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Weekly News By Lifang & Partners

NO.154

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立方竞争法周报 Weekly Competition Law News

市场监管总局发布山西省建设监理协会垄断协议案行政处罚决定书

2026年3月13日，国家市场监督管理总局（“**市场监管总局**”）发布山西省建设监理协会垄断协议案行政处罚决定书。山西省市场监督管理局（“**山西局**”）于2021年1月对山西省建设监理协会（下称“**当事人**”）涉嫌垄断协议行为立案调查。经查，2018年当事人主导制定了《山西省工程监理服务计费规则》，其内容包括统一价格水平和变动幅度、制定保障价格运行的条款；山西局认为当事人制定规则、组织会议通过并公开发布的行为违反了修改前的《反垄断法》第十六条“行业协会不得组织本行业的经营者从事本章禁止的垄断行为”的规定，构成“组织本行业的经营者达成垄断协议”的违法行为。因此，2026年3月，山西局根据修改前的《反垄断法》第四十六条等的规定对当事人处以罚款20万元。（查看更多）

SAMR Issues Administrative Penalty Decision in the Monopoly Agreement Case Involving the Shanxi Construction Supervision Association

On March 13, 2026, the State Administration for Market Regulation (“**the SAMR**”) released the administrative penalty decision in the monopoly agreement case concerning the Shanxi Construction Supervision Association. In January 2021, the Shanxi Administration for Market Regulation (“**Shanxi AMR**”) initiated an investigation into the Association (“**the party**”) for suspected involvement in a monopoly agreement. The investigation found that, in 2018, the party took the lead in formulating the Shanxi Province Engineering Supervision Service Fee Rules, which included provisions on setting uniform pricing levels and adjustment ranges, as well as clauses to ensure the implementation of such pricing. The Shanxi AMR determined that the party’s conduct such as formulating the said rules, organizing meetings to adopt them, and publicly issuing them violated Article 16 of *the Anti-Monopoly Law* (pre-amendment), which provides that “industry associations shall not organize undertakings in their sector to engage in monopolistic conduct prohibited under the law”, and such conduct constituted organizing undertakings within the industry to reach a monopoly agreement. Accordingly, in March 2026, the Shanxi AMR imposed a fine of RMB 200,000 on the Party pursuant to Article 46 of *the Anti-Monopoly Law* (pre-amendment) and other relevant provisions. (More)

市场监管系统深入推进反垄断柔性执法，2025年制发提醒敦促函2951件

2026年3月13日，法治网发布文章，公布2025年市场监管系统反垄断柔性执法相关工作情况。2025年，我国市场监管系统深入贯彻落实反垄断法和《国务院办公厅关于严格规范涉企行政检查的意见》，积极采用柔性执法方式，在反垄断和公平竞争审查工作中制发提醒敦促函2951件、约谈通知书268件。相关柔性执法行为聚焦平台经济等重点领域，同时覆盖滥用行政权力排除限制竞争、公平竞争审查工作等，涉及贵州省、陕西省、广西壮族自治区、上海市某区、浙江省某县等多地、多级市场监管部门。（查看更多）

Market Regulation Authorities Advance Flexible Antitrust Enforcement, Issuing 2,951 Reminder and Urging Letters in 2025

On March 13, 2026, *Legal Daily* published an article outlining the progress of flexible antitrust enforcement by China's market regulation authorities in 2025. During 2025, the authorities thoroughly implemented *the Anti-Monopoly Law* and the *Opinions of the General Office of the State Council on Strictly Regulating Administrative Inspections Involving Enterprises*, and actively adopted flexible enforcement approaches. In total, 2,951 reminder and urging letters and 268 interview notices were issued in the context of antitrust enforcement and fair competition review. These flexible measures focused on key areas such as the platform economy, while also covering issues including abuse of administrative power to eliminate or restrict competition and fair competition review work; the enforcement actions also involved market regulation authorities at multiple levels across various regions, including Guizhou Province, Shaanxi Province, Guangxi Zhuang Autonomous Region, certain district in Shanghai, and certain county in Zhejiang Province. (More)

最高检发布《公益诉讼检察工作白皮书（2025）》，2025年全国检察机关办理反垄断领域案件31件

2026年3月10日，最高人民检察院（“**最高检**”）发布《公益诉讼检察白皮书（2025）》。2025年，全国检察机关办理反垄断领域案件31件。在服务全国统一大市场建设方面，最高检与市场监督管理总局加强沟通协作，共同研究反垄断协作与法律适用问题。各级检察机关重点督促纠治企业滥用市场支配地位或通过垄断协议实行不公平高价、捆绑销售等问题，持续加大反垄断监督力度。陕西省检察院与省反垄断局建立协同机制。山东省检察院针对诸城市20余家具有竞争关系的机动车检测公司实施的垄断行为，监督市场监督管理部门查处并消除垄断行为。湖北省武汉市检察院对某医药公司实施垄断行为提起民事公益诉讼，督促该公司停止滥用市场支配地位行为，并支付200万元现金、500万元药品赔偿公益损失。（查看更多）

SPP Releases 2025 White Paper on Public Interest Litigation by Procuratorial Authorities, in 2025 the Procuratorates Nationwide Handled 31 Cases of Antitrust Field

On March 10, 2026, the Supreme People's Procuratorate (“**SPP**”) issued the 2025 White Paper on Public Interest Litigation by Procuratorial Authorities. In 2025, procuratorial authorities nationwide handled 31 cases in the antitrust field. In supporting the development of a unified national market, the SPP strengthened communication and coordination with the SAMR, jointly studying issues related to antitrust cooperation and the application of laws. Procuratorates at all levels focused on supervising and rectifying conduct such as the abuse of market dominance by enterprises and the implementation of unfairly high pricing and tying arrangements through monopoly agreements, continuously intensifying antitrust supervision. The Shaanxi Provincial Procuratorate established a coordination mechanism with the provincial anti-monopoly authority. The Shandong Provincial Procuratorate supervised market regulation authorities in investigating and eliminating monopolistic conduct by more than 20 competing motor vehicle inspection companies in Zhucheng City. The Wuhan Municipal Procuratorate in Hubei Province initiated a civil public interest lawsuit against a pharmaceutical company for monopolistic conduct, urging it to cease abuse of market dominance and to compensate for public welfare losses by paying RMB 2 million in cash and providing pharmaceutical products valued at RMB 5 million. (More)

呼和浩特强化刚性约束筑牢公平竞争市场防线

2026年3月10日，市场监管总局转载题为“呼和浩特强化刚性约束筑牢公平竞争市场防线”的文章，宣传呼和浩特市市场监管局公平竞争审查领域的工作情况。2025年以来，内蒙古自治区呼和浩特市市场监管局主动作为，通过制定规范的审查指南、严格把关增量政策措施、深入开展存量文件清理等一系列举措，将公平竞争审查工作做深做实，为全市经济社会高质量发展营造更加公平、开放、有序的市场环境。2025年，该局全年共会同审查新增政策措施142件，其中修改调整了37件妨碍公平竞争的政策措施；引入第三方评估机制，对全市2019年至2024年的存量文件开展专项清理，共清理文件13059件，其中政策性文件、规范性文件4544件，涉及经营者经济活动的文件2053件。（查看更多）

Hohhot Strengthens Rigid Constraints to Safeguard Fair Competition

On March 10, 2026, the SAMR reposted an article titled “Hohhot Strengthens Rigid Constraints to Safeguard Fair Competition,” highlighting the work of the Hohhot Administration for Market Regulation (“**the Hohhot AMR**”) in the field of fair competition review. Since 2025, the the Hohhot AMR of the Inner Mongolia Autonomous Region, has taken proactive measures to deepen and solidify fair competition review work, including formulating standardized review guidelines, strictly scrutinizing newly introduced policy measures, and carrying out comprehensive clean-up of existing policy documents; such efforts aim to foster a more fair, open, and orderly market environment to support high-quality economic and social development. In 2025, the Hohhot AMR reviewed a total of 142 newly introduced policy measures, of which 37 were amended or adjusted due to the obstruction of fair competition. It also introduced a third-party evaluation mechanism and conducted a special review of existing policy documents issued between 2019 and 2024, examining 13,059 documents in total; among these, 4,544 were policy or normative documents, and 2,053 involved business operators’ economic activities. (More)

最高人民法院工作报告发布，2025年人民法院认定构成垄断案件27件，全面行使司法管辖权

2026年3月9日，十四届全国人大四次会议在北京人民大会堂举行第二次全体会议，最高人民法院院长张军作最高人民法院工作报告。在恪守公平正义，以高质量司法服务高质量发展方面，2025年人民法院助力整治“内卷式”竞争，强化反垄断和反不正当竞争司法，认定构成垄断案件27件；审理两大电商企业“二选一”滥用市场支配地位案，引导双方互联互利、共促消费。在恪守公平正义，以高质量司法助力高水平开放方面，2025年人民法院全面行使司法管辖权，某运营专利外国企业被诉滥用市场支配地位、影响我国市场竞争秩序，某境外上市公司虚假陈述、损害我国投资者利益，我国法院分别适用反垄断法、证券法等法律的域外效力条款进行管辖。（查看更多）

SPC Work Report Released: in 2025 Courts Found 27 Monopoly Cases and Fully Exercised Jurisdiction

On March 9, 2026, the Second Plenary Session of the Fourth Session of the 14th National People's Congress was held at the Great Hall of the People in Beijing, where ZHANG Jun, President of the Supreme People's Court ("**SPC**"), delivered the SPC Work Report ("**the Report**"). In upholding fairness and justice and serving high-quality development through high-quality adjudication, the Report noted that in 2025, people's courts contributed to addressing "rat-race" competition, strengthened antitrust and anti-unfair competition adjudication, and found the establishment of monopolistic conduct in 27 cases; adjudicated the "either-or" exclusivity case involving two major e-commerce platforms, guiding the parties toward interoperability and mutual benefit, and realizing the joint promotion of consumption. In terms of supporting high-level opening-up through high-quality judicial services, the Report emphasized that in 2025, Chinese courts fully exercised jurisdiction: in cases involving a patent-operating foreign company accused of abusing its dominant market position and affecting the competition order in China, as well as an overseas-listed company accused of misrepresentation that harmed the interests of Chinese investors, the Chinese courts asserted jurisdiction by applying the extraterritorial provisions of *the Anti-Monopoly Law* and *the Securities Law*. (More)

最高检工作报告：加强反垄断和反不正当竞争检察履职

2026年3月9日，十四届全国人大四次会议在北京人民大会堂举行第二次全体会议，最高人民检察院检察长应勇作最高人民检察院工作报告。在完整准确全面贯彻新发展理念，服务高质量发展方面，2025年全国检察机关加强反垄断和反不正当竞争检察履职，办理相关公益诉讼157件，服务全国统一大市场建设。2026年，全国检察机关将更好服务高质量发展和高水平安全，强化反垄断和反不正当竞争司法。加强生态环境、涉农、海事、涉外检察工作。（查看更多）

SPP Work Report: Strengthening Procuratorial Functions in Antitrust and Anti-Unfair Competition

On March 9, 2026, at the Second Plenary Session of the Fourth Session of the 14th National People's Congress was held at the Great Hall of the People in Beijing, YING Yong, Procurator-General of the Supreme People's Procuratorate ("**SPP**"), delivered the SPP Work Report ("**the Report**"). In fully and accurately implementing the new development philosophy and serving high-quality development, the Report stated that in 2025, procuratorial authorities nationwide strengthened their functions in antitrust and anti-unfair competition enforcement, handling 157 relevant public interest litigation cases and contributing to the development of a unified national market. In 2026, procuratorial authorities nationwide will further support high-quality development and high-level security by reinforcing judicial efforts in anti-monopoly and anti-unfair competition, while also strengthening work in areas such as ecological and environmental protection, agriculture-related matters, maritime issues, and foreign-related procuratorial functions. (More)

美国司法部与理想国演艺集团就反垄断诉讼达成和解

2026年3月9日，据媒体报道，理想国演艺（Live Nation）已与美国司法部达成和解协议，以解决有关其在现场演出票务行业中占据支配地位、抑制竞争并损害消费者利益的指控。根据和解协议条款，理想国演艺将向对其商业行为提起法律诉讼的40个州支付总额为2.8亿美元的民事罚金，并出售其拥有的若干露天剧场以作为针对其市场力量的担忧的整改措施之一。此外，子公司票务大师（Ticketmaster）还被要求开放其部分技术基础设施，使其他票务销售商能够利用该

平台触达消费者。监管机构长期以来一直主张该公司对票务系统的控制限制了竞争对手在市场中有效竞争的能力，并在2024年提起反垄断诉讼，指控理想国演艺对演唱会推广和票务服务的控制违反反垄断法。（查看更多）

Live Nation Reaches Settlement with U.S. Department of Justice over Antitrust Allegations in Live Event Ticketing Industry

On March 9, 2026, according to media reports, Live Nation has reached a settlement agreement with the U.S. Department of Justice to resolve allegations that its dominant position in the live event ticketing industry suppressed competition and harmed consumers. Under the terms of the settlement, Live Nation will pay a total of USD 280 million in civil penalties to 40 states that brought legal actions against the company in relation to its business practices, and will divest several of its amphitheaters as part of efforts to address concerns regarding its market power. In addition, its subsidiary Ticketmaster will be required to open certain components of its technology infrastructure to enable other ticket sellers to access customers through the platform. Regulators have long argued that the company's control over ticketing systems has constrained competitors' ability to compete effectively in the market, and in 2024 initiated antitrust proceedings alleging that Live Nation's control over concert promotion and ticketing services violated antitrust laws. (More)

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

《中华人民共和国国民经济和社会发展第十五个五年规划纲要》全文发布

2026年3月13日，《中华人民共和国国民经济和社会发展第十五个五年规划纲要》（以下简称《纲要》）全文发布，共计十八篇六十二章。《纲要》明确，要统筹布局、有序建设算力设施，推进算力资源规模化、集约化、绿色化、普惠化发展。加快国家枢纽算力设施集群建设，支持有条件地区根据低时延场景需求适度发展算力，推进云边端协同发展。《纲要》指出，要加快突破人工智能基础理论和核心技术，推进人工智能模型架构改进、算法优化，强化“模芯云用”协同创新。《纲要》强调，构建国家数据资源体系，健全数据资源统计调查制度，建立全国数据资源“一本账”。（查看更多）

Full Text of the *Outline of the 15th Five-Year Plan for National Economic and Social Development of the People's Republic of China* Released

On March 13, 2026, the full text of the *Outline of the 15th Five-Year Plan for National Economic and Social Development of the People's Republic of China* (Outline) was released, consisting of eighteen parts and sixty-two chapters. The Outline clarifies that efforts shall be made to make coordinated plans and orderly develop computing power infrastructure, and promote the large-scale, intensive, green and inclusive development of computing power resources. It calls for accelerating the construction of national hub computing power infrastructure clusters, supporting qualified regions to appropriately develop computing power in line with the demand for low-latency scenarios, and advancing the coordinated development of cloud, edge and end devices. The Outline points out that efforts shall be made to accel-

erate breakthroughs in basic theories and core technologies of artificial intelligence, advance the improvement of artificial intelligence model architecture and algorithm optimization, and strengthen the collaborative innovation of "models, chips, cloud and applications". The Outline emphasizes the need to build a national data resource system, improve the statistical survey system for data resources, and establish a unified national inventory of data resources. (More)

工信部通报24款App及SDK存在侵害用户权益行为

2026年3月13日，工业和信息化部（以下简称“工信部”）经组织第三方检测机构进行抽查，通报了24款App及SDK存在侵害用户权益行为，所涉问题包括：（1）违规收集个人信息；（2）超范围收集个人信息；（3）欺骗误导用户提供个人信息；（4）App强制、频繁、过度索取权限；（5）App频繁自启动和关联启动；（6）违规提供自动续费服务；（7）信息窗口乱跳转；（8）信息窗口无法关闭；（9）SDK信息公示不到位。所涉App及SDK应按有关规定进行整改，整改落实不到位的，工信部将依法依规组织开展相关处置工作。（查看更多）

MIIT Circulates Notice on 24 Apps and SDKs Infringing upon Users' Legitimate Rights and Interests

On March 13, 2026, the Ministry of Industry and Information Technology (MIIT) organized random inspections by third-party testing institutions and issued a circular on 24 Apps and SDKs that committed acts infringing upon users' legitimate rights and interests. The problems involved include: (1) Illegal collection of personal information. (2) Over-collection of personal information. (3) Deceiving and misleading users into providing personal information. (4) Forced, frequent and excessive permission requests by Apps. (5) Frequent self-launch and associated launch of Apps. (6) Illegal provision of automatic renewal services. (7) Abnormal redirection of information windows. (8) Unclosable information windows. (9) Insufficient public disclosure of SDK information. The involved Apps and SDKs shall conduct rectification in accordance with relevant provisions. For those that fail to properly implement rectification, the MIIT will organize relevant disposal measures in accordance with laws and regulations. (More)

国家网信办发布深度合成服务算法备案信息的公告

2026年3月12日，国家互联网信息办公室（以下简称“国家网信办”）发布了第十六批境内深度合成服务算法备案信息。《互联网信息服务深度合成管理规定》第十九条明确规定，具有舆论属性或者社会动员能力的深度合成服务提供者，应当按照《互联网信息服务算法推荐管理规定》履行备案和变更、注销备案手续。深度合成服务技术支持者应当参照履行备案和变更、注销备案手续。尚未履行备案手续的深度合成服务提供者和技术支持者应当尽快申请备案。（查看更多）

CAC Issues Announcement on Filing Information of Deep Synthesis Service Algorithms

On March 12, 2026, the Cyberspace Administration of China (CAC) released the 16th batch of filing information for domestic deep synthesis service algorithms. Article 19 of the *Provisions on the Admin-*

istration of Deep Synthesis of Internet Information Services clearly stipulates that deep synthesis service providers with public opinion attributes or social mobilization capabilities shall go through the procedures for filing, modification and cancellation of filing in accordance with the *Provisions on the Administration of Internet Information Service Algorithm Recommendation*. Technical supporters of deep synthesis services shall perform the procedures for filing, modification and cancellation of filing with reference to the aforesaid provisions. Deep synthesis service providers and technical supporters that have not yet completed the filing procedures shall apply for filing as soon as possible. (More)

国家互联网应急中心发布 OpenClaw 应用安全风险提示

2026年3月10日，国家互联网应急中心发布了OpenClaw应用安全风险提示。此款智能体软件依据自然语言指令直接操控计算机完成相关操作。 前期，由于OpenClaw智能体的不当安装和使用，已经出现了一些严重的安全风险：（1）“提示词注入”风险。网络攻击者通过在网页中构造隐藏的恶意指令，诱导OpenClaw读取该网页，就可能导致其被诱导将用户系统密钥泄露。（2）“误操作”风险。由于错误的理解用户操作指令和意图，OpenClaw可能会将电子邮件、核心生产数据等重要信息彻底删除。（3）功能插件（skills）投毒风险。多个适用于OpenClaw的功能插件已被确认为恶意插件或存在潜在的安全风险，安装后可执行窃取密钥、部署木马后门软件等恶意操作，使得设备沦为“肉鸡”。（4）安全漏洞风险。截止目前，OpenClaw已经公开曝出多个高中危漏洞，一旦这些漏洞被网络攻击者恶意利用，则可能导致系统被控、隐私信息和敏感数据泄露的严重后果。（查看更多）

National Internet Emergency Center Issues Security Risk Alert for OpenClaw Application

On March 10, 2026, the National Internet Emergency Center issued a security risk alert for the OpenClaw application. This agent software directly controls a computer to perform relevant operations based on natural language instructions. Previously, due to improper installation and use of the OpenClaw agent, several serious security risks have emerged: (1) Risk of “prompt injection”. By constructing hidden malicious instructions in a webpage and inducing OpenClaw to read the webpage, cyber attackers may cause OpenClaw to be manipulated into leaking users’ system keys. (2) Risk of “misoperation”. Due to misinterpreting users’ operational instructions and intentions, OpenClaw may permanently delete important information such as emails and core production data. (3) Risk of skills poisoning. Multiple skills designed for OpenClaw have been identified as malicious or carrying potential security risks. Once installed, they can perform malicious operations such as stealing keys and deploying Trojan horse backdoor software, turning devices into “bots”. (4) Risk of security vulnerabilities. To date, multiple high and medium-severity vulnerabilities have been publicly disclosed in OpenClaw. If maliciously exploited by cyber attackers, these vulnerabilities could lead to serious consequences including system takeover and leakage of private and sensitive data. (More)

西安市网信办通报一批涉网络安全、数据安全典型案例

2026年3月13日，西安市网信办通报了一批涉网络安全、数据安全典型案例：（1）某公司未履行数据安全保护义务，相关系统上线调试中未采取必要措施保障数据安全，导致未授权访问漏洞被境外恶意地址攻击，数据存在泄露隐患。有关部门依法对该公司法定代表人进行执

法约谈，责令限期改正，依据《数据安全法》对该公司作出警告并处罚款的行政处罚。（2）某公司未履行网络安全保护义务，其名下网站到期后未及时办理域名注销手续，导致域名被盗用，网站被恶意篡改为涉赌违法网站，扰乱网络信息传播秩序。有关部门依法对该公司法定代表人进行执法约谈，依据《网络安全法》对该公司作出警告的行政处罚，目前该网站已被依法关闭。（3）某公司未履行网络安全保护义务，网站服务器存在弱口令漏洞，导致网站遭受非法攻击，并被植入涉赌违法及博彩类不良信息，扰乱网络信息传播秩序。有关部门依法对该公司法定代表人进行执法约谈，责令限期改正，依据《网络安全法》对该公司作出警告的行政处罚。（查看更多）

Xi'an Cyberspace Administration Releases Typical Cases Involving Cybersecurity and Data Security

On March 13, 2026, the Xi'an Cyberspace Administration released a batch of typical cases involving cybersecurity and data security: (1) A certain company failed to fulfill its data security protection obligations. It failed to take necessary measures to ensure data security during the online commissioning of its relevant systems, resulting in an unauthorized access vulnerability that was attacked by overseas malicious addresses, posing a hidden danger of data leakage. Relevant authorities conducted an enforcement interview with the legal representative of the company in accordance with the law, ordered it to make corrections within a time limit, and imposed an administrative penalty of warning and a fine on the company in accordance with the *Data Security Law of the People's Republic of China.* (2) A certain company failed to fulfill its cybersecurity protection obligations. After the validity of its website domain name expired, it failed to go through the domain name cancellation procedures in a timely manner, leading to the domain name being hijacked. The website was maliciously tampered with to become an illegal gambling website, disrupting the order of network information dissemination. Relevant authorities conducted an enforcement interview with the legal representative of the company in accordance with the law and imposed an administrative penalty of warning on the company in accordance with the *Cybersecurity Law of the People's Republic of China*. The website has now been closed in accordance with the law. (3) A certain company failed to fulfill its cybersecurity protection obligations. The website server had a weak password vulnerability, resulting in the website being subjected to illegal attacks and implanted with illegal gambling and bad information, disrupting the order of network information dissemination. Relevant authorities conducted an enforcement interview with the legal representative of the company in accordance with the law, ordered it to make corrections within a time limit, and imposed an administrative penalty of warning on the company in accordance with the *Cybersecurity Law of the People's Republic of China.* (More)

欧盟：EDPB和EDPS就欧盟委员会《欧洲生物技术法案提案》通过了联合意见

2026年3月12日，欧洲数据保护委员会（EDPB）和欧洲数据保护监督局（EDPS）就欧盟委员会《欧洲生物技术法案提案》（以下简称《提案》）通过了联合意见。《提案》旨在通过简化监管框架和更新临床试验规则，加强欧洲在健康领域的生物技术和生物制造产业。EDPB和EDPS支持《提案》促进欧盟竞争力和解决《临床试验法规》（CTR）适用中现有碎片化问题的目标。特别是，他们对《提案》旨在为申办者和研究者处理个人数据建立单一法律依据表示欢迎，这将显著改善整个欧洲的法律明确性。同时，EDPB和EDPS强调，在临床试验背景

下处理的医疗和遗传数据的敏感性需要高标准的保护。《提案》提出了若干建议，以确保拟议的简化措施不会降低对临床试验参与者的保护水平。（查看更多）

EU: EDPB and EDPS Adopt Joint Opinion on the *European Commission's Proposal for a European Biotech Act*

On March 12, 2026, the European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS) adopted a joint opinion on *European Commission's Proposal for a European Biotech Act (Proposal)*. The Proposal aims to strengthen Europe's biotechnology and biomanufacturing sectors, particularly in the area of health, by streamlining the regulatory framework and updating the rules for clinical trials. The EDPB and the EDPS support the Proposal's objective of fostering the EU's competitiveness and addressing existing fragmentation in the application of the Clinical Trials Regulation (CTR). In particular, they welcome the aim to establish a single legal basis for the processing of personal data by sponsors and investigators, which will significantly improve legal clarity across Europe. At the same time, the EDPB and the EDPS underline that the sensitivity of health and genetic data processed in the context of clinical trials requires a high standard of protection. The Proposal provides several recommendations to ensure that the proposed simplifications do not lower the level of protection for clinical trial participants. (More)

欧盟：欧盟委员会发布《人工智能生成内容标记与标签实务守则》第二稿

2026年3月13日，欧盟委员会发布了《人工智能生成内容标记与标签实务守则》第二稿。为帮助提供者和部署者履行《人工智能法案》第五十条项下关于人工智能生成内容标记与标签的要求，欧盟委员会正推动制定一份自愿性实务守则。本第二稿由独立专家起草，整合了数百名参与者和观察员的书面反馈意见，包括产业界、学术界、公民社会及其他利益相关方。反馈意见通过欧盟调查问卷以及2026年1月举行的利益相关方会议和研讨会收集，作为实务守则起草流程的一部分。该草案还纳入了成员国（通过人工智能委员会提交）和欧洲议会议员（由监督《人工智能法案》实施的市场委员会与公民自由、司法与内政事务委员会联合工作组代表）的贡献。该草案最新稿已进行精简和简化，为签署方提供更多灵活性，减轻合规负担，并纳入进一步的技术考量以提升法律明确性和实用性。该守则提倡使用人工智能内容标记的开放标准以及欧盟标签图标，以简化合规流程并降低成本。（查看更多）

EU: European Commission publishes second draft of *Code of Practice on Marking and Labelling of AI-generated Content*

On March 13, 2026, the European Commission released the second draft of *Code of Practice on Marking and Labelling of AI-generated Content*. To help providers and deployers meet the marking and labelling requirements for AI generated content under Article 50 AI Act, the Commission is facilitating the development of a voluntary code of practice. This second version, drafted by independent experts, integrates written feedback from hundreds of participants and observers, including industry, academia, civil society and other stakeholders. The feedback was gathered through an EU survey, stakeholder meetings and workshops held in January 2026, as part of the code of practice drafting process. The draft also incorporates contributions from Member States (submitted via the AI Board) and Members of the European Parliament (represented in the IMCO-LIBE Working group monitoring the *AI Act* implemen-

tation). The draft of the code has been streamlined and simplified, providing more flexibility for the signatories, reducing the compliance burden and incorporating further technical considerations to improve legal clarity and practicality. It promotes the use of open standards for AI content marking and an EU icon for labelling to simplify compliance and reduce costs. (More)

知识产权 Intellectual Property

最高法：再审改判“JPRS”案，认定通用术语描述性使用不侵权

近日，最高人民法院再审审结一起涉“JPRS”商标侵权及不正当竞争纠纷案，改判认定被告对行业通用术语的使用属于描述性使用，不构成商标侵权。

法院查明，原告海润公司系“JPRS”注册商标权利人。在涉案商标申请注册前，“JPRS保温板”已被海润公司及山东标准化协会等单位写入多项企业标准和团体标准，作为描述特定挤塑工艺保温板产品的术语在行业内广泛使用。被告欧克斯公司在产品上标注“欧科JPRS保温板”字样，并同时使用其自有商标“欧科”。

法院认为，判断是否构成商标性使用，应以相关公众是否会将其识别为商品来源为标准。本案中，“JPRS保温板”在商标注册前已成为行业通用术语，不唯一指向海润公司。欧克斯公司使用该字样系对产品工艺特点的描述，且字体颜色无显著突出，并标注了自有商标，无攀附恶意，不会导致来源混淆，属于《商标法》第五十九条规定的正当描述性使用。商标权人无权垄断已在行业内通用化的商业标志。

据此，最高人民法院再审判决撤销一、二审判决，驳回海润公司全部诉讼请求。

来源：最高人民法院

Supreme People's Court: Retrial Overturning “JPRS” Case, Finding Descriptive Use of Generic Term Does Not Constitute Trademark Infringement

Recently, SPC concluded a retrial of a dispute involving trademark infringement and unfair competition concerning “JPRS,” and reversed the previous judgments, ruling that the defendant’s use of an industry generic term constituted descriptive use and did not amount to trademark infringement.

The court found that the plaintiff, Hairun Company, was the owner of the registered trademark “JPRS.” Prior to the filing of the application for registration of the trademark in question, “JPRS insulation board” had already been incorporated into multiple enterprise standards and association standards by entities including Hairun Company and the Shandong Standardization Association, and was widely used within the industry as a term describing a specific extruded insulation board product. The defendant, Oukes Company, marked its products with the wording “Ouke JPRS insulation board” while also using its own trademark “Ouke.”

The court held that whether a use constitutes trademark use shall be determined based on whether the relevant public would recognize it as an indication of source. In this case, "JPRS insulation board" had become a generic term in the industry prior to the registration of the trademark and did not uniquely point to Hairun Company. Oukes Company's use of such wording was a description of the technical characteristics of the product; the font and color were not prominently highlighted; the company also affixed its own trademark; there was no bad faith intention to free-ride; and such use would not cause confusion as to the source. Therefore, the use fell under the permissible descriptive use as provided in Article 59 of the Trademark Law. The trademark owner is not entitled to monopolize a commercial sign that has become generic within the industry.

Accordingly, SPC rendered a retrial judgment revoking the first-instance and second-instance judgments and dismissing all of Hairun Company's claims.

Source: SPC

北京高院：维持“奔富酒园”7056万惩罚性赔偿，违法减资股东被判补充担责

近日，北京市高级人民法院审结一起侵害商标权及不正当竞争纠纷上诉案，认定多家被告共同侵权且情节严重，适用二倍惩罚性赔偿，并判决违法减资股东承担补充赔偿责任。

法院查明，原告南社布兰兹公司系“奔富”等商标权利人。自2011年起，东方明日公司等三被告通过交叉持股、人员交叉任职、相互许可使用商标等方式分工合作，共同经营“奔富酒园/RUSHRICH”葡萄酒品牌，在产品及宣传中大量使用与“奔富”近似的标识，持续侵权长达十余年，销售规模逾240万瓶，并有71.1%的相关公众认为其与“奔富”存在关联。

法院认为，被告在明知原告商标知名度的情况下，分工协作、共同经营侵权产品，构成共同侵权，应承担连带责任。其行为具有明显主观恶意，且侵权时间长、规模大、范围广，情节严重，一审法院以被告自认数据为基础，结合售价、行业利润率及商标贡献率确定赔偿基数，并适用二倍惩罚性赔偿，共计7056万元，并无不当。此外，股东曾某某、熊某某在明知案件已立案且可预见侵权债务的情况下，恶意减资且未依法通知债权人，应在减资4997万元范围内对曾氏文化公司不能清偿的债务承担补充赔偿责任。

据此，二审法院判决驳回上诉，维持原判。

来源：北京市高级人民法院

Beijing High People's Court: Maintaining RMB 70.56 Million Punitive Damages in “Penfolds Wine” Case, Shareholders Liable for Unlawful Capital Reduction

Recently, the Beijing High Court concluded an appeal case involving trademark infringement and unfair competition, holding that multiple defendants jointly committed infringement with severe circumstances, applied double punitive damages, and ruled that shareholders who unlawfully reduced the company's registered capital should bear supplementary liability for compensation.

The court found that the plaintiff, Company N, was the owner of trademarks including "Penfolds" (奔富). Since 2011, three defendants, including Company D, engaged in a division of labor and collaboration through cross-shareholding, cross-employment of personnel, and mutual trademark licensing, jointly operating the "Penfolds Wine Estate/RUSHRICH" wine brand. They extensively used marks similar to "Penfolds" on their products and in promotions, continuously infringing for over a decade, with sales exceeding 2.4 million bottles. Moreover, 71.1% of the relevant public believed there was an association between the defendants' products and "Penfolds."

The court held that the defendants, fully aware of the reputation of the plaintiff's trademarks, collaborated and jointly operated the infringing products, constituting joint infringement for which they should bear joint and several liability. Their conduct demonstrated clear subjective malice, and the infringement was prolonged, large-scale, and extensive, amounting to severe circumstances. The first-instance court, based on data acknowledged by the defendants, determined the compensation base by considering the selling price, industry profit margin, and the contribution rate of the trademarks, and applied double punitive damages, resulting in a total of RMB 70.56 million. The court found no error in this determination. Additionally, shareholders Zeng and Xiong, knowing that the case had been filed and that infringement-related liabilities were foreseeable, maliciously reduced the registered capital of Company Z without notifying creditors as required by law. They should therefore bear supplementary liability for the debts of Company Z to the extent of the capital reduction amount of RMB 49.97 million.

Accordingly, the appellate court dismissed the appeal and upheld the original judgment.

Source: Beijing High People's Court

北京高院：二审改判“A PART OF ME”商标无效，考量实际使用情形认定近似

近日，北京市高级人民法院审结一起商标权无效宣告请求行政纠纷上诉案，改判认定诉争商标“A PART OF ME”虽与引证商标表面存在差异，但考虑其在实际使用中的非规范使用方式，构成近似商标，应予无效。

法院查明，柏丽德珠宝公司系“APM”“APM MONACO”系列商标在中国被许可使用人，该商标在珠宝首饰领域具有较高知名度。第三人广州奥度比比公司申请注册“A PART OF ME”商标，核定使用于第14类珠宝首饰商品。柏丽德公司请求宣告该商标无效。一审法院以商标标识差异较大为由驳回其诉请。

二审法院认为，判断商标近似不能仅对比注册商标的表面标识，还应综合考量商标的实际使用情形。奥度比比公司在不同电商平台多处将诉争商标非规范使用为“APOM”标志，该使用方式与引证商标“APM”在字母构成、呼叫上高度相近。同时，作为同业竞争者，奥度比比公司理应知晓引证商标的知名度，其仍注册并采用易致混淆的使用方式，主观恶意明显，足以强化相关公众混淆的可能性。

据此，二审法院认定诉争商标的注册违反《商标法》第三十条规定，判决撤销一审判决及国家知识产权局裁定，并责令国家知识产权局重新作出裁定。

来源：北京市高级人民法院

Beijing High People's Court：Overturning Second-Instance Judgment to Declare "A PART OF ME" Trademark Invalid, Finding Likelihood of Confusion Based on Actual Use

Recently, Beijing High People's Court concluded an appeal in an administrative dispute concerning a request for trademark invalidation, overturning the lower court's decision. The BHC held that although the disputed trademark "A PART OF ME" appeared facially different from the cited trademarks, considering its non-standard manner of actual use, it constituted a similar trademark and should be declared invalid.

The court found that Company B, the licensee of the "APM" and "APM MONACO" series of trademarks in China, enjoyed a high level of recognition in the jewelry sector. The third party, Company G, applied for and obtained registration of the trademark "A PART OF ME" for use on jewelry goods in Class 14. Company B sought to have this trademark declared invalid. The first-instance court dismissed the claim, finding the marks to be sufficiently distinct in appearance.

The court held that assessing trademark similarity should not be limited to a mere comparison of the registered marks on their face, but must also take into account the actual use of the marks. Company G had, on multiple e-commerce platforms, used the disputed trademark in a non-compliant manner as the sign "APOM." This manner of use was highly similar to the cited trademark "APM" in terms of letter composition and pronunciation. Moreover, as a competitor in the same industry, Company G ought to have been aware of the reputation of the cited trademarks. Its act of registering the disputed trademark and adopting a manner of use likely to cause confusion demonstrated clear subjective bad faith, which further heightened the likelihood of confusion among the relevant public.

Accordingly, the court determined that the registration of the disputed trademark violated Article 30 of the Trademark Law, and issued a judgment revoking the first-instance judgment and the ruling of the China National Intellectual Property Administration, and ordered CNIPA to issue a new ruling.

Source: Beijing High People's Court

浙江高院：以研究竞品为由长期使用“破解版”软件，法院认定构成著作权侵权

近日，浙江省高级人民法院审结一起侵害计算机软件著作权纠纷上诉案，认定被告以开发同类软件为目的使用竞争对手“破解版”软件的行为具有商业目的，不构成合理使用，判决维持原判。

法院查明，原告柯镂株式会社系CLO系列三维数字服装设计软件的著作权人。被告凌迪公司作为同业竞争者，自2017年起长达五年多的时间内，在其办公场所通过IP地址持续、大量使用涉案软件的试用版及破解版。证据保全亦显示其多台电脑中安装有涉案软件或相关文件。被告辩称其使用系为研究学习以开发自身竞品“Style3D”软件，属于合理使用。

法院认为，被告作为同业竞争者，其使用行为发生在办公电脑，且招聘信息要求员工熟练使用涉案软件，证明其使用具有开发和完善自身软件的商业目的。根据《计算机软件保护条例》的

特别规定，以商业营利为目的对软件进行功能性复制、安装和运行，直接用于生产经营，无合理使用规则的适用空间。同时，被告的使用不符合“三步检验法”的要求，其长期、大规模使用破解版全部功能的行为，直接损害了原告的潜在市场，不属于合理使用。被告关于“默示许可”的抗辩亦因缺乏证据且其明知原告不向竞争对手发放许可而不能成立。

据此，二审法院驳回双方上诉，维持判令被告停止侵权并赔偿经济损失及合理费用共计50万元的一审判决。

来源：浙江省高级人民法院

Zhejiang High People's Court: Holding Long-Term Use of “Cracked” Software Under the Guise of Studying Competing Products Constitutes Copyright Infringement

Recently, Zhejiang High People's Court concluded an appeal in a dispute concerning infringement of computer software copyright, holding that the defendant’s use of a competitor’s “cracked” software for the purpose of developing similar software was commercial in nature and did not constitute fair use. The court upheld the first-instance judgment.

The court found that the plaintiff, Company K, was the copyright owner of the CLO series of 3D digital garment design software. The defendant, Company L, as a competitor in the same industry, continuously and extensively used the trial version and cracked version of the software in question at its office premises via an IP address for over five years starting from 2017. Evidence preservation also showed that the software in question or related files were installed on multiple computers owned by the defendant. The defendant argued that its use was for research and study purposes to develop its own competing product, the “Style3D” software, and thus constituted fair use.

The Zhejiang High Court held that the defendant, being a competitor in the same industry, used the software on its office computers, and its recruitment information required employees to be proficient in using the software in question, demonstrating that its use was for the commercial purpose of developing and improving its own software. Pursuant to the specific provisions of the Regulations on the Protection of Computer Software, making functional copies, installing, and running software for commercial profit, directly used in production and operations, leaves no room for the application of fair use rules. Furthermore, the defendant’s use did not satisfy the requirements of the “three-step test.” Its long-term, large-scale use of the full functionality of the cracked software directly harmed the plaintiff’s potential market and did not constitute fair use. The defendant’s defense of “implied license” was also untenable due to lack of evidence and the fact that the defendant was aware that the plaintiff did not grant licenses to competitors.

Accordingly, the appellate court dismissed the appeals from both parties and upheld the first-instance judgment, which ordered the defendant to cease the infringement and pay economic losses and reasonable expenses totaling RMB 500,000.

Source: Zhejiang High People's Court

深圳中院：“区别式攀附”构成不正当竞争，判令侵权方赔偿10万元

近日，深圳市中级人民法院审结一起涉“LXX”商标的不正当竞争纠纷案，认定被告采取“一边撇清关联、一边主动攀附”的矛盾宣传模式引流销售，构成不正当竞争。

法院查明，原告A公司系“LXX”商标权利人，该品牌在运动服领域具有较高知名度。被告B公司为推广自家品牌，在社交平台发布多篇笔记，使用“坚决不印LXX标”“不是LXX瑜伽服买不起，而是这件更有性价比”“LXX同款”“LXX御用面料供应商”等表述，并在文末嵌入自家产品销售链接。B公司辩称其内容不会导致混淆。

法院认为，A公司与B公司系同业竞争者。B公司虽在笔记中强调与A公司商品的区别，但客观上通过使用“LXX”作为关键词，使用户能匹配到其笔记并实现引流，属于不合理获取交易机会的“搭便车”攀附行为，违反了诚实信用原则。同时，“LXX御用面料供应商”等表述无事实依据，构成虚假宣传。上述行为损害了市场信息机制，获取了不正当竞争优势。

鉴于双方均未充分举证实际损失或侵权获利，法院综合考虑商标知名度、侵权情节等因素，酌定判决B公司赔偿A公司经济损失及合理维权费用共计10万元。该判决已生效。

来源：深圳市中级人民法院

Shenzhen Intermediate People's Court: Holding “Differentiated Free-Riding” Constitutes Unfair Competition, Orders Defendant to Pay RMB 100,000 in Damages

Recently, Shenzhen Intermediate People's Court concluded an unfair competition dispute involving the “LXX” trademark, holding that the defendant, by adopting a contradictory promotional approach that while on one hand distancing themselves from the plaintiff, on the other hand actively free-riding on its reputation to drive traffic and sales, constituted unfair competition.

The court found that the plaintiff, Company A, was the owner of the “LXX” trademark, which enjoyed a high level of recognition in the sportswear sector. The defendant, Company B, in promoting its own brand, published multiple posts on social media platforms containing statements such as “resolutely not printing the LXX logo,”“it’s not that LXX yoga wear is unaffordable, but this one offers better value,” “LXX equivalent,” and “exclusive fabric supplier for LXX,” and embedded links for the sale of its own products at the end of the posts. Company B argued that its content would not cause confusion.

The Shenzhen Court held that Company A and Company B were competitors in the same industry. Although Company B emphasized the differences between its products and those of Company A in its posts, its use of “LXX” as a keyword objectively enabled users to be directed to its posts and facilitated traffic diversion, constituting an unreasonable “free-riding” behavior to obtain business opportunities, which violated the principle of good faith. Additionally, statements such as “exclusive fabric supplier for LXX” were unfounded and constituted false advertising. The aforementioned conduct undermined the market information mechanism and secured improper competitive advantages.

Given that both parties failed to provide sufficient evidence of actual losses or profits derived from the infringement, the court, taking into account factors such as the reputation of the trademark and the cir-

cumstances of the infringement, exercised its discretion and ordered Company B to pay Company A economic losses and reasonable enforcement expenses totaling RMB 100,000. This judgment has become final.

Source: Shenzhen Intermediate People's Court

浦东新区检察院：运营“换源转码”盗版小说APP获利百万，两名被告人被公诉

近日，上海市浦东新区人民检察院对一起侵犯著作权案提起公诉。该案中，被告人通过运营一款“免费阅读”APP，利用“换源转码”技术手段盗用正版小说，并通过广告非法牟利百万余元。

检察机关查明，2022年1月至2023年9月，被告人张某、荣某等人以营利为目的，共同开发运营某盗版小说阅读APP。该APP未经著作权人许可，在后台存储大量盗版小说网站的链接及索引信息。用户点击阅读时，APP后台自动从盗版网站抓取正文，经格式调整后直接呈现在APP内，用户全程无跳转感。随着用户量增长，张某等人通过为APP植入开屏广告等方式，累计获取广告费收入人民币百万余元。

检察机关认为，涉案APP通过“壳源分离+换源转码”实施的“深度链接”行为，在功能效果上替代了被链网站的传播，使作品能直接在APP内适配呈现，用户可随时随地阅读，实现了“交互式传播”，属于侵犯信息网络传播权。被告人的行为以营利为目的，涉案金额巨大，构成侵犯著作权罪。在完整证据链面前，被告人最终认罪认罚。

近日，浦东新区检察院以涉嫌侵犯著作权罪对被告人张某、荣某提起公诉。

来源：上海市浦东新区人民检察院

Shanghai Pudong New Area People's Procuratorate: Prosecuting Two Defendants for Operating Pirated Novel App Using “Source-Switching and Transcoding” Technology, Illegally Profiting Over RMB 1 Million

Recently, the Shanghai Pudong New Area People’s Procuratorate initiated a public prosecution in a copyright infringement case. In this case, the defendants operated a “free reading” app, used“source-switching and transcoding” technology to unlawfully appropriate legitimate novels, and illegally profited over RMB 1 million through advertisements.

The procuratorate established that from January 2022 to September 2023, the defendants Zhang and Rong, acting with the intent to profit, jointly developed and operated a pirated novel reading app. Without the permission of the copyright owners, the app stored a large number of links and index information from pirated novel websites on its backend. When users clicked to read, the backend automatically retrieved the full text from pirate sites, reformatted it, and displayed it directly within the app, creating a seamless experience for users. As the user base grew, Zhang and others generated over RMB 1 million in cumulative advertising revenue through methods such as embedding splash screen ads in the app.

The procuratorate held that the"deep linking"conduct carried out by the app through "source separation plus source-switching and transcoding"functionally replaced the dissemination of the linked websites, enabling the works to be directly adapted and displayed within the app. Users could read at any time and from any place, achieving"interactive dissemination,"which constituted an infringement of the right of communication through information networks. The defendants'conduct was for commercial profit and involved a large amount of money, thus constituting the crime of copyright infringement. In the face of a complete chain of evidence, the defendants ultimately confessed and accepted punishment.

Recently, the Pudong Procuratorate initiated a public prosecution against the defendants Zhang and Rong on suspicion of copyright infringement.

Source: Shanghai Pudong New Area People's Procuratorate

美国加州北区联邦法院就亚马逊诉Perplexity AI Agent案颁布初步禁令

美国加州北区联邦法院就亚马逊公司诉AI搜索公司Perplexity侵权案颁布初步禁令，禁止后者在亚马逊网站上使用其AI购物工具Comet。

法院查明，Perplexity开发的AI购物工具Comet被配置为不标识其AI身份，而是伪装成使用谷歌Chrome浏览器的人类用户，在未经亚马逊授权的情况下，访问用户的密码保护账户并获取私人信息，用于执行用户请求的任务。亚马逊指控该行为违反《美国计算机欺诈与滥用法》及加州相关法律。

法院认为亚马逊提供了强有力的证据，证明其关于Perplexity违反计算机欺诈法律的指控在实体审理中有较大可能胜诉。在权衡双方困难时，法院指出，尽管禁令可能使Perplexity丧失在AI购物工具领域的先发优势，但其Comet仍可在其他网站运行，禁令对其造成的损害小于不颁布禁令对亚马逊的影响。据此，法院驳回 Perplexity10 亿美元保证金、上诉暂缓执行的请求，仅准予 7 天行政暂缓，要求其销毁相关亚马逊数据并完成合规举证。

来源：知产财经

United States District Court for the Northern District of California Issuing Preliminary Injunction in Amazon v. Perplexity AI Agent Case

Recently, the United States District Court for the Northern District of California issued a preliminary injunction in the case brought by Amazon against AI search company Perplexity, prohibiting Perplexity from using its AI shopping tool, Comet, on Amazon's website.

The court found that Comet, the AI shopping tool developed by Perplexity, was configured not to identify itself as AI, but rather to disguise itself as a human user employing Google Chrome. Without authorization from Amazon, it accessed users' password-protected accounts and obtained private information to perform tasks requested by users. Amazon alleged that this conduct violated the U.S. Computer Fraud and Abuse Act and relevant California laws.

The court held that Amazon had presented strong evidence demonstrating a likelihood of success on the merits of its claim that Perplexity violated computer fraud laws. In weighing the hardships between the parties, the court noted that while the injunction might cause Perplexity to lose its first-mover advantage in the AI shopping tool space, its Comet tool could still operate on other websites, and the harm to Perplexity from the injunction was less than the harm to Amazon if the injunction were denied. Accordingly, the court denied Perplexity's requests for a USD 1 billion bond and a stay pending appeal, granted only a seven-day administrative stay, and ordered Perplexity to destroy the relevant Amazon data and complete compliance certification.

Source: IP Economy

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