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温州数安港发布基于可信数据空间和DeepSeek双重技术的可控大模型服务

Wenzhou Digital Security Port Releases Controllable Big Model Service Based on Trusted Data Space and DeepSeek Dual Technology

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EU: The European Commission Publishes the *Commission Guidelines on the Definition of an Artificial Intelligence System* Established by *Regulation (EU)2024/1689 (AI Act)*

欧盟：欧盟委员会发布《关于禁止人工智能实践的指南》

EU: The European Commission Publishes the *Commission Guidelines on Prohibited Artificial Intelligence Practices* Established by *Regulation (EU) 2024/1689 (AI Act)*

知识产权 Intellectual Property

最高法知产庭：创造性评价中如何基于现有技术判断改进动机和技术启示

IP Tribunal of the Supreme People's Court:In the evaluation of inventiveness, how to determine the motivation for improvement and technical revelation based on the prior art.

最高法知产庭：离职人员侵害技术秘密，适用2倍惩罚性赔偿

IP Tribunal of the Supreme People's Court: For departing employees' infringement of technical secrets, punitive damages are applicable.

最高法知产庭：技术秘密案历时六年最高院适用惩罚性赔偿，判赔1.66亿

IP Tribunal of the Supreme People's Court: The case of technical secret infringement lasted six years, and the Supreme People's Court applied punitive damages, awarding damages of RMB166 million.

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国知局：以“诚实信用”为无效理由，请求人应承担充分举证责任

CNIPA: When "good faith" is used as the ground for invalidation, the invalidation applicant shall bear the burden of sufficient proof.

北京知产法院：假冒“潘多拉”商标、长期侵权，适用5倍惩罚性赔偿

Beijing IP Court: For counterfeiting the "Pandora" trademark and long term infringement, 5 times of punitive damages are applicable.

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Shanghai Jinshan District Court: An animation exhibition infringed the 74 character images of Mihoyo.

全球：Inter Digital诉迪士尼SEP侵权

Global: Inter Digital sues Disney for SEP infringement.

美国：第九巡回法庭认定关键词竞价不构成商标侵权

US: The Ninth Circuit Court of Appeals holds that keyword bidding does not constitute trademark infringement.

德国：法院就诺基亚诉亚马逊案颁布SEP禁令

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欧洲：欧洲统一专利法院做出首份“长臂管辖”判决

Europe: The Unified Patent Court of Europe makes the first "long arm jurisdiction" judgment.

立方竞争法周报 Weekly Competition Law News

2024年市场监管总局无条件批准经营者集中案件623件

2025年1月27日，市场监管总局发布2024年经营者集中审查相关案件数据。2024年，市场监管总局审结经营者集中案件643件，其中无条件批准623件、受理后申报方撤回申报19件、附加限制性条件批准1件。无条件批准案件绝大多数为简易案件，并在受理后30天内结案。2024年审结的经营者集中案件主要涉及制造业、水电气热生产供应、批发零售、金融、交通运输、房地产、信息技术服务等。此外，2024年审结的经营者集中案件涉及横向集中案件约占61%，涉及纵向集中案件约占42%，混合集中案件约占27%。（查看更多）

SAMR Unconditionally Approves 623 Cases of Concentration of Undertakings in 2024

On January 27, 2025, the State Administration for Market Regulation (**"SAMR"**) released data related to the review of concentrations of undertakings for 2024. In 2024, SAMR concluded the reviews of 643 cases of concentration of undertakings, among which 623 cases were approved unconditionally, 19 cases were withdrawn by the notifying parties after case acceptance, and 1 case was approved subject to restrictive conditions. Among the cases that were approved unconditionally, the vast majority of them were simple cases and were concluded within 30 days since case acceptance. The concluded cases of concentrations of undertakings in 2024 primarily involved sectors such as manufacturing, the production and supply of water, electricity, natural gas and heat, wholesale and retail, finance, transportation, real estate, and information technology services. In addition, among the concluded cases of concentrations of undertakings in 2024, approximately 61% were horizontal concentration of undertakings, approximately 42% were vertical concentration of undertakings, and approximately 27% were conglomerate concentration of undertakings. (More)

国务院反垄断反不正当竞争委员会制定出台《关于药品领域的反垄断指南》

2025年1月24日，国务院反垄断反不正当竞争委员会公布《关于药品领域的反垄断指南》（"《指南》"）。《指南》共7章55条，针对药品领域突出垄断问题，明确药品领域反垄断执法总体原则，细化垄断协议行为表现，完善滥用市场支配地位行为认定规则，深化经营者集中审查考虑分析因素，总结公平竞争审查重点和滥用行政权力排除、限制竞争特点，并阐明法律责任适用问题。《指南》立足我国药品领域发展现状和特点，着力规范药品领域垄断违法行为，引导药品经营者依法竞争、合规经营，有助于推动药品领域公平竞争和高质量发展。（查看更多）

Anti-Monopoly and Unfair Competition Commission of the State Council Promulgates *the Anti-Monopoly Guidelines for the Pharmaceutical Sector*

On January 24, 2025, the Anti-Monopoly and Unfair Competition Commission of the State Council published *the Anti-Monopoly Guidelines for the Pharmaceutical Sector* (**"*the Guidelines*"**). *The Guidelines* consists of 7 chapters and 55 articles, addresses significant monopoly issues in the pharmaceutical

sector, clarifies the general principles of anti-monopoly law enforcement in the pharmaceutical sector, refines the manifestations of monopolistic agreements, elaborates the criteria for identifying conducts of abusing market dominance, furthers the factors to be considered and analyzed in reviewing concentrations of undertakings, summarizes the focus of fair competition reviews and the characteristics of abusing administrative power to exclude and restrict competition, and clarifies the application of legal liability. *The Guidelines* is rooted in the current landscape and developmental characteristics of China's pharmaceutical sector, focuses on regulating monopolistic practices in the pharmaceutical sector, guides pharmaceutical businesses to compete lawfully and operate in the legally-compliant manner, and *the Guidelines* is to contribute to promoting the fair competition and high-quality development of the pharmaceutical sector. (More)

巴西建筑与规划委员会被控违反巴西反垄断法

2025年2月5日，巴西经济保障行政委员会总监察长办公室（“CADE办公室”）认定巴西建筑与规划委员会在建筑服务市场违反巴西反垄断法。根据一份声明，CADE办公室在收到有关当事人在建筑和城市规划服务中固定价格的投诉后启动调查。尽管当事人作为专业委员会拥有批准和公布收费标准的法定权限，但本案中其行为已经超出法定运营范围：调查证据显示当事人积极参与费用标准化事宜，在无法定授权的情况下将费用标准纳入机构道德守则、为违规行为设置惩罚机制。因此CADE办公室认定当事人违反反垄断法，并将案件提交至CADE行政法庭、请求对当事人施加罚款。（查看更多）

The Brazilian Council of Architecture and Urban Planning is Convicted of Violating Brazilian Antitrust Laws

On February 5, 2025, the Office of the Superintendent General of CADE (“**SG/CADE**”) convicted the Brazilian Council of Architecture and Urban Planning (“**the party**”) of antitrust violations in the Brazilian Architectural Services market. According to a statement, the SG/CADE initiated the investigation after receiving a complaint alleging the party's price fixing conduct in the architecture and urban planning services. Even though the professional council had a legal authorization to approve and publish fee schedules, in this case it exceeded the limits of the legally mandated operation scope. The evidence from the investigation showed that the party was actively involved in standardizing fees schedules: it included fee schedules in the Institutional Code of Ethics and established punitive measures in case of non-compliance without proper legal authorisation. As a result, the SG/CADE determined that the party had violated the antitrust law, referred the case to the CADE Tribunal and recommended the imposition of a fine. (More)

英特尔欧盟反垄断案胜诉后获得欧委会5.1555亿欧元的利息赔付

2025年2月2日，据媒体报道，美国芯片制造商英特尔已经在2024年获得欧盟委员会（**“欧委会”**）5.1555亿欧元（约合5.36亿美元）的利息赔付，这也是英特尔欧盟反垄断案罚款退还事宜的最新发展。2009年，英特尔因涉嫌从事反竞争行为面临欧盟委员会开出10.6亿欧元的罚款；英特尔针对该罚款决定起诉欧委会，2022年1月欧盟普通法院判决撤销罚款，英特尔随后起诉欧委会，要求后者支付基于已退还罚款金额计算的5.93亿欧元的利息。根据欧盟反垄断负责人特蕾莎

• 里贝拉（Teresa Ribera）致一位欧洲议会立法者的书面意见，欧委会已经在2024年11月6日向英特尔支付该笔利息，支付总额约5.1555亿欧元。（查看更多）

Intel Has Received EUR 515.55 Million in Default Interest from the European Commission after Winning the Antitrust Litigation

On February 2, 2025, according to media reports, the U.S. chipmaker Intel has received €515.55 million (approximately $536 million) in default interest from the European Commission ("**the Commission**") in 2024, which is also the latest development related to refunding the antitrust fine in Intel's EU antitrust case. Intel initially faced a €1.06 billion fine from the Commission in 2009 for allegedly engaging in anti-competitive practices; Intel later sued the Commission regarding the penalty decision; in January, 2022 the General Court of the European Union annulled the fine. Intel subsequently sued the European Commission, seeking €593 million in default interest on the refunded amount. According to a written comment from the EU antitrust chief Teresa Ribera to a European Parliament lawmaker, the Commission disbursed the default interest to Intel on November 6, 2024, with the total payment amounted to approximately €515.55 million. (More)

印尼反垄断监督机构认定谷歌实施垄断行为，罚款约1265万美元

2025年1月21日，据媒体报道，印度尼西亚商业竞争监督委员会（"**KPPU**"）因谷歌违反该国反垄断法对其处以2025亿印尼盾（约合 1265万美元）的罚款。KPPU调查认为，谷歌强制通过谷歌应用商店分发应用程序的应用程序开发者使用谷歌应用商店计费系统、对不遵守该要求的应用程序开发者威胁下架处理、并收取15%至30%的服务费，上述限制支付方式的行为导致应用程序用户数量减少、交易和相关收入下降以及由服务费导致的最高30%的应用程序价格上涨。基于调查获取的有关证据，KPPU认定谷歌实施了滥用市场支配地位的垄断行为，违反印尼反垄断法，责令其停止垄断行为并施加罚款。（查看更多）

The Indonesian Antitrust Regulator Holds Google of Practicing Monopolistic Conducts and Imposes Fine of Approximately USD 12.65 Million

On January 21, 2025, according to media reports, Indonesia Commission for the Supervision of Business Competition (**"KPPU"**) fined Google IDR202.5 billion (approximately USD12.65 million) for violating the country's anti-monopoly law. The KPPU's investigation revealed that Google mandated Indonesian application developers that distribute their applications through the Google Play Store to use Google Play Billing System, threatened to remove the application if the application developers did not comply and charged the service fee from 15% to 30%. The above-mentioned restrictions of payment methods resulted in a decrease in the number of app users, a decrease in transactions and correlated revenue, and an increase in app prices of up to 30% due to increased service costs. Based on the relevant evidence obtained through the investigation, the KPPU concluded that Google had engaged in monopolistic practices of abusing its market dominance, thereby violating Indonesia's anti-monopoly law; the KPPU ordered Google to cease its monopolistic conduct and imposed a fine. (More)

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

国家金融监督管理总局发布《保险集团集中度风险监管指引》

2025年2月8日，国家金融监督管理总局发布了《保险集团集中度风险监管指引》（以下简称《指引》）。《指引》共五章二十八条，内容包括总则、集中度风险管理体系、集中度风险管理政策和程序、管理信息系统与报告披露和附则五个部分。《指引》提出，保险集团公司应建立集中度风险数据治理机制，明确各类集中度风险数据统计口径、信息来源、报送标准、时效规范等，组织和监督保险集团成员公司落实集中度风险数据治理要求，保障集中度风险数据质量。（查看更多）

NFRA Issues *Guidelines for Supervision of Concentration Risk of Insurance Groups*

On 8 February 2025, National Financial Regulatory Administration (NFRA) issued the *Guidelines on Concentration Risk Supervision for Insurance Groups (Guidelines)*. The Guidelines consist of five chapters and twenty-eight articles, covering general provisions, concentration risk management system, concentration risk management policies and procedures, management information system and report disclosure, and appendices. The Guidelines propose that insurance group companies should establish a concentration risk data governance mechanism, specify the statistical calibre of various types of concentration risk data, sources of information, reporting standards and timeliness norms, etc., organize and supervise the implementation of concentration risk data governance requirements by member companies of the insurance group, and safeguard the quality of concentration risk data. (More)

十部门联合发布《互联网军事信息传播管理办法》

2025年2月8日，国家网信办等十部门联合发布了《互联网军事信息传播管理办法》（以下简称《办法》）。《办法》共五章三十条，内容包括总则、开办规范、信息传播、监督管理、附则五个部分。《办法》规定，互联网军事信息是指互联网信息服务提供者和用户制作、复制、发布、传播的涉及国防和军队的文字、图片、音视频等信息。《办法》明确，互联网军事信息服务提供者需依法取得许可并履行备案手续，保证其身份的真实性。网站平台为用户开通军事账号，应当按照国家有关规定进行核验。军队单位、兵役工作有关部门、国防教育机构等在网站平台开办的以传播军事信息为主的账号，可以由网站平台认定为军事账号。（查看更多）

Ten Departments Jointly Issue the *Management Measures for the Military Information Dissemination on the Internet*

On 8 February 2025, The Cyberspace Administration of China (CAC) and nine other departments jointly issued the *Management Measures for the Military Information Dissemination on the Internet (Measures)*. The Measures consist of five chapters and 30 articles, covering general provisions, start-up norms, information dissemination, supervision and management, and bylaws. The Measures stipulate that Internet military information refers to the text, pictures, audio and video information concerning

national defense and the military produced, copied, published and disseminated by Internet information service providers and users. The Measures identify that Internet military information service providers are required by law to obtain a license and perform record-keeping procedures to ensure the authenticity of their identity. Website platforms for users to open military accounts, should be verified in accordance with relevant state regulations. Accounts run by military units, departments related to military service, and national defense education institutions on website platforms that mainly disseminate military information can be identified as military accounts by website platforms. (More)

上海市发布自贸区数据出境负面清单管理办法、负面清单（2024版）及其实施指南

2025年2月8日，上海市网信办等五部门联合发布了《中国（上海）自由贸易试验区及临港新片区数据出境负面清单管理办法（试行）》（以下简称《管理办法》）《中国（上海）自由贸易试验区及临港新片区数据出境管理清单（负面清单）（2024版）》（以下简称《负面清单》），并配套发布了《中国（上海）自由贸易试验区及临港新片区数据出境负面清单实施指南（试行）》（以下简称《实施指南》）。

《管理办法》共六章二十一条，重点围绕负面清单的制定流程、职责分工、适用范围、安全监管等方面进行设计，是制定负面清单和开展日常监管的基本规范。《负面清单》综合考虑行业主管监管部门要求、数据分类分级规则、数据敏感程度等因素，首批制定涵盖金融（再保险）、航运（国际航运）和商贸（零售与餐饮业、住宿业）三个关键领域，包括重要数据、个人信息两类数据，涉及六个具体场景，八十四个数据项。《实施指南》在《管理办法》的基础上，细化规定了数据处理者在实施《负面清单》时，向主管部门提交材料及报备数据出境情况的具体工作流程及相关模版。（查看更多）

Shanghai Releases FTZ Negative List Management Measures for Data Exit, Negative List (2024) and its Implementation Guidelines

On 8 February 2025, five departments, including the Shanghai Municipal Internet Information Office, jointly issued the *Management Measures for the Negative List of Data Exit from China (Shanghai) Pilot Free Trade Zone (FTZ) and Lingang New Area (Trial) (Management Measures)*, and *the Management List of Data Exit from China (Shanghai) Pilot FTZ and Lingang New Area (Negative List) (2024)*, with the *Implementation Guidelines for the Negative List of Data Exit from China (Shanghai) Pilot FTZ and Lingang New Area (Trial) (Implementation Guidelines)* have been released.

The Management Measures consist of six chapters and 21 articles, focusing on the formulation process of the Negative List, division of responsibilities, scope of application, safety supervision and other aspects of the design, which are the basic norms for the formulation of the Negative List and the conduct of daily supervision. The Negative List considers the requirements of the competent industry regulators, data classification and grading rules, and the sensitivity of data, etc. The first batch of the Negative List was formulated to cover the three key areas of finance (reinsurance), shipping (international shipping) and commerce (retail and catering, and lodging), and includes two types of data, namely, im-

portant data and personal information, and involves six specific scenarios and eighty-four data items. Based on the Management Measures, the Implementation Guidelines have refined the specific workflow and related templates for data processors to submit materials to the competent authorities and report data exit situations when implementing the Negative List. (More)

北京市政务服务和数据管理局发布《关于加快北京市公共数据资源开发利用的实施意见（征求意见稿）》

2025年2月5日，北京市政务服务和数据管理局发布了《关于加快北京市公共数据资源开发利用的实施意见（征求意见稿）》（以下简称《实施意见》），向社会公开征求意见，意见反馈截止时间为2025年2月12日。

《实施意见》共七章二十条，内容包括总体要求、夯实公共数据开发利用基础、畅通公共数据开发利用渠道、加强公共数据开发利用服务能力、释放数据要素市场创新活力、统筹发展和安全、健全公共数据保障体系七个部分。《实施意见》旨在优化公共数据资源配置，持续推进公共数据高质量供给、高效率流通、高水平应用，加快数据要素市场化配置改革综合试验区建设，为首都新质生产力培育和高质量发展提供有力支撑。（查看更多）

Beijing Municipal Administration of Government Services and Data Management Releases the *Implementation Opinions on Promoting the Development and Utilization of Beijing's Public Data Resources (Draft for Public Consultation)*

On 5 February 2025, the Beijing Municipal Administration of Government Services and Data Management released the *Implementation Opinions on Accelerating the Development and Utilization of Beijing's Public Data Resources (Draft for Public Consultation) (Implementation Opinions)* for public consultation, with a deadline of 12 February 2025 for feedback.

The Implementing Opinions consist of seven chapters and 20 articles, including general requirements, consolidating the foundation of public data development and utilization, unimpeded channels for public data development and utilization, strengthening the service capacity of public data development and utilization, unleashing the vitality of innovation in the market for data elements, coordinating development and security, and improving the public data protection system. The Implementation Opinions is aimed at optimizing the allocation of public data resources, continuously promoting the high-quality supply, high-efficiency circulation and high-level application of public data, accelerating the construction of a comprehensive pilot area for the reform of the market-based allocation of data elements, and providing strong support for the cultivation of new-quality productivity and high-quality development in the capital. (More)

温州数安港发布基于可信数据空间和DeepSeek双重技术的可控大模型服务

2025年2月4日，温州数安港联合浙江省大数据联合计算中心、每日互动及温州市数据集团，依托数安港可信数据空间，部署DeepSeek R1、v3等一系列模型，为相关产业提供基于可信数据空间的可控大模型租用服务、私有化部署和精调服务，为各行业提供更为安全、高效的大模型应用解决方案。

数安港版DeepSeek可控大模型是完善的合规机制、可信的数据空间技术和高性能的数据大模型之间的完美融合。一方面，企业能够高效开发诸如智能客服、办公自动化、市场决策、产品研发、金融风险防控等垂直领域应用场景；另一方面，通过可信数据空间的数据访问控制、隐私计算等技术，企业和个人的数据安全可以得到有效保障。（查看更多）

Wenzhou Digital Security Port Releases *Controllable Big Model Service Based on Trusted Data Space and DeepSeek Dual Technology*

On 4 February, 2025, Wenzhou Digital Security Port, in conjunction with Zhejiang Big Data Multi-Party Computing Centre, Merit Interactive and Wenzhou Data Group, deployed a series of models, such as DeepSeek R1 and v3, relying on the Trusted Data Space of the Digital Security Port, to provide relevant industries with controllable big model rental services based on the Trusted Data Space, privatized deployment and fine-tuning services, to provide industries with a more secure and efficient big model application solutions for various industries.

The Digital Security Hong Kong version of DeepSeek Controllable Big Model is a perfect fusion between a perfect compliance mechanism, trusted data space technology and a high-performance data big model. On the one hand, enterprises can efficiently develop application scenarios in vertical fields such as intelligent customer service, office automation, market decision-making, product development, financial risk prevention and control, etc. On the other hand, through data access control and privacy computing technologies in trusted data space, the data security of enterprises and individuals can be effectively guaranteed. (More)

欧盟：欧盟委员会发布《AI系统定义指南》

2025年2月6日，欧盟委员会发布了《AI系统定义指南》（以下简称《指南》）。《指南》旨在帮助供应商和其他有关人员确定软件系统是否构成AI系统，从而促进相关规则的有效实施。《指南》明确，AI系统包括七个要素：（1）一个基于机器的系统；（2）具有一定程度的自主性；（3）部署后表现出适应性；（4）运行时有明确或隐含的目标；（5）能根据输入推断如何生成输出；（6）例如预测、内容、推荐或决策；（7）这些输出内容可以影响现实或虚拟环境。《指南》不具有约束力，其内容将在必要时更新。《指南》目前已获得欧盟委员会批准，但尚未正式采纳。（查看更多）

EU: The European Commission Publishes the *Commission Guidelines on the Definition of an Artificial Intelligence System* Established by *Regulation (EU)2024/1689 (AI Act)*

On 6 February, 2025, the European Commission published the *Commission Guidelines on the Definition of an Artificial Intelligence System (Guidelines)* established by *Regulation (EU) 2024/1689 (AI Act)*. The Guidelines aim to assist providers and other relevant persons in determining whether a software system constitutes an AI system to facilitate the effective application of the rules. The Guidelines specify that an AI system consists of seven elements: (1) a machine-based system; (2) that is designed to operate with varying levels of autonomy; (3) that may exhibit adaptiveness after deployment; (4) and that, for explicit or implicit objectives; (5) infers, from the input it receives, how to generate outputs (6) such as predictions, content, recommendations, or decisions (7) that can influence physical or virtual

environments. The Guidelines are not binding and will be updated as necessary. The European Commission has approved the Guidelines, but not yet formally adopted them. (More)

欧盟：欧盟委员会发布《关于禁止人工智能实践的指南》

2025年2月4日，在《人工智能法案》（以下简称《AI法案》）关于禁止在欧盟市场投放、部署或使用某些被认为具有高度风险和滥用性质的人工智能系统的规定生效两天后，欧盟委员会发布了《关于禁止人工智能实践的指南》（以下简称《指南》）。《指南》为监督机构的执法工作以及部署者和供应商如何遵守《AI法案》提供了指导。《指南》旨在确保在欧盟范围内一致、有效、统一地适用《AI法案》，但其不具有约束力。《指南》目前已获得欧盟委员会批准，但尚未正式采纳。（查看更多）

EU: The European Commission Publishes the *Commission Guidelines on Prohibited Artificial Intelligence Practices* Established by *Regulation (EU) 2024/1689 (AI Act)*

On 4 February, 2025, two days after the entry into force of the provisions of *the Artificial Intelligence Act (AI Act)* prohibiting the placing, deployment or use of certain AI systems on the EU market that are of a highly risky and abusive nature, the European Commission published the *Commission Guidelines on Prohibited Artificial Intelligence Practices (Guidelines)* established by *AI Act*. The Guidelines provide guidance for enforcement efforts by oversight agencies and how deployers and providers can comply with the AI Act. The Guidelines are designed to ensure the consistent, effective, and uniform application of the AI Act across the EU, but they are not binding. The European Commission has approved the Guidelines, but not yet formally adopted them. (More)

知识产权 Intellectual Property

最高法知产庭：创造性评价中如何基于现有技术判断改进动机和技术启示

近日，丹佛斯有限公司（Danfoss）与国家知识产权局及第三人绥中泰德尔自控设备有限公司（Tigeriot）发明专利权无效行政纠纷案，最高法知产庭作出判决，认定丹弗斯有限公司涉案专利具有创造性，上诉请求成立，予以支持。

本案被诉决定中，证据2被用作最接近的现有技术，证据1被用作辅助的对比文件。国家知识产权局认定，本专利权利要求1相对于证据2存在区别特征（1）和（2），但认为在证据2的基础上结合证据1和公知常识很容易得到本专利的技术方案。最高法知产庭认为，在确定本专利发明与最接近的现有技术存在的区别特征并根据区别特征确定本发明实际解决的技术问题后，判断现有技术是否给出让本领域技术人员将其他对比文件中的现有技术与最接近的现有技术结合以得到本发明的技术启示时，不仅要求该对比文件中包含有相应的技术特征，还要求该相应的技术特征在对比文件中所起的作用与权利要求中的技术特征所起的作用实质相

同。具体到本案中，证据1与本专利、证据2在发明目的上存在明显差异。证据1既未公开区别特征（2），也未给出为简化结构、组装便利而将两个具有配合作用的阀门装置分别安装在相连的不同壳体部分中的技术启示，因此本专利权利要求1的技术方案相对于证据2与证据1及本领域公知常识的结合具备专利法第二十二条第三款规定的创造性。

来源：最高人民法院知识产权法庭

IP Tribunal of the Supreme People's Court:In the evaluation of inventiveness, how to determine the motivation for improvement and technical revelation based on the prior art.

Recently, in the administrative dispute over the invalidation of a patent for invention between Danfoss and the CNIPA and the third party Tigeriot Automatic Control Equipment Co., Ltd., the IP Tribunal of the Supreme People's Court(SPC) made a judgment, finding that the patent involved by Danfoss had inventiveness, and the claims of the appellant were established and supported.

In this case, evidence 2 was used as the closest prior art, and evidence 1 was used as an auxiliary comparative document. The CNIPA held that claim 1 of this patent had distinguishing features (1) and (2) compared with evidence 2, but it was held that the technical solution of this patent could be easily obtained by combining evidence 1 and common general knowledge on the basis of evidence 2. SPC held that when determining whether a patent invention has inventiveness by comparing the distinguishing features between the claimed invention and the closest prior art and determining whether there is technical inspiration from the prior art after finding the differences, not only shall the prior art document contain the corresponding technical features, but also the role played by the corresponding technical features in the prior art document shall be substantially the same as the role played by the technical features in the claim. Specifically, in this case, there were obvious differences in the inventive purposes among evidence 1, this patent, and evidence 2. Evidence 1 neither disclosed the distinguishing features (2) nor gave an indication to simplify and combine the two into a combined valve device. Since there was no continuity between the technical solutions in the prior art, the technical solution of this patent invention had inventiveness as required by 22.3 of the Patent Law compared with the combination of evidence 2, evidence 1, and the common general knowledge in the art.

Source: Intellectual Property Tribunal of the Supreme People’s Court

最高法知产庭：离职人员侵害技术秘密，适用2倍惩罚性赔偿

近日，最高法就一起侵害技术秘密纠纷案作出二审判决，基本案情为：三某透某公司于2019年1月投资设立三某环某公司，熊某某担任三某环某公司法定代表人，并担任三某透某公司股东及董事。郝某于2012年进入迈某某集团，2019年3月6日从迈某某节某公司离职，离职前为公司销售副总，离职后任三某环某公司总经理，将迈某某节某公司的客户信息、商业机会等经营秘密披露给两三某公司，还将迈某某节某公司已设计完成且属于商业秘密的工艺方案全盘披露给两三某公司并供其使用，导致迈某某节某公司丧失总金额高达1940万元的订单。

关于原告主张保护的技术信息是否构成反不正当竞争法所规定的技术秘密，最高法知产法庭认为，根据反不正当竞争法第九条第四款规定，技术信息被认定构成商业秘密,必须同时满足

秘密性(不为公众所知悉)、价值性(具有商业价值)、保密性(权利人采取保密措施)三个构成要件。另外，以图文并茂的形式呈现的图纸通常是承载技术秘密的重要载体，但在特定情况下，图纸本身也可以构成反不正当竞争法意义上的技术秘密。针对工业领域特定项目所定制的个性化设备，权利人可以将为设备所绘制的工艺流程图及图中的设备位置、连接关系作为一个整体，并作为技术秘密主张保护。综合在案证据，迈某某节某公司主张权利的商业秘密经审查构成技术秘密。

来源：最高人民法院知识产权法庭

IP Tribunal of the Supreme People's Court: For departing employees' infringement of technical secrets, punitive damages are applicable.

Recently, SPC made a second instance judgment in a technical secret infringement dispute. The basic facts are as follows: In January 2019, San x Tou x Co., Ltd. invested in the establishment of San x Huan x Co., Ltd., and Xiong served as the legal representative of San x Huan x Co., Ltd. and also as a shareholder and director of San x Tou x Co., Ltd. Hao joined the Mai xx Group in 2012 and left a certain branch company of the Mai xx Group on March 6, 2019. Before leaving, he was the vice - general manager of sales of the company, and after leaving, he served as the general manager of San x Huan x Co., Ltd. Hao disclosed the business secrets such as the customer information and business opportunities of a certain branch company of the Mai xx Group to the Liangsan x companies, and also completely disclosed the customized process scheme belonging to the business secrets of a certain branch company of the Mai xx Group to the Liangsan x companies for their use, resulting in a total loss of RMB 19.4 million in orders for a certain branch company of the Mai xx Group.

Regarding whether the technical information claimed to be protected by the plaintiff constitutes the technical secrets as stipulated in the Anti -Unfair Competition Law, the IP Tribunal of the SPC held that, according to 9.4 of the Anti - Unfair Competition Law, for technical information to be determined as business secrets, it must simultaneously meet the characteristics of not being known to the public, having commercial value, and the right holder taking confidentiality measures (the three constituent elements). Moreover, although drawings presented in a non confidential form are usually important carriers of technical secrets, under specific circumstances, the drawings themselves can also constitute technical secrets in the sense of the Anti - Unfair Competition Law. For customized equipment for specific projects in the industrial field, the right holder can protect the overall layout and connection relationship of the equipment drawn for the equipment as a whole as technical secrets. In combination with the case evidence, the technical drawings and the plaintiff's rights protection and confidentiality measures constitute technical secrets.

Source: Intellectual Property Tribunal of the Supreme People's Court

最高法知产庭：技术秘密案历时六年最高院适用惩罚性赔偿，判赔1.66亿

近日，最高法就一起侵害技术秘密纠纷案作出二审判决，认定两斯特公司与孙某某、印某某、吴某某共同侵害委托人沈鼓集团技术秘密及软件著作权案上诉请求成立，判决各被告立即停止以任何方式非法获取、披露、使用、允许他人使用涉案技术秘密，适用2倍惩罚性赔偿经济损失164,647,802元以及为制止侵权行为所支付的合理开支1,500,000元，合计166,147,802元。

关于商业秘密权利人采取的保密措施，最高法认为不要求达到严丝合缝、万无一失的程度，在通常情况下足以防止商业秘密泄露的，可以构成相应的保密措施。如果公司制定了有关保密的内部管理制度，或者与员工签订了保密协议，公司高级管理人员或者员工在任职期间即有机会接触、使用公司的商业秘密的，应当依法承担相应的保密义务。

来源：最高人民法院知识产权法庭

IP Tribunal of the Supreme People's Court: The case of technical secret infringement lasted six years, and the Supreme People's Court applied punitive damages, awarding damages of RMB166 million.

Recently, the SPC made a second instance judgment in a technical secret infringement dispute, finding that the claims of the plaintiff, Shengu Group, that Liangsite Company and individuals Sun xx, Yin xx, and Wu xx jointly infringed its technical secrets and software copyrights were established. The judgment ordered the defendants to immediately stop any illegal acquisition, disclosure, use, or permission of others to use the technical secrets, and to compensate for the economic losses of RMB 1,644,780.2 and the reasonable expenses of RMB 1,500,000 for preventing the infringement, totaling RMB1,661,478.02.

Regarding the confidentiality measures taken by the business secret right holders, the SPC holds that it is not required to reach the degree of absolute tightness and foolproofness. Under normal circumstances, measures sufficient to prevent the leakage of business secrets can constitute corresponding confidentiality measures. If a company has formulated relevant internal management systems for confidentiality and employees have signed confidentiality agreements, the company's senior management personnel or employees who have the opportunity to access and use the company's business secrets during their employment shall bear corresponding confidentiality obligations in accordance with the law.

Source: Intellectual Property Tribunal of the Supreme People's Court

国知局：以“诚实信用”为无效理由，请求人应承担充分举证责任

近日，国家知识产权局公布了一起涉及“诚实信用”为无效理由的专利无效决定，结果与2024年8月的一起以新修改专利细则十一条“诚实信用”为无效理由的“首份”无效决定相同，国家知识产权局在决定要点中再次强调“为了防止权力滥用，需要请求人承担充分的举证责任，并结合证据进行具体说明。”

来源：国家知识产权局

CNIPA: When "good faith" is used as the ground for invalidation, the invalidation applicant shall bear the burden of sufficient proof.

Recently, the China National Intellectual Property Administration (CNIPA) announced a patent invalidation decision involving "good faith" as the ground for invalidation. The result is the same as the first invalidation decision in August 2024 that used Article 11 of the newly revised Patent Rules, which takes "good faith" as the ground for invalidation. The CNIPA once again emphasized in the key points

of the decision that "in order to prevent the abuse of rights, the requester is required to bear a sufficient burden of proof and make specific explanations in combination with the evidence."

Source: China National Intellectual Property Administration

北京知产法院：假冒“潘多拉”商标、长期侵权，适用5倍惩罚性赔偿

近日，北京知产法院对一起商标权纠纷案件做出二审判决，商标权利人为潘多拉公司(PandoraA/S,)，林某是在北京某时尚公司运营电商平台上开设侵权网店的经营者，该电商平台通过侵权网店大量展示、销售假冒包括潘多拉品牌在内的各大奢侈品牌的珠宝首饰，属于以侵权为业的侵权主体。其中，仅假冒潘多拉品牌珠宝首饰，前端展示的交易额超亿元。

一审法院审理认为：被告林某未经原告潘多拉公司的许可，在被诉侵权商品本身、包装、宣传中使用“pandora”“潘多拉”等文字及图案，与原告商标基本一致，构成商标侵权。另外，被告林某属于对正品的全面模仿的假冒注册商标的侵权行为，侵权行为持续时间较长。综合店铺销售产品情况来看，被告林某属于销售涉案商标商品为业的主体。根据被告林某主观过错、侵权持续时间等因素，法院依法适用5倍惩罚性赔偿。最终法院判决被告林某承担经济损失242842.2元，合理费用3万元，合并赔偿原告272842.2元，驳回原告其他诉讼请求。后被告林某不服一审判决结果提起上诉。北京知识产权法院根据一审认定事实以及在案证据，驳回林某的上诉，维持一审判决。

来源：北京知识产权法院

Beijing IP Court: For counterfeiting the "Pandora" trademark and long term infringement, 5 times of punitive damages are applicable.

Recently, the Beijing IP Court made a second instance judgment in a trademark infringement dispute. The trademark right holder is Pandora A/S. Lin is an operator who opened an infringing online store on an e - commerce platform operated by a certain company in Beijing. The e - commerce platform sold a large number of jewelry products with counterfeit Pandora trademarks through the infringing online store, which are fake jewelry products of well - known brands in the industry, and are counterfeiting and selling behaviors for the purpose of making profits.

The first instance court held that the defendant Lin, without the permission of the plaintiff Pandora Company, used the words and logos such as "pandora" and "Pandora" on the infringing goods themselves, packaging, and publicity, which were basically identical to the plaintiff's trademarks, constituting trademark infringement. In addition, the defendant Lin was engaged in the act of counterfeiting the plaintiff's registered trademarks, and the infringement lasted for a relatively long time. Considering the circumstances such as the sales volume of the counterfeited registered trademarks by the defendant Lin, the duration of the infringement, and the time of continuous sales in physical stores, the court applied 5 fold punitive damages in accordance with the law. The final judgment ordered the defendant Lin to bear economic losses of RMB 242,842.2, plus reasonable expenses of RMB 30,000, totaling RMB 272,842.2, and rejected other claims of the plaintiff. The defendant Lin appealed, and Beijing IP Court rejected Lin's appeal, and upheld the first instance judgment.

Source: Beijing IP Court

上海金山区法院：动漫展侵犯米哈游74角色形象

近日，上海市金山区人民法院就原告上海米哈游影铁科技有限公司诉被告上海梦还回动漫科技有限公司、刘某著作权权属、侵权及不正当竞争纠纷案作出一审判决，法院认为，网络游戏的权利人可以主张他人侵害网络游戏整体内容的相关权益，也可以主张他人侵害网络游戏特定部分或者游戏元素的相关权益。在分别保护模式下，网络游戏的各元素可以进行拆分保护，如游戏中的人物形象和网络游戏名称。游戏人物形象作为视觉元素具有独特的艺术设计和表现形式，可以独立于网络游戏本身而单独存在。游戏人物形象符合美术作品的构成要件，应以美术作品予以保护。网络游戏名称若具有一定的知名度和影响力，应当认定为“有一定影响的商品名称”，适用《反不正当竞争法》予以保护。

来源：上海市金山区人民法院

Shanghai Jinshan District Court: An animation exhibition infringed the 74 character images of Mihoyo.

Recently, the People's Court of Jinshan District, Shanghai, made a first instance judgment in the copyright and unfair competition dispute case where Shanghai Mihoyo Network Technology Co., Ltd. (the Plaintiff) sued Shanghai Menghuanhui Network Technology Co., Ltd. and Liu (the Defendants). The court held that the right holders of online games can claim the rights related to the overall content of the online games, and can also claim the rights related to specific parts or game elements of the online games. Under the separate protection mode, the various elements of online games can be protected separately, such as the character images and names of online games. As visual elements, the character images of online games have unique artistic designs and expression forms and can exist independently of the online games themselves. The character images of online games, which meet the constituent elements of works, shall be protected as works of fine art. If the names of online games have a certain degree of popularity and influence and shall be recognized as "well known commodity names", they shall be protected by the Anti - Unfair Competition Law.

Source: People's Court of Jinshan District, Shanghai

全球：Inter Digital诉迪士尼SEP侵权

近日， Inter Digital宣布，它已对包括 Disney+、Hulu 和 ESPN+ 在内的华特迪士尼公司提起诉讼，指控他们持续侵犯 InterDigital 的知识产权。案件已在加利福尼亚州中区的美国联邦地区法院、巴西里约热内卢州法院、德国慕尼黑地区法院以及曼海姆和杜塞尔多夫地方法院的统一专利法院提起诉讼。

来源：Inter Digital

Global: Inter Digital sues Disney for SEP infringement.

Recently, Inter Digital announced that it has filed lawsuits against Walt Disney companies in the United States, including Disney, Hulu, and ESPN, accusing them of continuously infringing Inter Digital's intellectual property rights. The cases have been filed in the United States District Court for the Central District of California, the District Court of the State of New York in Brooklyn, the District Court of Munich in Germany, and the Unified Patent Court in Hamburg and Düsseldorf.

Source: Inter Digital

美国：第九巡回法庭认定关键词竞价不构成商标侵权

近日，美国第九巡回法院在一起案件认定关键词竞价不构成商标侵权，原告Lerner & Rowe PC是位于亚利桑那州的一家处理人身伤害的律师事务所，拥有“Lerner & Rowe”的注册商标。被告Brown, Engstrand & Shely, LLC，经营品牌“The Accident Law Group”或“ALG”，也是一家位于亚利桑那州的处理人身伤害的律师事务所，但规模小于原告。ALG长期购买“Lerner & Rowe”作为Google广告关键词，以推广其业务。每当有人搜索“Lerner & Rowe”时，ALG的广告就会出现在Google搜索结果列表的顶部附近。2021年9月，Lerner & Rowe起诉ALG，指控其商标侵权和不正当竞争等。ALG向地区法院提出简易判决动议，并最终获得法院批准。Lerner & Rowe随后向第九巡回法庭提起上诉。

第九巡回法庭认为，关于实际混淆，Lerner & Rowe的证据不具有参考价值，原因是实际看到ALG广告的人数相比，该广告造成实际混淆的人数较少，即该广告造成的实际混淆率比较低。第九巡回法庭还考虑了商品和消费者因素，考虑到Google搜索的普遍性，以及互联网用户，尤其是那些准确使用商标作为关键词搜索法律服务的消费者的成熟度等方面的因素，第九巡回法庭得出结论认为相关消费者不太可能被Google的搜索结果混淆。此外，第九巡回法庭认为ALG的广告并不足以误导消费者，并且加粗的“Ad”标识也不太可能使谨慎的消费者产生混淆。最终，第九巡回法庭以多数意见维持了地区法院的简易判决，认为ALG使用“Lerner & Rowe”商标不会造成消费者混淆。

来源：美国联邦第九巡回上诉法院

US: The Ninth Circuit Court of Appeals holds that keyword bidding does not constitute trademark infringement.

Recently, the Ninth Circuit Court of Appeals in the United States held in a case that keyword bidding does not constitute trademark infringement. The plaintiff, Lerner & Rowe PC, is a law firm located in Arizona that handles personal injury cases and owns the registered trademark "Lerner & Rowe". The defendant, Brown, Engstrand & Shely, LLC, operating the brand "The Accident Law Group" or "ALG", is also a law firm located in Arizona that handles personal injury cases, but is smaller in scale than the plaintiff. ALG has long - term purchased "Lerner & Rowe" as a Google advertising keyword to promote its business. Whenever someone searches for "Lerner & Rowe", ALG's advertisements will appear at the top of the Google search results list. In September 2021, Lerner & Rowe sued ALG, accusing it of trademark infringement and unfair competition. ALG filed a motion for summary judgment with the district court and finally obtained the court's approval. Lerner & Rowe subsequently appealed to the Ninth Circuit Court of Appeals.

The Ninth Circuit Court of Appeals held that, regarding actual confusion, the evidence of Lerner & Rowe was not of reference value because, compared with the total number of people who saw the ALG advertisement, the number of people actually confused by the advertisement was small, that is, the actual confusion rate caused by the advertisement was low. The Ninth Circuit Court of Appeals also considered the nature of the goods and consumers. Considering the popularity of Google search and the sophistication of Internet users, especially those who accurately use trademarks as keywords to search for legal services, the Ninth Circuit Court of Appeals concluded that the relevant consumers were unlikely to be confused by the Google search results. In addition, the Ninth Circuit Court of Appeals held that the ALG advertisement was not likely to mislead consumers, and the added "Ad" mark was not likely to cause confusion among prudent consumers. Finally, the Ninth Circuit Court of Appeals, by a majority opinion, affirmed the district court's summary judgment, believing that the use of the "Lerner & Rowe" trademark by ALG would not cause consumer confusion.

Source: United States Court of Appeals for the Ninth Circuit

德国：法院就诺基亚诉亚马逊案颁布SEP禁令

2025年2月7日，诺基亚首次赢得了针对亚马逊主流流媒体服务的德国标准必要专利禁令。杜塞尔多夫地方法院已禁止亚马逊通过其Prime Video服务侵犯EP2271048（案件编号4cO49/23）。涉案专利涵盖了一种通过服务器从通信设备向渲染设备提供多媒体服务的实现方法。

目前，诺基亚已经在三项与Fire TV Stick等亚马逊流媒体设备有关的专利裁决上胜诉。2024年12月，美国国际贸易委员会（ITC）的行政法法官 Cameron Elliot 认为诺基亚专利中有五项被亚马逊侵犯，并建议发出有限排除令（美国进口禁令），要求亚马逊对其无许可状态负责。而诺基亚则解除了其 FRAND许可义务。2025年1月，ITC行政法官Doris Johnson Hines在第337-TA-1379号调查中，认定亚马逊侵犯了诺基亚专利7,532,808（“视频序列中的运动编码方法”）。

来源：ip fray

Germany: The court issues an SEP injunction against Amazon at Nokia's request.

On February 7, 2025, Nokia won its first German standard essential patent injunction against Amazon's mainstream media services. The District Court of Düsseldorf has prohibited Amazon from infringing EP2271048 (case number C4049/23) through its Prime Video. The involved patent covers a method for implementing multimedia services from a communication device to a rendering device via a server.

Currently, Nokia has won patent disputes related to three Fire TV Stick devices against Amazon. In December 2024, the United States International Trade Commission (ITC) Administrative Law Judge Cameron Elliott found no patent infringement by Amazon in five Nokia - related patents and recommended dismissing the (American) import ban, and Amazon was not liable for any quasi state liability. However, Nokia was relieved of its FRAND (Fair, Reasonable and Non Discriminatory) licensing obligations. In January 2025, in the 337 - TA - 1379 investigation, ITC Administrative Law Judge Doris Johnson Hines found that Amazon had infringed Nokia's Patent 7,532,808 ("Motion Coding Method for Video Sequences").

Source: ip tray

欧洲：欧洲统一专利法院做出首份“长臂管辖”判决

近日，欧洲统一专利法院（UPC）杜塞尔多夫分庭公布了一份最新判决，该判决认定欧洲统一专利法院对涉及英国的专利侵权诉讼有权审理，也成为欧洲统一专利法院的首份“长臂管辖”判决。

本案的原告是日本富士胶片（Fujifilm）公司，被告是柯达公司在德国的子公司和销售商，以及在英国的子公司制造商。富士胶片指控柯达侵犯了其一件名为“平版印刷版原版，以及平版印刷版的制造方法”的欧洲专利EP3594009B1。

法院公布的判决中不仅对上述英国专利侵权诉讼部分是否具有管辖权做出了裁定，而且对权利要求解释、尤其是说明书和附图解释权利要求，本领域技术人员对于隐含公开，以及技术教导等问题做出了明确的审理。

来源：UPC

Europe: The Unified Patent Court of Europe makes the first "long arm jurisdiction" judgment.

Recently, the Düsseldorf Division of the Unified Patent Court (UPC) of Europe announced a latest judgment, which determined that the Unified Patent Court of Europe has the right to hear the patent infringement lawsuit involving a British patent, marking the first "long arm jurisdiction" judgment of the Unified Patent Court of Europe.

The plaintiff in this case is Fujifilm, a Japanese company, and the defendants are the German subsidiary and distributor of Kodak, as well as the British subsidiary and manufacturer. Fujifilm claimed that Kodak had infringed one of its patents named "Offset Printing Master, and Method for Manufacturing an Offset Printing Master" (EP3594009B1).

The judgment announced by the court not only determined whether the court had jurisdiction over the above mentioned British patent infringement lawsuit, but also clearly heard and ruled on the claim construction, especially the interpretation of the claims in the specification and the appended drawings, the public disclosure known to those skilled in the art, and technical guidance issues.

Source: UPC

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