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Supreme Court: Xi’aifu technology trade secret case overturned on appeal, full RMB 60 million award upheld

北互法院：具有独创性的虚拟数字人形象构成美术作品，受著作权法保护

Beijing Internet Court: Original virtual digital human avatars constitute works of art and are protected under copyright law

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浙江高院：恶意仿冒乐淇苹果“火箭筒”包装，构成不正当竞争及商标侵权

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江苏高院：法国知名婴童品牌BEABA维权成功，判赔280万

Jiangsu Higher People's Court:French renowned infant and child brand BEABA wins copyright infringement case, awarded RMB 2.8 million in damages

杭州中院：首例元宇宙虚拟现实商标案判赔100万

Hangzhou Intermediate People's Court :First metaverse virtual reality trademark case awards RMB 1 million in damages

成都中院：“红底高跟鞋”遭家族式仿冒商标侵权案，惩罚性赔偿1000万元

Chengdu Intermediate People's Court: Family-run counterfeiters face punitive damages of RMB 10 million in trademark infringement case over 'red-soled high heels'

广州黄埔法院：混合销售、搭售行为构成商标侵权及不正当竞争

Guangzhou Huangpu Court: The practice of bundling sales and tying arrangements constitutes trademark infringement and unfair competition

波音构成窃取商业秘密，赔偿5.81亿元

Boeing found guilty of trade secret theft, ordered to pay RMB 581 million in damages

戴森在欧洲统一专利法院赢得首个基于长臂管辖的西班牙禁令

Dyson secures first Spanish injunction based on long-arm jurisdiction at the Unified Patent Court in Europe

立方竞争法周报 Weekly Competition Law News

民生领域反垄断执法专项行动推进座谈会在安徽淮南举行

2025年8月21日，市场监管总局官网发布民生领域反垄断执法专项行动推进座谈会的举行情况。本次座谈会在安徽省淮南市举行，会上指出，自专项行动开展以来，各地聚焦医药、公用事业、平台经济等民生重点领域加强反垄断监管执法，已取得明显成效。同时，会议强调要紧紧围绕加快构建全国统一大市场，聚焦人民群众和广大经营主体关切，强化反垄断监管执法，维护市场竞争秩序，助力经济高质量发展。（查看更多）

Symposium on Advancing the Special Enforcement Campaign against Monopolistic Practices in the Field of People's Livelihood Is Held in Huainan, Anhui

On 21 August 2025, the State Administration for Market Regulation ("**SAMR**") posted on its official website a summary of the symposium on advancing the special enforcement campaign against monopolistic practices in the field of people's livelihood. The symposium took place in Huainan City, Anhui Province. The symposium noted that since the campaign's launch, authorities nationwide have intensified antitrust regulation and enforcement in key areas related to people's livelihood, such as pharmaceuticals, public utilities, and the platform economy, and have achieved marked results. The symposium further emphasized constructing a unified national market, focusing on the concerns of the general public and of business operators, strengthening antitrust regulation and enforcement, safeguarding competitive market order, and thereby fostering high-quality economic development. (More)

市场监管总局发布抚州公用水务有限公司滥用市场支配地位案行政处罚决定书

2025年8月20日，市场监管总局发布抚州公用水务有限公司滥用市场支配地位案行政处罚决定书。本案由江西省市场监督管理局（"**江西局**"）根据举报启动调查，并于2019 年 10 月 23 日立案。经查，2010 年 12 月至 2019 年10 月，当事人滥用其抚州市中心城区公共自来水供水服务市场的支配地位，限定房地产开发企业新建住房供水管道安装工程、二次加压设备安装工程只能与其指定的经营者交易，排除、限制了市场竞争，限制了其他合法经营者参与市场竞争的权力，损害了交易相对方的合法权益。鉴于当事人积极配合、如实提供材料、深入整改，江西局于2025 年7 月28 日对当事人处以2018年度销售额2%的罚款，合计1202682.44元。（查看更多）

SAMR Releases the Administrative Penalty Decision against Fuzhou Public Water Co. Ltd for Its Abuse of Market Dominance

On 20 August 2025, the SAMR published the administrative penalty decision against Fuzhou Public Water Co., Ltd. for its abuse of market dominance. The Jiangxi Administration for Market Regulation ("**Jiangxi AMR**") launched the investigation based on a complaint and established the case file on 23 October 2019. Upon investigation, from December 2010 to October 2019, the undertaking abused its market dominance in the market for public tap-water supply services in the central urban area of Fuzhou City, restricting real-estate developers so that the installation works for water-supply pipelines and secondary pressurisation equipment in newly built residential housing could only be transacted with opera-

tors designated by the undertaking, thereby eliminating and restricting market competition, limiting the right of other lawful operators to participate in the market competition, and harming the legitimate rights and interests of the counterparties to the transactions. In view of the undertaking's active cooperation, truthful provision of materials, and in-depth rectification, the Jiangxi AMR imposed a fine on the undertaking amounting to 2% of its annual turnover in 2018 on 28 July 2025, totaling RMB 1,202,682.44. (More)

市场监管总局发布当涂县首创水务有限公司滥用市场支配地位案行政处罚决定书

2025年8月20日，市场监管总局发布涂县首创水务有限公司滥用市场支配地位案行政处罚决定书。本案中，2022 年 9 月 23 日安徽省市场监管局（“**安徽局**”）根据线索对当事人供水服务相关情况进行现场核查，2022 年 9 月 28 日正式立案调查。经查，当事人滥用其在马鞍山市当涂县原城市规划区范围内的城市公共自来水供水服务市场的市场支配地位，在提供城市公共自来水供水服务过程中，实施了限定交易行为，限定新建住宅小区供水工程（二次排水设施除外）只能由其承揽建设，排除、限制了市场竞争，损害了交易相对方的合法权益。鉴于当事人积极配合调查、如实陈述事实、积极开展自查，安徽局于2025年2月10日 对当事人处以其2021年度销售额1%的罚款，并没收违法所得665265.88元，合计986003.85 元。（查看更多）

SAMR Releases the Administrative Penalty Decision against Shouchuang Water Co. Ltd in Dangtu County for Its Abuse of Market Dominance

On 20 August 2025, the SAMR published the administrative penalty decision against Shouchuang Water Co. Ltd in Dangtu County for its abuse of market dominance. In this case, the Anhui Administration for Market Regulation (“**Anhui AMR**”) conducted an on-site inspection of the undertaking's water-supply services based on leads on 23 September 2022, and it formally established the case file on 28 September 2022. The investigation found that the undertaking abused its dominant position in the market for urban public tap-water supply services within the former urban planning area of Dangtu County, Ma'anshan City, namely conducting exclusive dealing in the course of providing tap-water supply services, requiring that water-supply projects (excluding secondary drainage facilities) for newly built residential communities be contracted exclusively to itself, thereby eliminating and restricting market competition, and harming the legitimate rights and interests of the counterparties to the transactions. Taking into account the undertaking's active cooperation with the investigation, truthful disclosure of facts, and proactive self-rectification, the Anhui AMR imposed a fine on the undertaking amounting to 1% of its annual turnover in 2021 on 10 February 2025 and confiscated illegal gains of RMB 665,265.88, totaling RMB 986,003.85. (More)

市场监管总局就《关于公用事业领域的反垄断指南（征求意见稿）》公开征求意见

2025年8月20日，市场监管总局发布《关于公用事业领域的反垄断指南（征求意见稿）》，并向社会公开征求意见。《指南（征求意见稿）》共七章45条，针对公用事业领域突出垄断问题，进一步细化垄断行为的具体表现和认定标准，阐述公用事业领域反垄断监管执法总体原则，细化公用事业领域垄断协议行为表现形式，明确公用事业领域滥用市场支配地位行为认定

因素，深化公用事业领域经营者集中审查分析因素，提出公用事业领域公平竞争审查重点和滥用行政权力排除、限制竞争行为主要表现，并明确公用事业领域垄断行为的法律责任适用。意见反馈截止日期为2025年9月3日。（查看更多）

SAMR Seeks Public Feedback on *Antitrust Guidelines for the Public Utilities Sector (Draft for Public Comment)*

On 20 August 2025, the SAMR released the *Antitrust Guidelines in the Public Utilities Sector (Draft for Public Comment)* ("***the Guidelines (Draft)***"). *The Guidelines (Draft)* consists of seven chapters and 45 articles, targets prominent monopolistic issues in the public utilities sector, further details the specific manifestations and identification criteria for monopolistic conduct, sets out the overarching principles for antitrust regulation and enforcement in the public utilities sector, refines the forms of monopolistic agreements in the public utilities sector, clarifies the factors for determining abuses of market dominance in the public utilities sector, elaborates the analytical factors for reviewing concentrations of undertakings in the public utilities sector, highlights the focal points of fair-competition review and the principal indications of abuse of administrative power to eliminate or restrict competition, and specifies the application of legal liabilities for monopolistic conduct in the public utilities sector. Any comments shall be submitted by 3 September 2025. (More)

意大利竞争与市场管理局对意大利国家电力公司（Enel X）处反垄断罚款230万欧元

2025年8月24日，据媒体报道，意大利竞争与市场管理局（"**AGCM**"）对能源供应商意大利国家电力公司（Enel X）及其子公司（统称为"**Enel**"）处以共计230万欧元的反垄断罚款，原因是上述主体滥用其在意大利电动汽车充电行业的市场支配地位。AGCM在2023年春季启动本案调查，聚焦针对Enel实施旨在排除竞争者的行为的相关指控。根据该监管机构的一份声明，Enel采取"利润挤压"手段，削弱竞争者进入或扩张市场的能力；该等不当行为发生于2022年至2023年期间，限制了电动交通服务的竞争与创新，因此作出处罚。Enel表示将对该处罚决定提起上诉，主张该处罚决定忽视了电动汽车充电市场处于早期发展阶段、调查期间电力价格的反常上涨等关键因素。（查看更多）

Italian Competition and Market Authority Fines Enel X EUR 2.3 Million over Antitrust Violations

On August 24, 2025, according to media reports, the Italian Competition and Market Authority ("**AGCM**") fined energy supplier Enel X and its subsidiary (collectively "**Enel**") an antitrust fine totaling EUR 2.3 million, because the aforementioned companies abused their dominant position in the country's electric vehicle charging sector. The AGCM launched the investigation in spring 2023, centered on allegations that Enel engaged in practices designed to shut out rivals. Per a statement from the regulator, Enel carried out "margin-squeezing practices" that undermined competitors' ability to enter or expand within the market; such misconduct occurred during 2022 and 2023 and limited both competition and innovation in e-mobility services; therefore the AGCM imposed the fine accordingly. Enel stated that it would appeal against the penalty decision, alleging that the said penalty decision over-

looked key factors, including the early developmental stage of the EV charging market and the extraordinary rise in electricity prices during the period under investigation. (More)

土耳其竞争监管机构针对谷歌应用商店规则展开调查

2025年8月24日，据媒体报道，土耳其竞争监管局针对谷歌开展调查，聚焦其应用商店内支付系统相关行为，所依据的法律为土耳其《第4054号竞争保护法》。本调查将审查该科技巨头是否要求应用程序开发者依赖谷歌应用商店支付，并限制开发者向用户告知替代支付渠道的能力。土耳其监管部门表示，初步审查显示开发者使用支付服务可能受到限制，并基于该等担忧启动调查。根据一份声明，立案本身并不表示已确定存在违法行为，也并不必然意味着相关行为最终将会被认定违法。（查看更多）

Turkey's Competition Regulator Opens Probe into Google's Play Store Rules

On August 24, 2025, according to media reports, Turkey's Competition Authority has launched an investigation into Google over its practices related to payment systems on the Play Store in accordance with the Law No. 4054 on the Protection of Competition of Turkey. The probe will examine whether the tech giant required app developers to rely on Google Play Billing and limited their ability to inform users about alternative payment channels. The Turkish regulator explained that a preliminary review reflected possible restrictions on developers' use of payment services, and the regulator launched the probe based on the aforementioned concerns. Per a statement, the opening of the case does not in itself indicate that a violation has been established or will necessarily be found. (More)

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

工信部发布《人工智能科技伦理管理服务办法（试行）（公开征求意见稿）》

2025年8月22日，工信部发布了《人工智能科技伦理管理服务办法（试行）（公开征求意见稿）》（以下简称《办法》），向社会公开征求意见，意见反馈截止时间为2025年9月22日。《办法》共六章三十七条，适用于在中国境内开展的，可能在生命健康、人的尊严、生态环境、公共秩序、可持续发展等方面带来科技伦理风险挑战的人工智能科学研究、技术开发等科技活动，以及依据法律、行政法规和国家有关规定需进行人工智能科技伦理审查的其他科技活动。《办法》明确了需要开展科技伦理专家复核的人工智能科技活动清单：（1）对人类主观行为、心理情绪和生命健康等具有较强影响的人机融合系统的研发；（2）具有舆论社会动员能力和社会意识引导能力的算法模型、应用程序及系统的研发；（3）面向存在安全、人身健康风险等场景的具有高度自主能力的自动化决策系统的研发。（查看更多）

MIIT Releases *Measures for the Administration of Artificial Intelligence Science and Technology Ethics (Trial) (Public Draft for Comments)*

On August 22, 2025, the MIIT released the *Measures for the Administration of Artificial Intelligence Science and Technology Ethics (Trial) (Public Draft for Comments)* (Measures) to solicit public opinions, with the deadline for feedback being September 22, 2025. The Measures consist of six chapters and 37 articles, and apply to scientific and technological activities such as artificial intelligence scientific research and technology development carried out within the territory of China that may pose scientific and technological ethics risks and challenges in aspects such as life and health, human dignity, ecological environment, public order, and sustainable development, as well as other scientific and technological activities that require artificial intelligence scientific and technological ethics review in accordance with laws, administrative regulations, and relevant national provisions. The Measures clarify the list of artificial intelligence scientific and technological activities that require review and verification by scientific and technological ethics experts: (1) Research and development of human-machine integration systems that have a strong impact on human subjective behaviors, psychological emotions, life and health, etc. (2) Research and development of algorithm models, applications and systems that have the ability of public opinion and social mobilization as well as the ability to guide social awareness. (3) Research and development of automated decision-making systems with a high degree of autonomy for scenarios involving safety, personal health risks, etc. (More)

中国汽车工业协会发布《关于汽车数据处理5项安全要求检测情况的通报（第三批）》

2025年8月18日，中国汽车工业协会发布了《关于汽车数据处理5项安全要求检测情况的通报（第三批）》。自2025年4月起，中国汽车工业协会按照企业自愿送检原则，组织对汽车制造商汽车产品数据安全合规情况（车外人脸信息等匿名化处理、座舱数据车内处理、默认不收集座舱数据、处理个人信息显著告知、精度范围适用）进行检测。经检测，共13家企业的49款车型符合汽车数据安全5项合规要求。检测工作中也发现部分其他车型存在数据安全问题，主要表现为：（1）车端匿名化处理的视频图像中人脸目标的匿名化检出率低于90%；（2）处理敏感个人信息的同意期限设置为始终允许或者永久；（3）持续收集敏感个人信息时，未通过车载显示面板图标或信号装置指示灯的闪烁或长亮等方式提示收集状态；（4）车载系统上的应用程序缺乏隐私政策。（查看更多）

CAAM Releases *Circular on the Testing Status of 5 Safety Requirements for Automobile Data Processing (Third Batch)*

On August 18, 2025, the China Association of Automobile Manufacturers (CAAM) released the *Circular on the Testing Status of 5 Safety Requirements for Automobile Data Processing (Third Batch)*. Since April 2025, in accordance with the principle of voluntary inspection by enterprises, the CAAM has organized testing on the compliance of automobile manufacturers' automobile products with data security requirements, including anonymization of external vehicle facial information and other data, in-vehicle processing of cockpit data, default non-collection of cockpit data, prominent notification for personal information processing, and application of accuracy scope. After testing, a total of 49 vehicle models from 13 enterprises have met the 5 compliance requirements for automobile data security. During the testing process, data security issues have also been found in some other vehicle models, mainly manifested as follows: (1) The anonymization detection rate of facial targets in video images processed by anonymization on the vehicle side is lower than 90%. (2) The consent period for pro-

cessing sensitive personal information is set to “always allow” or “permanent”. (3) When continuously collecting sensitive personal information, the collection status is not prompted through methods such as the flashing or steady-on of icons on the in-vehicle display panel or indicator lights of signal devices. (4) There is a lack of privacy policies for applications on the in-vehicle system. (More)

上海市通信管理局下架58款侵害用户权益行为的应用

2025年8月21日，上海市通信管理局下架了58款侵害用户权益行为的应用。2025年7月，上海市通信管理局向社会公示了一批共162款存在侵害用户权益行为的应用。在规定的整改期限内，经核查复检，尚有58款应用未按照要求落实整改。为严肃处理上述应用的违法违规行为，上海市通信管理局依据法律和规范性文件要求，已对上述应用在全国范围内主流应用市场进行下架处理。上海市通信管理局将对上述应用持续跟踪，视情况进一步采取停止接入、行政处罚、纳入电信业务经营不良名单等后续处理措施。（查看更多）

SCA Removes 58 Apps That Infringe on Users’ Rights and Interests

On August 21, 2025, the Shanghai Communications Administration (SCA) removed 58 Apps that infringe on users’ rights and interests. In July 2025, the SCA publicly announced a batch of 162 Apps that have behaviors of infringing on users’ rights and interests to the society. Within the specified rectification period, after verification and re-inspection, there are still 58 Apps that have not implemented rectification in accordance with the requirements. To seriously deal with the illegal and irregular behaviors of the above-mentioned Apps, the SCA has removed the above-mentioned Apps from mainstream App markets across the country in accordance with the requirements of laws and normative documents. The SCA will continue to track the above-mentioned Apps and take further follow-up handling measures such as suspending access, imposing administrative penalties, and including them in the list of poor telecommunications business operations as appropriate. (More)

北京市网信办推动属地主要网络平台公示算法规则原理

2025年8月20日，为贯彻落实《互联网信息服务算法推荐管理规定》有关要求，持续深化算法规则不透明等典型问题治理，进一步强化用户权益保护和公众监督，切实提升算法透明度，北京市网信办指导属地网络平台公示算法推荐服务的基本原理、目的意图、主要运行机制等，收集汇总属地主要网络平台算法规则原理情况，在“网信北京”微信公众号“权威发布”——“平台算法原理公示”专栏进行公示。公示的第一批网络平台共6家，分别为：抖音、快手、百度、微博、美团、滴滴。（查看更多）

Cyberspace Administration of Beijing Promotes Local Major Online Platforms to Disclose Algorithm Rules and Principles

On August 20, 2025, to implement the relevant requirements of the *Provisions on the Administration of Algorithm Recommendation for Internet Information Services*, continue to deepen the governance of typical issues such as opaque algorithm rules, further strengthen the protection of users’ rights and interests and public supervision, and effectively improve algorithm transparency, the Cyberspace Administration of Beijing has guided local online platforms to disclose the basic principles, purposes and in-

tentions, and main operation mechanisms of algorithm recommendation services. It has also collected and summarized the algorithm rules and principles of local major online platforms, and disclosed them in the "Platform Algorithm Principle Disclosure" column under "Authoritative Release" on the "Cyberspace Beijing" WeChat official account. The first batch of online platforms for disclosure includes 6 platforms in total, namely: Douyin, Kuaishou, Baidu, Weibo, Meituan and Didi. (More)

上海市网信办发布生成式人工智能服务登记信息

2025年8月19日，上海市网信办发布了生成式人工智能服务登记信息。为进一步促进上海市生成式人工智能创新发展和规范应用，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，有序开展生成式人工智能服务备案工作。同时，上海市网信办对通过API或其他方式直接调用已备案模型能力，且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，会同相关部门开展登记工作。截至8月19日，上海市新增4款已完成登记的生成式人工智能服务，累计已完成105款生成式人工智能服务登记。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）

CAS Releases Registration Information for Generative Artificial Intelligence Services

On August 19, 2025, the Cyberspace Administration of Shanghai (CAS) released the registration information for generative artificial intelligence services. To further promote the innovative development and standardized application of generative artificial intelligence in Shanghai, the CAS has carried out the filing work for generative artificial intelligence services in an orderly manner in accordance with the requirements of the *Interim Measures for the Administration of Generative Artificial Intelligence Services*. At the same time, for generative artificial intelligence services that directly call the capabilities of filed models through APIs or other means and provide the domestic public with generative artificial intelligence services with public opinion attributes or social mobilization capabilities, the CAS, together with relevant departments, has carried out registration work. As of August 19, 4 new generative artificial intelligence services that have completed registration have been added in Shanghai, with a total of 105 generative artificial intelligence services having completed registration. The launched generative artificial intelligence applications or functions shall indicate the obtained launch serial number in a prominent position or on the product details page. (More)

英国：ICO就2025年英国《数据（使用和访问）法案》的指南进行咨询

2025年8月21日，英国信息专员办公室（ICO）启动了公众咨询，以完善根据2025年英国《数据（使用和访问）法案》通过的英国数据保护法修正案后的某些ICO指南。这些修正案包括引入新的合法性基础，即"公认的合法利益"，并要求各组织建立数据保护投诉流程：（1）公认的合法利益：这一新的合法性基础允许组织将个人信息用于某些预先批准的公共利益目的，包括预防犯罪、公共安全和应急响应。ICO针对此新合法性基础的指南草案旨在澄清如何应用它。ICO强调，在这样做时，必须存在公共利益目的。本咨询将于2025年10月30日结束。（2）数据保护投诉流程：到2026年6月，组织必须实施处理个人数据保护投诉的流程。ICO指出，该要求确保个人可以解决有关个人信息管理的不满。ICO的指南草案概述了各组织为遵守

新规必须采取的措施，并建议了最佳做法，例如确保公众可查阅清晰的投诉程序，并保留针对投诉采取的行动的明确记录。本咨询将于2025年10月19日结束。（查看更多）

UK: ICO Launches Consultations on Guidance Regarding *UK Data (Use and Access) Act 2025*

On August 21, 2025, the UK Information Commissioner's Office (ICO) initiated public consultations to refine certain ICO guidance following amendments to UK data protection law passed under the UK Data (Use and Access) Act 2025. These amendments include the introduction of a new lawful basis referred to as "recognized legitimate interest," and a requirement for organizations to establish a data protection complaints process: (1) Recognized legitimate interest: This new lawful basis allows organizations to use personal information for certain pre-approved public interest purposes, including crime prevention, public security and emergency response. The ICO's draft guidance on the new basis aims to clarify how it can be applied. In doing so, the ICO stresses that a public interest purpose must be present. This consultation will close on October 30, 2025. (2) Data protection complaints process: By June 2026, organizations must implement a process to handle data protection complaints from individuals. The ICO states that the requirement ensures individuals can address grievances regarding personal information management. The ICO's draft guidance outlines what organizations must do to comply with the new requirement and suggests best practices for doing so, such as ensuring a clear complaints procedure is accessible to the public and maintaining a clear record of actions taken in response to a complaint. This consultation will close on October 19, 2025. (More)

奥地利：奥地利联邦行政法院裁定《标准报》的“付费或同意”模式违反GDPR

2025年8月20日，据媒体报道，奥地利联邦行政法院确认，“付费或同意”的同意模式违反了欧洲数据保护法，并于2025年8月18日对《标准报》做出了重大裁决。法院维持了奥地利数据保护局早些时候的一项裁决，该裁决认为《标准报》实施数据处理行为未能为用户提供合法的选项。据提起诉讼的隐私组织noyb称，此案很可能将提交至奥地利最高行政法院，并可能进一步上诉至欧洲法院。《标准报》作为奥地利领先的自由派报纸，在GDPR生效时率先采用了“付费或同意”的模式。该平台并未真正提供用户在接受或拒绝数百家第三方追踪之间进行选择的权利，而是要求用户必须选择同意或购买目前定价为9.9欧元每月的订阅服务。（查看更多）

Austria: Austrian Federal Administrative Court Rules That "Pay or Okay" Approach of *DerStandard* Violates GDPR

On August 20, 2025, according to media reports, the Austrian Federal Administrative Court has confirmed that the "Pay or Okay" consent model violates European data protection laws, delivering a significant ruling against newspaper *DerStandard* on August 18, 2025. The court upheld an earlier decision by the Austrian Data Protection Authority that found *DerStandard's* implementation failed to provide users with legitimate choice options for specific data processing purposes. According to privacy organization noyb, which filed the complaint, the case will likely proceed to Austria's Supreme Administrative Court and potentially the European Court of Justice. *DerStandard* operates as Austria's leading liberal newspaper and pioneered the "Pay or Okay" approach when GDPR regulations took effect. Rather than offering genuine choice between accepting and rejecting tracking by hun-

dreds of third parties, the platform required users to either consent or purchase a monthly subscription currently priced at €9.90. (More)

知识产权 Intellectual Property

最高法知产法庭：实际主导、决定被诉侵权技术方案的主体属被诉侵权产品的制造者

近日，最高法知产法庭审结一起侵害发明专利权纠纷案，对于不同主体分别提供的多个部件组合形成被诉侵权产品的制造者作出认定，改判认定提供了被诉侵权产品的核心组成部分，并积极主导、决定被诉侵权技术方案的最终形成的被诉侵权人承担制造者责任。

烟台某制冷公司拥有涉案专利权，指控潍坊某食品公司使用的制冷设备侵权，被诉侵权产品由荣成某冷冻公司制造、销售、许诺销售。一审认定潍坊某食品公司作为被诉侵权产品的所有者，分别从不同的公司处购进被诉侵权产品的部件，并组织部件的供应商或其他工程施工方最终完成侵权产品建设工作，该种行为应认定为生产行为，潍坊某食品公司判其支付专利使用费。二审法院则认为，荣成某冷冻公司向潍坊某食品公司提供了包括核心部件在内的冷媒交换站和单冻机，并向潍坊某食品公司介绍了压缩冷凝机的提供者，主导了被诉侵权技术方案的形成，应对制造被诉侵权产品的行为承担责任。潍坊某食品公司作为被诉侵权产品的使用者，未对被诉侵权产品提出技术上的要求，也未影响、控制、参与被诉侵权技术方案的形成，不应对制造被诉侵权产品的行为承担责任。故二审改判荣成某冷冻公司停止制造、销售，并赔偿经济损失及合理开支共50万元。

来源：最高人民法院知识产权法庭

Supreme Court Intellectual Property Tribunal: The entity that actually directs and determines the technical solution alleged to be infringing is the manufacturer of the allegedly infringing product

Recently, the Supreme People's Court (SPC) concluded a patent infringement case involving an invention patent. The tribunal determined that the manufacturer of the allegedly infringing product—composed of multiple components supplied by different entities—should bear liability. It overturned the original judgement, holding the defendant responsible for manufacturing the product. This decision established that the defendant, who supplied the core component of the allegedly infringing product and actively led and determined the final formation of the infringing technical solution, should be held accountable as the manufacturer.

Yantai Refrigeration Company, holder of the involved patent rights, accused Weifang Food Company of infringing through its use of refrigeration equipment. The allegedly infringing product was manufactured, sold, and offered for sale by Rongcheng Freezing Company. The first-instance court determined

that the Weifang food company, as the owner of the allegedly infringing product, purchased components from different suppliers and organized component suppliers or other contractors to complete the infringing product's construction. This conduct constituted manufacturing, and the Weifang food company was ordered to pay patent royalties. The appellate court, however, held that Rongcheng Freezing Company supplied Weifang Food Company with refrigerant exchange stations and single-freezing machines—including core components—and introduced the supplier of compressor condensers. By leading the formation of the alleged infringing technical solution, Rongcheng Freezing Company should bear responsibility for manufacturing the infringing products. As the user of the allegedly infringing product, Weifang Food Company neither made technical demands on the product nor influenced, controlled, or participated in the formation of the infringing technical solution. Therefore, it should not bear liability for the manufacturing of the infringing product. The appellate court thus reversed the judgement, ordering Rongcheng Refrigeration Company to cease manufacturing and sales while compensating for economic losses and reasonable expenses totaling RMB 500,000.

Source: SPC Intellectual Property Tribunal

最高法：西艾氟技术秘密案二审改判，全额支持6000万

近日，最高法对西艾氟公司与上氟公司等侵害技术秘密案作出二审判决，在一审判赔500万的基础上，二审改判全额支持西艾氟公司主张的6000万的判赔。

关于判赔额，最高法认为：

1.上氟公司“不劳而获”地无偿使用西艾氟公司涉案技术秘密，相当于以“零研发成本”生产、销售被诉侵权产品，尤其是其二审拒不提交所持有的财务资料已构成有违诚信原则之举证妨碍，故本院将西艾氟公司上述每一年度的销售利润率视为上氟公司相应年度销售被诉侵权产品的利润率，已属保守估算。

2.综合考虑涉案技术秘密相较于公知技术的差异、碳N产品的价值来源等因素，本院将涉案技术秘密对于上氟公司在碳N产品的生产、销售流通环节中的利润贡献率酌定为1/3。

3.上氟公司一审当庭自认其碳N的年产量为600吨，单价为18万元/吨～30万元/吨。为体现对上氟公司所实施的侵权行为的惩治力度，本院将上氟公司碳N产品的销售单价取最高值即30万元/吨.....以上侵权获利总额合计7620.7万.....因此，本院对西艾氟公司...6000万元予以全额支持。

来源：最高人民法院

Supreme Court: Xi’aifu technology trade secret case overturned on appeal, full RMB 60 million award upheld

Recently, the SPC issued a second-instance judgement in the case involving Xi’aifu Company and Shangfu Company for infringement of trade secrets. Building upon the first-instance award of RMB 5 million in damages, the second-instance court fully upheld Xi’aifu Company's claim for RMB 60 million in damages.

Regarding the damages award, the SPC held:

1. Shangfu Company's "unearned" use of Xi'aifu Company's trade secrets amounted to producing and selling the allegedly infringing products at "zero R&D cost." Notably, Shangfu's refusal to submit its financial records during the second instance constituted an obstruction of evidence contrary to the principle of good faith. Therefore, this Court's conservative estimation of Xi'aifu Company's annual sales profit margin as equivalent to Shangfu Company's profit margin from selling the infringing products in the corresponding years is already a conservative calculation.

2. Considering factors such as the differences between the involved trade secrets and publicly known technologies, as well as the value source of carbon N products, this Court reasonably determined the profit contribution rate of the involved trade secrets to Shangfu Company's production and sales/distribution of carbon N products to be one-third.

3. During the first-instance trial, Shangfu Company admitted that its annual production of carbon N was 600 tons, with a unit price ranging from RMB 180,000 to RMB 300,000 per ton. To reflect the severity of punishment for Shangfu Company's infringing acts, this Court adopts the highest unit price of CN products, i.e., RMB 300,000 per ton... The total infringing profits thus amount to RMB 76,207,000... Therefore, this Court fully supports Xi'aifu Company's claim for RMB 60 Million.

Source: SPC

北互法院：具有独创性的虚拟数字人形象构成美术作品，受著作权法保护

虚拟数字人甲、乙由原告聚某公司、原告元某公司等四家单位联合制作，其中原告聚某公司为著作权人，原告元某公司负责运营。二原告主张，虚拟数字人甲、乙形象构成美术作品，虚拟数字人甲形象首次发表于某短剧，虚拟数字人乙形象首次发表于某微博账号。被告某联合创作单位员工孙某某离职后，在被告西某公司运营的CG模型网上擅自售卖虚拟数字人甲、乙模型，侵害了二原告就虚拟数字人形象享有的复制权和信息网络传播权；被告西某公司作为平台方未尽到监管责任，应与被告孙某某承担连带责任。

法院认为，虚拟数字人甲的全身形象和乙的头部形象，并不直接来源于真人，而是由制作团队制作，具有明显的艺术创作效果，体现了制作团队对线条、色彩和具体形象设计的独特的美学选择和判断，具备作品的独创性要求，构成美术作品。

被告一孙某某在CG模型网发布被诉侵权模型，在人物五官、发型、发饰、服装的设计及整体风格，尤其是在权利作品具有独创性的元素组合方面，与涉案作品虚拟数字人甲、乙形象相同或相似，构成实质性相似，侵害了二原告对涉案作品享有的信息网络传播权。综合考量被告二西某公司服务的具体类型、对被诉内容的干预程度、是否直接获得经济利益、权利作品的知名度、被诉内容的热度等因素，被告二西某公司作为网络服务提供者不构成共同侵权。

虚拟数字人承载多重权益，本案仅就美术作品的权益进行认定，综合考虑请求保护的权利类型、市场价值和侵权人主观过错、侵权行为性质和规模、损害后果严重程度确定本案的经济赔偿金额。最终判决被告一孙某某赔偿二原告经济损失15000元。

来源：北京互联网法院

Beijing Internet Court: Original virtual digital human avatars constitute works of art and are protected under copyright law

Virtual digital characters A and B were jointly produced by four entities including plaintiff Ju Company and plaintiff Yuan Company, with plaintiff Ju Company holding the copyright and plaintiff Yuan Company responsible for operations. The two plaintiffs assert that the images of virtual digital characters A and B constitute artistic works, with the image of virtual digital character A first published in a short drama and the image of virtual digital character B first published on a Weibo account. After leaving his position at a co-creating entity, Defendant Sun XX unlawfully sold models of Virtual Digital Persons A and B on the CG model website operated by Defendant Company X, infringing upon the plaintiffs' rights of reproduction and online dissemination regarding the virtual digital personas. Defendant Company X, as the platform operator, failed to fulfill its supervisory responsibilities and should bear joint and several liability with Defendant Sun XX.

The court held that the full-body image of Virtual Digital Human A and the head image of Virtual Digital Human B did not directly originate from real persons. Instead, they were created by the production team, exhibiting distinct artistic effects. These images reflect the team's unique aesthetic choices and judgments regarding lines, colors, and specific design elements, satisfying the originality requirement for works and thus constituting artistic works.

Defendant Sun published the allegedly infringing CG model on the CG Model Network. The design of facial features, hairstyles, hair accessories, clothing, and overall style—particularly the combination of elements possessing originality in the protected works—is identical or similar to the images of Virtual Digital Persons A and B in the involved works. This constitutes substantial similarity, infringing upon the plaintiffs' right to disseminate the involved works over information networks. After comprehensively considering factors such as the specific type of service provided by Defendant 2 (Company X), the degree of intervention in the alleged infringing content, whether direct economic benefits were obtained, the reputation of the copyrighted work, and the popularity of the alleged infringing content, Defendant 2 (Company X), as an internet service provider, does not constitute joint infringement.

Virtual digital humans embody multiple rights. This case addresses only the rights pertaining to artistic works. The economic compensation amount is determined by comprehensively considering the type of rights sought for protection, market value, the subjective fault of the infringer, the nature and scale of the infringement, and the severity of the damages. The court ultimately orders Defendant 1, Sun Moumou, to compensate the two plaintiffs for economic losses amounting to RMB 15,000.

Source: Beijing Internet Court

浙江高院：恶意仿冒乐淇苹果“火箭筒”包装，构成商标侵权及不正当竞争

在乐某全球有限公司（以下称“乐某公司”）与宁波某某果宝商贸有限公司（以下称“某某公司”）侵害商标权及不正当竞争纠纷案中，浙江高院作出二审判决，认为某某公司构成商标侵权及不正当竞争，应停止侵权、赔偿乐某公司损失及合理支出共40万元。

法院认为，被诉侵权标识“TOCKIR”与权利商标“ROCKIT”相比整体观感较为接近，“TOCKIR”具有从权利商标变造而来的高度可能性，其使用易使相关消费者产生混淆误认，构成

近似商标。此外，“  ”“  ”等被诉侵权标识与权利商标“  ”“  ”之间具有高度接近的设计元素和整体观感，消费者极易将两者相混淆，亦构成近似商标。故某某公司在所售商品包装盒上等使用被诉侵权标识构成商品侵权。

另外，乐某公司通过线上线下全渠道推广、媒体广泛报道及用户社交平台传播，其涉案产品包装装潢已形成稳定市场联系，具备商品来源识别功能，属于具有一定影响的包装装潢。某某公司采用的被诉包装装潢与前者包装装潢高度近似，其擅自使用行为足以引人误认为是乐某公司的商品或者与乐某公司存在特定联系，构成不正当竞争。

来源：浙江省高级人民法院

Zhejiang Higher People's Court: Malicious counterfeiting of Leqi Apple's “rocket launcher” packaging constitutes trademark infringement and unfair competition

In the trademark infringement and unfair competition dispute between Le Mou Global Co., Ltd. (hereinafter referred to as “Le Mou Company”) and Ningbo Mou Mou Fruit Treasure Trading Co., Ltd. (hereinafter referred to as “Mou Mou Company”), the Zhejiang High Court issued a second-instance judgment. The court held that Mou Mou Company had committed trademark infringement and unfair competition, ordering it to cease infringement and compensate Le Mou Company for losses and reasonable expenses totaling RMB 400,000.

The court determined that the allegedly infringing mark “TOCKIR” bears a high degree of overall similarity to the registered trademark “ROCKIT.” “TOCKIR” exhibits a high likelihood of being derived from the registered trademark through alteration, and its use is likely to cause confusion among relevant consumers, thereby constituting a similar trademark. Furthermore, the alleged infringing marks “  ”“  ” shared highly similar design elements and overall appearance with the registered trademarks “  ”“  ”. Consumers were highly likely to confuse the two, also constituting trademark similarity. Therefore, Mou Mou Company's use of the alleged infringing marks on product packaging boxes constituted product infringement.

Moreover, through comprehensive online and offline promotions, extensive media coverage, and dissemination via user social platforms, the packaging decoration of the products in question has established stable market associations, possesses the function of identifying the source of goods, and constitutes packaging decoration with a certain degree of influence. The packaging decoration used by Mou Mou Company bears a high degree of similarity to the former's packaging decoration. Its unauthorized use is sufficient to mislead consumers into believing the goods originate from or have a specific connection with Company Le, constituting unfair competition.

Source: Zhejiang Higher People's Court

江苏高院：法国知名婴童品牌BEABA维权成功，判赔280万

杰乔公司、爱朵公司等与茁亚芭公司(BEABA)侵害商标权及不正当竞争纠纷案中，法院认为，杰乔公司、爱朵公司的被诉侵权纸尿裤与茁亚芭公司注册的BEABA系列商标核定使用的奶瓶等商品虽不属于同一类别，但二者均属婴童用品，消费群体和销售渠道高度重合，构成类似商品，使用相同或近似标识易引起混淆，因此商标侵权成立。同时，“BEABA”作为有一定影响力的字号，在境内商业使用，受《反不正当竞争法》保护，被诉公司全面抄袭使用，具有明显攀附意图，客观上已造成实际混淆，构成不正当竞争。法院综合考虑BEABA知名度、侵权商品销量高、侵权持续时间长、涉及渠道广、证据繁多及BEABA公司维权支出的合理律师费、公证费等因素，酌定赔偿金额为280万元，体现了“侵权成本与违法收益相匹配”的司法导向。

来源：江苏省高级人民法院

Jiangsu Higher People's Court:French renowned infant and child brand BEABA wins copyright infringement case, awarded RMB 2.8 million in damages

In the trademark infringement and unfair competition dispute involving Jieqiao Company, Aiduo Company, and BEABA Company, the court held that although the allegedly infringing diapers sold by Jieqiao Company and Aiduo Company did not fall under the same category as the baby bottles and other goods covered by BEABA Company's registered BEABA series trademarks, both parties' products belonged to the infant and child goods category. Their consumer base and sales channels substantially overlap, constituting similar goods. The use of identical or nearly identical marks is likely to cause confusion, thus establishing trademark infringement. Furthermore, “BEABA” is a well-known brand name with significant influence in domestic commercial use, protected under the Anti-Unfair Competition Law. The defendants' wholesale copying of this mark demonstrates clear intent to free-ride on BEABA's reputation, objectively causing actual confusion and constituting unfair competition. The court comprehensively considered factors including BEABA's brand recognition, the high sales volume of infringing goods, the prolonged duration of infringement, the extensive distribution channels involved, the abundance of evidence, and BEABA's reasonable legal expenses incurred in enforcing its rights. It determined compensatory damages at RMB 2.8 million, reflecting the judicial principle that “the cost of infringement should match the illegal gains.”

Source: Jiangsu Higher People's Court

杭州中院：首例元宇宙虚拟现实商标案判赔100万

杭州中院二审认定“乔治巴顿”商标侵权及不正当竞争成立，撤销一审判决，判赔100万元。该案首次认定游戏虚拟汽车与现实汽车构成类似商品，构成商标侵权。

法院认为，被授权在“和平精英”游戏中使用的“乔治巴顿”虚拟汽车虽与第12类汽车商品不属于相同类别，但鉴于涉案商标已具有一定知名度，应充分考虑商品关联性。二者在功能、用途等方面存在差异，但也有交叉：游戏载具具有运输功能，可模拟真实汽车外观；消费对象上，玩家可能通过游戏体验关注甚至购买现实汽车，造成公众认知混淆。合作协议授权使用该品牌名称、外观、引擎声等于虚拟道具设计与宣传中，游戏方更在推广中突出其“官方授权”

越野车品牌形象，与多个知名汽车品牌并列。此举易使公众误认该品牌与游戏存在授权或合作关联，割裂了商标与原权利人的联系，构成商标侵权。

来源：杭州市中级人民法院

Hangzhou Intermediate People's Court :First metaverse virtual reality trademark case awards RMB 1 million in damages

The Hangzhou Intermediate People's Court upheld the second-instance judgement that the “George Patton” trademark constituted infringement and unfair competition, overturning the first-instance judgment and awarding RMB 1 million in damages. This case marks the first judicial determination that virtual vehicles in games constitute similar goods to real-world automobiles, thereby establishing trademark infringement.

The court reasoned that although the “George Patton” virtual vehicle licensed for use in the game “Peace Elite” does not fall under the same Class 12 category as real automobiles, given the trademark's established reputation, the connection between the goods must be fully considered. While functional and purpose differences exist, overlaps persist: game vehicles serve transportation functions and can simulate real-world car aesthetics. Regarding consumer demographics, players may develop interest in or purchase actual vehicles through gaming experiences, potentially causing public confusion. The cooperation agreement authorizes the use of the brand name, appearance, engine sounds, etc., in the design and promotion of virtual items. The game developer further emphasizes its “officially licensed” off-road vehicle brand image in promotions, listing it alongside multiple well-known automotive brands. This action is likely to mislead the public into believing that the brand has an authorized or cooperative relationship with the game, severing the connection between the trademark and its original rights holder, thereby constituting trademark infringement.

Source: Hangzhou Intermediate People's Court

成都中院：“红底高跟鞋”遭家族式仿冒商标侵权案，惩罚性赔偿1000万元

克莱蒙及其合伙人公司系第G902955号等商标的专用权人，上述商标具有较高的知名度。法国某公司取得上述商标的独占许可。郑某龙、林某凡、郑某华、林某密为亲属关系，通过设立莆田市某服贸公司、莆田市某电商公司的方式，在生产的鞋子上使用与法国某公司注册商标相同的标识，并开设多个网络店铺销售和宣传推广前述商品，侵权产品销售金额达两千多万元。法国某公司认为，郑某龙等被告共同侵害了法国某公司的注册商标专用权，故提起诉讼。

法院认为，《取消外国公文书认证要求的公约》生效实施后，境外产生的证据无需再办理“双认证”，应当依法认定附加证明书的效力并确认法国某公司作为被许可人提起诉讼的权利。郑某龙等各被告之间存在高度关联，具有共同侵权的意思联络，共同参与了被诉侵权产品包括生产-在各个网络平台上推广宣传-接单收款-发货的全链条环节，未经许可在其生产的鞋子上使用与法国某公司注册商标相同的标识并进行大量宣传销售，共同构成商标侵权。

郑某龙等主观恶意明显，属故意侵害注册商标专用权的行为，且侵权情节严重，应当适用惩罚性赔偿。向财付通平台、淘宝平台、支付宝调取的多个网络店铺销售数据显示，侵权产品的销售金额达到2894万余元，故判决郑某龙等被告停止侵权，并连带赔偿法国某公司经济损失1000万元及为制止侵权行为所支出的合理开支18万元。目前本案已生效。

来源：成都市中级人民法院

Chengdu Intermediate People's Court: Family-run counterfeiters face punitive damages of RMB 10 million in trademark infringement case over 'red-soled high heels'

Clement and Partners hold the exclusive rights to Trademark No. G902955 and other associated marks, which enjoy considerable renown. A French company obtained an exclusive licence for the aforementioned trademarks. Zheng Molong, Lin Moufan, Zheng Mouhua, and Lin Moumi, being related parties, established Putian City's Service Trade Company and Putian City's E-commerce Company. They applied identical markings to the registered trademarks of the French company on manufactured footwear, operating multiple online stores to sell and promote these goods. Sales of the infringing products exceeded RMB twenty million . The French company contends that the defendants, including Zheng Molong, jointly infringed upon its exclusive trademark rights and has therefore initiated legal proceedings.

The court held that following the entry into force of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, evidence originating overseas no longer requires ‘dual legalisation’. The court should therefore recognise the validity of the supplementary certificate and affirm the French company's right to bring proceedings as a licensee. Zheng Molong and the other defendants were found to be highly interconnected, sharing a common intent to infringe. They jointly participated in the entire chain of the alleged infringing products, encompassing production, promotion across various online platforms, order processing and payment collection, and shipment. By using the identical mark to the French company's registered trademark on their manufactured shoes without authorisation and conducting extensive promotional sales, they collectively constituted trademark infringement.

Zheng Molong and others demonstrated clear subjective malice, constituting intentional infringement of the exclusive right to use the registered trademark. Given the serious nature of the infringement, punitive damages should be applied. Sales data retrieved from multiple online shops on the Tenpay, Taobao, and Alipay platforms revealed that the infringing products generated sales exceeding RMB 28.94 million. The court therefore ordered Zheng Molong and the other defendants to cease the infringing activities and jointly compensate the French company for economic losses amounting to RMB 10 million, plus reasonable expenses incurred to stop the infringement totalling RMB 180,000. The judgment has now taken effect.

Source: Chengdu Intermediate People's Court

广州黄埔法院：混合销售、搭售行为构成商标侵权及不正当竞争

在汤臣倍健公司与千恩医药公司、尚动计算机公司侵害商标权及不正当竞争纠纷案中，法院认为，两被告经营的涉案网店众多涉及“汤臣倍健”商品的销售链接中，虽然销售链接名称标题的显著位置均使用“汤臣倍健”标识，但所有链接的分类项下均同时可选择搭售“千恩健”商品，由

上可知“汤臣倍健”正品商品在销售的过程中关联了另外的非汤臣倍健公司的商品，而上述商品的销售商或制造商信息则指向4家涉案网店的经营者，亦即两被告。两被告因使用汤臣倍健公司的涉案注册商标搭售其关联商品进而获取了来自于汤臣倍健公司商标的美誉度所产生的更多交易机会，其行为属于对合理指示商品来源的权利的不当扩张，已经超出了商标指示性使用的合理范畴。

两被告作为同行业经营者，明知涉案注册商标具有较高知名度，仍在同一商品链接下混合销售“汤臣倍健”商品与其“千恩健”商品，并在标题关键词或首部位置等主要识别处使用“汤臣倍健”标识，并未以同样方式标注“千恩健”商品相关信息，主观上具有攀附商誉的故意。结合汤臣倍健公司提交被诉侵权产品的评价信息，足以证实两被告上述行为已实际造成消费者混淆，构成商标侵权。

此外，本案中，在未经授权的前提下，两被告大幅度宣传汤臣倍健公司商品及使用汤臣倍健公司涉案注册商标，且在礼品卡的显著位置均基本展示“汤臣倍健公司”商品信息。相关公众在下单购买商品时无法对此进行区分，或者需要施以较高的注意义务才可辨别两被告经营的涉案网店并非汤臣倍健公司授权的官方销售代理商。在涉案网店内还存在部分销售“千恩健”商品的前提下，两被告的上述行为足以导致相关公众误认两被告经营的涉案网店系汤臣倍健公司授权的官方销售代理商，误认为涉案网店内销售的商品均与汤臣倍健公司相关联，或涉案网店与汤臣倍健公司存在特定联系，构成不正当竞争。

来源：广州市黄埔区人民法院

Guangzhou Huangpu Court: The practice of bundling sales and tying arrangements constitutes trademark infringement and unfair competition

In the case concerning trademark infringement and unfair competition disputes between Tomson Biotech Co., Ltd., Qian'en Pharmaceutical Co., Ltd., and Shangdong Computer Co., Ltd., the court held that although the prominent position of the sales link titles on numerous online stores operated by the two defendants involved the sale of ‘Tomson Biotech’ products and featured the ‘Tomson Biotech’ logo, all links simultaneously offered the option to bundle-sell ‘Qian'enjian’ products under their respective categories. It follows that genuine ‘Tangchen Beijian’ merchandise was associated with non-Tangchen Beijian goods during sales, with the seller or manufacturer information for these goods pointing to the operators of the four involved online stores—namely, the two defendants. By leveraging Tangchen Beijian's registered trademark to bundle their affiliated products, the defendants improperly expanded upon the right to reasonably indicate the source of goods. This conduct exceeded the bounds of legitimate trademark use for source identification.

As operators within the same industry, the defendants were fully aware of the high reputation of the registered trademark in question. Nevertheless, they mixed-sold ‘Tangchen Beijian’ products alongside their own ‘Qian'enjian’ products under the same product listing. Furthermore, they prominently displayed the ‘Tangchen Beijian’ logo in key identifying locations such as title keywords or header positions, while failing to label ‘Qian'enjian’ product information in a comparable manner. This demonstrates a deliberate intent to free-ride on the goodwill of the trademark. Combined with the evaluation

information submitted by Tangchen Beijian regarding the allegedly infringing products, this sufficiently demonstrates that the defendants' aforementioned conduct has actually caused consumer confusion, constituting trademark infringement.

Furthermore, in this case, without authorisation, the defendants extensively promoted Tangchen Beijian's goods and utilised Tangchen Beijian's registered trademark in question. Moreover, the gift cards prominently displayed Tangchen Beijian's product information in a conspicuous position. The relevant public cannot distinguish between the two when placing orders to purchase goods, or would require a high degree of diligence to discern that the defendants' online stores are not authorised official sales agents of Tangchen Beijian. Given that the online stores in question also sold certain 'Qian'enjian' products, the defendants' aforementioned conduct was sufficient to mislead the relevant public into believing that the online stores operated by the defendants were authorised official sales agents of Tomson Biotech, that all products sold within the stores were associated with Tomson Biotech, or that the stores maintained a specific connection with Tomson Biotech. This constitutes unfair competition.

Source: Guangzhou Huangpu Court

波音构成窃取商业秘密，赔偿5.81亿元

美国第九巡回上诉法院近日恢复了对波音公司8100万美元（约合5.81亿元人民币）的赔偿裁决，认定其窃取了电动飞机初创公司Zunum Aero的商业秘密，推翻了加州地区法院此前撤销陪审团决定并认定涉案信息无权获得商业秘密保护的判决。

Zunum成立于2013年，致力于开发航程达1500英里的小型电动飞机。波音旗下风投部门于2017年向其投资500万美元。Zunum在诉讼中称，原计划2022年销售飞机，但因波音阻断其融资渠道而中止开发，并指控波音利用其商业秘密开发自家混合动力飞机。

2023年5月，联邦陪审团裁定波音因窃密和侵权干涉应赔偿约9280万美元，后经扣减调整为7200万美元。后地区法官James Robart虽将赔偿额定为8100万美元，但于八月推翻裁决，认为Zunum未明确商业秘密内容或其保密价值。最终上诉法院认为，Zunum已提供“足够细节”证明其信息属非公开、有价值且受法律保护的商业秘密，陪审团认定合理。

来源：Reuters

Boeing found guilty of trade secret theft, ordered to pay RMB 581 million in damages

The United States Court of Appeals for the Ninth Circuit has recently reinstated an $81 million damages award against Boeing, finding it guilty of stealing trade secrets from electric aircraft start-up Zunum Aero. This decision overturns a previous judgement by the California District Court which had vacated the jury's verdict and determined that the information in question was not entitled to trade secret protection.

Founded in 2013, Zunum specialises in developing small electric aircraft with a range of 1,500 miles. Boeing's venture capital arm invested $5 million in the company in 2017. Zunum alleged in its lawsuit

that it had planned to commence aircraft sales in 2022 but halted development after Boeing obstructed its financing channels. It further accused Boeing of utilising its trade secrets to develop its own hybrid-electric aircraft.

In May 2023, a federal jury awarded Zunum approximately $92.8 million in damages for misappropriation and tortious interference, later adjusted to $72 million after deductions. District Judge James Robart initially set damages at $81 million but overturned the judgement in August, arguing Zunum had failed to clearly define the trade secrets or their confidential value. The appeals court ultimately upheld the jury's decision, finding Zunum had provided 'sufficient detail' to demonstrate its information constituted non-public, valuable, and legally protectable trade secrets.

Source: Reuters

戴森在欧洲统一专利法院赢得首个基于长臂管辖的西班牙禁令

近日，欧洲统一专利法院（UPC）汉堡地方分院就戴森公司与追觅公司的专利纠纷作出裁决，法院颁布一项临时禁令，禁止戴森的竞争对手追觅（Dreame）公司在欧洲销售其部分旧型号美发设备。不过，法院驳回了戴森针对追觅所有新一代美发设备产品提出的禁令请求，追觅的核心产品线在欧洲市场不受影响。

本案中，涉案专利是EP3119235（“手持式设备附件”），被指控的产品包括追觅公司的Dream AirStyle（Pro）和Dream Pocket（Neo）等型号。本案的四名被告分别是追觅国际（香港）有限公司、德国Teqphone GmbH、德国Eurep GmbH以及追觅科技AB。法院最终认定四名被告均须对侵权行为负责：追觅国际（香港）作为产品制造商和欧洲网站运营商；德国Teqphone GmbH作为官方分销商；瑞典追觅科技AB作为子公司；以及德国Eurep GmbH作为欧洲授权代表（EAR）。
这是UPC首次将禁令的效力范围扩展至西班牙，也是UPC首例基于“长臂管辖权”（“BSH”规则）颁布的临时禁令。此外，法院裁定涉案产品的欧洲授权代表（EAR，即欧代）也需对专利侵权负责，这一裁决与此前杜塞尔多夫地方法院的一项裁决相呼应。

来源：ipfray

Dyson secures first Spanish injunction based on long-arm jurisdiction at the Unified Patent Court in Europe

Recently, the Hamburg Regional Division of the Unified Patent Court (UPC) ruled on a patent dispute between Dyson and Dreame, issuing an interim injunction prohibiting Dreame – a competitor of Dyson – from selling certain older models of its hair care appliances in Europe. However, the court dismissed Dyson's request for an injunction against all of Dreame's new-generation hair care products, leaving Dreame's core product lines unaffected in the European market.

The patent at issue in this case is EP3119235 ('Handheld Device Attachment'), with the accused products including Dreame's Dream AirStyle (Pro) and Dream Pocket (Neo) models. The four defendants were Dreame International (Hong Kong) Limited, Teqphone GmbH (Germany), Eurep GmbH (Germany), and Dreame Technology AB. The court ultimately held all four defendants liable for infringement: Dreame International (Hong Kong) as the product manufacturer and operator of the Euro-

pean website; Teqphone GmbH as the official distributor; Dreame Technology AB (Sweden) as the subsidiary; and Eurep GmbH as the European authorised representative (EAR).

This marks the first instance where the UPC has extended the scope of an injunction to Spain, and the first provisional injunction issued by the UPC based on the 'long arm jurisdiction' ('BSH' rule). Furthermore, the court ruled that the European Authorised Representative (EAR) for the product in question is also liable for patent infringement, a decision consistent with a prior judgement by the Düsseldorf Regional Court.

Source: ipfray

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