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## 立方要闻周报

### Weekly News By Lifang & Partners

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

### 国务院双反办 市场监管总局发布开展2025年中国公平竞争政策宣传周活动的通知

2025年8月28日，国务院反垄断反不正当竞争委员会办公室、国家市场监督管理总局联合发布《关于开展2025年中国公平竞争政策宣传周活动的通知》，宣布将于9月8日至12日举办2025年中国公平竞争政策宣传周（“宣传周”）。宣传周将广泛宣传“十四五”期间我国公平竞争治理取得的重大成就，展示各地区各部门深入实施公平竞争政策等方面的工作举措和成效，强化对《公平竞争审查条例》及其实施办法的宣传，并宣传新修订的《关于药品领域的反垄断指南》《标准必要专利反垄断指引》等新出台的制度规则，引导各类经营主体准确理解法律规定，增强企业依法合规经营的主动性和自觉性；推动社会各界共同参与公平竞争治理，更大范围凝聚各方共识和力量。（[查看更多](#)）

### Office of the Anti-Monopoly and Anti-Unfair Competition Commission of the State Council and the SAMR Publishes the *Notice on Holding the 2025 China Fair Competition Policy Publicity Week*

On August 28, 2025, the Office of the Anti-Monopoly and Anti-Unfair Competition Commission of the State Council and the State Administration for Market Regulation (“the SAMR”) jointly issued the *Notice on Holding the 2025 China Fair Competition Policy Publicity Week*, announcing the holding of the China Fair Competition Policy Publicity Week in the week from September 8 to September 12 (“the Publicity Week”). The Publicity Week will give wide coverage to the major achievements that China has scored in fair-competition governance during the Fourteenth Five-Year Plan period, showcase the measures and results of implementing competition policies across different regions and departments, and strengthen the publicity of the *Regulation on Fair Competition Review* and its implementing provisions; the Publicity Week will also publicize newly revised instruments such as the *Anti-Monopoly Guidelines for the Pharmaceutical Sector* and the *Anti-Monopoly Guidelines for Standard Essential Patents*, guiding various market participants to interpret legal provisions accurately and strengthening their initiative and self-discipline in conducting business operations according to the law, therefore mobilizing the whole society to participate in fair-competition governance and build broader consensus and collective momentum. ([More](#))

### 北京市监局正式获国家市监局委托对八省市自治区开展部分经营者集中简易案件反垄断审查工作

自2025年8月1日起，国家市场监督管理总局正式委托北京市市场监管局负责对北京、天津、河北、山西、内蒙古、辽宁、吉林、黑龙江等八省市自治区，开展部分经营者集中简易案件反垄断审查工作。作为全国首批试点单位，2022年以来，北京市监局共收到国家市场监督管理总局委托案件274件，涉及农业、食品、汽车、医药、化工、钢铁、传统能源、新能源、房地产、金融、物流、旅游等行业领域，交易金额超7800亿元。此外，北京市监局积极优化内部审查流程，案件平均受理时间为14.89天、审结时间为16.23天，在试点省市中位居前列。（[查看更多](#)）

## Beijing AMR Is Formally Entrusted by the SAMR to Conduct Reviews of Simple Cases of Concentrations of Undertakings for Eight Provincial-level Areas (including Cities and Autonomous Regions)

Since 1 August 2025, the SAMR formally entrusted the Beijing Administration for Market Regulation (“the Beijing AMR”) with the authority to conduct reviews of certain simple cases of concentrations of undertakings within the areas of Beijing, Tianjin, Hebei, Shanxi, the Inner Mongolia Autonomous Region, Liaoning, Jilin and Heilongjiang. As one of the first pilot agencies designated by the SAMR, the Beijing AMR has, since 2022, received 274 entrusted cases covering, inter alia, agriculture, food, automotive, pharmaceutical, chemical, steel, conventional and renewable energy, real-estate, finance, logistics and tourism, with an aggregate transaction value exceeding RMB 780 billion. The Beijing AMR has also optimised its internal review procedures, achieving an average case acceptance period of 14.89 days and an average case conclusion period of 16.23 days, placing itself at the forefront of the pilot agencies. ([More](#))

## 市场监管总局：“十四五”时期共审结经营者集中审查案件3400件，查处违法实施经营者集中案件145件

2025年8月22日，国务院新闻办公室举行“高质量完成‘十四五’规划”系列主题新闻发布会，市场监管总局部分领导发言并介绍“十四五”期间反垄断相关工作情况。在建设全国统一大市场方面，市场监管总局推动《反垄断法》实现颁布15年后的首次大修，推动出台《公平竞争审查条例》，制定了《禁止滥用市场支配地位行为规定》等12部支撑法律实施的配套规章，建立了灵活完善的合规和执法指南指引体系；加强对重点领域垄断风险的监测评估，加强对平台经济、自然垄断等重点领域的经营者集中审查，共审结案件3400件，查处违法实施经营者集中案件145件，有力地维护了公平竞争市场秩序，组织开展制止滥用行政权力排除、限制竞争执法专项行动，立案查处行政性垄断案件239件，清理地方标准8000余项。 ([查看更多](#))

## SAMR: 3,400 Cases of Concentration of Undertakings Reviews Concluded and 145 Cases of Illegal Concentrations of Undertakings Handled during the Fourteenth Five-Year Plan Period

On 22 August 2025, the State Council Information Office held the thematic press conference series “High-Quality Implementation of the Fourteenth Five-Year Plan”, where the SAMR leaders briefed the media on antitrust-related work. In the area of building a unified national market, the SAMR promoted the first major revision of the *Anti-Monopoly Law* 15 years after its first implementation, promoted the promulgation of the *Regulation on Fair Competition Review*, and issued 12 supporting regulatory provisions such as the *Provisions on Prohibiting the Abuse of Market Dominant Position*, and has established a flexible, comprehensive system of compliance and enforcement guidelines. The SAMR has also intensified monitoring and assessing risks of monopolies in key sectors, and strengthened concentration of undertakings reviews in major areas such as the platform economy, the natural monopoly and others; in total 3,400 cases have been concluded and 145 cases of illegal concentrations of undertakings were sanctioned, effectively safeguarding the fair competition order. The SAMR has also launched special actions against the abuse of administrative power that exclude or restrict competition, investigated and handled 239 cases of administrative monopolies and eliminated more than 8,000 local standards. ([More](#))



## 美国联邦法院对强生医疗科技发出禁令，因其违反美国反垄断法

2025年8月27日，美国加利福尼亚中区联邦地区法院法官詹姆斯·V·塞尔纳（James V. Selna）作出裁决，对强生医疗科技下达永久禁令。此前，因强生医疗科技拒绝向医疗机构提供再处理心脏器械所需的临床支持，联邦陪审团已裁定其须支付4.422亿美元赔偿金。根据法院的裁决，如果医疗机构从再处理企业购买强生医疗科技的心脏映射设备，强生医疗科技今后不得因此限制对该等医疗机构的临床支持；同时法院禁止强生医疗科技推出任何故意使再处理器械无法正常运行的新技术。禁令有效期为五年，但法院保留根据市场状况调整禁令期限的权利。此外，禁令还要求强生医疗科技指定一名高管人员每六个月向法院提交报告，说明公司遵守禁令条款的情况。（[查看更多](#)）

## US Federal Court Issues an Injunction against Johnson & Johnson MedTech over US Antitrust Law Violations

On August 27, 2025, Judge James V. Selna of the U.S. District Court for the Central District of California issued a ruling, which includes a permanent injunction against Johnson & Johnson MedTech. Previously, because Johnson & Johnson MedTech withheld clinical support to healthcare providers related to reprocessed cardiac devices, a federal jury has ordered the company to pay \$442.2 million in damages. According to the court order, Johnson & Johnson MedTech is prohibited from restricting clinical support for its cardiac mapping devices if they are purchased from reprocessing firms, and it is also barred from introducing new technology that would intentionally prevent reprocessed devices from functioning. The injunction will remain in effect for five years, though the court has left open the possibility of altering the duration based on market conditions. Moreover, the injunction also requires a Johnson & Johnson MedTech executive to file detailed reports with the court every six months outlining the company's compliance. ([More](#))

## 哥伦比亚工商监管局对苹果公司启动反垄断调查

2025年8月28日，据媒体报道，哥伦比亚工商监管局（“SIC”）已经对苹果公司及其子公司（合称“苹果公司”）启动反垄断调查，调查指控其在数字商品的技术平台分销和支付处理服务领域涉嫌滥用市场支配地位。据报道，监管部门指控苹果将 iOS 操作系统与应用商店（App Store）搭售，并禁止用户安装其他应用商店，从而限制竞争。本次调查依据 2025 年 8 月中旬发布的一项正式决议启动，重点是针对苹果可能通过合同条款限制开发者创建和运营竞争性应用商店的担忧。SIC 主张苹果公司的做法可能阻碍新进入者参与市场，限制开发者在苹果严格控制的生态系统范围外分发其产品能力，行为据称将有效巩固苹果在 iOS 和 iPadOS 操作系统中数字内容分发领域的垄断地位。（[查看更多](#)）

## Colombia's Superintendence of Industry and Commerce Launches an Antitrust Investigation into Apple

On August 28, 2025, according to media reports, the Colombian Superintendence of Industry and Commerce (“SIC”) has launched an investigation into Apple Inc. and one of its relevant subsidiaries

(collectively “Apple”), which alleged that Apple abuses its market dominance in the distribution of technology platforms and payment processing services for digital goods. Reportedly, the regulator accuses Apple of restricting competition by tying its iOS operating system to the App Store and barring the installation of alternative application marketplaces, therefore restricting competition. The inquiry is launched through a resolution issued in mid-August 2025, highlighting concerns that Apple may have imposed contractual restrictions preventing developers from creating and managing rival app stores. The SIC argued that Apple’s such measures could block new participants from entering the market, limiting developers’ ability to distribute their products outside of Apple’s tightly controlled ecosystem, thus effectively preserve Apple’s monopoly in distributing digital content on iOS and iPadOS. ([More](#))

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

### 国务院发布《关于深入实施“人工智能+”行动的意见》

2025年8月26日，国务院发布了《关于深入实施“人工智能+”行动的意见》（以下简称《意见》）。《意见》提出，到2027年，率先实现人工智能与六大重点领域广泛深度融合，新一代智能终端、智能体等应用普及率超70%，智能经济核心产业规模快速增长，人工智能在公共治理中的作用明显增强，人工智能开放合作体系不断完善。到2030年，我国人工智能全面赋能高质量发展，新一代智能终端、智能体等应用普及率超90%，智能经济成为我国经济发展的重要增长极，推动技术普惠和成果共享。到2035年，我国全面步入智能经济和智能社会发展新阶段，为基本实现社会主义现代化提供有力支撑。《意见》指出要加快实施重点行动，即发挥人工智能在科学技术、产业发展、消费提质、民生福祉、治理能力和全球合作中的作用。《意见》明确为实现上述目标，要提升模型基础能力、加强数据供给创新、强化智能算力统筹、优化应用发展环境、促进开源生态繁荣、加强人才队伍建设、强化政策法规保障、提升安全能力水平。（[查看更多](#)）

### State Council Releases *Opinions on Deepening the Implementation of the “AI+” Initiative*

On August 26, 2025, the State Council released the *Opinions on Deepening the Implementation of the “AI+” Initiative* (Opinions). The Opinions propose that by 2027, China will take the lead in achieving extensive and in-depth integration of AI with six key sectors. The penetration rate of next-generation smart terminals, intelligent agents, and other applications will exceed 70%, the scale of the core intelligent economy industries will grow rapidly, AI’s role in public governance will significantly strengthen, and the open cooperation system for AI will continue to improve. By 2030, China’s AI will fully empower high-quality development, with the penetration rate of next-generation smart terminals, intelligent agents, and other applications exceeding 90%. The intelligent economy will become a key growth pole for China’s economic development, promoting technological inclusiveness and shared outcomes. By 2035, China will fully enter a new stage of intelligent economic and social development, providing strong support for the basic realization of socialist modernization. The Opinions emphasize accelerating the implementation of key actions, leveraging AI’s role in science and technology, industrial development, consumption upgrading, people’s livelihood improvement, governance capacity,

and global cooperation. To achieve these goals, the Opinions specify measures including enhancing fundamental model capabilities, strengthening data supply innovation, optimizing intelligent computing power coordination, improving the application development environment, promoting the prosperity of open-source ecosystems, strengthening talent team building, enhancing policy and regulatory safeguards, and elevating cybersecurity capabilities. ([More](#))

## 最高人民法院首次发布数据权益司法保护专题指导性案例

2025年8月28日，最高人民法院首次发布了数据权益司法保护专题指导性案例。该批指导性案例共六件，具体裁判要点如下：（1）网络平台经营者在其对数据集合所形成的经营性利益受到侵害时，可以请求人民法院依法保护。（2）网络平台向用户提供关联账号服务，经用户授权后转移其在关联网络平台获取的数据，为用户在合理范围内处理该数据提供便利，未扰乱市场竞争秩序的，不构成不正当竞争行为。（3）数据处理者依法采集企业数据，经符合有关标准的编制方法加工形成数据产品并合理利用，未对企业权益造成损害，相关企业要求数据处理者承担侵权责任的，人民法院依法不予支持。（4）判断处理个人信息是否属于“为订立、履行个人作为一方当事人的合同所必需”的考量因素，进而明确在收集用户画像信息并非提供网络服务所必需的情况下，未向用户提供不同意提交相关信息情况下的其他登录方式的，构成对用户个人信息权益的侵害。（5）“先享后付”功能以开通信用服务为必要条件，相关信用服务商收集反映用户个人信用或者风险状况的个人信息，属于“为订立、履行个人作为一方当事人的合同所必需”。（6）对于交付网络平台账号及密码的执行，应当充分考虑网络平台账号特点，依据法律所要求的实名认证等规定，在交付账号及密码的同时，依法变更有关实名认证信息。 ([查看更多](#))

## Supreme People's Court Releases Special Guiding Cases on Judicial Protection of Data Rights and Interests for the First Time

On August 28, 2025, the Supreme People's Court released special guiding cases on judicial protection of data rights and interests for the first time. There are a total of six guiding cases in this batch, with the specific key points of adjudication as follows: (1) When an online platform operator suffers infringement on the operational interests formed by its data set, it may request the people's court to provide protection in accordance with the law. (2) Where an online platform provides users with associated account services, transfers the data obtained by users on the associated online platform after obtaining user authorization, and facilitates users' processing of such data within a reasonable scope, if such act does not disrupt the market competition order, it does not constitute an unfair competition act. (3) Where a data processor legally collects enterprise data, processes and forms data products through compilation methods that meet relevant standards and makes reasonable use of such products, and does not cause damage to the rights and interests of the enterprise, if the relevant enterprise requests the data processor to bear tort liability, the people's court shall not support such request in accordance with the law. (4) The factors for determining whether processing personal information falls within the scope of "being necessary for concluding or performing a contract where the individual is a party" shall be considered; further, it is clarified that if collecting user profile information is not necessary for providing online services, and no other login methods are provided to users in case they disagree to submit the relevant information, such act constitutes an infringement on users' personal information rights and interests. (5) The "enjoy first, pay later" function takes the activation of credit services as a necessary



condition; the collection of personal information reflecting users' personal credit or risk status by relevant credit service providers falls within the scope of "being necessary for concluding or performing a contract where the individual is a party". (6) For the execution of delivering online platform account numbers and passwords, full consideration shall be given to the characteristics of online platform accounts; in accordance with the provisions of the law such as real-name authentication requirements, while delivering the account numbers and passwords, the relevant real-name authentication information shall be changed in accordance with the law. ([More](#))

## 公安部计算机信息系统安全产品质量监督检验中心检测发现38款违法违规收集使用个人信息的App

2025年8月25日，公安部计算机信息系统安全产品质量监督检验中心检测发现了38款App存在违法违规收集使用个人信息的情况，所涉问题包括但不限于：（1）未逐一列出收集、使用个人信息的目的、方式、范围；（2）在申请打开可收集个人信息的权限时，未同步告知用户其目的；（3）在申请收集用户等个人敏感信息时，未同步告知用户其目的；（4）实际收集的个人信息超出用户授权范围；（5）实际收集的个人信息超出相关功能的必要范围。（[查看更多](#)）

## Computer Information System Security Product Quality Supervision and Inspection Center of the Ministry of Public Security Detects 38 Apps That Illegally Collect and Use Personal Information

On August 25, 2025, the Computer Information System Security Product Quality Supervision and Inspection Center of the Ministry of Public Security detected 38 Apps that have the conduct of illegally collecting and using personal information. The involved issues include but are not limited to: (1) Failing to list one by one the purposes, methods and scopes of collecting and using personal information. (2) Failing to simultaneously inform users of the purpose when applying to enable permissions that can collect personal information. (3) Failing to simultaneously inform users of the purpose when applying to collect users' sensitive personal information and other such information. (4) Actually collecting personal information beyond the scope authorized by users. (5) Actually collecting personal information beyond the necessary scope of relevant functions. ([More](#))

## 全国网安标委发布《数据安全技术 个人信息匿名化处理指南及评价方法（征求意见稿）》

2025年8月27日，全国网安标委发布了《数据安全技术 个人信息匿名化处理指南及评价方法（征求意见稿）》（以下简称《指南》），向社会公开征求意见，意见反馈截止时间为2025年10月26日。《指南》明确了匿名化处理的目标，提供了个人信息匿名化处理的指南，并给出了匿名化评价方法。《指南》适用于个人信息匿名化处理工作，也适用于开展个人信息安全管理、监管和评估等工作。《指南》提出，匿名化流程包括准备工作、去标识化处理、去标识化效果评估、对抗性测试、不能复原性核验、出具阶段性评价报告和匿名化处理管理。《指南》指出，匿名化评价方法包括目标原则、无法识别的评价、不能复原的评价、对抗性测试评价和综合评价。（[查看更多](#)）

## **TC260 Releases *Data Security Technology - Guidelines for Personal Information Anonymization Processing and Evaluation Methods (Draft for Comment)***

On August 27, 2025, the TC260 released the *Data Security Technology - Guidelines for Personal Information Anonymization Processing and Evaluation Methods (Draft for Comment)* (Guidelines), soliciting public comments with a feedback deadline of October 26, 2025. The Guidelines clarify the objectives of anonymization processing, provide guidance for personal information anonymization, and outline anonymization evaluation methods. They apply to personal information anonymization processing, as well as personal information security management, supervision, and evaluation activities. The Guidelines specify that the anonymization process includes preparatory work, de-identification processing, de-identification effectiveness assessment, adversarial testing, non-reversibility verification, issuance of stage evaluation reports, and anonymization processing management. The anonymization evaluation methods are defined to include target principles, evaluation of non-identifiability, evaluation of non-reversibility, adversarial testing evaluation, and comprehensive evaluation. ([More](#))

## **上海市发布《上海市智能网联汽车测绘地理信息安全管理导则（试行）》**

2025年8月25日，上海市发布了《上海市智能网联汽车测绘地理信息安全管理导则（试行）》（以下简称《导则》）。上海市智能网联汽车高精度地图应用试点及“车路云一体化”应用试点中涉及的测绘地理信息安全工作适用《导则》，其他智能网联汽车相关工作参照适用《导则》。智能网联汽车应用场景涉及智能网联汽车数据全流程闭环，多方合作架构中各企业应结合测绘地理信息安全要求、运用先进的安全防控技术提供必要保障，《导则》提出了六点总体策略：（1）数源即时安全处理；（2）数据采集最小必要；（3）地理信息脱密脱敏；（4）数据分类分级管理；（5）数据安全可控保障；（6）事故即时应急响应。（[查看更多](#)）

## **Shanghai Releases *Shanghai Guidelines for the Security Management of Surveying, Mapping and Geographic Information in Intelligent Connected Vehicles (Trial)***

On August 25, 2025, Shanghai released the *Shanghai Guidelines for the Security Management of Surveying, Mapping and Geographic Information in Intelligent Connected Vehicles (Trial)* (Guidelines). The Guidelines apply to the security work of surveying, mapping and geographic information involved in Shanghai's pilot projects of high-precision map application for intelligent connected vehicles and "vehicle-road-cloud integration" application; other work related to intelligent connected vehicles shall be implemented with reference to the Guidelines. The application scenarios of intelligent connected vehicles involve the full-process closed loop of intelligent connected vehicle data. In the multi-party cooperation framework, all enterprises shall, in combination with the security requirements for surveying, mapping and geographic information and by using advanced security prevention and control technologies, provide necessary guarantees. The Guidelines put forward six overall strategies: (1) Real-time security processing of data sources. (2) Minimum necessity for data collection. (3) De-identification and desensitization of geographic information. (4) Classified and hierarchical management of data. (5) Guarantee of data security and controllability. (6) Real-time emergency response to accidents. ([More](#))

## **韩国：PIPC因大规模数据泄露对SK Telecom罚款1347.9亿韩元**

2025年8月28日，韩国个人信息保护委员会（PIPC）对SK Telecom处以1347.9亿韩元的罚款，原因是今年四月发生的黑客事件导致2300万用户的个人数据被泄露。PIPC在第十八次全体会议上决定再对SK Telecom追加征收960万韩元的罚款。PIPC发现，黑客获取了25类用户数据，包括手机号码、用户识别号码和USIM认证密钥，这些数据属于23244649位LTE和5G用户。PIPC还发现，SK Telecom没有按照法律规定在72小时内通知受影响的用户。对SK Telecom的罚款规模反映了加重和减轻因素，其没有获得直接经济利益，这减轻了处罚；但其本可以通过更强大的投资来防止违规行为，这使违规行为更为严重。（[查看更多](#)）

### **South Korea: PIPC Fines SK Telecom 134.79 Billion Won over Massive Data Leak**

On August 28, 2025, South Korea's Personal Information Protection Commission (PIPC) imposed a fine of 134.79 billion won on SK Telecom over a hacking incident in April that compromised the personal data of more than 23 million users. The PIPC said on Thursday that it decided in its 18th plenary meeting to levy the fine along with an additional 9.6 million won in penalties against SK Telecom. The PIPC found that hackers accessed 25 categories of user data, including mobile phone numbers, subscriber identification numbers and USIM authentication keys, belonging to 23,244,649 LTE and 5G subscribers. The PIPC also found SK Telecom failed to notify affected customers within 72 hours, as required by law. The size of SK Telecom's fine reflected both aggravating and mitigating factors. The company did not gain direct economic benefits, which reduced the penalty, but it could have prevented the breach with stronger investment, which made the violation more serious. ([More](#))

### **欧盟：欧盟委员会就DMA如何支持公平和稳定的数字市场和人工智能行业征求意见**

2025年8月27日，欧盟委员会就《数字市场法》（DMA）如何支持公平和稳定的数字市场和人工智能行业征求意见。为此，欧盟委员会于8月26日发布了一份征询证据的公告，其中包含关于DMA的审查流程和7月3日启动的公众咨询的更多信息，以及一份人工智能问卷。本次审查旨在评估DMA在促进公平且具有竞争性的数字市场方面的成效，及其对企业（特别是中小企业）和消费者的影响。同时旨在识别潜在的改进领域，并审视新兴挑战，例如人工智能驱动服务的普及。所收集的反馈将纳入欧盟委员会关于DMA审查的报告，该报告将于2026年5月提交欧洲议会、欧盟理事会及欧洲经济与社会委员会审议。（[查看更多](#)）

### **EU: European Commission Gathers Views on How the DMA Can Support Fair and Contestable Digital Markets and AI Sector**

On August 27, 2025, the European Commission gathered views on how the DMA can support fair and contestable digital markets and AI sector. To this end, the European Commission published a call for evidence on August 26 with additional information on the DMA review process and the public consultation launched on July 3, as well as an AI questionnaire. The review aims to evaluate the DMA's effectiveness in promoting fair and contestable digital markets, its impact on businesses, particularly small and medium sized enterprises (SMEs), and consumers. The goal is also to identify potential areas for improvement, as well as to consider emerging challenges, such as the rollout of AI-powered services. The feedback collected will feed into the Commission's report on the DMA review

to be presented in May 2026 to the European Parliament, the Council and the European Economic and Social Committee. ([More](#))

## 知识产权 Intellectual Property

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### 最高知法庭：未经品种权人许可的销售行为不会导致植物新品种新颖性的丧失

近日，最高人民法院知识产权法庭在（2024）最高法知行终891号判决中认定，未经品种权人许可的销售行为不导致植物新品种新颖性丧失。涉案品种“卡利普索”的权属人为爱某特公司，上诉人陈某芳以该品种在境内外已超期销售为由主张其缺乏新颖性。法院明确指出，只有品种权人（育种者）统一的销售行为，才可能影响新颖性；“未经育种者同意的销售”，即“侵权销售”并不破坏新品种的新颖性，且无需考虑宽限期问题。此外，即便存在相关销售，也仍在法定宽限期内。最终，因陈某芳未能证明存在权人许可的销售且超期，其主张被驳回，维持涉案品种权有效。该案进一步明确了植物新品种新颖性的判定规则，对同类案件具有重要指导意义。

来源：[最高人民法院知识产权法庭](#)

### Supreme Court Intellectual Property Tribunal: Sales Without Breeder's Authorization Do Not Invalidate Novelty of New Plant Varieties

Recently, the Intellectual Property Court of the Supreme People's Court concluded in the judgment (2024) Zui Gao Fa Zhi Xing Zhong No. 891 that the sale of a plant variety without the authorization of the holder does not result in the loss of novelty of the new plant variety. The rights to the variety "Calypso" involved in the case belong to Aimate Company. The appellant, Chen Moufang, argued that the variety lacked novelty due to prolonged sales both domestically and internationally. The court clearly stated that only sales conducted uniformly by the variety rights holder (breeder) may affect novelty, "sales without the breeder's consent," i.e., "infringing sales," do not undermine the novelty of the new variety, and there is no need to consider the grace period. Furthermore, even if relevant sales occurred, they still fell within the statutory grace period. Ultimately, since Chen Moufang failed to prove that there were sales authorized by the rights holder and exceeded the time limit, their claim was dismissed, and the validity of the variety rights was upheld. This case further clarifies the criteria for determining novelty in new plant varieties and sets an important precedent for similar cases.

Source: [the Intellectual Property Court of the Supreme People's Court](#)

### 上海高院：全国首例，网络不正当竞争纠纷的数据权益分配应遵循贡献比例原则

上海市高级人民法院审理了一起关于侵害计算机软件著作权与不正当竞争案。法院表示，在对网络竞争行为进行司法认定时，需综合考量经营者权益、行为性质与目的、损害后果，同时兼顾消费者福利、社会公共利益、商业道德及行业发展等多重因素，对其正当性做出正确评价。



例如，出于系统安全目的而采取白名单等技术的金融软硬件配套产品，符合商业惯例，不构成捆绑销售；但若引导用户冒用第三方软件包名、规避验证并植入插件，则违背诚信原则，构成不正当竞争。此类行为如导致数据分流或客户流失，应承担赔偿责任。在涉及数据权益的案件中，应遵循贡献比例原则，基于数据类型、应用场景、贡献程度及利益平衡等因素，依照现行法律与公平原则进行综合认定。聚合支付平台若未对数据增值作出贡献，不能仅因持有或流通数据而获得竞争性法益。

来源：上海市高级人民法院

### **Shanghai High People's Court: China's First Case, Data Rights Allocation in Cyberspace Unfair Competition Disputes Must Follow Contribution-Based Proportionality Principle**

The Shanghai High People's Court recently adjudicated a case involving copyright infringement of computer software and unfair competition. The court emphasized that when making judicial determinations regarding online competitive conduct, multiple factors must be comprehensively considered, including the rights and interests of business operators, the nature and purpose of the conduct, and the resulting harm. At the same time, factors such as consumer welfare, public interest, business ethics, and industry development should be taken into account to properly evaluate the legitimacy of such behavior. For instance, financial software and hardware products that employ technologies such as allow-lists for system security purposes, in line with commercial practices, do not constitute tied selling. However, if users are induced to misuse the package names of third-party software, circumvent verification, and embed plugins, such acts violate the principle of good faith and constitute unfair competition. If such behavior results in data diversion or customer loss, the responsible party shall bear compensation liability. In cases involving data rights and interests, the principle of proportional contribution should be followed. Determinations must be made based on factors such as the type of data, application scenarios, degree of contribution, and balance of interests, in accordance with existing laws and the principle of fairness. Aggregated payment platforms that contribute no value-added processing to the data cannot claim competitive legal interests solely on the grounds of possessing or circulating such data.

Source: Shanghai High People's Court

### **山西高院：通过非正常批量诉讼进行牟利，应予规制**

山西省高级人民法院审理了某商贸公司诉某电商工作室、王某杰著作权侵权纠纷案，明确通过非正常批量诉讼进行牟利应受到法律的合理规制。某商贸公司被授予“条纹裙子”等摄影作品的著作财产权，该公司发现被告某电商工作室未经许可在网店销售页面使用11张案涉摄影作品做商业宣传，故请求判令被告立即停止侵权行为并赔偿1万元。

法院经审理认定侵权事实成立，但特别指出原告在短期内发起794起诉讼案件，涉诉对象281个。案涉作品通过手机拍摄形成，创作难度小、独创性不高，且未采取权利标识（水印）防止侵权措施，可预见被他人使用风险却待作品被大量使用后通过诉讼谋求高额赔偿。综合考虑

后，法院将赔偿金额酌定为600元，并明确警示权利人应正当行使权利，不得将知识产权异化为牟利工具，体现了司法对维权商业化的合理规制。

来源：山西省高级人民法院

### **Shanxi High People's Court : Profit-Driven Through Abnormal Bulk Litigation Subject to Judicial Sanctions**

The High People's Court of Shanxi Province heard a case concerning a dispute over copyright infringement filed by a trading company against an e-commerce studio and Wang Moujie, clarifying that profiting through abnormal batch litigation should be reasonably regulated by law. The trading company was granted the property rights in the copyrighted works of photographic images such as the "striped dress." Upon discovering that the defendant e-commerce studio had used 11 of the involved photographic works on its online store sales page for commercial promotion without authorization, the company requested a judgement ordering the defendant to immediately cease the infringement and pay compensation of RMB10,000 .

The court found that the infringement was established, but specifically pointed out that the plaintiff had initiated 794 lawsuits in a short period, involving 281 defendants. The works in question were captured using a mobile phone, involving easily creative and a low degree of originality. Moreover, no rights identification measures (such as watermarks) were taken to prevent infringement, and it was foreseeable that the works might be used by others. However, the plaintiff waited until the works were extensively used before seeking high compensation through litigation. After comprehensive consideration, the court determined the compensation at RMB600 and clearly cautioned that rights holders should exercise their rights properly and must not abuse intellectual property rights as tools for profit. This reflects the judiciary's reasonable regulation of the commercialization of rights enforcement.

Source: High People's Court of Shanxi Province

### **青浦法院：“乐高教育”服务商标维权胜诉，判侵权方三倍惩罚性赔偿，赔偿3500万**

上海市青浦区人民法院审理了乐高博士有限公司与多被告侵害商标权及不正当竞争纠纷案。本案中各被告在服务中心门店招牌、营业场所及广告宣传中使用“乐高”“LEGO”等标识，超出了商标指示性使用的必要范围，并非仅为说明教具来源，实际起到了标识服务来源的作用，易导致消费者混淆，构成侵权。而被告上海超峰公司辩称已获授权，但未提交开设“乐高活动中心”的许可合同或乐高教具采购证据，其与案外公司签订的《专校代理合同》实为教具销售合同，明确禁止误导性使用“乐高”品牌开展宣传及招生活动，且合同已于2020年2月到期，销售区域也仅限于广州番禺区。被告早在2016年已多次明确承诺禁止加盟商使用原告权利商标，却持续扩大侵权规模，存在侵权主观故意。法院认定其侵权获利计算方式为：单店加盟费中除1万元押金外，其余12万元均为侵权所得，结合全国200家加盟门店数量，赔偿基数为2400万元，并适用三倍惩罚性赔偿，共计9600万元，最终全额支持原告诉请的3500万元。

来源：上海市青浦区人民法院

## **Qingpu District People's Court : “LEGO Education” Service Trademark Holder Wins Infringement Case, Defendant Ordered to Pay Triple Punitive Damages of RMB 35 Million**

The Qingpu District People's Court of Shanghai heard a case involving trademark infringement and unfair competition dispute between LEGO Juris A/S and multiple defendants. In this case, the defendants used marks such as “乐高” (LEGO) and “LEGO” on store signs, business premises, and promotional materials at their service centers. Such usage exceeded the necessary scope of referential trademark use and was not merely for indicating the source of the educational materials. Instead, it actually worked to identify the source of services, likely causing consumer confusion and constituting infringement. The defendant, Shanghai Chaofeng Company, argued that it had obtained authorization but failed to submit any licensing contract for operating “LEGO Activity Centers” or evidence of purchasing LEGO educational materials. Its “Exclusive School Agency Contract” with an external company was, in fact, a sales contract for educational materials, which explicitly prohibited misleading usage of the “LEGO” brand for promotional and student recruitment activities. Moreover, the contract had expired in February 2020, and the sales region was limited to Panyu District, Guangzhou. As early as 2016, the defendant had repeatedly made explicit commitments prohibiting franchisees from using the plaintiff's trademark rights, yet it continued to expand the scale of infringement, demonstrating subjective intent to infringe. The court determined the calculation method for the defendant's illegal gains as follows: aside from a RMB10,000 deposit, the remaining RMB120,000 from each franchise fee was considered profit derived from infringement. Based on the number of 200 franchise stores nationwide, the compensation base amount was set at RMB24 million. Applying triple punitive damages, the total compensation reached ¥96 million. Ultimately, the court fully supported the plaintiff's claim for RMB35 million in compensation.

Source: Qingpu District People's Court of Shanghai

## **青岛中院：游戏玩家将人工智能生成视频发布并销售，侵犯著作权**

山东省青岛市中级人民法院审理了一起“游戏动画编辑器”著作权侵权案。本案系涉人工智能生成视频技术的新类型著作权典型案例。网某（杭州）网络有限公司是《逆水寒》游戏及其内置《大宋映画编辑器》的著作权人，该编辑器是玩家利用游戏素材进行二次创作的智能视频生成工具。杨某航将其他80名玩家通过该编辑器创作的144部视频发布于其抖音账号并进行销售。网某（杭州）网络有限公司认为杨某航上述行为侵害其涉案作品著作权，请求法院判令杨某航赔偿经济损失。

法院经审理认为，这些视频具有一定创作高度，属于著作权法意义上的视听作品。相关游戏玩家使用《大宋映画编辑器》调取网某（杭州）网络有限公司预创素材自动生成的涉案视听作品并未超出《逆水寒》游戏设置的画面，且根据网某公司与玩家签订的合作协议，相关作品的著作权归属于公司所有。杨某航擅自发布和销售涉案视频，构成著作权侵权，最终被判赔偿经济损失50万元。该案明确了利用游戏编辑器进行二次创作生成的作品类型及权利归属，有助于规范网络游戏市场秩序，促进文化产业健康发展，体现了司法对人工智能与数字经济的保障作用。

来源：山东省高级人民法院

## **Qingdao Intermediate People's Court : Gamers Release and Sale AI-Generated Videos Infringing Copyright**

The Qingdao Intermediate People's Court of Shandong Province heard a copyright infringement case concerning a "game animation editor." This case represents a landmark copyright dispute involving AI-generated video technology. Wangyi (Hangzhou) Network Co., Ltd. is the copyright owner of the game (逆水寒) and its built-in (大宋映画编辑器), an intelligent video generation tool that enables players to create derivative works using in-game assets. Yang Mouhang published and sold 144 videos created by 80 other players using this editor on his Douyin account. Wangyi (Hangzhou) Network Co., Ltd. argued that Yang's actions infringed its copyright in the relevant works and sought compensation.

The court held that these videos exhibited a sufficient degree of originality to qualify as audiovisual works under the Copyright Law. The players' use “大宋映画编辑器” of the to automatically generate the disputed audiovisual works by drawing on pre-created materials provided by Wangyi (Hangzhou) Network Co., Ltd. did not exceed the visual framework set by the game. Moreover, according to the cooperation agreement between Wangyi and the players, the copyright in such works belonged to the company. By publishing and selling the videos without authorization, Yang Mouhang committed copyright infringement and was ultimately ordered to pay compensation of RMB500,000 for economic damage. This case clarifies the types of works generated through derivative creation using game editors and their ownership of rights, contributing to the standardization of the online gaming market order, promoting the healthy development of the cultural industry, and reflecting the judiciary's role in safeguarding artificial intelligence and the digital economy.

Source: Shandong High People's Court

## **特朗普签署行政令，以“国家安全”为由改革专利局**

2025年8月28日，特朗普政府签署《进一步排除在联邦劳资关系计划之外》行政令，以“国家安全”为由将美国专利商标局（USPTO）和下属单位纳入国家安全范畴，并直接废除了其工会（POPA），该命令立即生效。此举为下一步撤销专利局工会支持的集体谈判协议铺平了道路，该协议此前保障了96%职员的远程办公权益。行政令可能彻底结束专利审查员长达20多年的远程办公模式，导致部分审查员因通勤不便离职，加剧专利审查积压。有评论认为，这可能是美国专利制度转向“注册制”的伏笔，同时引发对中国实体在美专利可能面临区别对待的担忧，尤其被列入“实体清单”的企业或受“国家安全”理由影响。

来源：The WHITE HOUSE

## **Trump Signs Executive Order to Overhaul Patent Office Citing National Security Concerns**

On August 28, 2025, the Trump administration signed the executive order "Further Exclusions from the Federal Labor-Management Relations Program," designating the United States Patent and Trademark Office (USPTO) and its subordinate units as part of the national security framework on grounds of



"national security," and directly abolished its union (POPA). The order took effect immediately. This move paves the way for the subsequent revocation of the collective bargaining agreement supported by the patent office union, which previously guaranteed remote work rights for 96% of its employees. The executive order may completely end the over-two-decade-old remote work model for patent examiners, leading some examiners to resign due to commuting inconveniences and exacerbating the backlog of patent applications. Some commentators suggest that this could foreshadow a shift toward a "registration-based system" in the U.S. patent regime, while also raising concerns that Chinese entities may face discriminatory treatment regarding their patents in the United States, particularly those listed on the "Entity List" that might be affected under the pretext of "national security."

Source: the WHITE HOUSE

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 [www.lifanglaw.com](http://www.lifanglaw.com)

 Email: [info@lifanglaw.com](mailto:info@lifanglaw.com)

 Tel: +86 10 64096099

 Fax: +86 10 64096260/64096261