法提供其所称技术来源的原件或电子文档；第二，康某公司未能充分证明在冉某等三人入职前已实际研发并掌握与被诉侵权产品结构参数相同或实质相同的技术；第三，康某公司所谓早期技术资料存在研发不完整性、形式真实性瑕疵及提交迟延等不合常理之处。综上，建某公司已完成侵权初步举证，康某公司抗辩不能成立。二审改判康某公司及冉某等三人立即停止侵权，连带赔偿建某公司经济损失及合理开支100万元，并明确迟延履行责任。本案明确了法院对自主研发抗辩证据需进行全面、客观审查并运用逻辑经验综合判断的裁判规则，对类案具有参考价值。

来源：最高人民法院知识产权法庭

Intellectual Property Court of The Supreme People's Court: Examination and Determination of Self-Developed Defense in Technical Secrets Infringement Cases

Intellectual Property Court of The Supreme People's Court concluded the case of Chongqing Jianmou Co., Ltd. v. Ran, Luo, Zhang, and Changzhou Kangmou Co., Ltd. et al. for infringement of technical secrets. The court rejected Kangmou's defense that the accused infringing technology was independently developed, overturing to hold Kangmou and other parties liable.

Plaintiff Jianmou claimed that the design parameters for core components such as rotary-vane automotive air-conditioning compressor rotors and blades constituted its technical secrets. Defendants Ran, Luo, and Zhang were former employees of Jianmou who joined Kangmou's R&D department between 2014 and 2015 after leaving Jianmou. In 2017, Jianmou purchased compressors produced by Kangmou via notarization. Disassembly analysis revealed that their appearance, internal layout, and component tolerance coefficients were highly consistent with Jianmou's products. An appraisal commissioned by public security authorities identified multiple identical or substantially identical features between the accused products and Jianmou's claimed confidential points. Kangmou argued the technology was independently developed, submitting evidence including 2012–2013 design drawings. The first-instance court judged that the technology originated from Kangmou's independent R&D and dismissed Jianmou's claims.

The Supreme People's Court determined in the second instance that: (1) Kangmou failed to provide original or electronic documentation for its claimed technical sources; (2) Kangmou inadequately proved it had actually developed or mastered technology identical or substantially identical in structural parameters to the accused products before Ran et al. joined the company; and (3) Kangmou's purported early-stage technical materials exhibited unreasonable inconsistencies, including R&D incompleteness, formal authenticity flaws, and delayed submission. Consequently, Jianmou had fulfilled its preliminary burden of proof for infringement, and Kangmou's defense was invalid. The second-instance judgment

ordered Kangmou and the three individuals to immediately cease infringement, jointly compensate Jianmou for economic losses and reasonable expenses totaling RMB 1 million, and specified liability for delayed performance. This case establishes a judicial rule requiring comprehensive, objective examination and logical-experiential assessment of independent R&D defense evidence, offering reference value for similar cases.

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

上海知产法院：判达姆啤酒商标侵权与不正当竞争胜诉

上海知识产权法院判决达姆股份有限公司在与黑龙江晖金经贸有限公司、上海寻梦信息技术有限公司、联合酿造（亳州）啤酒有限公司、费某某等六被告的商标侵权及不正当竞争纠纷案中胜诉。

法院认为，鉴于被诉侵权啤酒与原告注册商标核定商品类别相同，且被告使用的“布鲁特达姆大星”商标已被宣告无效，故无必要认定原告的“DAMM”和“达姆”商标为驰名商标。法院认定被告在啤酒产品及包装上使用“布鲁特达姆大星”、“BRUT DAME STAR”等标识，包含与原告“达姆”、“大星”商标相同的中文及与“DAMM”近似的英文，易导致相关公众混淆，构成商标侵权。同时，原告“艾帝达姆”啤酒包装装潢具有一定市场知名度和显著性，被诉侵权包装在颜色、布局、图案上与其整体近似，构成不正当竞争。法院认定被告联合酿造公司、李某某、孟某某共同实施了制造、销售侵权产品的行为，即被告晖金公司实施了销售行为，但其合法来源抗辩不成立，因证据不足且未尽审查义务。其证据不足以证明被告费某某参与侵权及被告寻梦公司（电商平台）存在帮助侵权的主观过错，故对原告针对费某某、寻梦公司的诉请不予支持。

来源：上海知识产权法院

Shanghai Intellectual Property Court: Dammu Beer Prevails in Trademark Infringement and Unfair Competition Lawsuit

Shanghai Intellectual Property Court judged in favor of Damm Co., Ltd. in its trademark infringement and unfair competition lawsuit against six defendants, including Heilongjiang Huijin Economic & Trade Co., Ltd., Shanghai Xunmeng Information Technology Co., Ltd., United Brewing (Bozhou) Beer Co., Ltd., and Fei.

The court held that given the accused beer products fell within the same class of goods covered by the plaintiff’s registered trademarks, and the defendant’s trademark "BRUT DAME STAR" had already been declared invalid, it was unnecessary to recognize the plaintiff’s "DAMM" and "达姆" trademarks as well-known marks. The court determined that the defendants’ use of identifiers including "布鲁特达姆大星" and "BRUT DAME STAR" on beer products and packaging—which incorporated Chinese characters identical to the plaintiff’s "达姆" and "大星" marks, and English similar to "DAMM"—was likely to cause confusion among relevant consumers, thus constituting trademark infringement. Further-

more, the packaging trade dress of the plaintiff's "艾帝达姆" (Estrella Damm) beer had acquired market recognition and distinctiveness. The accused infringing packaging, bearing overall similarity in color, layout, and patterns, constituted unfair competition. United Brewing, Li, and Meng were found to have jointly engaged in manufacturing and selling the infringing products. Defendant Huijin was held liable for sales activities, though its defense of lawful acquisition failed due to insufficient evidence and failure to fulfill reasonable duty of examination. The evidence was inadequate to establish Fei's participation in the infringement or subjective fault by e-commerce platform operator Xunmeng in contributing to infringement. Consequently, the court dismissed the plaintiff's claims against Fei and Xunmeng.

Source: Shanghai Intellectual Property Court

厦门中院：商家仿冒“托马斯小火车”，适用三倍惩罚性赔偿

近日，福建省高级人民法院审结一起涉“托马斯小火车”商标纠纷案，法院二审认为四被告侵害“托马斯小火车”商标纠纷案，该案符合“故意侵权”与“情节严重”法定要件，适用了三倍惩罚性赔偿。

法院认为，涉案商标具有高显著性和知名度，四被告作为同业经营者对此明知却没有合理避让，甚至恶意抢注近似商标，积极主动追求仿冒和混淆的效果。被告实施目的性、组织性及隐蔽性的侵权行为，甚至在同类商品上直接假冒涉案商标，其故意侵权事实清楚。情节严重方面，鉴于侵权产品为关乎未成年人健康的玩具，且被告曾因侵害同一商标被行政处罚，而后仍持续重复侵权，其累计侵害多达8枚商标的专用权、侵权样态多样、销售范围遍及国内外及各大电商平台，影响恶劣，加之在诉讼中存在不诚信及举证妨碍行为（拒不提交相关账簿、资料），足以认定情节严重。关于赔偿数额，因被告拒绝提供财务凭证构成举证妨碍，故法院采纳原告以侵权产品销售额乘以玩具行业上市公司平均毛利润率的计算方式，并基于仿冒品利润率通常更高的经验法则予以支持。综合被告恶意明显、诉讼中持续侵权及情节严重等因素，支持原告主张的三倍惩罚性赔偿。原告主张包含合理维权费用在内的500万元总额赔偿证据充分，予以全额支持。

来源：福建省高级人民法院

Xiamen Intermediate People's Court: Merchant Counterfeiting "Thomas the Tank Engine" Subject to Triple Punitive Damages

Recently, the Fujian High People's Court concluded a trademark dispute involving Thomas the Tank Engine. The second-instance judgment affirmed that four defendants infringed the trademark rights and met the statutory requirements for "willful infringement" and "aggravating circumstances," subject to triple punitive damages.

The court held that the trademark possessed high distinctiveness and reputation. As industry competitors, all four defendants were fully aware of this yet failed to take reasonable steps to avoid infringement. Instead, they maliciously registered similar trademarks and actively pursued counterfeit and con-

fusion effects. The defendants exercised purposeful, organized, and concealed infringing activities, even directly counterfeiting the trademark on identical goods, establishing clear willful infringement. Regarding aggravating circumstance,given the infringing products were toys affecting minors' health,and defendants had previously received administrative penalties for infringing the same trademark but continued repeat violations. They cumulatively infringed exclusive rights to eight distinct trademarks through diverse infringement patterns, sales spanned domestic and international markets (major e-commerce platforms), causing severe adverse impact; and they demonstrated litigation bad faith by obstructing evidence (refusing to submit account books and materials). Collectively, these established aggravating circumstances. For damages calculation, the defendants' refusal to provide financial records constituted evidence obstruction. The court therefore adopted the plaintiff's methodology based on multiplying infringing product sales by the average gross profit margin of listed toy companies, further supported by the empirical principle that counterfeit products typically yield higher profit margins. Considering the defendants' overt bad faith, continuous infringement during litigation, and aggravating circumstances, the court granted the plaintiff's claim for triple punitive damages. The plaintiff's requested total compensation of RMB 5 million—including reasonable enforcement costs—was fully supported with sufficient evidence.

Source: Fujian High People's Court

杭州中院：通过AI写作工具提供“种草文案”等服务构成不正当竞争

近日，杭州市中级人民法院公开开庭审理并宣判了一起涉生成式人工智能服务著作权侵权及不正当竞争纠纷案。

该案中，甲公司运营的某社交电商平台通过分享个人消费体验和生活方式产生大量优质“种草”笔记内容。乙、丙公司通过一款AI写作工具，提供某社交电商平台种草笔记文案自动生成服务，丁公司则提供该工具的下载服务。

法院经审理认为，乙丙公司作为人工智能服务提供者，应当知晓被诉AI写作工具以涉案平台为特定应用情景，对具有明显指向性和诱导性的内容采取合理、必要的措施进行提醒和告知，却未能做到，且诱导用户通过其提供的付费服务生成虚假的种草内容并发布至平台。该行为违反了诚实信用原则，具有不正当性。被诉行为一方面冲击了真实内容生态，迫使甲公司增加运营成本，降低消费者及品牌商的信任或产生负面评价，另一方面，误导用户，干扰商家决策，扰乱市场秩序。法院认定该行为构成不正当竞争，并确定赔偿金额，强调生成式AI服务在特定场景下应尊重特定应用场景下的规则，设定注意义务，避免其成为实施侵权的工具。

来源：浙江省杭州市中级人民法院

Hangzhou Intermediate People's Court: Provision of "Recommendation Text" Services via AI Writing Tools Constitutes Unfair Competition

Recently, Hangzhou Intermediate People's Court publicly tried and ruled on a case involving copyright infringement and unfair competition related to generative artificial intelligence services.

In this case, Company A operated a social e-commerce platform that produced substantial high-quality "Recommendation Text" notes—content sharing personal consumption experiences and lifestyles.

Companies B and C provided an automated content generation service for such recommendation posts through an AI writing tool, while Company D offered download services for this tool.

The court held that Companies B and C, as AI service providers, should have been aware that the accused tool specifically targeted Company As platform as its application context. They failed to implement reasonable and necessary measures to alert users about content with clear promotional intent and inducement effects. Moreover, they induced users to generate fake "Recommendation Text" content through paid services and publish it on the platform. This conduct violated the principle of good faith and constituted unfairness. The accused actions disrupted authentic content ecosystems, forcing Company A to increase operational costs while diminishing consumer and brand trust—even triggering negative feedback. Simultaneously, they misled users, interfered with merchant decisions, and disrupted market order. The court thus determined the conduct constituted unfair competition and awarded damages, emphasizing that generative AI services operating in specific contexts must respect target platform rules, implement duties of care, and prevent their misuse for infringement.

Source：Hangzhou Intermediate People's Court

上海浦东法院：为网络文学作品提供数据刷量服务构成虚假宣传，判赔230万

近日，上海市浦东新区人民法院审理结了一起涉及为网络文学作品提供数据刷量服务的案件，认定前述服务构成虚假宣传，判决侵权方承担赔偿230万元的责任。

法院认为，某信息科技公司等运营的“某中文网”设置月票、推荐票等推荐数据反映作品受欢迎程度，为读者选书、网站经营决策及激励创作提供依据。缪某某等被告有偿提供数据刷量服务，利用技术手段虚假提升特定作品推荐数据，使其在榜单中位居前列，并规避网站筛查措施。该行为使推荐数据与作品受欢迎程度相分离，导致劣质作品不正当地增加曝光度和交易机会，而优质作品面向读者的渠道受阻。故违反《反不正当竞争法》第八条第二款关于组织虚假宣传的规定，构成不正当竞争。数据刷量服务既破坏推荐数据的客观性，干扰网站正常经营，也影响害读者阅读选择、侵占作者通过高质量作品获得收益机会及行业良性生态。法院判决被告立即停止侵权，连带赔偿原告经济损失及维权开支230万元。本案通过对刷量行为的规制，维护了互联网平台数据真实性，保障了网络文学产业的有序发展。

来源：上海浦东新区人民法院

Shanghai Pudong District People's Court: Data Brushing Services for Online Literary Works Constitute False Advertising, Ordered to Pay RMB 2.3 Million in Damages

Recently, the Pudong New Area People's Court of Shanghai concluded a case involving data brushing services for online literary works,judging that such services constituted false advertising and ordering the infringing parties to pay RMB 2.3 million in damages.

The court held that recommendation metrics like "monthly votes" and "recommendation votes" on "Certain Chinese Literature Website" (operated by an information technology company et al.) reflected

works' popularity, serving as references for readers' selections, platform operational decisions, and creative incentives. Defendants including Miao provided paid data brushing services that artificially boosted specific works' recommendation metrics through technical means, elevating their rankings on platform charts while circumventing screening measures. This conduct severed the connection between recommendation data and genuine popularity, causing inferior works to gain undue exposure and commercial opportunities while obstructing high-quality works' accessibility to readers. Such acts violated Article 8(2) of China's Anti-Unfair Competition Law concerning organizing false advertising, thus constituting unfair competition. The data brushing services not only undermined the objectivity of recommendation metrics and disrupted normal platform operations but also harmed readers' selection experiences, deprived authors of earnings from quality content, and damaged the industry's healthy ecosystem. The court ordered the defendants to immediately cease infringement and jointly compensate the plaintiff for economic losses and enforcement costs totaling RMB 2.3 million. By regulating such brushing practices, this judgment upholds the authenticity of internet platform data and safeguards the orderly development of the online literature industry.

source： Pudong New Area People's Court

深圳中院：支持被告在同一诉讼中主张“滥诉反赔”，打击专利恶意诉讼

深圳市中级法院审结索某公司诉信某公司侵害实用新型专利权纠纷案。法院认定索某公司构成权利滥用，判决驳回其诉讼请求并赔偿信某公司合理费用。

索某公司以其2023年3月申请、同年12月授权的专利，主张信某公司2022年发布的钣金螺丝机广告视频侵权。法院查明，索某公司两次公证取证时间（2022年9月、2023年8月）均早于专利授权日，且视频内容形成于专利申请日前。索某公司明知信某公司在先实施仍提起侵权诉讼，违反诚实信用原则，构成滥用权利。法院据此支持信某公司抗辩，判令索某公司赔偿对方因诉讼支出的合理费用，并强调此类主张可于同一诉讼中直接提出，非经反诉或另诉程序。本案确立的"滥诉反赔"机制，有效规制知识产权恶意诉讼，避免正当经营者诉累，节约司法资源，对维护诚信诉讼和市场秩序具有示范意义。

来源：深圳市中级人民法院

Shenzhen Intermediate People's Court: Upholds Defendant's "Abusive Litigation Counterclaim" Within Same Proceeding to Curb Malicious Patent Litigation

Shenzhen Intermediate People's Court concluded the utility model patent infringement case of Suomou Co., Ltd. v. Xinmou Co., Ltd., judging that Suomou (plaintiff)abused its patent rights, dismissing its claims and ordering it to compensate Xinmou ((defendant)for reasonable expenses.

Plaintiff alleged that defendant's promotional video for a sheet metal screw machine released in 2022 infringed its patent—filed in March 2023 and granted in December 2023. The court established that plaintiff's two notarized evidence collections (September 2022 and August 2023) both preceded the patent grant date, while the video content existed before the patent application date. By initiating infringement litigation despite knowing defendant's prior implementation, plaintiff violated the principle of good faith and constituted rights abuse. The court thus upheld defendant's defense, ordering plaintiff to

compensate the other's reasonable litigation costs.It emphasized that such claims may be raised directly within the same proceeding without requiring a counterclaim or separate lawsuit.This case establishes a "malicious-litigation counter-compensation"mechanism,effectively curbing abusive IP suits,relieving burdens on legitimate business,conserving judicial resources,and demonstrating significance for maintaining integrity in litigation and market order.

Source: Shenzhen Intermediate People's Court

美法院明确AI工具的证据开示，Anthropic无需披露用户信息

美国加州北区联邦法院于2025年8月7日裁定，AI公司Anthropic无需向音乐出版商提供用户个人信息。法官Susan van Keulen指出，出版商指控Anthropic为训练其大模型Claude复制版权歌词，但获取用户账户名和邮箱信息对推进诉讼无必要。她认为，将对话内容关联特定用户"缺乏充分依据且会损害第三方隐私权重"，关键歌词信息"已被披露"。此裁决与其7月31日的初步命令立场一致。

与OpenAI在另案中需保留全量输入输出数据不同，本案焦点是用户账户信息。两家公司均强调用户隐私关切（如健康情感查询）。出版商曾起诉Anthropic版权侵权，部分指控被驳回后，4月修改诉状重提直接侵权。

法官虽维护普通用户隐私，但允许有限搜查Anthropic员工使用非公司邮箱的个人账户。出版商称此可反驳Anthropic"无意生成歌词"的说法，证明侵权故意。Anthropic则抗辩出版商证据不足。法院指令双方协同拟定需调查的高管名单，并允许公司预先筛查员工是否用私人账户查歌词。Keulen法官强调需谨慎平衡隐私保护与侵权故意认定，指出"相关行为必须与Anthropic存在法律关联"。

来源：Justia Law

U.S. Court Clarifies Discovery Obligations for AI Tools，Anthropic Not Required to Disclose User Information

On August 7, 2025, the U.S. District Court for the Northern District of California judged that AI company Anthropic need not provide user personal information to music publishers. Judge Susan van Keulen stated that while publishers accused Anthropic of copying copyrighted lyrics to train its large language model Claude, obtaining user account names and email addresses was unnecessary for advancing the litigation. She determined that linking dialogue content to specific users "lacks sufficient justification and imposes undue privacy burdens on third parties," noting that the key lyric information "has already been disclosed." This judgement aligns with her preliminary order issued on July 31.

Unlike OpenAI's requirement in a separate case to preserve all input/output data, this dispute centers on user account information. Both companies emphasized user privacy concerns regarding sensitive queries (e.g., health or emotional issues). Publishers previously sued Anthropic for copyright infringement; after partial dismissal of claims, they refiled an amended complaint in April alleging direct infringement.

While protecting ordinary users' privacy, the court permitted limited discovery into Anthropic employees' personal accounts using non-corporate email. Publishers argued this could refute Anthropic's claim of "inadvertent lyric generation" by proving willful infringement. Anthropic countered that publishers provided insufficient evidence. The court directed both parties to collaboratively propose a list of executives for investigation and allowed the company to pre-screen whether employees used personal accounts to access lyrics. Judge Keulen stressed the need to carefully balance privacy protection with infringement intent determination, stating that "the relevant conduct must bear a legal nexus to Anthropic."

Source: Justia Law

英国最高法院Umbro案判决，确认仅凭售后混淆即可判定商标侵权

英国最高法院在2025年裁决的Iconix (UMBRO品牌方) 诉 Dream Pairs案 ([2025] UKSC 25) 中，确认了一项重要原则：仅凭售后混淆即可认定商标侵权。UMBRO品牌方Iconix拥有注册的菱形图案商标。Dream Pairs在其鞋类产品上使用了被认为相似的菱形标识。故Iconix的侵权诉讼在一审(2023年)被驳回，但上诉法院(2024年)推翻了该判决，认定侵权成立。Dream Pairs上诉至最高法院。

最高法院最终维持了上诉法院关于侵权成立的裁决，尽管认为上诉法院对一审法官的批评不妥。此案的核心突破点在于最高法院明确驳回了Dream Pairs对售后混淆适用范围的限定主张。最高法院确认（与Arnold LJ在上诉中的观点一致）：即使在销售场所不存在混淆可能性，在适当情况下，标识的使用也可能存在售后混淆导致混淆可能性，也足以构成《商标法》第10条(2)(b)款下的商标侵权。此判决时及后果对品牌所有者可能意义，因商标侵权的范围可能扩宽，所以重大品牌所有者无需仅依赖一对一的对比和销售市场的混淆。

来源：Marks-clerk

UK Supreme Court: Umbro Case Judgement Confirms Post-Sale Confusion Alone Sufficient to Establish Trademark Infringement

In the 2025 ruling Iconix (owner of UMBRO) v. Dream Pairs ([2025] UKSC 25), the UK Supreme Court affirmed a significant principle: post-sale confusion alone may establish trademark infringement. Iconix, owner of the UMBRO brand, holds a registered diamond-shaped pattern trademark. Dream Pairs used a visually similar diamond-shaped logo on its footwear products. Consequently, Iconix's infringement claim was dismissed at first instance (2023) but overturned by the Court of Appeal (2024), which found infringement. Dream Pairs appealed to the Supreme Court.

The Supreme Court ultimately upheld the Court of Appeal's finding of infringement, though it deemed the appellate court's criticism of the first-instance judge unwarranted. The landmark aspect of this case lies in the Supreme Court's explicit rejection of Dream Pairs' attempt to narrow the scope of post-sale confusion's applicability. The Court confirmed (aligning with Arnold LJ's appellate opinion) that even where no likelihood of confusion exists at the point of sale, the use of a sign may still constitute infringement under Section 10(2)(b) of the Trade Marks Act 1994 if it creates a likelihood of confusion post-sale in appropriate circumstances. This judgment carries profound implications for brand owners,

as it broadens the scope of trademark infringement beyond point-of-sale confusion and one-to-one comparisons, empowering rights holders to enforce against post-transaction consumer deception.

Source: Marks-clerk

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www.lifanglaw.com
Email：info@lifanglaw.com
Tel：+86 10 64096099
Fax：+86 10 64096260/64096261