



# NEWSLETTER

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

### 国务院反垄断反不正当竞争委员会办公室召开专家咨询组全体会议

2024年5月15日，国务院反垄断反不正当竞争委员会办公室（“委员会”）在北京召开专家咨询组全体会议。国家市场监督管理总局局长罗文在会上指出，组建专家咨询组对于发挥反垄断反不正当竞争职能作用，加快建设全国统一大市场、推动高质量发展具有重要意义。希望专家咨询组充分发挥专业特长，认真履职、积极作为，为委员会科学决策、提升反垄断反不正当竞争能力和水平贡献力量。（[查看更多](#)）

### Office of Anti-Monopoly and Anti-Unfair Competition Commission of the State Council Holds Plenary Meeting of the Consultive Group of Experts

On May 15, 2024, the Office of the Anti-Monopoly and Anti-Unfair Competition Commission of the State Council (“Commission”) held the Plenary Meeting of the Consultive Group of Experts in Beijing. Luo Wen, Director General of the State Administrative for Market Regulation, pointed out at the meeting that the establishment of the Consultive Group of Experts is of great significance for the functions of anti-monopoly and anti-unfair competition, accelerating the construction of a unified national market and promoting high-quality development. He hoped that the Consultive Group of Experts would fully perform its professional expertise, fulfill its duties conscientiously and act positively, and contribute to the scientific decision-making of the Commission and the enhancement of the anti-monopoly and anti-unfair competition capacity and standard. ([More](#))

### 西藏自治区市监局：加强反垄断监管执法

2024年5月14日，据媒体报道，西藏自治区市场监督管理局（“西藏自治区市监局”）出台19项优化营商环境工作要点，包括严格落实公平竞争审查制度，加大对行政性垄断和限定交易、限制企业参加招投标等不正当竞争行为的监管执法力度，深入开展民生领域反垄断和反不正当竞争执法专项行动等。（[查看更多](#)）

### Xizang AMR: Strengthens Anti-Monopoly Regulation and Law Enforcement

On May 14, 2024, according to media reports, the Xizang Autonomous Regional Administration for Market Regulation (“Xizang AMR”) issued 19 key points to optimise the business environment, including strictly implementing the fair competition review system, increasing the regulation and enforcement of administrative monopolies and unfair competition practices such as exclusive dealings and restricting enterprises from participating in bidding and tendering, carrying out in-depth special anti-monopoly and anti-unfair competition enforcement actions in the field of people’s livelihoods, etc. ([More](#))

### 国务院常务会议通过《公平竞争审查条例（草案）》

2024年5月11日，国务院总理李强主持召开国务院常务会议（“会议”），审议通过《公平竞争审查条例（草案）》等多个文件。会议指出，公平竞争是市场经济的基本原则，是建设全国统一

大市场的客观要求。要聚焦当前市场反映突出的问题，细化完善公平竞争审查规则，着力打破地区封锁和行业垄断，为各类经营者公平参与市场竞争营造良好环境。（[查看更多](#)）

## State Council Executive Meeting Adopts *Regulations on Fair Competition Review (Draft)*

On May 11, 2024, Premier Li Qiang presided over the State Council Executive Meeting (“meeting”) to examine and adopt a number of documents, including the *Fair Competition Review Regulations (Draft)*. The Meeting pointed out that fair competition is a basic principle of market economy and an objective requirement for building a national unified big market. It is necessary to focus on the current outstanding issues reflected by the market, refine and improve the rules on fair competition review, make efforts to break regional blockades and industry monopolies, and create a favourable environment for all types of operators to participate fairly in market competition. ([More](#))

## 青海省召开2024年全省反垄断与公平竞争工作联席会议

2024年5月11日，青海省召开2024年全省反垄断与公平竞争工作联席会议（“联席会议”），相关工作人员与38家成员单位的负责人参加联席会议。联席会议回顾总结了2023年度青海省反垄断与公平竞争工作落实情况，安排部署下一阶段任务，审议通过《青海省2024年反垄断与公平竞争工作要点》《2024年全省强化反垄断与公平竞争审查督查工作方案》等有关文件，通报了公平竞争审查典型案例。（[查看更多](#)）

## Qinghai Province Holds 2024 Provincial Joint Meeting on Anti-Monopoly and Fair Competition Work

On May 11, 2024, Qinghai Province held the 2024 Provincial Joint Meeting on Anti-Monopoly and Fair Competition Work (“Joint Meeting”), in which relevant staff members and the heads of 38 member units participated. The Joint Meeting reviewed and summarised the implementation of the anti-monopoly and fair competition work in Qinghai Province in 2023, arranged for the deployment of the tasks for the next phase, examined and adopted the relevant documents such as the *Key Points of the Anti-monopoly and Fair Competition Work in Qinghai Province in 2024* and the *Work Programme for Strengthening the Regulation of Anti-monopoly and Fair Competition Review across the Province in 2024*, and notified the typical cases of fair competition review. ([More](#))

## 江苏省市监局开展2024年民生领域反垄断执法

2024年5月11日，江苏省市场监督管理局（“江苏省市监局”）宣布拟于今年在全省范围开展民生领域反垄断执法，聚焦医药、建筑材料等重点领域的垄断协议和滥用市场支配地位案件，加强对水电气热等公用事业领域内公用企业滥用市场支配地位行为的反垄断执法，加强对行业协会组织本行业经营者进行的垄断协议行为的反垄断监管，加大对行政性垄断的执法力度。（[查看更多](#)）

## **Jiangsu AMR Carries out 2024 Anti-Monopoly Law Enforcement in Fields of People's Livelihood**

On May 11, 2024, the Jiangsu Provincial Administration for Market Regulation (“Jiangsu AMR”) announced its plan to carry out province-wide anti-monopoly enforcement in the people’s livelihood sector this year, focus on cases of monopoly agreements and abuses of dominant market position in key areas such as pharmaceuticals and construction materials, strengthen anti-monopoly enforcement against abuses of dominant market position by public enterprises in the fields of public utilities such as water supply, electricity supply, gas supply and heat supply, enhance anti-monopoly regulation against practices of monopoly agreements conducted by operators in the industry organised by industry associations, and step up the enforcement against administrative monopolies. ([More](#))

## **法国竞争管理局首次审查低于国家申报阈值的合并**

2024年5月15日，法国竞争管理局（Autorité de la concurrence）首次根据反垄断法审查低于国家申报阈值的合并。该案涉及Akiolis、Saria和Verdannet三家肉类切割企业，他们被指控在2015年通过21次交叉拆分企业资产，制定并实施了按地理位置分配法国肉类切割市场的协议。法国竞争管理局认为目前的证据并不能证明存在按照地理进行的市场分配计划，因此上述合并协议不具有反竞争目的。 ([查看更多](#))

## **French Competition Authority Examines Mergers Below National Notification Thresholds for the First Time**

On May 15, 2024, the French Competition Authority (Autorité de la concurrence) examined a merger below the national notification thresholds for the first time under antitrust law. The case concerned three meat-cutting companies, Akiolis, Saria and Verdannet, who are accused of having created and implemented an agreement to allocate the French meat-cutting market by geographic location through 21 cross-divestitures of business assets in 2015. The French Competition Authority found that the current evidence did not establish the existence of an overall geographic market allocation plan, and therefore the merger agreements in question did not have an anti-competitive purpose. ([More](#))

## **印度Meril向欧盟提起针对爱德华生命科学反垄断诉讼**

2024年5月13日，据媒体报道，印度医疗技术公司Meril（Meril Life Sciences）已向欧盟委员会提起针对爱德华生命科学（Edwards Life Sciences）的反垄断诉讼，涉及爱德华生命科学的SAPIEN心脏瓣膜技术专利。对此，爱德华生命科学否认了Meril的指控，声称Meril的Myval心脏瓣膜技术抄袭了其专利。今年2月，爱德华生命科学披露欧盟委员会正在对该公司在反抄袭和专利等方面的商业行为进行调查，本次诉讼可能会加大欧盟委员会的审查力度。 ([查看更多](#))

## **Indian Meril Files Antitrust Suit against Edwards Life Sciences in EU**

On May 13, 2024, according to media reports, Indian medical technology company Meril (Meril Life Sciences) filed an antitrust lawsuit with the European Commission against Edwards Life Sciences in

relation to Edwards Life Sciences' patent for its SAPIEN heart valve technology. In response, Edwards Life Sciences denied Meril's allegations, claiming that Meril's Myval heart valve technology copies its patents. In February this year, Edwards Lifesciences disclosed that the European Commission was investigating the company's business practices in areas such as anti-plagiarism and patents. This lawsuit may amplify the scrutiny of the European Commission. ([More](#))

## 俄罗斯FAS认为谷歌封锁YouTube平台账户行为违反反垄断法

2024年5月12日，据媒体报道，俄罗斯联邦反垄断局（FAS）宣布美国科技巨头谷歌违反了有关暂停和封锁其YouTube平台账户的规定。FAS认为，谷歌的行为不仅侵犯了用户的权利，还阻碍了市场的公平竞争。对此，谷歌表示将在调查结果全面披露后作出详细回应。去年12月，俄罗斯对谷歌处以72亿卢布（5.64亿人民币）的巨额罚款，原因是谷歌在删除违禁内容方面长期失职，谷歌已就这一裁决提起上诉，以表明对俄罗斯日益严格的监管环境的抵制。（[查看更多](#)）

## Russian FAS Finds Google's Blocking of YouTube Platform Accounts in Violation of Anti-monopoly Law

On May 12, 2024, according to media reports, the Russian Federal Antimonopoly Service ("FAS") declared that US tech giant Google violated regulations on suspending and blocking accounts on its YouTube platform. The FAS argued that Google's actions not only violated the rights of its users, but also impeded fair competition in the market. In response, Google said it would respond in detail once the findings of the investigation are fully disclosed. In December last year, Russia imposed a hefty fine of RUB 7.2 billion (CNY 564 million) on Google for purported persistent negligence in removing prohibited content, and Google initiated an appeal against the ruling, signalling its resistance to the increasingly stringent regulatory environment in Russia. ([More](#))

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

### 中国人民银行与国家市场监督管理总局联合发布《受益所有人信息管理办法》

近日，中国人民银行与国家市场监督管理总局联合发布了《受益所有人信息管理办法》（“《管理办法》”），预计于2024年11月1日起施行。《管理办法》将推进受益所有人信息备案制度建设，更加清晰明确地反映公司等主体的股权结构及最终控制、受益情况，提高市场透明度，增强经营主体之间的信息对称和互信，提升交易安全和交易效率，进一步优化我国营商环境。对于受益所有人信息的保护，国际上大致有两种做法，一类是将受益所有人信息作为公开信息，可供全社会公开查询；另一类将其作为非公开信息，仅供政府部门和反洗钱义务机构在履行法定职责时查询，《管理办法》第十二条采取了第二种方式。（[查看更多](#)）

## **PBC and SAMR Jointly Issue the *Measures for the Management of Beneficial Owner Information***

Recently, the People's Bank of China (“PBC”) and State Administration for Market Regulation (“SAMR”) jointly issued the *Measures for the Management of Beneficial Owner Information* (the “*Administrative Measure*”), which is expected to come into effect on 1 November 2024. The *Administrative Measure* will promote the construction of the beneficial owner information filing system, reflect more clearly and unambiguously the shareholding structure as well as the ultimate control and benefit of companies and other subjects, improve market transparency, enhance information symmetry and mutual trust among business entities, improve transaction security and transaction efficiency, and further optimize the business environment in China.

For the protection of beneficial owner information, there are broadly two approaches, one is to treat beneficial owner information as public information, which can be accessed by public; the other is to treat it as non-public information, which can only be accessed by governmental departments and anti-money laundering obligated institutions in the performance of their statutory duties, and Article 12 of the *Administrative Measure* adopts the second approach. ([More](#))

## **自然资源部与工信部联合发布《关于规范移动互联网应用程序中登载使用地图行为的通知》**

近日，自然资源部办公厅与工业和信息化部办公厅联合发布了《关于规范移动互联网应用程序中登载使用地图行为的通知》（“《通知》”），指导各地自然资源主管部门、电信主管部门与移动互联网应用程序主办者规范相关行为，增强协同联动。《通知》强调，有关主体应依法履行地图审核备案义务，在内容发生变更时及时重新进行审核；严格落实主体责任，在登载地图时准确反映领土范围、行政区划；强化版图宣传意识，遵守地图管理相关法律法规。《通知》的发布有利于规范APP登载使用地图的行为，进一步提升APP的合法性与交互性。（[查看更多](#)）

## **MNR and MIIT Jointly Issue the *Notice on Regulating the Act of Posting and Using Maps in Mobile Internet Applications***

Recently, the General Office of the Ministry of Natural Resources (“MNR”) and the General Office of the Ministry of Industry and Information Technology (“MIIT”) jointly issued the *Notice on Regulating the Act of Posting and Using Maps in Mobile Internet Applications* (the “*Notice*”). This *Notice* aims to guide local natural resources authorities, telecommunications authorities, and mobile internet application providers to standardize related practices and enhance coordinated efforts. The *Notice* emphasizes that the relevant entities should fulfil their obligations to review and record maps in accordance with the law, and re-examine the content in a timely manner when changes occur; strictly implement the responsibilities, and accurately reflect the territorial scope and administrative divisions when posting maps; and strengthen the awareness of map publicity and comply with the laws and regulations related to map management. The issuance of the *Notice* is conducive to regulating the behavior of APPs in posting and using maps, and further enhancing the legality and interactivity of APPs. ([More](#))

## 临港新片区发布全国首批数据跨境一般数据清单，涉及3大领域11个场景

2024年5月17日，上海自贸试验区临港新片区管委会发布了全国首批数据跨境场景化一般数据清单及清单配套操作指南。首批一般数据清单涉及智能网联汽车、公募基金、生物医药3个领域，包括智能网联汽车跨国生产制造、医药临床试验和研发、基金市场研究信息共享等11个场景，64个数据类别。本次发布的数据清单采用了正面清单的数据出境管理方式，即低风险数据出境的鼓励类场景清单，在该清单上的场景数据允许便利化出境，数据出境实行简化管理。清单围绕汽车、公募基金、生物医药等产业领域，在字段层面为企业数据合规出境提供可操作性的指引，其发布也标志着我国完善数据出境管理体系、提升数字治理能力、对标国际高标准数字规则的重要一步。（[查看更多](#)）

## Lingang Pilot Free Trade Zone Releases the National First Batch of Data Cross-border General Data List, Involving 11 Scenarios in 3 Major Fields

On 17 May 2024, the Administrative Committee of Shanghai Pilot Free Trade Zone released the national first batch of general data list for cross-border scenarios and the operation guidelines supporting the list. The first batch of general data list involves 3 fields, namely smart internet-connected vehicles, public funds, and biomedicine, including 11 scenarios and 64 data categories, such as cross-border production and manufacturing of smart internet-connected vehicles, clinical trials and research and development of medicines, and sharing of fund market research information. The data list released this time adopts a positive list approach for data export management, specifically an encouraged list for low-risk data export scenarios. Data scenarios included in this list are permitted to be exported with simplified management procedures. The list focuses on industries such as automotive, public mutual funds, and biomedicine, providing operational guidance for enterprises to comply with data export regulations at the field level. Its release also marks an important step in improving China's data export management system, enhancing digital governance capabilities, and aligning with high international standards for digital rules. ([More](#))

## 《湖南省工业和信息化领域网络安全和数据安全管理支撑服务工作管理办法（试行）》发布

近日，湖南省工业和信息化厅制定印发了《湖南省工业和信息化领域网络安全和数据安全管理支撑服务工作管理办法（试行）》（“《管理办法》”），适用于湖南省工业和信息化领域网络安全和数据安全管理支撑机构为相关企业和部门提供网络安全分类分级管理、数据安全管理工作、网络安全防护等相关工作。《管理办法》主要明确了有关支撑机构的工作机制、工作内容与管理考核，规定了支撑机构接受指导协调、及时报告风险、定期安全评估、快速应急处置等责任义务，是加强湖南省工业和信息化领域网络安全和数据安全管理，规范工业和信息化领域网络安全和数据安全支撑服务工作的又一重要举措。（[查看更多](#)）

## ***Management Measures for Network Security and Data Security Management Support Services in the Field of Industry and Information Technology in Hunan Province (for Trial Implementation) Issued***

Recently, the Hunan Provincial Department of Industry and Information Technology formulated and issued the *Management Measures for Network Security and Data Security Management Support Services in the Field of Industry and Information Technology in Hunan Province (for Trial Implementation)* (the “**Management Measures**”), which is applicable to the network security and data security management support organizations in the field of industry and information technology in Hunan Province to provide relevant enterprises and departments with network security classification and grading management, data security management, network security protection and other related work. The *Management Measures* mainly clarifies the working mechanism, work content and management assessment of the relevant support organizations, and stipulate the responsibilities and obligations of the support organizations for accepting guidance and coordination, timely reporting of risks, regular security assessment, rapid emergency response and disposal, etc. It is another important measure to strengthen the management of network security and data security in the field of industry and information technology in Hunan Province, and to regulate the work of network security and data security support services in the field of industry and information technology. ([More](#))

## **中美举行人工智能政府间对话首次会议**

2024年5月14日，中美人工智能政府间对话首次会议在瑞士日内瓦举行，中方科技部、发改委、国家网信办、工信部、中央外办以及美方白宫国安会、国务院、商务部派代表参加了会议。双方围绕人工智能科技风险、全球治理、各自关切的其他问题深入交换了建设性的意见。中美双方介绍了各自对人工智能技术风险的看法、针对风险的治理举措以及推动人工智能赋能经济社会发展采取的措施。双方均认识到人工智能技术发展既面临机遇也存在风险，重申继续致力于落实两国元首在旧金山达成的重要共识。（[查看更多](#)）

## **China, U.S. Hold First Meeting of Intergovernmental Dialogue on Artificial Intelligence**

On 14 May 2024, the first meeting of the China-U.S. Intergovernmental Dialogue on Artificial Intelligence (“AI”) was held in Geneva, Switzerland, with representatives from the Ministry of Science and Technology of the People’s Republic of China, National Development and Reform Commission, Cyberspace Administration of China, the MIIT, and the Foreign Affairs Commission Under the CPC Central Committee, as well as representatives from the U.S. side of the White House’s National Security Council, the State Department and the Department of Commerce. The two sides had an in-depth and constructive exchange of views on AI science and technology risks, global governance, and other issues of respective concern. China and the United States presented their respective views on AI technology risks, governance initiatives to address the risks, and measures taken to promote AI-enabled economic and social development. Both sides recognized that there are both opportunities and risks in the development of AI technology, and reiterated their continued commitment to implementing the important consensus reached by the heads of both countries in San Francisco. ([More](#))

## 欧洲委员会通过首个国际人工智能公约

2024年5月17日，欧洲委员会（CoE）宣布通过《人工智能与人权、民主和法治框架公约》（“《公约》”）。欧洲委员会表示，这是首个有关人工智能使用的具有法律约束力的国际条约。值得关注的是，《公约》对人工智能系统的设计、开发、使用和停用采用了基于风险的方法，并制定了一个涵盖人工智能系统整个生命周期的法律框架，在应对人工智能系统可能带来的风险的同时，促进负责任创新。《公约》将于2024年9月5日在立陶宛维尔纽斯开放供签署。（[查看更多](#)）

### CoE Adopts First International Convention on AI

On 17 May 2024, the Council of Europe (CoE) announced that it adopted the first-ever international legally binding treaty aimed at ensuring the respect of human rights, the rule of law and democracy legal standards in the use of artificial intelligence systems. The CoE stated that this is the first international legally binding treaty for the use of AI systems. Notably, the Convention adopts a risk-based approach to the design, development, use, and decommissioning of AI systems, and sets out a legal framework that covers the entire lifecycle of AI systems, addressing the risks they may pose while promoting responsible innovation. The Convention will be opened for signature in Vilnius, Lithuania, on 5 September 2024. ([More](#))

## 美国参议院人工智能工作组发布人工智能政策路线图

2024年5月15日，美国参议院两党人工智能工作组发布了《推动美国人工智能创新：美国参议院人工智能政策路线图》（“《路线图》”）路线图特别强调了政策上应优先考虑的事项，为两党人工智能（AI）立法的审议提供参考。

工作组强调要执行好有关消费者保护和公民权利的现行法律，特别是有关“黑盒”人工智能系统的法律，并指出美国法律可能无法容忍某些人工智能系统的不透明性。工作组还指出，它支持制定一部强有力的综合性联邦隐私法来保护个人信息，这项法律应涉及数据最小化、数据安全、消费者权利、同意、披露和数据经纪人等问题。（[查看更多](#)）

### USA: Senate AI Working Group Publishes AI Roadmap

On 15 May 2024, the Bipartisan Senate AI Working Group published a roadmap entitled *Driving U.S. Innovation in Artificial Intelligence: A Roadmap for Artificial Intelligence Policy in the United States Senate*. In particular, the Roadmap highlights policy priorities to inform the consideration of bipartisan artificial intelligence (AI) legislation. The Working Group highlights the need to enforce existing legislation on consumer protection and civil rights, particularly with regard to “black box” AI systems, noting that the opaque nature of some AI systems may be unacceptable under US law. The Working Group also notes its support for a strong comprehensive federal privacy law to protect personal information, and that such legislation should address data minimization, data security, consumer rights, consent, disclosure, and data brokers. ([More](#))

## 英国人工智能安全研究所发布人工智能安全评估平台

2024年5月10日，英国人工智能安全研究所发布了一个免费的开源测试平台，用于评估新人工智能模型的安全性。该工具集名为“Inspect”，是首个由国家支持的机构创建并免费向公众开放的人工智能安全测试平台可为在全球范围内创建安全的人工智能应用程序提供“一致的方法”。“Inspect”是一个软件库，它将赋予从初创企业、学者、人工智能开发者到国际政府等不同的测试人员评估单个模型的能力，然后根据评估结果给出分数。（[查看更多](#)）

### UK: AI Safety Institute Releases AI Safety Evaluations Platform

On 10 May 2024, the U.K.'s AI Safety Institute has released a free, open-source testing platform that evaluates the safety of new AI models. Dubbed Inspect, is the first AI safety testing platform created by a state-backed body to be made freely available to the public, the toolset should provide a "consistent approach" towards the creation of secure AI applications around the world. Inspect is a software library which enables testers – from start ups, academia and AI developers to international governments – to assess specific capabilities of individual models and then produce a score based on their results. ([More](#))

## 美国科罗拉多州州长签署消费者人工智能保护法案

2024年5月17日，美国科罗拉多州州长Jared Polis签署了一项消费者人工智能保护法案。该法案要求高风险人工智能系统（“高风险系统”）的开发者及部署者保持必要的谨慎，避免在高风险系统中出现算法歧视。如果开发者及部署者遵守了法案中的具体规定，则可以推定开发者使用了合理的谨慎措施。对于开发者而言，这些规定包括向高风险系统的部署者提供一份声明，披露有关高风险系统的特定信息；向部署者提供对高风险系统进行影响评估所需的信息和文件等；对于部署者而言，这些规定包括对高风险系统实施风险管理政策；对高风险系统进行影响评估；每年审查各个高风险系统的部署情况，以确保其不会造成算法歧视等。这部法律在2026年2月1日才会生效，为相关调整留出了时间。（[查看更多](#)）

### Colorado: Bill for Consumer AI Protection Signed into Law

On 17 May 2024, Jared Polis, the governor of Colorado, signed the Bill for consumer AI protection which requires a developer and deployer of a high-risk artificial intelligence system (high-risk system) to use reasonable care to avoid algorithmic discrimination in the high-risk system. There is a rebuttable presumption that a developer or a deployer used reasonable care if the developer or deployer complied with specified provisions in the bill. To developer, reasonable care includes making available to a deployer of the high-risk system a statement disclosing specified information about the high-risk system, making available to a deployer of the high-risk system information and documentation necessary to complete an impact assessment of the high-risk system, etc. To deployer, reasonable care includes implementing a risk management policy for the high-risk system, completing an impact assessment of the high-risk system, annually reviewing the deployment of each high-risk system to ensure that the high-risk system is not causing algorithmic discrimination, etc. The new law come into effect on 1 Feb 2026. ([More](#))

## 知识产权 Intellectual Property

### 中法续签地理标志合作议定书

2024年5月15日，习近平主席访问法国期间，国家知识产权局与法国农业和粮食主权部、法国原产地和质量管理局续签《中华人民共和国国家知识产权局与法兰西共和国农业和粮食主权部、法兰西共和国国家原产地和质量管理局关于农业和食品地理标志合作的议定书》。中法双方同意在地理标志领域进一步深化合作，共同推动合作取得更多成果。

来源：[国家知识产权局](#)

### China and France renewed the Protocol on Cooperation in Geographical Indications

On May 15, 2024, during President Xi Jinping's visit to France, the China National Intellectual Property Administration renewed the Protocol on Cooperation in Agricultural and Food Geographical Indications between the National Intellectual Property Administration of the People's Republic of China, the Ministry of Agriculture and Food Sovereignty of the French Republic, and the National Institute of Origin and Quality of the French Republic with the French Ministry of Agriculture and Food Sovereignty and the French Agency for Quality and Origin. Both China and France have agreed to further deepen cooperation in the field of geographical indications and jointly promote more achievements in cooperation.

(Source: [China National Intellectual Property Administration](#))

### 国知局发布关于专利证书改版的公告

2014年5月16日，国家知识产权局发布关于专利证书改版的公告，明确：对于授权公告日在2024年6月1日之后（含当日）的专利，国家知识产权局颁发新版专利证书。新版专利证书沿用A4规格竖排版式，优化调整著录事项布局。旧版、新版专利证书具有同等法律效力。已颁发的旧版专利证书，国家知识产权局不提供更换新版专利证书服务。对于依据《专利审查指南》第五部分第九章1.2节的规定请求更换或更正专利证书的，2024年6月1日（含当日）之后，国家知识产权局颁发新版专利证书。

来源：[国家知识产权局](#)

### The National Intellectual Property Administration Issues an Announcement on the Revision of Patent Certificates

On May 16, 2014, the National Intellectual Property Administration issued an announcement regarding the revision of patent certificates, clarifying that for patents with a grant announcement date on or after June 1, 2024, the National Intellectual Property Administration will issue new version patent certificates. The new patent certificates will continue to use a vertical A4 format, optimizing the layout of the descriptive items. Both the old and new versions of the patent certificates have equal legal effect. For

already issued old version patent certificates, the National Intellectual Property Administration will not provide a service to replace them with the new version. For requests to replace or correct patent certificates according to the provisions of Section 1.2, Chapter 9, Part 5 of the "Patent Examination Guidelines", the National Intellectual Property Administration will issue new version patent certificates after June 1, 2024 (inclusive).

(Source: China National Intellectual Property Administration)

### 最高法院案例：依据专利审查历史，应对生物序列专利侵权主张

近日，最高法院审结爱美科生物株式会社与河北凯恩利生物技术有限公司、上海喜好贸易有限公司侵害发明专利权纠纷案，该案是涉生物序列专利侵权案件，法院审理认为，涉案专利涉及具有特定突变序列的蛋白酶。在专利授权程序中，第一次第二次审查意见通知书均明确指出涉案专利申请文本的权利要求得不到说明书的支持，原告采纳了上述修改意见，将“包括”改为“存在”，并根据第三次审查意见通知书进行修改，最终被授予专利权。由此可知，原告在涉案专利授权程序中通过对权利要求的修改，放弃了已验证活性的7种突变方式以外的其他突变可能，而其在本案侵权诉讼中又主张涉案专利权利要求3保护范围包括7种突变方式外其他位点的氨基酸序列突变可能，缺乏法律依据，不予支持。在案证据不能证明被诉侵权产品与涉案专利权利要求4中的氨基酸序列相同，无法认定被诉侵权产品落入涉案专利权的保护范围。爱美科公司主张凯恩利公司被诉侵权产品落入涉案专利权利要求3、4的保护范围，缺乏事实和法律依据，法院对此不予支持。

来源：上海知识产权法院

### The Supreme People's Court Case: Responding to Biosequence Patent Infringement Claims Based on Patent Examination History

Recently, the Supreme Court concluded the case of patent infringement involving Amyris Biotechnologies(Plaintiff), Hebei Kainali Biotechnology Co., Ltd., and Shanghai Xihao Trading Co., (Defendants). This case relates to biosequence patent infringement. The court found that the patent involved a protease with a specific mutation sequence. During the patent granting process, both the first and second examination opinion notices clearly stated that the claims in the patent application were not supported by the specification. Plaintiff adopted these modification suggestions, changing "including" to "existing" and making further modifications based on the third examination opinion notice, ultimately being granted the patent.

It can be inferred that during the patent granting process, Plaintiff gave up the possibility of other mutations beyond the seven validated mutation methods by modifying the claims. However, in this infringement lawsuit, the plaintiff again argued that the scope of protection of Claim 3 of the patent included the possibility of amino acid sequence mutations at other sites beyond the seven mutation methods, which lacks legal basis and is not supported. The evidence in the case does not prove that the infringing product has the same amino acid sequence as Claim 4 of the patent, so it cannot be determined that the infringing product falls within the scope of the patent protection. Plaintiff's claim that Kainali's infringing product falls within the scope of protection of Claims 3 and 4 of the patent lacks factual and legal basis, and the court does not support this.

(Source: Shanghai Intellectual Property Court)

### 湖南法院案例：达成调解后再侵权，法院判决适用四倍惩罚性赔偿

近日，湖南省长沙市中级人民法院审结常州市健达保健食品厂、长沙市雨花湘乔食品商行与厦门燕之屋燕窝产业股份有限公司侵害商标权纠纷案，该案中；两审法院均对原告依据双方另案调解金额26500元作为惩罚性赔偿基数的主张予以认可。理由如下：一是另案调解金额属于双方所确认的金额，是自由意志下被告基于非法获利情况下而对原告的赔偿，也是自由意志下原告基于不当遭受侵害情况下而向被告取得的补偿。二是本案被告重复侵权行为导致商标财产性权益变动与初次侵权行为商标财产性权益变动具有可比性。三是惩罚性赔偿中权利人举证证明自身商标财产损失以及侵权人的侵权获利的证明标准高，如高标准适用赔偿基数的证明标准，对于重复性恶意侵权行为尤其是经过的诉讼处理又重复性侵权的难以起到遏制、震慑作用。现原告主张惩罚性赔偿金额为10万元即按照四倍进行计算，根据本案被告侵权的故意性、赔偿基数的适中性、诉讼陈述的虚假性等各项因素，对原告的惩罚性赔偿计算方式即四倍数的主张应予以支持。

来源：长沙市中级人民法院

### Hunan Court Case: Post-Mediation Infringement Results in Quadruple Punitive Damages Ruling

Recently, the Intermediate People's Court of Changsha City, Hunan Province, concluded a trademark infringement dispute case involving Changzhou Jianda Health Food Factory, Changsha Yuhuaxiangqiao Food Business(Defendants) and Xiamen Yanzhiwu Bird's Nest Industry Co., Ltd (Plaintiff). In this case, both trial court and the court of appeal recognized Plaintiff's claim to use the mediation amount of 26,500 yuan from another case as the base for punitive damages. The reasons are as follows:

Firstly, the mediation amount from the other case is an amount confirmed by both parties. It is compensation to the plaintiff based on the defendant's illegal profits, and it is also compensation obtained by the plaintiff from the defendant based on undue infringement, both under free will.

Secondly, the changes in trademark property rights caused by the defendant's repeated infringements in this case are comparable to those caused by the initial infringement.

Thirdly, in punitive damages, the standard of proof for the right holder to prove their own trademark property loss and the infringer's profit from infringement is incredibly high. If a high standard of proof is applied to the calculation base of punitive damages, it will be difficult to deter repeated malicious infringements,.

Now, the plaintiff claims punitive damages of 100,000 yuan, calculated based on a four-fold increase. Considering factors such as the deliberateness of the defendant's infringement, the moderation of the compensation base, and the falsity of the litigation statements in this case, Plaintiff's claim for a four-fold calculation of punitive damages shall be supported.

(Source: Changsha Intermediate People's Court)

## 北京法院案例：“钉钉”为“软件运营服务[SaaS]”的驰名商标，予以跨类保护

近日，北京知识产权法院对钉钉控股（开曼）有限公司与国家知识产权局商标权无效宣告请求行政纠纷案作出判决。法院认定，原告钉钉控股（开曼）有限公司提交的行政和诉讼阶段证据充分证明了“钉钉”软件在中国市场占据重要份额，并具有较高知名度，构成驰名商标。诉争商标“钉车”与“钉钉”在文字构成和呼叫上近似，构成对原告驰名商标的复制、摹仿。法院进一步指出，“钉车”在人脸识别设备等商品上的使用，易使公众产生混淆，误认为与“钉钉”存在关联，减弱原告驰名商标的显著性。

来源：北京知识产权法院

## Beijing Court Case: "DingTalk" Recognized as Well-Known Trademark for SaaS, Granted Cross-Class Protection

Recently, the Beijing Intellectual Property Court has made a ruling on the administrative dispute case regarding the request for invalidation of trademark rights between Dingding Holdings (Cayman) Limited(Plaintiff) and China National Intellectual Property Administration(Defendant). The court found that the evidence submitted by Plaintiff, Dingding Holdings (Cayman) Limited, during the administrative and litigation stages, fully demonstrates that the "Dingding" software occupies an important share in the Chinese market and has a high reputation, constituting a well-known trademark. The disputed trademark "Dingche" is similar to "Dingding" in terms of word composition and pronunciation, constituting a replication and imitation of Plaintiff's well-known trademark. The court further pointed out that the use of "Dingche" on products such as face recognition devices can easily confuse the public, mistakenly believing that it is associated with "Dingding," thereby weakening the distinctiveness of Plaintiff's well-known trademark.

(Source: Beijing Intellectual Property Court)

## 山东法院案例：假冒“3Q”商标N95口罩适用惩罚性赔偿

近日，山东高院宣判一起口罩商标侵权案。日照三某医疗卫生用品有限公司系“3Q”商标权人。井某洋在新冠疫情期间生产销售了假冒“3Q”商标N95口罩并受到刑事处罚。日照三某医疗卫生用品有限公司认为井某洋上述行为侵害其商标权，并应适用惩罚性赔偿，请求法院判令井某洋赔偿经济损失。

法院经审理认为，井某洋生产销售了假冒“3Q”商标的N95口罩，并以此为主营业务，侵权获利947.8万元，且井某洋因侵权行为已被追究刑事责任，井某洋属于故意侵权且情节严重的情形，可以适用惩罚性赔偿。以侵权获利为惩罚性赔偿基数，综合考虑井某洋主观故意及侵权情节严重程度等因素，确定惩罚性赔偿倍数为2倍，法院判决井某洋赔偿经济损失2843.4万元（947.8万元+947.8万元×2倍）。

来源：山东省高级人民法院

## Shandong Court Case: Punitive Damages Applicable for Counterfeit "3Q" Trade-marked N95 Masks

Recently, the Shandong High Court verdicts a trademark infringement case involving face masks. Rizhao Sanmou Medical and Health Products Co., Ltd.(Plaintiff) is the trademark owner of "3Q". Jing Moyang(Defendant) produced and sold counterfeit "3Q" branded N95 masks during the COVID-19 pandemic and received criminal penalties. Plaintiff believes that Defendant's actions infringed its trademark rights and should be subject to punitive damages, thus they requested the court to verdict Defendant to compensate for their economic losses.

After hearing the case, the court determined that Defendant produced and sold counterfeit "3Q" brand-ed N95 masks as his main business, with an infringement profit of RMB 9.478 million. Additionally, Defendant has already been held criminally responsible for his infringing actions. Considering Defendant's deliberate infringement and the severity of the situation, punitive damages shall be applied. Using the infringement profit as the base for punitive damages and taking into account factors such as Defendant's subjective intention and the severity of the infringement, the court determined that the multiplier for punitive damages was 2 times. The court verdicted Defendant to compensate for economic losses of RMB 28.434 million (RMB 9.478 million + RMB 9.478 million x 2).

(Source: Shandong High People's Court)

## 索尼音乐宣布退出AI训练

2024年5月16日，索尼音乐宣布退出人工智能训练，并公开声明如下：

出于版权保护的原因，根据具体情况，除非得到SME或SMP的明确授权，在所有相关司法管辖区的适用法律允许的最大范围内，索尼音乐明确禁止以AI训练、开发或商业化相关的任何目的，通过任何方式（包括机器人程序、抓取或其他自动化流程），对SME、SMP中的任何内容进行文本或数据挖掘、网页抓取或类似的复制、提取及使用行为（包括但不限于音乐作品、歌词、录音、视听录音、艺术品、图像、数据等）。

来源：索尼音乐

## Sony Music's Declaration of AI Training Opt-Out

On May 16, 2024, Sony Music announced its opt-out from artificial intelligence training and issued the following public statement:

Sony Music Entertainment Inc. ("SME") and its subsidiaries and affiliates (together, "Sony Music") value the works of its artists and creators, as well as all associated intellectual property rights. With the rapid development of artificial intelligence technology, we recognize the potential profound impact these technologies may have on copyright and content usage.

To protect our copyrights and content, Sony Music hereby declares that we have decided to opt-out of all forms of artificial intelligence training activities, including but not limited to the use of Sony Music's content (such as musical works, lyrics, sound recordings, audiovisual materials, artwork, images, etc.) for training machine learning or deep learning models.

(Source: Sony Music)

## Spotify面临版权争议：美国音乐出版商协会要求下架未经授权内容

美国国家音乐出版商协会（NMPA）近日致信 Spotify，称Spotify 在未经控制音乐作品版权的相应出版商和/或管理员（NMPA会员）同意或补偿的情况下，使用音乐作品显示歌词、复制和分发音乐视频和播客。信中还表示：Spotify似乎通过在其歌词、视频和播客中托管未经许可的音乐作品，以及向其用户分发这些音乐作品的未经授权的复制、同步、展示和衍生诉讼，从而直接侵权，Spotify从这种侵权行为中获利。NMPA要求Spotify将“这些未经许可的作品”从平台上删除，否则Spotify将面临继续使用的版权责任。

Spotify并未直接回应NMPA的指责，其一位发言人表示：这封信中的某些内容存在误解。

来源：[Billboard](#)

## Spotify Faces Copyright Dispute: NMPA Demands Removal of Unauthorized Content

The National Music Publishers' Association (NMPA) recently sent a cease-and-desist letter to Spotify, alleging that Spotify uses musical works to display lyrics, reproduce, and distribute music videos and podcasts without the consent or compensation of the corresponding publishers and/or administrators (NMPA members) who control the copyrights of the musical works. The letter also stated: "Spotify appears to be engaged in direct infringement by hosting unlicensed musical works in its lyrics, videos and podcasts and by distributing unauthorized reproductions, synchronizations, displays and derivative uses of these musical works to its users. Making matters worse, Spotify profits from such infringement." The NMPA demands that Spotify remove "these unlicensed works" from its platform, otherwise, Spotify will face copyright liability for continued use.

Spotify did not directly respond to the accusations from the NMPA, and a spokesperson for the company stated that there are misunderstandings in some of the contents of the letter.

(Source: [Billboard](#))

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