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中国网络假冒盗版问题新进展：立法、案例和实践

附件

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I. 援引的法律文件一览表

法律文件	发布或颁布日期
中国	
《关于电商领域知识产权法律责任的调研报告》	2020年03月27日
《中国电子商务知识产权保护发展研究报告》(2020年)	2020年12月28日
《电子商务法》	2018年08月31日通过, 自2019年1月1日起生效
《第一阶段协议》	2020年01月15日
《民法典》	2020年5月28日通过, 自2021年1月1日起生效
《关于全面加强知识产权司法保护的意見》	2020年04月15日
《关于审理涉及电子商务平台知识产权纠纷案件的指导意见》	2020年09月10日
《关于涉网络知识产权侵权纠纷几个法律适用问题的批复》	2020年09月14日
《关于加强网络直播营销活动监管的指导意见》	2020年11月14日
《网络交易监督管理办法》	2021年03月15日
《网络直播营销管理办法(试行)》	2021年05月25日
《关于进一步规范电子商务经营者登记工作的通知》	2021年05月11日
《北京市电子商务领域专利侵权纠纷快速处理规程》(试行)	2019年09月01日
《关于审理涉电子商务平台知识产权民事案件的指导意见》	2019年12月23日
《上海市电子商务知识产权保护工作若干意见》	2021年06月08日发布 自2021年07月15日起生效
《电子商务平台知识产权保护管理》(GB/T 39550-2020)	2020年11月09日
《视频直播购物运营和服务基本规范》(征求意见稿)	2020年06月11日
《网络直播营销行为规范》	2020年06月24日
《电子商务直播培训评估规范》	2020年06月30日
欧洲	
《关于网络广告和知识产权谅解备忘录的运作情况的报告》SWD(2020)167 终稿/2	2020年08月14日
《关于打击互联网上销售假冒商品的谅解备忘录运作情况的报告》	2020年08月13日
欧洲议会和欧盟理事会 2000年06月08日第2000/31/EC号指令	2000年06月08日
2019年4月17日关于数字化单一市场版权及相关权利的第(EU)2019/790号	2019年04月17日

指令，以及经修订的第 96/9/EC 号指令和第 2001/29/EC 号指令	
《数字服务法》	2020 年 12 月 15 日
《数字市场法》	2020 年 12 月 15 日

II. 审查案件一览表

	Case Number 案号	Cause of Action 案由	Plaintiff 原告	Defendant 被告	Court 法院	平台 是否 承担 责任 (Y/N)	Compensation Awarded (RMB) 判决赔偿 金额(人 民币)	Compensation Awarded in EUR 判决赔偿 金额(欧 元)
1.	(2020) Yu01Zhiminchu No.346 (2020)豫 01 知民 初 346 号	Infringement of design patent rights dispute 侵害外观 设计专利权纠 纷	Lin Weibin 林伟斌	Yan Yurong, Taobao 闫玉荣、淘宝	Zhengzhou Intermediate People's Court of Henan Province 河南省郑州市中 级人民法院	Y	3,000	390
2.	(2020) Yu01Zhiminchu No.348 (2020)豫 01 知民 初 348 号	Infringement of design patent rights dispute 侵害外观 设计专利权纠 纷	Lin Weibin 林伟斌	Yan Yurong, Taobao 闫玉荣、淘宝	Zhengzhou Intermediate People's Court of Henan Province 河南省郑州市中 级人民法院	Y	10,000	1,300
3.	(2019) Yue0303Minchu No. 35883-35892	Copyright ownership dispute,	Qiu Dongping 仇东平	Baidu 百度	Shenzhen Luohu District People's Court of	N	-	-

	(2019)粤 0303 民初 35883-35892 号	Infringement of design copyright dispute 著作权权属、侵权纠纷			Guangdong Province 广东省深圳市罗湖区人民法院			
4.	(2020) Yue0306Minchu No. 7628 (2020)粤 0306 民初 7628 号	Trademark ownership dispute 侵害商标权纠纷	Guangzhou Shanghun Boxing Culture Industry Development Co., Ltd. 广州上钩拳文化产业有限公司	Shenzhen Aosheng Shoes Co., Ltd. Taobao 深圳市傲生鞋业、淘宝	Shenzhen Baoan District People's Court of Guangdong Province 广东省深圳市宝安区人民法院	N	-	-
5.	(2020) Luminzhong No.2352 (2020)鲁民终 2352 号	Copyright ownership dispute, Infringement of copyright dispute 著作权权属、侵权纠纷	Fujian Jianyi Mother & Baby Products Co., Ltd. 福建健怡母婴用品有限公司	Tianjin Nadian E-commerce Co., Ltd., Jining Jia Kang Sanitary Products Co. 天津那店电子商务有限公司、济宁佳康卫生用品有限公司	Shandong High People's Court 山东省高级人民法院	N	500,000	65,000
6.	(2019) Jing0102Minchu No.21564 (2019)京 0102 民初 21564 号	Infringement of trademark rights dispute 侵害商标权纠纷	Guangzhou Huayinong Trading Co., Ltd. 广州市花亦浓贸易	Xinji City Caterpillar Trading Co., Ltd., JD 辛集市毛毛虫商贸有限公司、京东	Beijing Xicheng District People's Court 北京市西城区人民法院	N	15,000	1,950
7.	(2019) Jing0102Minchu No.21573	Infringement of trademark rights dispute	Guangzhou Huayinong Trading Co., Ltd.	Mugang City Zhengbai Trade Co., Ltd. , JD	Beijing Xicheng District People's Court	N	10,500	1,365

	(2019)京 0102 民初 21573 号	侵害商标权纠纷	广州市花亦浓贸易	舞钢市正百商贸有限公司、京东	北京市西城区人民法院			
8.	(2019) Shan04MinchuNo .205 (2019)陕 04 民初 205 号	Infringement of trademark rights dispute 侵害商标权纠纷	Ningbo High Tech Zone Vanmax Technology Co., Ltd. 浙江凡迈科技	Xixian New District Airport New City Wanjia Hong Store, Taobao 西咸新区空港新城万家红百货店、淘宝	Xianyang Intermediate People's Court of Shanxi Province 陕西省咸阳市中级人民法院	N	20,000	2,600
9.	(2019) Shan01MinchuNo .1236 (2019)陕 01 知民初 1236 号	Infringement of trademark rights dispute 侵害商标权纠纷	Ningbo High Tech Zone Vanmax Technology Co., Ltd. 浙江凡迈科技	Xian Beilin District Jieshilan Trade Department, Taobao 西安市碑林区碣石岚商贸部、淘宝	Xian Intermediate People's Court of Shanxi Province 陕西省西安市中级人民法院	N	20,000	2,600
10.	(2020) Zhe0110MinchuNo o.2761 (2020)浙 0110 民初 2761 号	Infringement of trademark rights dispute 侵害商标权纠纷	Yunnan Kuntai Guangda Trade Co., Ltd. 云南昆泰广大贸易	Luweiqun, Taobao 卢伟群、淘宝	Hangzhou Yuhang District People's Court of Zhejiang Province 浙江省杭州市余杭区人民法院	N	8,000	1,040
11.	(2020) Zhe01Minzhong No.5040 (2020) 浙 01 民终 5040 号	Infringement of trademark rights dispute 侵害商标权纠纷	Yunnan Kuntai Guangda Trade Co., Ltd. 云南昆泰广大贸易	Luweiqun, Taobao 卢伟群、淘宝	Hangzhou Intermediate People's Court of Zhejiang Province 浙江省杭州市中	N	8,000	1,040

					级人民法院			
12.	(2019) Lu1302MinchuNo.13895 (2019)鲁 1302 民初 13895 号	Infringement of trademark rights dispute 侵害商标权纠纷	Shandong Chengyin Health Management Consulting Co., Ltd. 山东城言健康管理咨询	Taobao 淘宝	Linyi Lanshan District People's Court of Shandong Province 山东省临沂市兰山区人民法院	N	-	-
13.	(2019) Zhe0192Minchu No.2205 (2019)浙 0192 民初 2205 号	Infringement of trademark rights dispute 侵害商标权纠纷	Dai Yizhong 戴轶众	Alibaba 阿里巴巴	Hangzhou Internet Court 杭州互联网法院	N	-	-
14.	(2019) Zhe0382Minchu No.8338 (2019)浙 0382 民初 8338 号	Infringement of trademark rights dispute 侵害商标权纠纷	Zhejiang Sita Lighting Technology Co., Ltd. 浙江西塔照明科技有限公司	Wenzhou Ronglang Electric Co., Ltd. 温州荣朗电气有限公司	Leqing People's Court of Zhejiang Province 浙江省乐清市人民法院	N	-	-
15.	(2020) JizhiminzhongNo. 192 (2020)冀知民终 192 号	Infringement of copyright dispute, unfair competition dispute 侵害著作权纠纷、不正当竞争纠纷	Baoding Zhongyi Wine Co., Ltd. 保定众义酒业有限公司	Hebei Beijing Long Wine Co., Ltd. , Beijing Shoufu Wine Co., Ltd. 河北京隆酒业有 限公司、北京首府 酒业	Hebei High People's Court 河北省高级人民法院	N	15,000	1,950
16.	(2020)	Infringement of	Shantou Henry	Kuiwen District	Hangzhou	N	7,000	910

	Zhe0108Minchu No.3814 (2020)浙 0108 民 初 3814 号	trademark rights dispute 侵害商标权纠 纷	Co., Ltd. 汕头市亨利	Beiyuan Amy Cosmetics Trading Company, Alibaba 奎文区北苑艾米 化妆品商行、阿里 巴巴	Binjiang District People's Court of Zhejiang Province 浙江省杭州市滨 江区人民法院			
17.	(2020) Zhe0108Minchu No.3197 (2020)浙 0108 民 初 3197 号	Infringement of trademark rights dispute 侵害商标权纠 纷	Shantou Henry Co., Ltd. 汕头市亨利有限 公司	Kuiwen District Beiyuan Amy Cosmetics Trading Company, Alibaba 奎文区潍州颜姿 美护肤中心、阿里 巴巴	Hangzhou Binjiang District People's Court of Zhejiang Province 浙江省杭州市滨 江区人民法院	N	5,000	650
18.	(2020) Yue03MinchuNo. 4320 (2019)粤 03 民初 4320 号	Infringement of patent rights dispute 侵害专利权纠 纷	Chen Yushui 陈玉水	Maninger, Alibaba 马宁儿、阿里巴巴	Shenzhen Intermediate People's Court of Guangdong Province 广东省深圳市中 级人民法院	N	20,000	2,600
19.	(2019) Yue03MinchuNo. 4321 (2019)粤 03 民初 4321 号	Infringement of patent rights dispute 侵害专利权纠 纷	Chen Yushui 陈玉水	Maninger, Alibaba 马宁儿、阿里巴巴	Shenzhen Intermediate People's Court of Guangdong Province 广东省深圳市中 级人民法院	N	20,000	2,600

20.	(2020) Xiang0104Minch uNo.756 (2020)湘 0104 民 初 756 号	Infringement of copyright dispute 侵害著 作权纠纷	Blueriver NUTRITION Co., Ltd. 蓝河营养品有限 公司	Fuqing City, Shapu Town, the new favorite Mother & Baby Products Store 福清市沙浦镇新 宠儿母婴用品店	Changsha Yuelu District People's Court of Hunan Province 湖南省长沙市岳 麓区人民法院	N	2,000	260
21.	(2020) Xiang0104Minch uNo.1035 (2020)湘 0104 民 初 1035 号	Infringement of copyright dispute 侵害著 作权纠纷	Blueriver NUTRITION Co., Ltd. 蓝河营养品有限 公司	Zhengzhou Tingwei Dairy, Hangzhou Yang camel network Co., Ltd. 郑州婷伟乳业、杭 州洋驼网络（海拍 客运营方）	Changsha Yuelu District People's Court of Hunan Province 湖南省长沙市岳 麓区人民法院	Y	2,000	260
22.	(2020) Xiang0104Minch uNo.1041 (2020)湘 0104 民 初 1041 号	Infringement of copyright dispute 侵害著 作权纠纷	Blueriver NUTRITION Co., Ltd. 蓝河营养品有限 公司	Zhengzhou Tingwei Dairy, Hangzhou Yang camel network Co., Ltd. 郑州婷伟乳业、杭 州洋驼网络（海拍 客运营方）	Changsha Yuelu District People's Court of Hunan Province 湖南省长沙市岳 麓区人民法院	Y	2,000	260
23.	(2020) Xiang0104Minch uNo.1039 (2020)湘 0104 民 初 1039 号	Infringement of copyright dispute 侵害著 作权纠纷	Blueriver NUTRITION Co., Ltd. 蓝河营养品有限 公司	West Lake District Hongcheng Market Dujabao Dairy Business, Hangzhou Yang camel network Co.,	Changsha Yuelu District People's Court of Hunan Province 湖南省长沙市岳 麓区人民法院	Y	2,000	260

				Ltd. 西湖区洪城大市场杜佳宝乳业商行、杭州洋驼网络				
24.	(2020) Xiang0104MinchuNo.1037 (2020)湘 0104 民初 1037 号	Infringement of copyright dispute 侵害著作权纠纷	Blueriver NUTRITION Co., Ltd. 蓝河营养品有限公司	Nanchang City West Lake District Shengshi Dongfang Trade City Kubei mother and child alliance Store, Hangzhou Yang camel network Co., Ltd. 南昌市西湖区盛世东方商贸城库贝母婴联盟店、杭州洋驼网络	Changsha Yuelu District People's Court of Hunan Province 湖南省长沙市岳麓区人民法院	Y	2,000	260
25.	(2020) Xiang0104MinchuNo.1038 (2020)湘 0104 民初 1038 号	Infringement of copyright dispute 侵害著作权纠纷	Blueriver NUTRITION Co., Ltd. 蓝河营养品有限公司	Nanchang Hongcheng Market Shunxin Food Business Department, Hangzhou Yang camel network Co., Ltd. 南昌市洪城大市场顺心副食品经营部、杭州洋驼网络	Changsha Yuelu District People's Court of Hunan Province 湖南省长沙市岳麓区人民法院	Y	2,000	260

26.	(2020) Xiang0104MinchuNo.1036 (2020)湘 0104 民初 1036 号	Infringement of copyright dispute 侵害著作权纠纷	Blueriver NUTRITION Co., Ltd. 蓝河营养品有限公司	Nanchang Hongcheng market Shunxin non staple food business department, Hangzhou YANGTUO network (Haipai passenger transport operator) 南昌市洪城大市场顺心副食品经营部、杭州洋驼网络（海拍客运营方）	Changsha Yuelu District People's Court of Hunan Province 湖南省长沙市岳麓区人民法院	Y	2,000	260
27.	(2020) Yue01Minzhong No.1038 (2020)粤 01 民终 1038 号	Infringement of trademark rights dispute 侵害商标权纠纷	Wang Xianglian 王香莲	Guangzhou Zhenzili Enterprise Management Co., Ltd. , Guangzhou Zhenzili Biotechnology Co., Ltd. ,Taobao 广州臻稚丽企业管理有限公司、广州臻稚丽生物科技有限公司、淘宝	Guangzhou Intermediate People's Court of Guangdong Province 广东省广州市中级人民法院	N	50,000	6,500
28.	(2020) Yue01Minzhong No.1039	Infringement of trademark rights dispute	Wang Ailian 王爱莲	Guangzhou Zhenzili Enterprise Management Co.,	Guangzhou Intermediate People's Court of	N	50,000	6,500

	(2020)粤 01 民终 1039 号	侵害商标权纠纷		Ltd. , Guangzhou Zhenzili Biotechnology Co., Ltd. , Guangzhou Xiuzhu Trading Co., Ltd. , Chizhou Yimutian Agricultural Development Co., Ltd. , Taobao 广州 臻稚丽企业管理 有限公司、广州臻 稚丽生物科技有 限公司、广州秀筑 贸易有限公司、池 州一亩田农业发 展有限公司、淘宝	Guangdong Province 广东省广州市中 级人民法院			
29.	(2020) Yue01Minzhong No.1040 (2020)粤 01 民终 1040 号	Infringement of trademark rights dispute 侵害商标权纠纷	Guo Meng 郭萌	Guangzhou Zhenzili Enterprise Management Co., Ltd. , Guangzhou Xiuzhu Trading Co., Ltd. , Chizhou Yimutian Agricultural Development Co., Ltd. , Taobao 广州 臻稚丽企业管理 有限公司、广州秀	Guangzhou Intermediate People's Court of Guangdong Province 广东省广州市中 级人民法院	N	50,000	6,500

				筑贸易有限公司、池州一亩田农业发展有限公司、淘宝				
30.	(2019) Jin0116MinchuN o.5880 (2019)津 0116 民 初 5880 号	Infringement of copyright dispute 侵害著 作权纠纷	Tianjin Jiarui Bao Metal Products Co., Ltd. 天津市嘉瑞宝金 属制品有限公司	Xu Guizhen, Deng Yanhui, Zhao Zhenquan, Tianjin Dovis Carpet Co., Tianjin Ohao Carpet Co. 徐桂珍、邓艳辉、 赵振全、天津多维 斯地毯有限公司、 天津欧豪雅地毯 有限公司	Tianjin Binhai New Area People's Court 天津市滨海新区 人民法院	N	350,000	45,500
31.	(2019) Zhe0106Minchu No.7043 (2019)浙 0106 民 初 7043 号	Infringement of trademark rights dispute 侵害商标权纠 纷	Xiaomi Technology Co., Ltd. 小米科技有限责 任公司	Li Lilan, Hangzhou Juangua Network Co., Ltd. 李立兰、杭州卷瓜 网络有限公司	Hangzhou Xihu District People's Court of Zhejiang Province 浙江省杭州市西 湖区人民法院	N	15,000	1,950
32.	(2019) Su02MinzhongN o.5492 (2019)苏 02 民终 5492 号	Infringement of copyright dispute 侵害著 作权纠纷	Jiangsu Snail Culture Communication Co., Ltd. 江苏蜗牛文化传 播有限公司	Shandong Allfilm Network Technology Co., Weifang Quanying Business Information Consulting Center Ltd.	Wuxi Intermediate People's Court of Jiangsu Province 江苏省无锡市 中级人民法院	Y	7,000	910

				山东全影网络科技股份有限公司、 潍坊全影商务信息咨询中心				
33.	(2019) Zhe01Minzhong No.9956 (2019)浙 01 民终 9956 号	Infringement of trademark rights dispute 侵害商标权纠纷	Han Xuelong 韩学龙	Taobao 淘宝	Hangzhou Intermediate People's Court of Zhejiang Province 浙江省杭州市中 级人民法院	N	-	-
34.	(2019) Jing0491Minchu No.41491 (2019)京 0491 民 初 41491 号	Infringement of copyright dispute 侵害著作权纠纷	Shanghai HeRobox Culture Communication Co., Ltd. 上海禾浩文化传 播有限公司	Quanzhou Lingshun Trading Co., Ltd. , Dangdang 泉州凌顺商贸有 限公司、当当	Beijing Internet Court 北京互联 网法院	N	35,000	4,550
35.	(2019) Zhe0110MinchuN o.16725 (2019)浙 0110 民 初 16725 号	Infringement of trademark rights dispute 侵害商标权纠纷	Guangzhou Jingpao Care Products Co., Ltd. 广州净泡护理用 品有限公司	Yang Shengyu, Taobao 杨圣宇、淘宝	Hangzhou Yuhang District People's Court of Zhejiang Province 浙江省杭州市余 杭区人民法院	N	32,000	4,160
36.	(2019) Zhe0110MinchuN o. 17112 (2019)浙 0110 民 初 17112 号	Infringement of trademark rights dispute 侵害商标权纠纷	Shanghai Yifei Medical Technology Co., Ltd. 上海一非医药科	Cheng Xia, Taobao 程霞、淘宝	Hangzhou Yuhang District People's Court of Zhejiang Province	N	50,000	6,500

			技有限公司		浙江省杭州市余杭区人民法院			
37.	(2019) Jing0491Minchu No.11500 (2019)京 0491 民 初 11500 号	Infringement of copyright dispute 侵害著作权纠 纷	Guangzhou Xinjingwen Audio-Visual Co., Ltd. 广州新京文音像 有限公司	Guangzhou E-Car Technology Co. , JD 广州易车行科 技有限公司、京东 有限公司	Beijing Internet Court 北京互联 网法院	N	25,000	3,250
38.	(2019) Jing0491Minchu No.11520 (2019)京 0491 民 初 11520 号	Infringement of copyright dispute 侵害著作权纠 纷	Guangzhou Xinjingwen Audio-Visual Co., Ltd. 广州新京文音像 有限公司	Guangzhou E-Car Technology Co. , JD 广州易车行科 技有限公司、京东 有限公司	Beijing Internet Court 北京互联 网法院	N	30,000	3,900
39.	(2019) Yue0103Minchu No.7794 (2019)粤 0103 民 初 7794 号	Infringement of copyright dispute 侵害著作权纠 纷	Wanda Children's Culture Development Co., Ltd. 万达儿童文化发 展有限公司	Nanjing Letai International Trading Co., Ltd. 南京叻泰国际贸 易有限公司	Guangzhou Liwán District People's Court of Guangdong Province 广东省广州市荔 湾区人民法院	N	20,000	2,600
40.	(2019) Jing73Minzhong No.3440 (2019)京 73 民终 3440 号	Infringement of copyright dispute 侵害著作权纠 纷	Xiao Ji 肖吉	JD 京东	Beijing Intellectual Property Court 北 京知识产权法院	Y	11,000	1,430
41.	(2019) Zhe0110MinchuN o. 12510	Unfair competition dispute	Cai Shuling 蔡书玲	Pu'er Lancang Ancient Tea Co., Ltd.	Hangzhou Yuhang District People's Court of	N	20,000	2,600

	(2019)浙 0110 民初 12510 号	不正当竞争纠纷		普洱澜沧古茶股份有限公司	Zhejiang Province 浙江省杭州市余杭区人民法院			
42.	(2019) Hu73MinzhongNo. 273 (2019)沪 73 民终 273 号	Infringement of copyright dispute 侵害著作权纠纷	China Construction Publishing Media Co., Ltd. 中国建筑出版传媒有限公司	Shanghai Xunmeng Information Technology Co., Ltd. 上海寻梦信息技术有限公司	Shanghai Intellectual Property Court 上海知识产权法院	N	-	-
43.	(2019) Yue0192Minchu No.2028 (2019)粤 0192 民初 2028 号	Infringement of copyright dispute 侵害著作权纠纷	Blue Denim Imaging (Beijing) Co., Ltd. 蓝牛仔影像（北京）有限公司	Guangzhou Hemo Computer Technology Co., Ltd. 广州合摩计算机科技有限公司	Beijing Internet Court 北京互联网法院	N	-	-
44.	(2019) Zhe0782Minchu No. 9012 (2019)浙 0782 民初 9012 号	Unfair competition dispute 不正当竞争纠纷	Yiwu Eighteen Cavities Culture Media Co., Ltd. 义乌市十八腔文化传媒有限公司	Zhejiang Eighteen Cavities Culture Media Co., Ltd. , Eighteen Cavities Film Co., Ltd. 浙江十八腔文化传媒有限公司、十八腔影业有限公司	Yiwu People's Court of Zhejiang Province 浙江省义乌市人民法院	N	350,000	45,500
45.	(2019) Zhe0110MinchuNo. 10800 (2019)浙 0110 民	Unfair competition dispute 不正当竞争纠纷	Yinan County Bangde Agricultural Materials Co.,	Jiangmen Plant Protection Sales Co., Ltd. , Taobao 江门市植保销售	Hangzhou Yuhang District People's Court of Zhejiang	N	60,000	7,800

	初 10800 号	纷	Ltd. 沂南县邦得农资 有限公司	有限公司、淘宝	Province 浙江省杭州市余 杭区人民法院			
46.	(2020) Zhe0110MinchuN o. 9076 (2020)浙 0110 民 初 9076 号	Unfair competition dispute 不正当竞争纠 纷	Guangzhou Zengcheng Oxycondar Agricultural Management Department 广州市增城氧菓 达农资经营部	Guangdong Maoming Luyin Agrochemical Co., Ltd. 广东茂名绿银农 化有限公司	Hangzhou Yuhang District People's Court of Zhejiang Province 浙江省杭州市余 杭区人民法院	N	200,000	26,000
47.	(2020) Zhe0110MinchuN o. 7982 (2020)浙 0110 民 初 7982 号	Unfair competition dispute 不正当竞争纠 纷	Nanjing Huinong Qianzhong Wave Agricultural Technology Co. 南京惠农千重浪 农业科技有限公 司	Seachem Crop Technology (Wuxi) Co., Ltd. 世科姆作物科技 (无锡)有限公司	Hangzhou Yuhang District People's Court of Zhejiang Province 浙江省杭州市余 杭区人民法院	N	200,000	26,000
48.	(2020) Zhe0110MinchuN o. 6382 (2020)浙 0110 民 初 6382 号	Unfair competition dispute 不正当竞争纠 纷	He Mengyao 何梦瑶	Qiu Faming, Taobao 邱发明、淘宝	Hangzhou Yuhang District People's Court of Zhejiang Province 浙江省杭州市余 杭区人民法院	N	100,000	13,000
49.	(2020) YuzhiminzhongN o.359 (2020)豫知民终	Infringement of copyright dispute 侵害著作权纠	Guangzhou Manyutianya Biotechnology Co., Ltd.	Henan Beauty Group Trading Co., Ltd. 河南美人团商贸	Henan High People's Court 河南省高级人民 法院	N	-	-

	359 号	纷	广州曼瑜天雅生物科技有限公司	有限公司				
50.	(2020) Min05MinchuNo. 725 (2020)闽 05 民初 725 号	Infringement of copyright dispute 侵害著作权纠纷	Xiamen Cube Artwork Co., Ltd. 厦门市立方艺术品 有限公司	Ding Lang 丁浪	Quanzhou Intermediate People's Court of Fujian Province 福建省 泉州市中级人民 法院	N	10,000	1,300
51.	(2020) Zhe0110MinchuN o. 4439 (2020)浙 0110 民 初 4439 号	Infringement of trademark rights dispute 侵害商标权纠纷、著作权	Guangdong Alida Animation Culture and Entertainment Co., Ltd. 广东艾力达动漫 文化娱乐有限公 司	Sun Li, Taobao 孙力、淘宝	Hangzhou Yuhang District People's Court of Zhejiang Province 浙江省杭州市余 杭区人民法院	N	5,000	650
52.	(2020) Zhe0110MinchuN o. 4656 (2020)浙 0110 民 初 4656 号	Infringement of trademark rights dispute 侵害商标权纠纷	Zhejiang Ruizaki Technology Co., Ltd. 浙江瑞崎科技有 限公司	Xu Hui 许慧	Hangzhou Yuhang District People's Court of Zhejiang Province 浙江省杭州市余 杭区人民法院	N	30,000	3,900
53.	(2020) E01MinchuNo. 9693 (2019)鄂 01 民初 9693 号	Infringement of trademark rights dispute 侵害商标权纠纷	Guangzhou Ruier Clothing Co., Ltd. 广州市瑞尔服饰 有限公司	Wuhan Qiaokou District Rainbow Manga Land clothing Business	Wuhan Intermediate People's Court of Hubei Province	N	10,000	1,300

				武汉市硚口区彩虹漫乐园服饰商行	湖北省武汉市中级人民法院			
54.	(2020) Zhe0110MinchuNo. 4220 (2020)浙 0110 民初 4220 号	Infringement of patent rights dispute 侵害专利权纠纷	Shenzhen Techmart International Trade Co., Ltd. 深圳科汇讯国际商贸有限公司	Jin Huansheng 靳焕生	Hangzhou Yuhang District People's Court of Zhejiang Province 浙江省杭州市余杭区人民法院	N	180,000	23,400
55.	(2019) Zhe02MinchuNo. 367 (2019)浙 02 知民初 367 号	Infringement of patent rights dispute 侵害专利权纠纷	Cixi Bosheng Plastic Products Co., Ltd. 慈溪市博生塑料制品有限公司	Xie Hui, Zhejiang Xinghao Plastic Industry Co., Yongkang Liangyue Industry and Trade, Ltd., Tianmao 谢辉、浙江兴昊塑业有限公司、永康市联悦工贸有限公司、天猫	Ningbo Intermediate People's Court of Zhejiang Province 浙江省宁波市中级人民法院	N	3,160,000	410,800
56.	(2020) Supreme Court ZhiminzhongNo.986 (2020)最高法知民终 986 号	Infringement of patent rights dispute 侵害专利权纠纷	Jurong Liwell Electric Co., Ltd. 句容利威尔电器有限公司	Shenzhen Shanda Yuantu Technology Co., Ltd, Alibaba 深圳市山太远图科技有限公司、阿里巴巴	Supreme People's Court 最高人民法院	N	800,000	104,000

57.	(2019) Lu07MinchuNo. 384 (2019)鲁 07 民初 384 号	Infringement of trademark rights dispute 侵害商标权纠 纷	Qingdao Good Luck Beibei Clothing Co., Ltd. 青岛好运贝贝服 饰有限公司	Weifang Fangzi District Huixin Clothing Supermarket, Hangzhou Alibaba Advertising Co., Ltd. 潍坊市坊子区汇 鑫服饰超市、杭州 阿里巴巴广告有 限公司	Weifang Intermediate People's Court of Shandong Province 山东省潍坊市 中级人民法院	N	75,000	9,750
58.	(2018) Zhe8601Minchu No.868 (2018)浙 8601 民 初 868 号	Unfair competition dispute 不正当竞争纠 纷	WangIEI 王垒	Jiang Hai 江海	Hangzhou Railway Transportation Court of Zhejiang Province 杭州铁路运输法 院	N	2,100,000	273,000

III. 法律文件双语对照

IV. 窗体顶端

Opinions of the Supreme People's Court on Comprehensively Strengthening Judicial Protection of Intellectual Property [Effective]

最高人民法院关于全面加强知识产权司法保护的意見 [现行有效]

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Opinions of the Supreme People's Court on Comprehensively Strengthening Judicial Protection of Intellectual Property

(No. 11 [2020] of the Supreme People's Court)

Strengthening the protection of intellectual property plays the most important role in improving the system of property rights protection, and also serves as the biggest momentum to enhance our country's economic competitiveness. As a critical part of the intellectual property protection regime, judicial protection of intellectual protection has made contributions that are essential and irreplaceable. Therefore, stronger judicial protection of intellectual property can meet the needs of China in observing international rules and fulfilling international commitments; and more importantly, it reflects an intrinsic requirement of our country to promote high-quality economic development and build a new economic system with more transparency. For the purposes

最高人民法院关于全面加强知识产权司法保护的意見

(法发〔2020〕11号)

加强知识产权保护,是完善产权保护制度最重要的内容,也是提高我国经济竞争力最大的激励。知识产权司法保护是知识产权保护体系的重要力量,发挥着不可替代的关键作用。全面加强知识产权司法保护,不仅是我国遵守国际规则、履行国际承诺的客观需要,更是我国推动经济高质量发展、建设更高水平开放型经济新体制的内在要求。要充分认识全面加强知识产权司法保护的重大

of fully recognizing the significance of strengthening the judicial protection of intellectual property, accurately discerning its initial purpose and positioning, and providing effective judicial services and safeguards to modernize the national governance system and capabilities, the opinions on the court's protection of intellectual property are hereby offered as follows.

I. General requirements

1. With Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era as the guiding principle, efforts shall be made to extensively implement the Opinions on Several Issues concerning Heightening Reform and Innovation in Intellectual Property Adjudication and the Opinions on Strengthening the Protection of Intellectual Property Rights issued by the General Office of the CPC Central Committee and the General Office of the State Council, and to closely revolve around “striving to make the people feel fairness and justice in every judicial case”, a goal that serves the overall judicial landscape, the general public and fair justice. There shall also be efforts to improve the procedures of intellectual property adjudication through use of judicial relief and punitive measures, as well as to enhance the systems and mechanisms for intellectual property adjudication, effectively restrain illegal and criminal activities involving intellectual property, and comprehensively elevate the judicial protection of intellectual property. Faster actions shall be taken to modernize the intellectual property adjudication regime and capacity, so as to provide robust judicial services and safeguards to implement the innovation-driven development strategy and cultivate a pro-business environment that is stable, fair, transparent and predicable.

II. Effectively protecting the lawful rights and interests of right-holders based on the characteristics of individual cases

2. Stronger protection of technological innovations: Judicial interpretations for adjudicating administrative disputes relating to the granting and validation of patents shall be developed to standardize the examination of patents and increase the quality of patents granted. The adjudication of

意义，准确把握知识产权司法保护服务大局的出发点和目标定位，为创新型国家建设、社会主义现代化强国建设、国家治理体系和治理能力现代化提供有力的司法服务和保障。现就人民法院知识产权司法保护工作，提出如下意见。

一、总体要求

1.坚持以习近平新时代中国特色社会主义思想为指导，深入贯彻落实中共中央办公厅、国务院办公厅《关于加强知识产权审判领域改革创新若干问题的意见》《关于强化知识产权保护的意见》，紧紧围绕“努力让人民群众在每一个司法案件中感受到公平正义”目标，坚持服务大局、司法为民、公正司法，充分运用司法救济和制裁措施，完善知识产权诉讼程序，健全知识产权审判体制机制，有效遏制知识产权违法犯罪行为，全面提升知识产权司法保护水平，加快推进知识产权审判体系和审判能力现代化，为实施创新驱动发展战略、培育稳定公平透明可预期的营商环境提供有力司法服务和保障。

二、立足各类案件特点，切实维护权利人合法权益

2.加强科技创新成果保护。制定专利授权确权行政案件司法解释，规范专利审查行为，促进专利授权质量提升；加强专利、植物新品种、集成电路布图设

intellectual property cases in terms of patents, new plant varieties, layout designs of integrated circuits, and computer software shall be strengthened, and the scope and intensity of the protection of intellectual property rights shall be aligned with their technological contributions. Technological progress and innovations shall be encouraged in order to maximize the role of technology in supporting and driving both economic and social development. Research on the judicial protection of drug patents shall be intensified, and research and development of new drugs shall be stimulated so as to promote the sound development of the pharmaceutical industry.

3. More rigorous protection of rights and interests in trademarks: The proximity of trademarks, similarity of goods, distinctiveness and popularity of trademarks of which an application for protection is filed shall be taken into account when a trademark infringement dispute or an administrative dispute relating to the granting and validation of trademarks is adjudicated according to the law. Trademarks shall be made more identifiable and distinguishable. Interpretations shall be made within the range of discretion conferred by law to effectively regulate malicious applications for trademark registration by fully leveraging legal rules, so as to ensure that applications for trademark registration will be filed in an orderly and standardized manner. The protection of well-known trademarks shall be strengthened, and the burden of proof on the holders of rights to the trademarks regarding the popularity of trademarks shall be reduced based on the fact that they are well known to all. The protection of geographical indications shall be strengthened to properly settle disputes over rights to geographical indications and ordinary trademarks.

4. More effective protection of copyrights and the relevant rights: Based on the unique quality of different works, the standards for judgment of originality of works shall be meticulously discerned. The relation between the development of information network technologies and the protection of copyrights and the relevant rights shall be properly handled, and the interests between creators, disseminators, business operators and the general public shall

计、计算机软件等知识产权案件审判工作，实现知识产权保护范围、强度与其技术贡献程度相适应，推动科技进步和创新，充分发挥科技在引领经济社会发展过程中的支撑和驱动作用。加强药品专利司法保护研究，激发药品研发创新动力，促进医药产业健康发展。

3.加强商业标志权益保护。综合考虑商标标志的近似程度、商品的类似程度、请求保护商标的显著性和知名度等因素，依法裁判侵害商标权案件和商标授权确权案件，增强商标标志的识别度和区分度。充分运用法律规则，在法律赋予的裁量空间内作出有效规制恶意申请注册商标行为的解释，促进商标申请注册秩序正常化和规范化。加强驰名商标保护，结合众所周知的驰名事实，依法减轻商标权人对于商标驰名的举证负担。加强地理标志保护，依法妥善处理地理标志与普通商标的权利冲突。

4.加强著作权和相关权利保护。根据不同作品的特点，妥善把握作品独创性判断标准。妥善处理信息网络技术发展与著作权、相关权利保护的关系，统筹兼顾创作者、传播者、商业经营者和社会公众的利益，协调好激励创作、促进产业发展、

be balanced. Efforts to encourage creation, promote industrial development, and safeguard basic cultural rights and interests shall be coordinated to boost cultural innovation and the development of business forms. Some novel cases such as disputes over sports events and electronic sports shall be adequately adjudicated, and the development of emerging forms of business shall be advanced. More research on copyright infringement litigation and copyright protection shall be carried out. The interests of all relevant parties shall be balanced according to the law, and improper profit-making activities shall be prevented.

5. Stronger protection of trade secrets: The boundaries between civil disputes over trade secrets and criminal activities infringing trade secrets shall be accurately established. The rules of burden of proof in civil procedure shall be adequately applied to reduce the burden of right-holders in protecting their rights according to the law. The criteria of determining the crime of infringing trade secrets shall be improved, the scope and methods of calculating heavy losses arising therefrom shall be regulated, and the costs of reasonable remedial measures taken to reduce business losses or restore safety may be deemed as the basis for determining “heavy losses” or “particularly serious consequences” in criminal cases. The protection of trade secrets such as confidential business information shall be strengthened in an effort to ensure fair competition among enterprises and reasonable flow of personnel, as well as to promote technological innovations.

6. Better rules for determining infringement of e-commerce platforms: Acts of infringing intellectual property rights online shall be rigorously restrained and punished, and complaints filed by right-holders on e-commerce platforms shall be responded to effectively. Better channels shall be provided to right-holders to protect their rights by improving the ‘notice-delete’ rule and other management rules of e-commerce platforms. In order to properly hear disputes over online intellectual property infringement and disputes over malicious complaint and unfair competition, it is required, on one hand, to exempt bona fide providers of infringement notices from any legal liability, urge and guide e-commerce platforms to fulfill statutory obligations, and

保障基本文化权益之间的关系，促进文化创新和业态发展。依法妥善审理体育赛事、电子竞技传播纠纷等新类型案件，促进新业态规范发展。加强著作权诉讼维权模式问题研究，依法平衡各方利益，防止不正当牟利行为。

5.加强商业秘密保护。正确把握侵害商业秘密民事纠纷和刑事犯罪的界限。合理适用民事诉讼举证责任规则，依法减轻权利人的维权负担。完善侵犯商业秘密犯罪行为认定标准，规范重大损失计算范围和方法，为减轻商业损害或者重新保障安全所产生的合理补救成本，可以作为认定刑事案件中“造成重大损失”或者“造成特别严重后果”的依据。加强保密商务信息等商业秘密保护，保障企业公平竞争、人才合理流动，促进科技创新。

6.完善电商平台侵权认定规则。加强打击和整治网络侵犯知识产权行为，有效回应权利人在电子商务平台上的维权诉求。完善“通知-删除”等在内的电商平台治理规则，畅通权利人网络维权渠道。妥善审理网络侵犯知识产权纠纷和恶意投诉不正当竞争纠纷，既要依法免除错误下架通知善意提交者的责任，督促和引导电子商务平台积极履行法定义务，促进电子商务的健康发展，又要追究滥

promote sound development of electronic commerce; and on the other hand, to subject those abusing rights or filing malicious complaints to legal liabilities and properly balance the interests of all parties concerned.

7. Better transfer and application of intellectual achievements: Disputes over the transfer, commercialization and application of intellectual property achievements shall be properly heard by following the principles of respecting the autonomy of will of the parties concerned and lowering the costs of transactions, as well as adequately defining legal relationship, distribution of benefits and assumption of liabilities in the complete process from creation to application of intellectual achievements. Service inventions and non-service inventions shall be clearly defined with an aim to effectively protect property rights of service inventors and safeguard the lawful rights and interests of R&D personnel in receiving bonuses and remunerations for exploitation of their patents.

8. Punishment on intellectual property crimes: Efforts shall be made to severely combat intellectual property crimes, further advance the reform of the trial-centered criminal procedure system, implement the requirements for substantiation of court trials, improve forensic identification procedures, and standardize the system for forensic experts to testify before the court as well as the system for imposing lenient punishments on those admitting guilt and accepting punishment. The boundaries between criminal legal relations and civil legal relations involving intellectual property rights shall be accurately established, and the application of pecuniary penalty shall be strengthened. The crime of obtaining trade secrets through theft, intimidation, inducement or other illegal means and other criminal activities causing great social harm shall be given stricter and heavier punishments, so as to leverage the role of criminal penalty in punishing and deterring intellectual property crimes.

9. Equal protection of lawful rights of both domestic and foreign business entities: Foreign-related intellectual property disputes triggered by international trade and foreign investment shall be properly heard, with equal protection of

用权利、恶意投诉等行为人的法律责任，合理平衡各方利益。

7.积极促进智力成果流转应用。依法妥善审理知识产权智力成果流转、转化、应用过程中的纠纷，秉持尊重当事人意思自治、降低交易成本的精神，合理界定智力成果从创造到应用各环节的法律关系、利益分配和责任承担，依法准确界定职务发明与非职务发明，有效保护职务发明人的产权权利，保障研发人员获得奖金和专利实施报酬的合法权益。

8.依法惩治知识产权犯罪行为。严厉打击侵害知识产权的犯罪行为，进一步推进以审判为中心的刑事诉讼制度改革，切实落实庭审实质化要求，完善鉴定程序，规范鉴定人出庭作证制度和认罪认罚从宽制度。准确把握知识产权刑事法律关系与民事法律关系的界限，强化罚金刑的适用，对以盗窃、威胁、利诱等非法手段获取商业秘密以及其他社会危害性大的犯罪行为，依法从严从重处罚，有效发挥刑罚惩治和震慑知识产权犯罪的功能。

9.平等保护中外主体合法权利。依法妥善审理因国际贸易、外商投资等引发的涉外知识产权纠纷，坚持依法平等保护，依

domestic and foreign market entities, and simplified notarization and certification procedures. A more impartial, efficient and professional dispute resolution mechanism shall be established so as to elevate the impact and creditability of China's intellectual property adjudication at an international level.

III. Working to resolve pronounced problems by improving the actual effects of judicial protection

10. Lower costs for protecting intellectual property rights: Judicial interpretations for evidence in civil procedures for intellectual property rights shall be developed, the rules on the allocation of the burden of proof, the system of removing obstruction of evidence and the system of witnesses appearing in court shall be improved. The approaches to collecting electronic evidence shall be expanded, and the application of rules on electronic data shall be accurately discerned. Applications of the parties for evidence preservation, investigation and evidence collection shall be supported so as to ease the burden of proof on the parties concerned.

11. A shorter period for intellectual property litigation: The pilot program of classification of cases shall be conducted so as to promote the separation of complicated cases from simple ones, separation of trivial cases from major ones, and separation of fast-track trial cases from ordinary ones. The reform of intellectual property adjudication shall be further deepened by seamlessly coordinating civil procedures and administrative procedures for patents and trademarks so as to prevent recurrent litigation. Stricter measures shall be taken to meet the requirements for authorized identification, suspension of action, and retrial of a remanded case, so that less time will be wasted. Applications for conduct preservation shall be supported to create good conditions for the timely enforcement of judgments.

12. A higher amount of damages for infringement: Profits generated from infringement shall be determined according to the law by using relevant data from industrial and commercial departments and taxation departments, third-party commercial platforms, infringers' websites or listing documents, as well as industrial average profit

法简化公证认证程序，进一步健全公正高效权威的纠纷解决机制，增强知识产权司法的国际影响力和公信力。

三、着力解决突出问题，增强司法保护实际效果

10. 切实降低知识产权维权成本。制定知识产权民事诉讼证据司法解释，完善举证责任分配规则、举证妨碍排除制度和证人出庭作证制度，拓宽电子数据证据的收集途径，准确把握电子数据规则的适用，依法支持当事人的证据保全、调查取证申请，减轻当事人的举证负担。

11. 大力缩短知识产权诉讼周期。积极开展繁简分流试点工作，推进案件繁简分流、轻重分离、快慢分道。深化知识产权裁判方式改革，实现专利商标民事、行政程序的无缝对接，防止循环诉讼。严格依法掌握委托鉴定、中止诉讼、发回重审等审查标准，减少不必要的时间消耗。依法支持知识产权行为保全申请，为裁判的及时执行创造条件。

12. 有效提高侵权赔偿数额。充分运用工商税务部门、第三方商业平台、侵权人网站或上市文件显示的相关数据以及行业平均利润率等，依法确定侵权获利情况。综合考虑知识产权

margins. The amount of statutory damages shall be reasonably determined by taking comprehensive consideration of market value of intellectual property, subjective faults of infringers, as well as the duration, scope of impact, severity of consequences of infringement. A higher standard for the amount of damages shall be determined for intellectual property infringement with serious consequences, and counterfeit or pirated goods, as well as materials and instruments mainly used for infringement shall be confiscated and destroyed, so as to effectively prevent the recurrence of intellectual property infringement.

13. Prevention of dishonest actions: Disputes over liability for harm caused by malicious institution of intellectual property actions shall be properly heard, and claims for compensation, including attorney's fees and other reasonable costs, shall be supported according to the law. More rules and guidelines for disputes over jurisdiction of intellectual property cases shall be provided so as to regulate malicious delays of litigation, such as deliberate creation of connections to jurisdiction, and abuse of objections to jurisdiction. Research shall be conducted into including dishonest litigants who violate judicial writs, forge evidence, and initiate malicious litigation in the national credit reporting system.

14. Effective enforcement of judicial judgments on intellectual property: The rules for jurisdiction over the enforcement of intellectual property cases shall be comprehensively optimized. Research shall be conducted on improving the working mechanism for conduct preservation and conduct enforcement. An implementation plan and a guideline for enforcement of intellectual property judgments shall be developed, and enforcement of such judgments shall be strengthened by means of information-based online inquiry and control and joint punishment on activities in bad faith, with a view to ensuring that intellectual property judgments can be effectively enforced.

IV. Improving overall efficiency in judicial protection with stronger systems and mechanisms

15. A more specialized adjudication system for intellectual

市场价值、侵权人主观过错以及侵权行为的持续时间、影响范围、后果严重程度等因素，合理确定法定赔偿数额。对于情节严重的侵害知识产权行为，依法从高确定赔偿数额，依法没收、销毁假冒或盗版商品以及主要用于侵权的材料和工具，有效阻遏侵害知识产权行为的再次发生。

13.依法制止不诚信诉讼行为。妥善审理因恶意提起知识产权诉讼损害责任纠纷，依法支持包括律师费等合理支出在内的损害赔偿请求。强化知识产权管辖纠纷的规则指引，规制人为制造管辖连接点、滥用管辖权异议等恶意拖延诉讼的行为。研究将违反法院令状、伪造证据、恶意诉讼等不诚信的诉讼行为人纳入全国征信系统。

14.有效执行知识产权司法裁判。结合知识产权案件特点，全面优化知识产权案件执行管辖规则。研究完善行为保全和行为执行工作机制。制定知识产权裁判执行实施计划和工作指南，充分运用信息化网络查控、失信联合信用惩戒等手段加大裁判的执行力度，确保知识产权裁判得以有效执行。

四、加强体制机制建设，提高司法保护整体效能

15.健全知识产权专门化审判体

property: The establishment of specialized intellectual property courts shall be improved according to the current conditions, rules and trends of intellectual property adjudication, the distribution of courts with jurisdiction over intellectual property cases shall be optimized, the appeal mechanism for intellectual property cases shall be enhanced, and the standards for intellectual property adjudication shall be integrated, in an effort to provide specialized adjudication, centralized jurisdiction, streamlined procedures and professional personnel for intellectual property disputes.

16. Further advancement of the 'three-in-one' adjudication system: A better intellectual property case jurisdiction system and coordination system in alignment with the mechanism for 'three-in-one' trials of civil, administrative and criminal cases involving intellectual property rights shall be established to improve the overall efficiency of the judicial protection of intellectual property. Distinctions in the standard of proof between different legal proceedings shall be ascertained, the res judicata of prior adjudication of related cases shall be dealt with according to the law, and the overlapping criminal, administrative and civil cases involving intellectual property rights shall be properly handled.

17. A better technical fact-finding mechanism: The sources of technical investigators shall be moderately increased, a larger pool of technical investigators for courts shall be prepared, and a national mechanism for sharing of technical investigators shall be established. A technical fact-finding mechanism through which technical investigators, technical advisory experts, technical appraisers and expert assessors may participate in litigation activities shall be created so as to improve the neutrality, objectivity and scientific nature of the technical fact-finding process.

18. More effective guidance for intellectual property cases: A guidance system for intellectual property cases that integrates guiding cases, gazette cases and typical cases of the Supreme People's Court shall be established. The role of typical cases in guiding judicial judgments shall be maximized so as to promote unified adjudicative rules.

系。根据知识产权审判的现状、规律和趋势，研究完善专门法院设置，优化知识产权案件管辖法院布局，完善知识产权案件上诉机制，统一审判标准，实现知识产权案件审理专门化、管辖集中化、程序集约化和人员专业化。

16.深入推行“三合一”审判机制。建立和完善与知识产权民事、行政、刑事诉讼“三合一”审判机制相适应的案件管辖制度和协调机制，提高知识产权司法保护整体效能。把握不同诉讼程序证明标准的差异，依法对待在先关联案件裁判的既判力，妥善处理知识产权刑事、行政、民事交叉案件。

17.不断完善技术事实查明机制。适当扩大技术调查人员的来源，充实全国法院技术调查人才库，建立健全技术调查人才共享机制。构建技术调查官、技术咨询专家、技术鉴定人员、专家辅助人参与诉讼活动的技术事实查明机制，提高技术事实查明的中立性、客观性、科学性。

18.加强知识产权案例指导工作。建立最高人民法院指导案例、公报案例、典型案例多位一体的知识产权案例指导体系，充分发挥典型案例在司法裁判中的指引作用，促进裁判规则统一。

19. An open court system based on four platforms: The parties' and the public's access to, participation in, and supervision over court hearings shall be maximally ensured based on the transparency of court procedures, trial activities, judgments and decisions, and enforcement information. More publicity activities on World Intellectual Property Day on April 26 shall be launched with the magnified effect of external publicity, so as to promote the society's understanding and recognition of, respect for and trust of the judicial protection of intellectual property.

20. Stronger international exchange and cooperation on intellectual property rights: China shall play an active role in establishing a multilateral system for intellectual property protection, and work with other countries to promote the creation of new international rules. The communication and cooperation with judicial authorities, research institutes and practicing entities in other countries, and international organizations concerning intellectual property shall be strengthened. In order to create greater impact at the international level, researches, discussions and exchanges on intellectual property protection with significant international impact shall be conducted, and more of China's judgments and decisions on intellectual property cases shall be translated into other languages and recommended to the rest of the world.

V. Working together to improve intellectual property protection with more communication and coordination

21. A more effective alternative dispute resolution mechanism: More channels shall be provided to resolve disputes over intellectual property rights, and the pilot program of judicial confirmation for mediation agreements on intellectual property rights shall be implemented, so that judicial means will play a better role in guiding and driving the establishment of a better alternative dispute resolution mechanism, and the overall efficiency in dispute settlement will be improved.

22. A better collaboration mechanism for intellectual property protection: In order to join forces to protect intellectual property rights, People's courts shall strengthen

19.依托四大平台落实审判公开。充分利用审判流程公开、庭审活动公开、裁判文书公开、执行信息公开四大平台，最大限度地保障当事人和社会公众的知情权、参与权和监督权。丰富“4·26”世界知识产权日宣传内容，扩大对外宣传效果，增进社会各界对知识产权司法保护的了解、认同、尊重和信任。

20.加强知识产权国际交流合作。积极参与知识产权保护多边体系建设，共同推动相关国际新规则创制。加强与国外司法、研究、实务机构以及知识产权国际组织的交流合作，积极开展具有国际影响力的知识产权研讨交流活动，加大中国知识产权裁判文书的翻译推介工作，扩大中国知识产权司法的国际影响力。

五、加强沟通协调工作，形成知识产权保护整体合力

21.健全完善多元化纠纷解决机制。支持知识产权纠纷的多渠道化解，开展知识产权纠纷调解协议司法确认试点，充分发挥司法在多元化纠纷解决机制建设中的引领、推动作用，提升解决纠纷的整体效能。

22.优化知识产权保护协作机制。加强与公安、检察机关在知识产权司法程序中的沟通协

communication and coordination with public security organs and procuratorial organs in judicial procedures, and step up cooperation with administrative authorities in intellectual property, market regulation, copyright, customs and agriculture in administrative and enforcement procedures.

23. A mechanism for communication, coordination and sharing of information: A mechanism for data exchange with administrative authorities of intellectual property rights shall be established and improved, and big data analysis tools for intellectual property rights shall be applied on a regular basis, with a view to improving the performance of analysis and decision-making abilities.

VI. Supporting judicial protection of intellectual property with better basic conditions for adjudication

24. A more competent team of intellectual property judges: The mechanism for secondment and exchange of judges based on a quota system shall be improved. Outstanding judge assistants shall be appointed to work temporarily in the lower courts, and outstanding judges shall be selected to serve in the higher courts. The exchange and sharing of talented personnel in intellectual property rights shall be encouraged. More training opportunities regarding intellectual property rights shall be provided to judicial officers. More supporting members of the judiciary shall be cultivated, and a team of professional adjudication experts shall be built with a selection of competent judges, assistant judges and clerks working together and under the support of technical investigators.

25. Better basic conditions for specialized tribunals and courts: More efforts shall be made to support the development of the Intellectual Property Tribunal of the Supreme People's Court, as well as local intellectual property tribunals and courts, and ensure that specialized intellectual property judicial organs will have a solid organizational structure, competent personnel, a quality office space, and a sufficient operating budget, so as to lay a bedrock of human resources and materials for judicial protection of intellectual property.

26. Informatization for intellectual property adjudication:

调，加强与知识产权、市场监管、版权、海关、农业等行政主管部门在知识产权行政执法程序上的衔接，推动形成知识产权保护的整体合力。

23.建立信息沟通协调共享机制。建立健全与知识产权行政主管部门的数据交换机制，实现知识产权大数据分析工具运用常态化，提高综合研判和决策水平。

六、加强审判基础建设，有力支撑知识产权司法保护工作

24.加强知识产权审判队伍建设。完善员额法官借调交流机制，积极推动选派优秀法官助理到下级法院挂职，遴选优秀法官到上级法院任职，实现知识产权人才的交流共享。加强知识产权司法人员业务培训。加强司法辅助人员配备，打造“审、助、书”配置齐全、技术调查官有效补充的专业审判队伍。

25.加强专门法院法庭基础建设。加强最高人民法院知识产权法庭和各地知识产权法院、法庭建设，加强专业审判机构在机构设置、人员编制、办公场所、活动经费等方面的保障，为知识产权司法保护提供坚实的人力和物质基础。

26.加强知识产权审判信息化建

More modernized and smart judicial equipment shall be provided, and a trans-regional remote intellectual property litigation platform shall be established. Strong efforts shall be made to promote the popularity and application of information technologies in judicial procedures, such as online case filing, online evidence exchange, electronic service, online court hearing, smart voice recognition, electronic filing, and mobile micro courts. The complete adjudication process shall be supported online as part of an effort to make the judicial resolution of intellectual property disputes easier, more efficient and transparent. Extensive use of electronic case files, judgments and decisions, and information about judicial trials shall be supported, and big data in the justice system shall be fully leveraged to ensure smart services and help make accurate decisions.

Supreme People's Court

April 15, 2020

设。加强知识产权司法装备现代化、智能化建设，积极推进跨区域的知识产权远程诉讼平台建设。大力推进网上立案、网上证据交换、电子送达、在线开庭、智能语音识别、电子归档、移动微法院等信息化技术的普及应用，支持全流程审判业务网上办理，提高司法解决知识产权纠纷的便捷性、高效性和透明度。加强对电子卷宗、裁判文书、审判信息等的深度应用，充分利用司法大数据提供智能服务和精准决策。

最高人民法院

2020年4月15日

V. 窗体底端

Notice from the Supreme People's Court regarding Issuing Guiding Opinions on the Trial of Intellectual Property Civil Cases Involving e-Commerce Platforms[Effective]
最高人民法院印发《关于审理涉电子商务平台知识产权民事案件的指导意见》的通知 [现行有效]

发布机构:	最高人民法院	文件号:	法发[2020]32号
发布日期:	09-10-2020	生效日期:	09-10-2020
权威级别:	司法解释性文件	法律领域:	知识产权通用规定

Notice from the Supreme People's Court regarding Issuing Guiding Opinions on the Trial of Intellectual Property Civil Cases Involving e-Commerce Platforms

(No. 32 [2020] of the Supreme People's Court)

The higher People's courts of all provinces, autonomous regions, and municipalities directly under the Central Government; the Military Court of the People's Liberation Army; and the Production and Construction Corps Branch of the Higher People's Court of the Xinjiang Uygur Autonomous Region:

The Guiding Opinions of the Supreme People's Court on the Trial of Intellectual Property Civil Cases Involving e-Commerce Platforms are hereby issued to you for your conscientious compliance and implementation.

Supreme People's Court

September 10, 2020

Guiding Opinions of the Supreme People's Court on the Trial of Intellectual Property Civil Cases Involving e-Commerce Platforms

最高人民法院印发《关于审理涉电子商务平台知识产权民事案件的指导意见》的通知

(法发〔2020〕32号)

各省、自治区、直辖市高级人民法院，解放军军事法院，新疆维吾尔自治区高级人民法院生产建设兵团分院：

现将《最高人民法院关于审理涉电子商务平台知识产权民事案件的指导意见》印发给你们，请认真贯彻执行。

最高人民法院

2020年9月10日

最高人民法院关于审理涉电子商务平台知识产权民事案件的指导意见

These Guiding Opinions are developed in light of the intellectual property trial practices for the purposes of fairly hearing intellectual property civil cases involving e-commerce platforms, protecting the legitimate rights and interests of all parties in e-commerce in accordance with the law, and promoting the standardized, orderly and healthy development of e-commerce platform business activities.

I. In hearing cases of intellectual property disputes involving e-commerce platforms, the People's Court shall, under the principle of strictly protecting intellectual property rights, punish acts of providing counterfeit, pirated and other infringing goods or services through e-commerce platforms in accordance with the law, actively encourage the parties to follow the principle of good faith and exercise their rights properly in accordance with the law, and properly handle the relationship between the intellectual property owner, the e-commerce platform operator and the business owner operating on the e-commerce platform.

II. In hearing cases of intellectual property disputes involving e-commerce platforms, the People's court shall determine whether the relevant party is the e-commerce platform operator or a business owner operating on the e-commerce platform in accordance with Article 9 of the E-commerce Law of the People's Republic of China (hereinafter referred to as the 'E-commerce Law').

When determining whether an e-commerce platform operator conducts self-operated business, the People's court may consider the following factors: the "self-operating" information marked on the product sales page, the information on the seller marked on the physical product, and the information on the seller marked on the invoice and other transaction documents, among others.

III. Where an e-commerce platform operator knows or should know that a business owner operating on the platform infringes on intellectual property rights, it shall take necessary measures in a timely manner based on the nature of the rights, the specific circumstances and technical conditions of infringement, as well as the prima facie evidence of infringement and the types of service. The necessary measures taken shall follow the principle of

为公正审理涉电子商务平台知识产权民事案件，依法保护电子商务领域各方主体的合法权益，促进电子商务平台经营活动规范、有序、健康发展，结合知识产权审判实际，制定本指导意见。

一、人民法院审理涉电子商务平台知识产权纠纷案件，应当坚持严格保护知识产权的原则，依法惩治通过电子商务平台提供假冒、盗版等侵权商品或者服务的行为，积极引导当事人遵循诚实信用原则，依法正当行使权利，并妥善处理知识产权权利人、电子商务平台经营者、平台内经营者等各方主体之间的关系。

二、人民法院审理涉电子商务平台知识产权纠纷案件，应当依照《中华人民共和国电子商务法》（以下简称电子商务法）第九条的规定，认定有关当事人是否属于电子商务平台经营者或者平台内经营者。

人民法院认定电子商务平台经营者的行为是否属于开展自营业务，可以考量下列因素：商品销售页面上标注的“自营”信息；商品实物上标注的销售主体信息；发票等交易单据上标注的销售主体信息等。

三、电子商务平台经营者知道或者应当知道平台内经营者侵害知识产权的，应当根据权利的性质、侵权的具体情形和技术条件，以及构成侵权的初步证据、服务类型，及时采取必要措施。采取的必要措施应当遵循合理审慎的原则，包

reasonable prudence, including but not limited to deletion, blocking, disconnection and other removal measures. If a business owner operating on the platform has repeatedly and deliberately infringed on intellectual property rights, the e-commerce platform operator has the power to take measures to terminate transactions and services.

IV. In accordance with the provisions of Articles 41, 42, and 43 of the e-Commerce Law, the operator of an e-commerce platform may develop specific implementation measures for the platform-wide notification and declaration mechanism according to the type of intellectual property rights and the characteristics of goods or services. However, the relevant measures may not set unreasonable conditions or obstacles to the parties in taking actions to protect their rights in accordance with the law.

V. A notification given by the intellectual property owner to the e-commerce platform operator in accordance with Article 42 of the e-Commerce Law shall typically include: information on the true identity of the intellectual property certificate and the owner; information on the alleged infringing goods or services that can be accurately located; the prima facie evidence of the tort; and a written guarantee of the authenticity of the notification. This notification shall be made in written form.

Where a notification involves patent rights, the e-commerce platform operator may require the intellectual property owner to submit a description of the comparison of technical features or design features, a utility model or design patent right evaluation report, and other materials.

VI. When determining whether the notifier has “maliciousness” as mentioned in paragraph 3 of Article 42 of the e-Commerce Law, the People’s court may consider the following factors: submission of falsified or altered property right certificates; submission of expert opinions on comparison of misrepresentation torts; making the notification, knowing that the state of rights is unstable; failure to cancel or correct a notification in a timely manner,

包括但不限于删除、屏蔽、断开链接等下架措施。平台内经营者多次、故意侵害知识产权的，电子商务平台经营者有权采取终止交易和服务的措施。

四、依据电子商务法第四十一条、第四十二条、第四十三条的规定，电子商务平台经营者可以根据知识产权权利类型、商品或者服务的特点等，制定平台内通知与声明机制的具体执行措施。但是，有关措施不能对当事人依法维护权利的行为设置不合理的条件或者障碍。

五、知识产权权利人依据电子商务法第四十二条的规定，向电子商务平台经营者发出的通知一般包括：知识产权权利证明及权利人的真实身份信息；能够实现准确定位的涉诉侵权商品或者服务信息；构成侵权的初步证据；通知真实性的书面保证等。通知应当采取书面形式。

通知涉及专利权的，电子商务平台经营者可以要求知识产权权利人提交技术特征或者设计特征对比的说明、实用新型或者外观设计专利权评价报告等材料。

六、人民法院认定通知人是否具有电子商务法第四十二条第三款所称的“恶意”，可以考量下列因素：提交伪造、变造的权利证明；提交虚假侵权对比的鉴定意见、专家意见；明知权利状态不稳定仍发出通知；明知通知错误仍不及时撤

knowing that the notification is wrong; and repeated submission of error notifications.

Where an e-commerce platform operator or a business owner operating on the platform files a lawsuit with the People's court on the grounds that it has been harmed by erroneous notification or maliciously making a notification, it may be heard together with cases of intellectual property disputes involving e-commerce platforms.

VII. A statement of non-existence of tort submitted by a business owner operating on the platform to the e-commerce platform operator according to Article 43 of the E-commerce Law typically includes: (1) the true identity of the business owner; (2) information on goods or services that accurately locate and require termination of necessary measures; (3) prima facie evidence for ownership certificates or authorization certificates in which there is no existence of tort; and (4) a written warranty of authenticity of the statement. This statement shall be made in written form.

Where the declaration involves patent rights, the e-commerce platform operator may require the business owner operating on the platform to submit materials such as descriptions of the comparison of technical features or design features.

VIII. When determining whether a statement made by the business owner operating on the platform is malicious, the People's court may consider the following factors: whether the forged or invalid certificates of rights and authorization have been provided; whether the statement contains false information or is obviously misleading; whether a statement is still issued, though an effective judgment or administrative decision on the determination of infringement has been attached to the notification; and whether the statement is not be canceled or corrected in a timely manner, knowing that it is wrong.

IX. Where an e-commerce platform operator does not immediately take measures such as taking the product off the shelf in case of an emergency, causing irreparable damage to the legitimate interests of the intellectual property owner, the intellectual property owner may apply to the People's court

回或者更正；反复提交错误通知等。

电子商务平台经营者、平台内经营者以错误通知、恶意发出错误通知造成其损害为由，向人民法院提起诉讼的，可以与涉电子商务平台知识产权纠纷案件一并审理。

七、平台内经营者依据电子商务法第四十三条的规定，向电子商务平台经营者提交的不存在侵权行为的声明一般包括：平台内经营者的真实身份信息；能够实现准确定位、要求终止必要措施的商品或者服务信息；权属证明、授权证明等不存在侵权行为的初步证据；声明真实性的书面保证等。声明应当采取书面形式。

声明涉及专利权的，电子商务平台经营者可以要求平台内经营者提交技术特征或者设计特征对比的说明等材料。

八、人民法院认定平台内经营者发出声明是否具有恶意，可以考量下列因素：提供伪造或者无效的权利证明、授权证明；声明包含虚假信息或者具有明显误导性；通知已经附有认定侵权的生效裁判或者行政处理决定，仍发出声明；明知声明内容错误，仍不及时撤回或者更正等。

九、因情况紧急，电子商务平台经营者不立即采取商品下架等措施将会使其合法权益受到难以弥补的损害的，知识产权权利人可以依据《中华人

for preservation measures in accordance with the provisions of Articles 100 and 101 of the Civil Procedure Law of the People's Republic of China.

Where, in case of an emergency, the e-commerce platform operator does not immediately restore the product link or the notifier does not immediately withdraw the notification or stop sending the notification, irreparably damaging the legitimate interests of business owners operating on the platform, they may apply to the People's court for preservation measures in accordance with the provisions prescribed in the preceding paragraph.

Where an application from the intellectual property owner or a business owner operating on the platform complies with the law, the People's court shall support such application according to law.

X. When judging whether the e-commerce platform operator has taken reasonable measures, the People's court may consider the following factors: the prima facie evidence of the tort; the possibility of the tort; the scope of the tort; the specific circumstances of the tort, including whether there exist malicious infringements and repeated infringements; the effectiveness of preventing damage expansion; the possible impact on the interests of the business owners operating on the platform; and the service types and technical conditions of the e-commerce platform.

Where a business owner operating on the platform has evidence to prove that the patent rights involved in the notification have been declared invalid by the National Intellectual Property Administration, and the e-commerce platform operator suspends necessary measures accordingly, and the intellectual property owner requests to determine that the e-commerce platform operator has not taken necessary measures in a timely manner, the People's court shall not provide support.

XI. Where an e-commerce platform operator falls under one of the following circumstances, the People's court may determine that it should be aware of the existence of the tort:

《中华人民共和国民事诉讼法》第一百条、第一百零一条的规定，向人民法院申请采取保全措施。

因情况紧急，电子商务平台经营者不立即恢复商品链接、通知人不立即撤回通知或者停止发送通知等行为将会使其合法权益受到难以弥补的损害的，平台内经营者可以依据前款所述法律规定，向人民法院申请采取保全措施。

知识产权权利人、平台内经营者的申请符合法律规定的，人民法院应当依法予以支持。

十、人民法院判断电子商务平台经营者是否采取了合理的措施，可以考量下列因素：构成侵权的初步证据；侵权成立的可能性；侵权行为的影响范围；侵权行为的具体情节，包括是否存在恶意侵权、重复侵权情形；防止损害扩大的有效性；对平台内经营者利益可能的影响；电子商务平台的服务类型和技术条件等。

平台内经营者有证据证明通知所涉专利权已经被国家知识产权局宣告无效，电子商务平台经营者据此暂缓采取必要措施，知识产权权利人请求认定电子商务平台经营者未及时采取必要措施的，人民法院不予支持。

十一、电子商务平台经营者存在下列情形之一的，人民法院可以认定其“应当知道”侵权行为的存在：

1. Failure to fulfill statutory obligations to develop rules for the protection of intellectual property rights and to examine the operating qualifications of business owners operating on the platform;

2. Failure to examine the certificates of rights of business owners that are marked as "flagship store" or "brand store" in terms of store type;

3. Failure to take effective technical means to filter and block the links of infringing products that contain words such as "highly imitated" and "fake goods" and that are relaunched after the complaint is established; or

4. Any other circumstance where the obligations of reasonable review and care are not fulfilled.

（一）未履行制定知识产权保护规则、审核平台内经营者经营资质等法定义务；

（二）未审核平台内店铺类型标注为“旗舰店”“品牌店”等字样的经营者的权利证明；

（三）未采取有效技术手段，过滤和拦截包含“高仿”“假货”等字样的侵权商品链接、被投诉成立后再次上架的侵权商品链接；

（四）其他未履行合理审查和注意义务的情形。

窗体底端

Official Reply of the Supreme People's Court on Several Issues Concerning the Application of Law to Disputes over Internet-related Intellectual Property Right (IPR) Infringement[Effective]
最高人民法院关于涉网络知识产权侵权纠纷几个法律适用问题的批复 [现行有效]

发布机构:	最高人民法院	文件号:	法释[2020]9号
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权威级别:	司法解释	法律领域:	知识产权通用规定

Announcement of the Supreme People's Court of the People's Republic of China

中华人民共和国最高人民法院
公告

The Official Reply of the Supreme People's Court on Several Issues Concerning the Application of Law to Disputes over Internet-related Intellectual Property Right (IPR) Infringement, as adopted at the 1,810th Session of the Judicial Committee of the Supreme People's Court on August 24, 2020, is hereby issued, and shall come into force on September 14, 2020.

《最高人民法院关于涉网络知识产权侵权纠纷几个法律适用问题的批复》已于2020年8月24日由最高人民法院审判委员会第1810次会议通过，现予公布，自2020年9月14日起施行。

Supreme People's Court

最高人民法院

September 12, 2020

2020年9月12日

Official Reply of the Supreme People's Court on Several Issues Concerning the Application of Law to Disputes over Internet-related Intellectual Property Right (IPR) Infringement

最高人民法院关于涉网络知识产权侵权纠纷几个法律适用问题的批复

(Interpretation No. 9 [2020] of the People's Republic of China, adopted at the 1,810th Session of the Judicial Committee of the Supreme People's Court on August 24, 2020 and coming into force on September 14, 2020)

(2020年8月24日最高人民法院审判委员会第1810次会议通过，自2020年9月14日起施行 法释(2020)9号)

The higher People's courts of all provinces, autonomous

各省、自治区、直辖市高级人

regions, and municipalities directly under the Central Government; the Military Court of the People's Liberation Army; and the Production and Construction Corps Branch of the Higher People's Court of Xinjiang Uygur Autonomous Region:

Recently, relevant sides have offered recommendations on certain issues concerning the application of the law to disputes over Internet-related IPR infringement, and some higher People's courts have also requested the Supreme People's Court for instructions. Upon deliberation, the following official reply is hereby offered.

I. If an IPR holder claims that its or his right has been infringed upon and filed an application for preservation, requiring Internet service providers (ISPs) or e-commerce platform operators to promptly take such removal measures as deletion, block, or disconnection, the People's court shall conduct an examination and make a ruling in accordance with the law.

II. After receiving the notice issued by an IPR holder in accordance with the law, the Internet service providers or e-commerce platform operators shall, in a timely manner, forward the notice from the right holder to the relevant Internet users or businesses on the platform, and take necessary measures based on the prima facie evidence of the tort and type of service; and if any Internet service provider or e-commerce platform operator fails to take necessary measures in a timely manner, the right holder claims that it shall be jointly and severally liable for any additional harm with the relevant Internet users or businesses on the platform, the People's court may support such claim in accordance with the law .

III. If any Internet service provider or e-commerce platform operator fails to receive, within a reasonable period of time after a forwarded statement of non-existence of tort reaches the IPR holder, a notice that the right holder has complained or instituted an action, it shall, in a timely manner, terminate the removal measures taken, such as deletion, block, or disconnection. Delays caused due to exceptional circumstances, such as notarization and certification procedures, beyond the control of the right holder will not be

民法院，解放军军事法院，新疆维吾尔自治区高级人民法院生产建设兵团分院：

近来，有关方面就涉网络知识产权侵权纠纷法律适用的一些问题提出建议，部分高级人民法院也向本院提出了请示。经研究，批复如下。

一、知识产权权利人主张其权利受到侵害并提出保全申请，要求网络服务提供者、电子商务平台经营者迅速采取删除、屏蔽、断开链接等下架措施的，人民法院应当依法审查并作出裁定。

二、网络服务提供者、电子商务平台经营者收到知识产权权利人依法发出的通知后，应当及时将权利人的通知转送相关网络用户、平台内经营者，并根据构成侵权的初步证据和服务类型采取必要措施；未依法采取必要措施，权利人主张网络服务提供者、电子商务平台经营者对损害的扩大部分与网络用户、平台内经营者承担连带责任的，人民法院可以依法予以支持。

三、在依法转送的不存在侵权行为的声明到达知识产权权利人后的合理期限内，网络服务提供者、电子商务平台经营者未收到权利人已经投诉或者提起诉讼通知的，应当及时终止所采取的删除、屏蔽、断开链接等下架措施。因办理公证、认证手续等权利人无法控

included in the aforesaid period, but the period shall not exceed 20 working days at a maximum.

IV. If the e-commerce platform operators terminate the necessary measures and damage is caused to the IPR holder due to malicious submission of the statement, and the right holder requests corresponding punitive damages in accordance with the provisions of relevant laws, the People's court may support such request in accordance with law.

V. If the contents of the notice issued by an IPR holder are inconsistent with the objective facts, but in the litigation, it or he claims that the notice was submitted in good faith and requests exemption from liability, and can provide the evidence to prove its or his claim, the People's court shall support such claim after examination and verification in accordance with the law.

VI. This Official Reply shall apply to cases for which no final judgment has been rendered after this Official Reply is made; this Official Reply shall not apply to cases for which final judgment has been rendered before the Official Reply is made, those of which the parties apply for retrial, or those that are determined to be retried under the trial supervision procedures.

制的特殊情况导致的延迟，不计入上述期限，但该期限最长不超过 20 个工作日。

四、因恶意提交声明导致电子商务平台经营者终止必要措施并造成知识产权权利人损害，权利人依照有关法律规定请求相应惩罚性赔偿的，人民法院可以依法予以支持。

五、知识产权权利人发出的通知内容与客观事实不符，但其在诉讼中主张该通知系善意提交并请求免责，且能够举证证明的，人民法院依法审查属实后应当予以支持。

六、本批复作出时尚未终审的案件，适用本批复；本批复作出时已经终审，当事人申请再审或者按照审判监督程序决定再审的案件，不适用本批复。

窗体底端

《北京市电子商务领域专利侵权纠纷快速处理规程》（试行）

<http://ip.people.com.cn/n1/2019/0920/c179663-31363743.html>

《关于审理涉电子商务平台知识产权民事案件的指导意见》

http://www.zjsfgkw.cn/art/2019/12/26/art_78_19527.html

《上海市电子商务知识产权保护工作若干意见》

<http://sipa.sh.gov.cn/xxgkml/20210105/08582c5c5da74c218e54c1bee21ddd79.html>

国家标准 - 《电子商务平台知识产权保护管理》（GB/T 39550-2020）

<http://openstd.samr.gov.cn/bzgk/gb/newGbInfo?hcno=E315E3B122771E0D38B843BC19E6E5F4>

《视频直播购物运营和服务基本规范》（征求意见稿）

<http://mgw.cgcc.org.cn/html/content-37-3484-1.html>

《网络直播营销行为规范》

<http://www.china-caa.org/uploads/downloads/zbyxgf0624.pdf>

《电子商务直播培训评估规范》

<http://www.ttbz.org.cn/Home/Show/15089/>

《关于电商领域知识产权法律责任的调研报告》

<https://www.chinacourt.org/index.php/article/detail/2020/03/id/4871104.shtml>

《中国电子商务知识产权保护发展研究报告》（2020年）

<http://www.cnipa-ipdrc.org.cn/UpLoad/2021-01/2021118163250.pdf>

欧洲议会和欧盟理事会 2000 年 06 月 08 日第 2000/31/EC 号指令

<https://eur-lex.europa.eu/eli/dir/2000/31/oj>

2019 年 04 月 17 日关于数字化单一市场版权及相关权利的第(EU)2019/790 号指令, 以及经修订的第 96/9/EC 号指令和第 2001/29/EC 号指令（简称“数字化单一市场版权指令”）

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0790&rid=1>

《数字服务法》

https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/digital-services-act-ensuring-safe-and-accountable-online-environment_en#new-rules-in-a-nutshell

《数字市场法》

https://ec.europa.eu/cyprus/news_20201216_2_en

《关于打击互联网上销售假冒商品的谅解备忘录运作情况的报告》

<https://ec.europa.eu/docsroom/documents/42701>

VI. 访谈提纲

电商平台访谈提纲 INTERVIEW OUTLINE FOR PLATFORMS

访谈项目： IPKey- 2020 年中国网络假冒及欧盟谅解备忘录模式应用研究

Interview Project: IPKey- 2020 China Online Counterfeiting and EU MOU Model Application Study

访谈目的： 了解 2019 年《电子商务法》实施后对电商平台维权实务的切实影响及相关数据

Interview Purpose: To understand the practical impact of the implementation of the E-Commerce Law in 2019 on the practice of e-commerce platform rights protection and related data

问题清单

Question List

整体规则和体系

Overall Rules and System

1. 2019 年至今，基于《电子商务法》及相关司法解释、法规，平台治理规则有哪些变化和调整（如进一步修改了“转送通知”规则；接到通知后采取行动更加及时；提高对平台内经营者身份等信息的资质审查等）？

What are the changes and adjustments in platform governance rules based on the E-Commerce Law and related judicial interpretations and regulations so far in 2019? (Such as further changes to the "forwarding notice" rules; more timely action upon receipt of the notice; improve the qualification review of the identity of operators in the platform and other information)

2. 在侵权假冒情况自查监测、与权利人合作共治侵权假冒行为方面，是否有新技术、新举措、新系统，及其效果如何？

Are there any new technologies, initiatives and systems for self-investigation and monitoring of infringement and counterfeiting, and cooperation with rights holders in combating infringement and counterfeiting, and what are their effects?

3. 大数据在哪些方面有所应用并帮助促进电商平台上的知识产权维权？

How big data becomes relevant and how it helps with IP enforcement on e-commerce platforms?

4. 考虑到新兴侵权假冒行为以及新技术的不断涌现，平台会观察到哪些突出的打假挑战和难题？在哪些方面尤其需要权利人和其他相关方（例如快递物流、终端消费者）的配合和共识？

Considering the emerging infringement and counterfeiting behaviors as well as the continuous emergence of new technologies, what are the prominent challenges and difficulties in fighting counterfeiting that the platform will observe? In what areas is the cooperation and consensus of rights holders and other relevant parties (such as logistics and express delivery companies and end consumers) particularly needed?

5. 平台信用评价机制方面，平台信用与社会信用信息系统如何连接？平台商家被投诉记录是否会反映到企业及个人社会信用信息系统中？如何实现，及效果如何？

In terms of platform credit evaluation system, how will platform credit connect to social credit system? Will the records of being complained and platform credits be reflected in social crediting system? How it works and what about the effects?

6. 针对中小企业的权利保护和维权渠道，是否有特别设计和体系？

Are there any special mechanisms designed to advance IP protection and enforcement for SMEs?

投诉渠道及材料

Complaint Access and Materials

7. 对投诉人主体资格文件要求是否有变化（如涉外权利人的主体资格证明文件是否需要进行公证、认证等，是否需要翻译等）？

Are there any changes in the requirements for the subject qualification documents of the complainant (such as whether the subject qualification documents of the foreign right holder need to be notarized, certified, etc., and whether translation is required, etc.)?

8. 对于上述“初步证据”，平台是进行形式审查还是实质审查？哪些是常见类型的证据瑕疵，能否举例？

For the above "preliminary evidence", does the platform conduct formal or substantive review? What are the common types of evidence defects and can you give examples?

9. 对于侵权商品或服务的具体描述及定位（如侵权产品链接）要求是否存在变化，能否举例哪些是符合要求，哪些不符合？

Are there any changes in the specific description and positioning of infringing goods or services (e.g. links to infringing products), and can you give examples of which ones meet the requirements and which ones do not?

10. 被投诉人反通知需要向平台提交什么材料？平台对反通知是否有证明要求？对于被投诉人提交的材料，平台是进行形式审查还是实质审查？

What material does the respondent need to submit to the platform for counter-notification? Does the platform have a proof requirement for counter-notification? For the materials submitted by respondent, does the platform conduct formal or substantive review?

11. 如为应对投诉，被投诉人向平台提交了不侵权声明和证明材料，平台是否会将这些不侵权证明材料提供给权利人并给予质证/发表意见的机会？

If, in response to a complaint, the respondent submits a statement of non-infringement and supporting materials to the platform, does the platform provide these supporting materials of non-infringement to the right holder and give an opportunity to cross-examine/comment?

12. 如果投诉人认为平台没有及时采取必要措施阻止被投诉人的侵权行为，平台内部是否为投诉人提供了救济方式？这些方式的效果如何？

If the complainant believes that the platform fails to take requisite measures to stop the respondent's infringement in a timely manner, does the platform provide a remedy for the complainant? How effective are these remedies?

13. 平台对于侵权投诉、反通知及投诉处理结果是否能及时予以公开（《电子商务法》第45条），公开的内容是否详细？

Can the platform disclose infringement complaints, non-infringement declaration and processing results in a timely manner (Article 45 of the E-Commerce Law), and is the content of the disclosure detailed?

14. 若平台判定平台内经营者恶意提交声明，该认定结果及相关证据能否提供给权利人？权利人是否曾根据该等信息向法院请求惩罚性赔偿（《最高人民法院关于涉网络知识产权侵权纠纷几个法律适用问题的批复》第四条；《关于审理涉电子商务平台知识产权民事案件的指导意见》第八条）？

If the platform determines that a respondent to a complaint has submitted the non-infringement statement in bad faith, can the result of the determination and related evidence be provided to the right holder to take further actions? Has the right holder ever successfully obtained punitive damages from the court based on such information (Art.4 of Supreme People's Court on the

Application of Laws in Disputes Concerning Infringement of Intellectual Property, and Art. 8 of Guideline on the Trial of IPR Disputes involving E-commerce Platforms) ?

15. 如果投诉人认为平台没有及时采取必要措施阻止被投诉人的侵权行为，平台内部是否为投诉人提供了救济方式？您认为是否可能提供平台内救济？为什么？您觉得可以以怎样的形式提供？

If the complainant believes that the platform fails to take requisite measures to stop the respondent's infringement in a timely manner, does the platform provide a remedy for the complainant? Do you think it possible for platform to provide such remedies? Why? What do you think is the appropriate way for the platform to provide such remedies?

2019-2020 年相关数据

Related Data for 2019-2020

16. 平台收到权利人投诉的侵权行为类型和占比是否存在变化？（例如：早期可能纯假冒、尾单、高仿货较多，但现在更多是代购、不当使用他人商标作为关键词等隐蔽性更高的侵权模式）

Is there any change in the type and proportion of infringement acts that the platform receives complaints from right holders? (e.g. there may be more pure counterfeit, tail-list and high imitation goods in the early stage, but now there are more hidden infringement patterns such as surrogacy and improper use of others' trademarks as keywords)

17. 权利人发送侵权通知的权利基础有无变化及相应数据？（例如：商标侵权更多，还是著作权、专利侵权投诉更多）？该情况是否与平台规则的完善修订存在关联？

Has there been any change in the right basis for rights holders to send infringement notices and the corresponding data? (e.g. are there more trademark infringements or more copyright and patent infringement complaints)? Is this situation related to the improvement and revision of the platform rules?

18. 平台每年收到的投诉数量的整体数据？

What is the overall data on the number of complaints received by the platform each year?

19. 平台采取必要措施（删除、屏蔽、断开链接等）的数量是否有变化，是否能提供相应数据？

Is there any change in the number of necessary measures taken by the platform (deletion, blocking, disconnection of links, etc.) and can the corresponding data be provided?

20. 欧盟权利人的投诉数量在整体投诉数量中占比及投诉成功率如何？

What is the proportion of the number of complaints from EU rights holders in the overall number of complaints and the success rate of complaints?

21. 常见的投诉失败原因包括哪些（例如：主体资格材料有瑕疵、权利基础瑕疵、不构成侵权、投诉真实性声明、对方反通知成功等）？比例各是多少？

What are the common reasons for the failure of complaints (e.g. defective subject matter, defective basis of rights, not constituting infringement, statement of truth of the complaint, successful counter-notification by the other party, etc.)? What is the proportion of each?

22. 平台自行监测下架和权利人投诉后下架，各自占比多少？

What is the proportion of each of the platform's self-monitoring shelves and shelves after the rights holders' complaints?

23. 平台中的反复侵权行为是否多发，整体数量和变化趋势如何？

Are there more repeated infringements in the platform, and what are the overall number and changing trend?

24. 对于反复侵权行为和经营者，平台是否有特殊的判定规则（如何判断反复侵权，次数是多少）？会采取哪些措施（如永久封店铺等）？

Does the platform have special rules for determining repeated infringements and operators (how to determine repeated infringements and how many times)? What measures will be taken (such as permanently blocking the store)?

25. 侵权通知的处理速度和时长平均如何（电子商务法第 42 条规定应“及时”采取必要措施）？如何反映在处理流程中？数据是？

What is the average speed and length of infringement notices (Article 42 of the E-commerce Law stipulates that necessary measures shall be taken “in a timely manner”)? How is this reflected in the handling process? What is the data?

26. 被投诉人提供反通知的情况是否多见，占比如何？有多少通过反通知，实现产品不下架的效果？

Is it common for respondents to provide counter-notifications, and what is the percentage? How many of the counter-notifications have resulted in the product not being shelved?

27. 线上线下转化率问题：权利人投诉后提起行政投诉、民事诉讼或刑事报案的案件占比如何？

What is the percentage of cases in which the right holder files an administrative complaint, civil lawsuit or criminal report after filing a complaint?

28. 虚假恶意投诉如何判定（如伪造权利证明，利用抢注的商标恶意投诉等），比例如何，是否有相应的惩罚措施？

How to determine the false and malicious complaints (such as falsified proof of rights, malicious complaints using grabbed trademarks, etc.), what is the proportion, and are there corresponding punitive measures?

29. 对于直播带货、小程序、社交媒体推广等新兴电子商务形式中出现的侵权行为，是否导致权利人投诉量的增加及相应数据？平台是否、如何运用新的技术手段，规制该等新兴模式下的侵权行为？

For the infringement behaviors appearing in emerging e-commerce forms such as livestreaming, mini programs and social media promotion, does it lead to an increase in the number of complaints from right holders and the corresponding data? Do platforms and how do they use new technical ways to regulate infringement in such emerging models?

谅解备忘录

Memorandum of Understanding (MOU)

30. 现行已加入的谅解备忘录包括哪些？效果如何？

What are the existing MOUs that have been joined? What is the effect?

31. 您希望与权利人通过谅解备忘录在哪些方面达成共识（如：责任分担，信息共享等）？您希望权利人在互联网仿冒产品的维权中承担什么样的责任？

In what areas do you wish to reach consensus with the right owners through a MOU (e.g. sharing responsibility, information, etc.)? What kind of responsibility do you think the right owners should take in the fight against online counterfeiting products?

签署加入谅解备忘录后，为落实备忘录共识和要求采取了哪些措施（如加强对平台侵权行为的监控、及时并准确地通知平台已经发生的侵权行为等(权利人方面)；优化操作流程、完善操作界面、升级模型算法等手段（平台方面））？

What measures have been taken by the platform/your company to implement the consensus and requirements of the MOU after signing to join it (e.g. strengthening the monitoring of infringements on the platform, notifying the platform of the infringements happened timely and accurately (rightsowners side),; ways to optimize the operation process, improve the operation interface, upgrade the model algorithm, etc. (platform side))?

32.以合作备忘录为代表的自愿性措施是否能够作为现行法律框架的良好补充（有什么优势）？怎么保障备忘录内容的确实有效履行？切实履行的难点和挑战？

Can the voluntary measures represented by the MOU serve as a good supplement to the existing legal framework (what are the advantages)? How to guarantee the actual and effective fulfillment of the contents of the memorandum? What are the difficulties and challenges for effective implementation?

权利人访谈提纲 INTERVIEW OUTLINE FOR RIGHT OWNERS

访谈项目: IP Key-2020 年中国网络假冒及欧盟谅解备忘录模式应用研究

Interview Project: IP Key-2020 China Online Counterfeiting and EU MOU Model Application Study

访谈目的: 了解 2019 年《电子商务法》实施后对权利人通过电商平台维权的切实影响及相关数据

Interview Purpose: To understand the practical impact of the implementation of the E-Commerce Law in 2019 on rights holders' rights protection through e-commerce platforms and related data.

问题清单

Question List

整体观察

Overall Observation

1. 2019 年至今, 基于《电子商务法》及相关司法解释、法规, 平台治理规则有哪些积极和消极变化和调整(如进一步修改了“转送通知”规则; 接到通知后采取行动更加及时; 提高对平台内经营者身份等信息的资质审查等)?

What are the changes and adjustments in platform governance rules based on the E-Commerce Law and related judicial interpretations and regulations so far in 2019? (Such as further changes to the “forwarding notice” rules; more timely action upon receipt of the notice; improve the qualification review of the identity of operators in the platform and other information)

2. 除《电子商务法》外, 哪部/哪几部司法解释或行政法规、政府规章等对于权利人打击线上假冒、盗版作用最大, 关联程度最高?

In addition to the E-Commerce Law, which judicial interpretation(s) or administrative regulation(s), government regulation(s), etc. is/are most useful and relevant for rights holders to combat online counterfeiting and piracy?

3. 考虑到新兴侵权假冒行为以及新技术的不断涌现, 权利人观察到哪些突出的打假挑战和难题? 在哪些方面尤其需要电商平台和其他相关方的配合和共识?

Considering the emerging infringement and counterfeiting behaviors as well as the emergence of new technologies, what are the prominent challenges and difficulties observed by rights holders in combating counterfeiting? In what aspects do they need the cooperation and consensus of e-commerce platforms and other relevant parties in particular?

4. 在与电商平台合作共治侵权假冒行为方面, 是否有新技术、新举措、新形式, 及其效果如何? 对电商平台有无任何建议?

Are there any new technologies, new initiatives and new forms of cooperation with e-commerce platforms in combating infringement and counterfeiting, and how effective are they? Do you have any suggestions for e-commerce platforms?

投诉渠道、材料及处理

Complaint Channels, Materials and Processing

5. 在投诉渠道及材料准备方面, 存在哪些不便利的设计和要求(例如对投诉人主体资格文件要求严苛)?

Are there any inconvenient designs and requirements for complaint access and material preparation (e.g., stringent requirements for complainant subject qualification documents)?

6. 成功的下架投诉（基于专利权、商标权、著作权、主张构成不正当竞争等）对于投诉人的证据要求一般是什么（可基于实际成功的投诉案例举例）？存在哪些不合理的要求？值得肯定的做法有哪一些？

For complaints to be successful (based on patent rights, trademark rights, copyrights, unfair competition claims, etc.), what are the general evidentiary requirements for complainants (successful cases can be cited for reference)? What requirements are unreasonable? What practices deserve recognition?

7. 您认为平台对证据的审查标准怎么样？存在什么样的问题？（如：审查标准过严，证据要求不明确等）这些问题在《电子商务法》实施后2年后否有所改善？

What do you think of the platform's standards for evidence review? What problems exist? (e.g., the review standards are too stringent, or the evidence requirements are not clear, etc.) Have these problems been improved after 2 years of implementation of the E-Commerce Law?

8. 如为应对投诉，被投诉人向平台提交了不侵权声明和证明材料，平台是否会将这些不侵权证明材料提供给权利人并给予质证/发表意见的机会？

If, in response to a complaint, the respondent submits a statement of non-infringement and supporting materials to the platform, does the platform provide these supporting materials of non-infringement to the right holder and give an opportunity to cross-examine/comment?

9. 如果投诉人认为平台没有及时采取必要措施阻止被投诉人的侵权行为，平台内部是否为投诉人提供了救济方式？这些方式的效果如何？

If the complainant believes that the platform fails to take requisite measures to stop the respondent's infringement in a timely manner, does the platform provide a remedy for the complainant? How effective are these remedies?

10. 平台对于侵权投诉、反通知及投诉处理结果是否能及时予以公开（《电子商务法》第45条），公开的内容是否详细？

Can the platform disclose infringement complaints, non-infringement declaration and processing results in a timely manner (Article 45 of the E-Commerce Law), and is the content of the disclosure detailed?

11. 若平台判定平台内经营者恶意提交声明，该认定结果过及相关证据能否提供给权利人？权利人是否曾根据该等信息向法院请求惩罚性赔偿（《最高人民法院关于涉网络知识产权侵权纠纷几个法律适用问题的批复》第四条；《关于审理涉电子商务平台知识产权民事案件的指导意见》第八条）？

If the platform determines that a respondent to a complaint has submitted the non-infringement statement in bad faith, can the result of the determination and related evidence be provided to the right holder to take further actions? Has the right holder ever successfully obtained punitive damages from the court based on such information (Art.4 of *Supreme People's Court on the Application of Laws in Disputes Concerning Infringement of Intellectual Property*, and Art. 8 of *Guideline on the Trial of IPR Disputes involving E-commerce Platforms*) ?

2019-2020年相关数据

Related Data for 2019-2020

12. 权利人投诉的侵权行为类型和占比是否存在变化？（例如：早期可能纯假冒、尾单、高仿货较多，但现在更多是代购、不当使用他人商标作为关键词等隐蔽性更高的侵权模式）

Are there changes in the types and percentages of infringement that rights holders complain about? (e.g., there may be more pure counterfeit, tailor-made, and high imitation goods in the early days,

but now there are more hidden infringement patterns such as surrogacy and improper use of others' trademarks as keywords)

13. 权利人发送侵权通知的权利基础有无变化及相应数据? (例如: 商标侵权更多, 还是著作权、专利侵权投诉更多)? 该情况是否与平台规则的完善修订存在关联?

Has there been any change in the right basis for rights holders to send infringement notices and the corresponding data? (e.g. are there more trademark infringements or more copyright and patent infringement complaints)? Is this situation related to the improvement and revision of the platform rules?

14. 权利人电商平台投诉数量及成功率的整体数据?

The overall data on the number of complaints and success rate of the rights holder's e-commerce platform?

15. 常见的投诉失败原因包括哪些(例如: 主体资格材料有瑕疵、权利基础瑕疵、不构成侵权、投诉真实性声明、对方反通知成功等)? 比例各是多少?

What are the common reasons for complaint failure (e.g. defective subject qualification materials, defective rights basis, not constituting infringement, statement of truth of complaint, successful counter-notification by the other party, etc.)? What is the proportion of each?

16. 反复侵权行为是否多发, 整体数量和变化趋势如何?

Are repeated infringements frequent and what are the overall number and changing trends?

17. 对于反复侵权行为和经营者, 在多次通知并证明反复侵权后, 平台是否有特殊的判定规则(如何判断反复侵权, 次数是多少)? 会采取哪些措施(如永久封店铺等)? 效果如何?

For repeated infringement and operators, after repeated notifications and proof of repeated infringement, does the platform have special rules for determination (how to determine repeated infringement and how many times)? What measures will be taken (e.g. permanent blocking of stores, etc.)? What is the effect?

18. 侵权通知的处理速度和时长平均如何(电子商务法第 42 条规定应“及时”采取必要措施)? 是否达到权利人对产品下架速度的预期和需求?

What is the average speed and length of infringement notices (Article 42 of the E-Commerce Law stipulates that necessary measures shall be taken "in a timely manner")? Does it meet the expectations and needs of rights holders for the speed of product removal?

19. 被投诉人提供反通知(《电子商务法》第 43 条)的情况是否多见, 占比如何? 有多少通过反通知, 实现产品不下架的效果?

Is it common for respondents to provide counter-notifications/non-infringement declaration (according to Art.43 of the E-Commerce Law), and what is the percentage? How many of the counter-notifications have resulted in the product not being shelved?

20. 线上线下转化率问题: 权利人投诉后提起行政投诉、民事诉讼或刑事报案的案件占比如何?

What is the percentage of cases in which the right holder files an administrative complaint, civil lawsuit or criminal report after filing a complaint?

21. 对于情况紧急的, 权利人向人民法院申请采取保全措施的比例如何? 成功率如何? (《关于审理涉电子商务平台知识产权民事案件的指导意见》第 9 条)

For urgent cases, what is the percentage of rights holders applying to the court for injunctions? What is the success rate? (referring to Article 9 of *The Guideline on the Trial of IPR Disputes involving E-commerce Platforms*).

22. 网上投诉如何有助于随后的线下行动(如在线下查明和调查侵权者, 收集侵权/公证购买的证据等)?

How online complaints can contribute to subsequent offline actions (e.g. to identify and investigate infringers offline, to collect evidences of infringement/notarized purchases, etc.)?

23. 在线投诉的记录/结果能够构成线下行动的支持性证据的比例是多少？
How often (percentages) can records/results of online complaint constitute supporting evidence for offline actions?
24. 在线平台是否愿意应要求提供被控侵权者详细信息，百分比是多少？
Upon request, how often (percentages) do online platforms provide detailed information about the alleged infringer?
25. 对于新兴电商形式，如微信群及朋友圈、抖音/快手/小红书等直播带货等，在取证方面的难点是什么（比如直播带货具有实时性，如何监测？如何固定证据？）？是否有针对性的策略？投诉量和成功率如何？
For emerging forms of e-commerce, such as WeChat group and circle of friends, TikTok Kuaishou /Xiaohongshu and other live streaming platforms, what are the difficulties in forensics (such as live with goods with real-time, how to monitor? How to fix the evidence?) Is there a targeted strategy? What is the complaint volume and success rate?
26. 对于直播带货、小程序、社交媒体推广等新兴电子商务形式中出现的侵权行为，权利人是否观察到电商平台运用任何新的技术手段、系统等来规制该等新兴模式下的侵权行为？
For the infringement behaviors appearing in emerging e-commerce forms such as livestreaming, mini programs and social media promotion, does it lead to an increase in the number of complaints from right holders and the corresponding data? Do platforms and how do they use new technical ways to regulate infringement in such emerging models?

谅解备忘录

Memorandum of Understanding (MOU)

27. 现行已加入的谅解备忘录包括哪些？效果如何？
What are the existing MOUs that have been joined? What is the effect?
28. 您希望与平台通过谅解备忘录在哪些方面达成共识（如：责任分担，信息共享等）？您希望平台在互联网仿冒产品的维权中承担什么样的责任？
In what areas do you wish to reach consensus with the platform through a MOU (e.g. sharing responsibility, information, etc.)? What kind of responsibility do you think the platform should take in the fight against online counterfeiting products?
29. 签署加入谅解备忘录后，为落实备忘录共识和要求采取了哪些措施（如加强对平台侵权行为的监控、及时并准确地通知平台已经发生的侵权行为等(权利人方面)；优化操作流程、完善操作界面、升级模型算法等手段（平台方面））？
What measures have been taken by the platform/your company to implement the consensus and requirements of the MOU after signing to join it (e.g. strengthening the monitoring of infringements on the platform, notifying the platform of the infringements happened timely and accurately (rightsowners side); ways to optimize the operation process, improve the operation interface, upgrade the model algorithm, etc. (platform side))?
30. 以合作备忘录为代表的自愿性措施是否能够作为现行法律框架的良好补充（有什么优势）？怎么保障备忘录内容的确实有效履行？切实履行的难点和挑战？
Can the voluntary measures represented by the MOU serve as a good supplement to the existing legal framework (what are the advantages)? How to guarantee the actual and effective fulfillment of the contents of the memorandum? What are the difficulties and challenges for effective implementation?

