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立方要闻周报

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立方竞争法周报 Weekly Competition Law News

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比亚迪在德国被诉侵犯蜂窝通信专利

BYD sued in Germany for infringing cellular communication patents

立方竞争法周报 Weekly Competition Law News

北京市市场监督管理局通报公平竞争审查中问题文件情况

2025年2月12日，北京市市场监督管理局（“北京市监局”）官网通报了北京市公平竞争审查抽查工作中问题文件的情况。通报显示，北京市监局对北京市16个区级政府和市级有关单位上一年度出台的涉及经营主体经济活动的政策措施文件进行抽查，最终认定7件政策措施文件存在妨碍统一市场和公平竞争的问题，各单位均已按要求完成整改。（[查看更多](#)）

The Beijing AMR Published the Status of Questionable Documents in the Fair Competition Review

On February 12, 2025, the official website of the Beijing Administration for Market Regulation (“Beijing AMR”) published the status of the questionable documents in the fair competition review in Beijing. According to the notice, the Beijing AMR conducted spot checks on the policy measure documents involving the economic activities of business entities issued by 16 district-level governments and relevant municipal-level departments in Beijing last year. Eventually, the Beijing AMR identified seven policy measure documents with the issues of hindering the unified market and fair competition; and all departments had completed rectification as required. ([More](#))

最高检首批60名技术调查官上岗，或参与涉技术类反垄断案件

2025年2月9日，最高人民检察院官网发布报道称，最高检知识产权检察办公室近日出台了《技术调查官管理办法》，最高检首批60名技术调查官已上岗，涉及电子信息、生物医药、机械制造等领域。技术调查官履行的职责包括明确技术事实争议焦点，对技术事实的查明提出建议；在检察官主持下参与调查取证、进行勘验、检查等。技术调查官将作为“技术翻译”，传递技术事实，提供专业意见，为涉技术类反不正当竞争、反垄断等多类案件中技术类事项的审查认定工作提供支持。（[查看更多](#)）

The Supreme People's Procuratorate Appoints the First Batch of 60 Technical Investigators Who Might Participate Anti-Monopoly Cases Involving Technological Issues

On February 9, 2025, the official website of the Supreme People's Procuratorate (“SPP”) reported that the Intellectual Property Prosecution Office of the SPP recently issued the *Administration Measures for Technical Investigators*, and that the first 60 technical investigators of the SPP had already taken up their roles, covering electronic information, biomedicine, machinery manufacturing and other fields. The duties of the technical investigators include: clarifying the focus of the dispute over the technical facts and offering recommendations for the ascertaining of the technical facts; participating in evidence investigation and collection and conducting inspections and examinations under the directions of prosecutors, etc. The technical investigators will act as “technical translators”, by conveying technical facts, providing professional opinions, and supporting the examination and identification of technical matters in various types of cases regarding technological issues, such as anti-unfair competition and anti-monopoly cases. ([More](#))

土耳其反垄断监管机构对百事子公司处以 3600万美元反垄断罚款

2025年2月16日，土耳其反垄断监管机构根据一项调查对百事公司在土耳其的子公司菲多利（Frito-Lay）处以 13 亿里拉（合3600 万美元）的巨额反垄断罚款，该罚款是保证土耳其国内零食市场公平竞争的广泛举措之一。除此之外，土耳其反垄断监管机构要求菲多利公司在那些竞争对手没有设立独立陈列区的小型零售店铺中，为竞争对手的品牌分配货架空间。该监管决定旨在通过促进小型竞争对手的市场准入创造一个更公平的竞争环境。（[查看更多](#)）

Turkey's Antitrust Regulator Imposes a \$36 Million Antitrust Fine on PepsiCo Inc.'s Turkish Subsidiary

On February 16, 2025, Turkey's antitrust regulator imposed a substantial penalty of 1.3 billion liras (approximately \$36 million) on PepsiCo's Turkish subsidiary Frito-Lay following an investigation. The fine comes as part of a broader effort to ensure fair competition within the country's snack market. In addition, Turkey's antitrust regulator has required Frito-Lay to allocate shelf space to rival brands in smaller retail stores where the said competitors do not have their own dedicated sections. The regulatory decision seeks to create a more level playing field by facilitating market entry for smaller competitors. ([More](#))

Uber 起诉 DoorDash，指控其进行外卖市场管制并从事反竞争行为

2025年2月16日，据媒体报道，Uber Technologies针对DoorDash提起诉讼，指控后者从事导致餐厅成本和消费者开销增加反竞争行为。Uber在位于旧金山的加利福尼亚州高等法院起诉，指控 DoorDash 向餐厅施压要求维持与其平台的合作的排他性，采用胁迫性手段劝阻餐厅使用 Uber 旗下的外卖服务Uber Direct。Uber在起诉状中指出DoorDash 威胁对同时与Uber合作的餐厅收取更高的佣金，称DoorDash通过后期人为降低餐厅在自家应用程序中的可见度的方式惩罚同时与多家外卖平台合作的餐厅，指控上述行为显著限制外卖市场上的竞争。（[查看更多](#)）

Uber Sues DoorDash, Accusing it of Controlling the Food Delivery Market and Engaging in Anti-Competitive Practices

On February 16, 2025, according to media reports, Uber Technologies has taken legal action against DoorDash, alleging that the latter engages in anticompetitive practices that result in increased costs for both restaurants and consumers. The lawsuit, filed in California Superior Court in San Francisco, claims that DoorDash pressures restaurants into maintaining exclusivity with its platform and employs coercive tactics to dissuade restaurants from using Uber Eats' first-party delivery service, Uber Direct. In the complaint, Uber highlights claims that DoorDash has threatened to impose higher commission fees on restaurants that also collaborate with Uber Eats, contending that DoorDash has penalized restaurants appearing on multiple platforms by artificially lowering their visibility within its app. Therefore, Uber alleges that the above behavior has effectively limited competition in the delivery market. ([More](#))

美国司法部反垄断局和美国联邦调查局开展合作打击跨国反垄断犯罪

2025年2月13日，美国司法部反垄断局（“DOJ”）和联邦调查局宣布推出新的线上门户网站，共同打击跨国反垄断犯罪，该网站将公示被控涉嫌反垄断罪和其他破坏公平竞争罪的国际罪犯的信息。DOJ将与有关执法部门合作，采取可行措施，针对损害美国经济和消费者的反竞争行为开展调查并提起诉讼。在提出刑事指控后，DOJ将与美国国内和国外有关当局合作追捕国际逃犯并进行引渡。知情公众也可以在该门户网站上提供有关国际逃犯的位置信息。（[查看更多](#)）

The Justice Department's Antitrust Division and FBI Collaborate in Combating International Antitrust Crime

On February 13, 2025, the U.S. Department of Justice's Antitrust Division (“DOJ”) and the Federal Bureau of Investigation announced the launch of a new online portal to jointly combat international antitrust crimes, which publishes information on international fugitives charged with antitrust offenses and other crimes affecting the competitive process. The DOJ and its law enforcement partners will take available steps to investigate and prosecute companies and individuals whose anticompetitive conduct harms the American economy and consumers. After bringing criminal charges, the DOJ works actively with domestic and foreign authorities to locate international fugitives and conduct extradition procedures. Informed persons from the public may also provide information on the whereabouts of international fugitives on the portal website. ([More](#))

韩国KFTC拟定审查博通滥用市场支配地位行为承诺方案

2025年2月9日，据韩国公平交易委员会（“KFTC”）的一份文件披露，美国半导体企业博通（Broadcom）已就其涉嫌违反韩国反垄断法的行为提出和解方案，KFTC将对方案启动审查。根据该文件，博通作为韩国有线电视系统级芯片（SoC）的生产商，要求韩国国内机顶盒生产商在参加与付费电视服务供应商相关的投标或交易中只能推荐搭载博通系统级芯片的机顶盒，就此完成供应协议、生产和送货；KFTC针对该类行为是否违法韩国反垄断法启动调查。博通提出的承诺方案包括：停止要求韩国机顶盒生产企业排他地使用博通的系统级芯片、停止要求韩国机顶盒生产企业向其采购一定数量的系统级芯片并设置相应价格或非价格优惠、实施合规计划以确保遵守有关救济措施、采取措施支持韩国国内无晶圆厂和系统半导体产业、推动其与韩国国内中小企业共同发展等。（[查看更多](#)）

KFTC Initiated the Commitment Procedure to Access Broadcom's Proposed Commitments Related to Its Conduct Abusing Market Dominance

On February 9, 2025, according to a document of the Korea Fair Trade Commission (“KFTC”), the US semiconductor company Broadcom (“Broadcom”) has submitted settlement proposals for its alleged violation of the Korean anti-monopoly laws, and the KFTC will initiate an investigation regarding such proposals. According to the document, Broadcom, a provider of system-on-chip (“SoC”) components for pay-TV set-top boxes in Korea, had previously required domestic set-top boxes manu-

facturers in Korean to only propose set-top boxes equipped with Broadcom's SoCs when participating in bids or transactions with pay-TV services providers, and concluded supply contracts, production and delivery accordingly; KFTC was investigating whether Broadcom's such conducts violate the Korean anti-monopoly laws. Broadcom's proposed commitments include: stop requiring Korean set-top box manufacturers to exclusively use Broadcom's SoCs; stop requiring Korean set-top box manufacturers to purchase a certain number of SoCs from Broadcom nor offering pricing and non-pricing benefits; implement a compliance program to ensure adherence to these remedies; adopt measures to support the domestic fabless and system semiconductor industries, and promote mutual growth with domestic small and medium-sized enterprises and so on. ([More](#))

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

国家数据局综合司、公安部办公厅印发《全国数据资源统计调查制度》

2025年2月21日，国家数据局综合司、公安部印发了《全国数据资源统计调查制度》（以下简称《制度》），自2025年1月开始实施，有效期3年。《制度》主要调查数据资源指标，包括数据生产、存储、计算、流通、应用和安全等内容。调查对象包括合法拥有或控制数据的国家行政机关、事业单位、企业、社会团体等，统计范围为全国（不包括港澳台地区）。([查看更多](#))

NDA and MPS Issue the National Data Resource Statistical Survey System

On February 21, 2025, the National Data Administration (NDA) and the Ministry of Public Security of the People's Republic of China (MPS) issued the *National Data Resource Statistical Survey System (System)*, which has been implemented since January 2025 and is valid for three years. The System mainly investigates data resource indicators, including data production, storage, computation, circulation, application, and security. The survey targets include state administrative organs, institutions, enterprises, social organizations, etc., that legally own or control data, and the statistical scope is the whole country (excluding Hong Kong, Macao, and Taiwan). ([More](#))

中央网信办发布2025年“清朗”系列专项行动整治重点

2025年2月21日，中央网信办发布了2025年“清朗”系列专项行动八大重点整治任务，一是整治春节网络环境；二是整治“自媒体”发布不实信息；三是整治短视频领域恶意营销；四是整治AI技术滥用乱象；五是整治涉企网络“黑嘴”；六是整治暑期未成年人网络环境；七是整治网络直播打赏乱象；八是整治恶意挑动负面情绪。中央网信办相关负责人表示将进一步压实各方主体责任，持续净化信息内容、规范功能服务，确保整治工作取得实效，推动网络生态持续向好。([查看更多](#))

CAC Releases the Key Points of the Clear and Bright 2025 Series of Special Campaigns

CAC Released the Key Points of the Clear and Bright 2025 Series of Special Campaigns. On February 21, 2025, the Cyberspace Administration of China (CAC) announced eight key rectification tasks for the *Clear and Bright 2025* series of special actions. The tasks are as follows: First, to improve the online environment during the Spring Festival. Second, to address the dissemination of false information by “self-media”. Third, to rectify malicious marketing in the short video sector. Fourth, to tackle the misuse of AI technology. Fifth, to combat “black mouth” activities related to enterprises online. Sixth, to enhance the online environment for minors during the summer. Seventh, to regulate the chaos surrounding live streaming rewards, and eighth, to curb malicious provocation of negative emotions. A responsible official from the CAC stated that they will further strengthen the responsibilities of all parties involved, continuously purify information content, standardize functional services, ensure the effectiveness of rectification efforts, and promote a positive online ecosystem. ([More](#))

国家公共数据资源登记平台将于3月1日上线试运行

2025年2月18日，新华社记者从国家数据局获悉，国家公共数据资源登记平台已开发完成，正在进行部署和测试，将于3月1日上线试运行。平台上线运行后，供数单位可发布数据资源和产品信息，用数单位可查找数据资源等，更好实现供需对接，为降低全社会用数成本、促进数据资源价值释放创造条件。通过登记工作，平台可以掌握全国公共数据资源底账，加强授权运营信息披露，促进授权运营规范化、透明化。 ([查看更多](#))

The National Public Data Resource Registration Platform to Launch for Trial Operation on 1 March

On February 18, 2025, Xinhua News Agency reported that the NDA had completed the development of the National Public Data Resource Registration platform, which is currently undergoing deployment and testing, with a trial operation set to launch on 1 March. Once the platform is operational, data providers will be able to publish information about data resources and products, while data users will be able to search for data resources, thereby better facilitating the matching of supply and demand. This will help reduce the cost of data usage across society and create conditions for releasing data resource value. Through the registration process, the platform will be able to keep track of the national public data resource inventory, enhance the disclosure of authorized operational information, and promote the standardization and transparency of authorized operations. ([More](#))

国家病毒中心通报14款违规APP

2025年2月17日，国家计算机病毒应急处理中心通过互联网监测，发现14款移动应用存在隐私不合规行为，违规情形包括但不限于：（1）个人信息处理者向其他个人信息处理者提供其处理的个人信息的，未向个人告知接收方的名称或者姓名、联系方式、处理目的、处理方式和个人信息的种类，并取得个人的单独同意；（2）个人信息处理者未根据个人信息的处理目的、处理方式、个人信息的种类以及对个人权益的影响、可能存在的安全风险等，采取相应的加密、去标识化等安全技术措施。 ([查看更多](#))

The National Computer Virus Emergency Response Center Reports 14 Non-compliant Mobile Applications

On February 17, 2025, through internet monitoring, the center discovered that these applications exhibited privacy violations, including but not limited to: (1) Personal information processors providing the personal information they handle to other processors without informing individuals of the recipient's name, contact information, processing purpose, processing method, and the types of personal information, and without obtaining separate consent from the individuals; (2) Personal information processors failing to implement appropriate security measures such as encryption and de-identification based on the purpose of processing personal information, the method of processing, the types of personal information, the impact on personal rights, and potential security risks. ([More](#))

海南省发布《海南自由贸易港数据出境管理清单（负面清单）（2024年版）》

2025年2月20日，海南省委网信办发布了《海南自由贸易港数据出境管理清单（负面清单）（2024版）》（以下简称《负面清单》）。《负面清单》对深海、航天、种业、旅游、免税商业零售业务五大业务领域内需要通过数据出境安全评估、个人信息出境标准合同备案、个人信息保护认证出境的数据清单进行了描述。《负面清单》政策实施是海南推进数据领域高水平对外开放的一次有益探索，为海南数据产业和数字经济带来新的发展机遇，进一步释放了数据要素活力，并将推动海南数据产业和数字经济在全球数字浪潮中稳健前行。（[查看更多](#)）

Hainan Province Releases the Hainan Free Trade Port Data Exit Management List (Negative List) (2024)

On February 20, 2025, the Hainan Provincial Cyberspace Administration published the *Hainan Free Trade Port Data Exit Management List (Negative List) (2024) (Negative List)*. The Negative List describes the data that requires security assessments for data exit, standard contract filing for personal information exit, and personal information protection certification exit within five major business areas: deep sea, aerospace, seed industry, tourism, and duty-free retail business. The implementation of the Negative List policy represents a beneficial exploration for Hainan to promote high-level openness in the data sector, bringing new development opportunities to Hainan's data industry and digital economy. It further unleashes the vitality of data elements and will promote the steady advancement of Hainan's data industry and digital economy in the global digital wave. ([More](#))

波兰：UODO 更新数据泄露处理指南

2025年2月20日，波兰数据保护机构（UODO）发布了关于处理个人数据泄露的更新指南。该指南纳入了自2018年上一版本发布以来的新法规、判例法和实践经验，并提供了最新的数据泄露报告程序、实际案例、合作指导方针以及风险评估和预防建议。指南强调了基于风险的处理方式，以及及时发现数据泄露并减轻影响的要求，并扩充了有关数据泄露记录、GDPR合规性，以及EDPB指南和法院裁决的最新最佳实践等内容。指南还阐明了跨境数据泄露的处理程序、通知义务，并就更严格的安全措施和定期风险评估提出了建议。（[查看更多](#)）

Poland: UODO Updates Guidance on Data Breach Handling

On February 20, 2025, the Polish data protection authority, Urząd Ochrony Danych Osobowych (UODO), released an updated guide. The guide handles personal data breaches, incorporating new regu-

lations, case law, and practical experience since the last 2018 version. The guide provides updated procedures for reporting breaches, practical examples, cooperation guidelines, and recommendations for risk assessment and prevention. It emphasizes a risk-based approach, timely breach detection, and mitigation, and it includes expanded sections on breach documentation, GDPR compliance, and new best practices from EDPB guidelines and court rulings. The guide also clarifies procedures for cross-border breaches, notification duties, and advises on stronger security measures and regular risk assessments. ([More](#))

韩国：韩国通信委员会向苹果公司发布关于引入下一代文本和数据传输服务的指导意见

2025 年 2 月 19 日，韩国通信委员会 (KCC) 向苹果公司发布了一则指导意见，建议在 iPhone 上引入下一代消息服务 (RCS)。此举意在实现 iPhone 和三星 Galaxy 手机之间的大型文件传输和聊天式消息交互。需要强调的是，与短信服务相比，RCS 是一种更先进的信息服务，它提供包括“正在输入”和“已读”通知等功能，并支持高达 300MB 的文件传输。KCC 建议苹果公司发布测试版，与移动运营商一同进行测试，支持大型文件传输，并在服务推出期间进行持续协商。此前，仅韩国的 Galaxy 手机支持 RCS，此次指导意见旨在提升 iPhone 与 Galaxy 手机在韩国市场的互操作性。 ([查看更多](#))

Korea: Communications Commission Issues Guidance to Apple for Introduction of Next Generation Text and Data Transmission Services

On February 19, 2025, the Korea Communications Commission (KCC) issued administrative guidance to Apple, recommending the introduction of the next-generation messaging service (RCS) on iPhones. It aims to enable large file transfers and chat-style messaging between iPhones and Samsung Galaxy phones. It was highlighted that RCS is a more advanced messaging service compared to short message service, offering features including “writing” and “read” notifications and supporting file transfers of up to 300MB. The KCC recommended that Apple distribute a beta version for testing with mobile carriers, support large file transfers, and engage in continuous consultations during the service rollout. The guidance seeks to improve interoperability between iPhones and Galaxy phones in Korea. ([More](#))

知识产权 Intellectual Property

最高检：严打制售假冒食品、药品等侵犯知识产权犯罪

2月20日，最高人民检察院召开“加强民生司法保障”新闻发布会。会上，最高人民检察院知识产权检察办公室主任刘太宗表示，严厉打击制售假冒食品、药品等侵犯知识产权犯罪。刘太宗介绍，知识产权检察工作聚焦重点热点领域，加强民生司法保障，不断提升知识产权检察综合保护质效。具体来看：一是依法惩治民生领域侵权假冒犯罪，守护人民群众切身利益。二是深入推进知识产权检察综合履职，提升综合保护质效。三是坚持惩防并举，推进综合治理。

来源：最高人民检察院

Supreme People's Procuratorate: intensify crackdown on intellectual property crimes including production and sale of counterfeit food and pharmaceuticals

On February 20, the Supreme People's Procuratorate (SPP) held a press conference titled "Strengthening Judicial Protection for People's Livelihoods." At the event, Liu Taizong, director of the SPP's Office of Intellectual Property Prosecution, emphasized rigorous efforts to combat intellectual property crimes, particularly the manufacturing and sale of counterfeit food and pharmaceuticals. He further explained that the SPP's intellectual property prosecution efforts focus on high-impact areas, strengthen judicial safeguards for public welfare, and continuously optimize the comprehensive protection of intellectual property rights.

Liu outlined three key priorities for intellectual property prosecution work:

1. Safeguard the public's immediate interests by targeting crimes affecting daily necessities.
2. Improve the quality and effectiveness of holistic intellectual property protection through integrated legal oversight.
3. Promote systematic governance by combining crackdowns with preventive measures.

Source: Supreme People's Procuratorate

最高法案例：口述记录可作为承载技术秘密之有效载体

近日，最高人民法院（2023）最高法知民终593号侵害商业秘密纠纷案送达终审判决。最高院判决撤销一审判决，改判被告侵害商业秘密行为成立，判令被告停止侵害行为并赔偿权利人损失和合理开支。本案的裁判意见具有重要参考价值，尤其是明确了符合条件的口述记录可以作为承载技术秘密的有效载体，进一步丰富了商业秘密的认定范围。

判决认为：一、符合条件的口述记录可以作为承载技术秘密之有效载体；二、不能以技术方案的创造性作为判定技术方案秘密性的依据；三、研发最终成果即便公开，也不影响研发过程中的阶段性成果作为商业秘密被保护的可能性。

来源：知产财经

Supreme People's Court Case: oral disclosures may qualify as valid carriers of technical secrets

Recently, the Supreme People's Court (SPC) issued a final judgment in the trade secret infringement case, overturning the first-instance judgement and finding the defendant liable for trade secret infringement. The court ordered the defendant to cease infringement and compensate the plaintiff for losses and reasonable expenses. This judgement affirmed that properly documented oral disclosures can serve as valid carriers of technical secrets, thereby expanding the scope of protectable trade secrets.

Key Holdings:

1. Oral records meeting specific criteria (e.g., clarity, reproducibility, and confidentiality safeguards) may qualify as valid carriers of technical secrets.
2. The secrecy of a technical solution cannot be assessed based on inventiveness.
3. Even if the final results of R&D are publicly disclosed, intermediate research outcomes may retain eligibility for trade secret protection.

Source: Intellectual Property & Finance

最高法知产庭：不能将无效程序及相关行政案件中对创造性及有关对比文件论述等同权利要求解释，以此排除被诉侵权技术方案保护范围

最高法院知识产权法庭认为，在审理专利侵权案件时，对权利要求的解释应当以权利要求记载的内容为准，并可以运用说明书及附图、专利审查档案进行体系解释，不能脱离说明书及其记载的背景技术，且解释得出的技术方案应当与发明所要解决的技术问题及取得的预期技术效果相适应。

法院认为第33077号决定和相关行政案件判决仅认定证据3的报文并非涉案专利权利要求1的“直接提交”，并未进一步解释“直接提交”，不能将无效宣告审查程序及相关行政案件中对于创造性及有关对比文件的论述等同于对权利要求的解释，并进而以对比文件中的技术方案来排除被诉侵权技术方案落入权利要求的保护范围。此外，证据3的技术方案中，报文先经过“代理软件模块”再提交给“软件控制程序”，代理软件模块中包括“重定向”处理，因此，证据3的提交经过了“重定向”，而涉案专利的发明构思在于仅提取了“Redirect(重定向)”，由“虚拟Web服务器”完成重定向。二审裁判驳回上诉，维持原判。

来源：知产宝

IP Tribunal of the Supreme People's Court: prior art analysis in invalidation proceedings cannot substitute claim interpretation to exclude accused technical solution from patent protection scope

IP Tribunal of the Supreme People's Court (SPC) clarified in a recent patent infringement case, that interpretation of patent claims shall adhere strictly to the literal content of the claims, supplemented by systemic analysis using the specification, drawings, and prosecution history. The interpreted technical solution must align with the invention's objectives and expected technical effects, without disregarding the specification or its background technical disclosures.

The court emphasized that Decision No. 33077 and related administrative rulings merely concluded that the “data packets” in prior art (Evidence 3) did not constitute “direct submission” under Claim 1 of the patent, without further defining “direct submission.” It stressed that analyses of inventiveness and prior art in invalidation proceedings or administrative cases cannot equate to claim interpretation, nor can they justify excluding the accused technical solution from the patent's scope based on prior art.

SPC further noted that in Evidence 3, data packets underwent “redirection” via a “proxy software module” before submission to the “software control program.” In contrast, the patented invention’s core concept lies in extracting only the “Redirect” function, executed by a “virtual web server.”

Source: IP House

北京法院案例：判断门店装潢是否构成近似，应当秉持整体比对的原则

本案为“广东骆驼公司、北京骆驼公司与戴卡特隆、迪卡侬公司不正当竞争纠纷案”，涉及门店装潢是否构成近似的认定问题。原审原告戴卡特隆与迪卡侬公司主张其门店装潢具有显著性，原审被告广东骆驼公司和北京骆驼公司使用的装潢元素与其相似，构成不正当竞争。一审判决认定骆驼公司构成侵权，需停止使用近似装潢并赔偿损失。北京市知识产权法院二审认为，判断装潢是否近似应秉持整体比对原则，而非仅对比单个元素。戴卡特隆和迪卡侬公司未能证明其主张的22种元素形成统一、稳定的整体营业形象，且未进行整体比对，故撤销一审判决，驳回原告诉请。

北京市高级人民法院再审维持二审判决，认为戴卡特隆、上海迪卡侬公司提交的证据仅能证明其在不同时期、不同地域的迪卡侬门店中单独或部分组合使用了其主张的相关元素，尚不足以证明上述 22 种元素经过长期、持续、稳定的使用及宣传，已经在中国境内具有一定的市场知名度并形成了具有显著特征的统一、稳定的整体营业形象，从而使相关公众将该整体营业形象与戴卡特隆、上海迪卡侬公司相对应。此外，考虑到戴卡特隆、上海迪卡侬公司主张的迪卡侬店面整体装修装饰风格较为抽象，且在同类仓储式店铺装潢中被大量采用，相关公众亦无法将其作为区别商品或服务来源的标识，故二审法院认定戴卡特隆、上海迪卡侬公司主张的整体营业形象不构成反不正当竞争法第六条第一项规定的“有一定影响的装潢”，并无不当。

来源：知产宝

Beijing Court Case: assessing similarity of store decor requires holistic comparison principle

The case over unfair competition between Guangdong Camel company, Beijing Camel company and Decathlon (China) , Decathlon S.A., addressed whether store decor constituted similarity under unfair competition law.

The plaintiffs, Decathlon (China) and Decathlon S.A., claimed their store decor had distinctiveness and that the defendants, Guangdong Camel and Beijing Camel, used similar elements, constituting unfair competition. The first-instance court ruled in favor of the plaintiffs, ordering the defendants to cease using the allegedly similar decor and pay damages.

On appeal, the Beijing Intellectual Property Court overturned the judgement, emphasizing that assessing decor similarity shall follow the principle of holistic comparison, rather than isolating individual elements. The plaintiffs failed to prove that their 22 claimed decor elements formed a unified and stable overall business image or conducted a holistic comparison. Thus, the appellate court dismissed the claims.

The Beijing High People's Court upheld the appellate decision in a retrial, stating that the plaintiff's evidences only demonstrated sporadic or partial use of the 22 elements across different regions and periods, insufficient to establish long-term, consistent, and stable use, that could create market recognition in China. Additionally, the court noted that Decathlon's claimed warehouse-style decor was abstract and commonly adopted in similar stores, making it incapable of distinguishing their goods/services. Consequently, the decor did not qualify as "influential trade dress" under Article 6(1) of China's Anti-Unfair Competition Law.

Source: IP House

安徽法院案例：复制发行侵权黑胶唱片94万余张、13名被告人犯侵犯著作权罪分获刑罚

近日，安徽省滁州市中级人民法院对这起侵犯著作权罪案作出二审判决，维持了滁州市南谯区人民法院的一审判决，判处周某某等13名被告人五年至二年有期徒刑，并处350万元至10万元不等的罚金，对部分被告人适用缓刑。

经查明，2018年，被告人周某某、曾某某在广东省广州市投资设立公司生产黑胶唱片。2021年3月，二人以营利为目的，使用公司原有的厂房和生产设备生产侵权黑胶唱片，并让被告人吴某某担任公司的法定代表人，负责公司的生产技术和人员管理，允诺给吴某某部分分红；二人安排被告人姚某某在仓库负责对接客户、定制侵权黑胶唱片碟心贴纸、收发货等。姚某某安排被告人曾某负责定制侵权黑胶唱片碟心贴纸和包装盒、对唱片进行二次包装、收发货等生产、销售事宜。至案发，该公司制作的黑胶唱片共计94万余张，收取货款1400万余元，违法所得不少于500万元。马某某等8人明知是侵权产品，仍购买并销售。

法院审理后认为，周某某等13名被告人以营利为目的，未经著作权人允许，复制发行其音乐作品，均属有其他特别严重情节，其行为均已构成侵犯著作权罪，且部分系共同犯罪，依法应予惩处。鉴于周某某等13人具有自首、自愿认罪认罚等情节，法院依法作出上述判决。二审法院裁定驳回上诉，维持原判。

来源：人民法院报

Anhui Court Case: 13 defendants sentenced for copyright infringement involving production of over 940,000 pirated vinyl records

Recently, the Chuzhou Intermediate People's Court in Anhui Province upheld the first-instance judgment by the Nanqiao District People's Court in Chuzhou City, sentencing 13 defendants, including Zhou xx, imprisonment terms ranging from five to two years and fines between RMB 3.5 million to 100,000, with probation granted to some defendants.

Case Details:

In 2018, defendants Zhou xx and Zeng xx established a company in Guangzhou, Guangdong Province, to produce vinyl records. By March 2021, they began mass-producing infringing vinyl records using

the company's existing facilities, appointing defendant Wu xx as legal representative to oversee production and personnel management in exchange for profit-sharing. Defendant Yao xx was tasked with managing customer orders, designing counterfeit record labels, and handling logistics. Yao further delegated defendant Zeng x to handle label customization, packaging, and distribution.

By the time of investigation, the company had produced over 940,000 pirated vinyl records, generating RMB 14 million in revenue and at least RMB 5 million in illegal profits. Eight other defendants, including Ma xx, knowingly purchased and resold the infringing products.

Court Ruling:

The court found all 13 defendants guilty of copyright infringement under Article 217 of China's Criminal Law, ruling that their unauthorized reproduction and distribution of musical works constituted "especially serious circumstances." Some defendants were deemed complicit in joint criminal activity. While mitigating factors such as voluntary surrender, guilty pleas, and acceptance of penalties were considered, the court upheld the original sentences. The appellate court dismissed appeals and affirmed the judgment.

Source: People's Court Daily

广东法院案例：经销商抢注境外企业商标被判构成不正当竞争

近日，广东省深圳市福田区人民法院审结一起不正当竞争纠纷案。境外知名汽车护理品牌“9B”因未在中国境内注册商标，被其前经销商A公司抢注。A公司实际控制人梁某在经销期间私下注册了“9B”商标，并在经销关系解除后，继续在官网、产品照片和门头招牌中使用该商标，虚假宣传其为“9B”品牌的国内代理商。同时，A公司在多个商品或服务类别上陆续申请注册了7枚与B公司高度近似的“9B”商标。

法院审理认为，A公司抢注并使用“9B”商标的行为，其行为不仅侵犯了B公司作为在先使用人的合法权益，还导致消费者对产品来源产生混淆，构成不正当竞争。据此，福田法院判决，A公司与梁某立即停止虚假宣传等不正当竞争行为，登报消除影响，并赔偿经济损失和合理开支70万元。该判决已生效。

来源：光明网

Case of Guangdong Courts: distributor's trademark squatting of a foreign enterprise's trademark ruled as unfair competition

Recently, Futian District People's Court, Shenzhen City, Guangdong Province, concluded a case of unfair competition dispute. The well-known foreign automotive care brand "9B", which had not registered its trademarks in China, was preemptively registered by its former distributor, Company A. Liang, the actual controller of Company A, privately registered the "9B" trademark during the distribution period. After the termination of the distribution relationship, Company A continued to use the trademark on its official website, product photos, and storefront signboards, and made false publicity claiming that it was the domestic agent of the "9B" brand. At the same time, Company A successively applied for the registration of seven "9B" trademarks that were highly similar to those of Company B in multiple categories of goods or services.

After hearing the case, the court held that the act of Company A's preemptive registration and use of the "9B" trademark not only violated the legitimate rights and interests of Company B as a prior user, but also caused consumers to be confused about the source of the products, constituting unfair competition. Accordingly, the Futian Court ruled that Company A and Liang shall immediately stop unfair competition acts such as false publicity, publish a notice in the newspaper to eliminate the negative impact, and compensate for economic losses and reasonable expenses totaling RMB 700,000. The judgment has come into effect.

Source: [Guangming Online](#)

欧盟法院发布首例涉AI法案的初步裁决，事关自动化决策和算法黑箱

2024 年 11 月 25 日，欧盟法院（CJEU）收到保加利亚 Sofiyski rayonen sad（索非亚地区法院）就适用欧盟《人工智能法案》第86条，即对个人决策进行解释权利（Right to explanation of individual decision-making）条款进行初步裁判的请求，本案的初步裁决是欧盟法院史上首次就欧盟《人工智能法案》所做出的初步裁决。

本案中，一家电信运营商对用户提起诉讼，要求支付费用及赔偿金，而用户质疑自动化系统生成发票的透明度和算法的合理性。此次裁决请求的核心问题是，消费者是否有权要求服务提供商解释基于自动化决策生成的发票所使用的算法及其参数。

本案主要涉及人工智能与消费者保护、自动化决策的透明度、合同公平性以及消费者的司法救济权的问题。欧盟法院认为：（1）消费者有权了解AI生成账单的计算方式，消费者必须能够验证账单计算是否符合合同约定。（2）法院有权要求企业提供“黑箱数据”，以确认AI计费系统是否公正、透明。（3）AI生成的账单必须接受“人工审查”。法院明确，自动化决策不能完全替代人工审查。（4）“黑箱效应”不应成为企业规避责任的理由，若AI计费系统使用不透明的计算逻辑，导致消费者无法有效行使其权利，则相关条款可能构成《不公平合同条款指令》第 3(1) 条规定的不公平条款，法院可以宣告该条款无效。

来源： [互联网法律匠](#)

The Court of Justice of the European Union issues the first preliminary ruling concerning the AI Act, pertaining to automated decision-making and algorithmic black boxes

On November 25, 2024, the Court of Justice of the European Union (CJEU) received a request from the Sofiyski rayonen sad (Sofia Regional Court) in Bulgaria for a preliminary ruling on the application of Article 86 of the European Union(EU)'s Artificial Intelligence Act, that is, the clause on the Right to explanation of individual decision-making. The preliminary ruling in this case is the first preliminary ruling made by CJEU regarding the EU 's Artificial Intelligence Act in its history.

In this case, a telecommunications operator filed a lawsuit against a user, demanding payment of fees and compensation, while the user questioned the transparency of the automated system generating invoices and the rationality of the algorithm. The core issue of this ruling request is whether consumers

have the right to require service providers to explain the algorithms and their parameters used in generating invoices based on automated decision-making.

This case mainly involves issues such as artificial intelligence and consumer protection, the transparency of automated decision-making, the fairness of contracts, and consumers' right to judicial remedies. CJEU holds that: (1) Consumers have the right to know how AI-generated bills are calculated, and consumers must be able to verify whether the bill calculations comply with the contract terms. (2) The court has the right to require enterprises to provide "black box data" to confirm whether the AI billing system is fair and transparent. (3) AI-generated bills must undergo "manual review". The court clarifies that automated decision-making cannot completely replace manual review. (4) The "black box effect" should not be a reason for enterprises to evade responsibility. If the AI billing system uses opaque calculation logic, resulting in consumers being unable to effectively exercise their rights, the relevant clauses may constitute unfair clauses as stipulated in Article 3(1) of the Unfair Contract Terms Directive, and the court may declare such clauses invalid.

Source: Internet Law Expert

欧盟委员会撤回标准必要专利监管提案

2025年2月11日，欧盟发布2025年工作计划，概述了影响欧盟未来工作的重要战略、行动计划和立法举措。该工作计划的附件中撤回了一项有争议的标准必要专利（SEP）监管提案（附件IV第17条）。对此，欧盟给出的撤回原因是：“该提案无明确协议，欧盟委员会（European Commission）将评估是否应提出另一项提案或采用另一种方式”。该项被撤销的提案是欧盟委员会于2023年4月公布的，目的是完善涉及SEP的商业许可体系，解决其长期存在的缺乏透明度、可预测性不足和诉讼争议等问题。

IPWatchdog分析认为，该项被撤销的监管提案着重赋予了欧盟知识产权局（EUIPO）监管权力，以便EUIPO介入涉及SEP的商业许可纠纷。EUIPO也设立了“权限中心”，主要负责维护SEP登记册，进行必要性审查，并确定FRAND费率。

来源：中国科学院知识产权信息

The European Commission withdraws the regulatory proposal for Standard-Essential Patents

On February 11, 2025, the European Union(EU) released its 2025 work plan, outlining important strategies, action plans, and legislative initiatives that will affect the future work of the EU. In the annex to this work plan, a controversial regulatory proposal for standard-essential patents (SEPs) (Article 17 of Annex IV) was withdrawn. Regarding this, the EU gave the reason for withdrawal as: "There is no clear agreement on this proposal, and the European Commission(EC) will assess whether another proposal should be put forward or another approach should be adopted." This revoked proposal was announced by EC in April 2023, aiming to improve the commercial licensing system involving SEPs and address long-standing issues such as lack of transparency, insufficient predictability, and litigation disputes.

According to the analysis of IPWatchdog, this revoked regulatory proposal focused on granting regulatory powers to the European Union Intellectual Property Office (EUIPO) so that the EUIPO could intervene in commercial licensing disputes involving SEPs. The EUIPO also established a "competence center" mainly responsible for maintaining the SEP register, conducting necessity reviews, and determining the FRAND (Fair, Reasonable and Non-Discriminatory) rates.

Source: Intellectual Property Information of the Chinese Academy of Sciences

比亚迪在德国被诉侵犯蜂窝通信专利

一家名为Sol IP的美国专利实体已经于2025年2月7日向德国慕尼黑第一地区法院提交两项专利侵权指控，被告包括BYD Europe B.V.。涉及的两个专利分别为：名为“无线通信系统中的载波聚合”的欧洲专利EP2575281，以及名为“传输 ACK/NACK 的方法和设备”的欧洲专利EP2624516。从两件专利涉及的技术来看，很可能涉及4G/LTE技术。

本案是中国汽车厂商遭遇到的第一起4G专利诉讼。该案诉讼策略与Sol IP三年前起诉美国福特汽车的策略相同。

来源：IP Fray

BYD sued in Germany for infringing cellular communication patents

An American patent entity named Sol IP has filed two patent infringement accusations with the Munich I Regional Court in Germany on February 7, 2025, and the defendants include BYD Europe B.V. The two involved patents are: European Patent EP2575281 titled "Carrier Aggregation in a Wireless Communication System" and European Patent EP2624516 titled "Method and Apparatus for Transmitting ACK/NACK". Judging from the technologies involved in these two patents, they are likely to be related to 4G/LTE technology.

This case is the first 4G patent lawsuit that Chinese automobile manufacturers have encountered. The litigation strategy in this case is the same as the one Sol IP used when it sued the American Ford Motor Company three years ago.

Source: IP Fray

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