

華誠法律通訊

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Corporate & Commercial

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Latest Legal News

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INTRODUCTION

Watson & Band has flourished into a full-service law firm with more than 250 professionals around China. We provide the highest quality services for our clients and enjoy a nationwide reputation as one of the most prominent law firms in China. This excellence and breadth has made us the firm of choice for many world's leading companies and financial institutions as they seek sophisticated legal service. Based on its commitment of quality service, Watson & Band has retained a team of professionals to provide diversified service to its clients, which has won it the honor of China's Best Law Firm and Top-tier IPR Team.

Watson & Band Law Offices

Established in 1995, Watson & Band is one of the oldest law firms in China that provide foreign-related legal services. Headquartered in Shanghai, Watson & Band maintains multiple branches or offices in Beijing, Hong Kong, Harbin, Lanzhou, Yantai, Guangzhou, Chicago and Tokyo.

For over decades our team members have collaborated to stay on top of IP and corporate issues, helping clients improve operations, reduce costs, limit risks, enforce rights and achieve common business goals. For these reasons, the firm and its professionals are consistently recognized in client and peer-reviewed industry awards and rankings as being among the best.

These superb services derive from a spirit of dedication that has brought Watson & Band the honor of being listed among "China's Best Law Firms". In past years our firm has received numerous awards from third-party ranking agencies such as "Top 10 IP Law Firm", "Recommended Law Firm". "China's Most Dynamic Law Firm" and "Premier IP Law Firm". Watson & Band Law Offices has also been named a "Key Shanghai Enterprise in Special Services Trades (Legal Services)" by the Shanghai Municipal Commission of Commerce and the Shanghai Judicial Bureau.

Watson & Band Intellectual Property Agent Ltd.

Headquartered in Shanghai, W&B Agent Ltd. operates branch offices in Beijing and Lanzhou. Our patent agency services cover various technical fields such as chemistry, biology, medicine, mechanics, electronics, communication, optics and physics, as well as design patent, IP searches, patent validity analysis, infringement analysis, requests for patent invalidation declaration, litigation and patent consultation, etc. We have established a patent agency service department responsible for special clients. Agents from various technical divisions all have rich experience and are able to work with several languages.

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Disclaimer

- ◆ This Newsletter provides case brief only instead of formal legal opinion regarding any specific case.
- ◆ This Newsletter selects and summarizes official announcements, news and other public documents released by State Intellectual Property Office, China Trademark Office, National Copy-right Administration of China and other official institutions.
- ◆ This Newsletter has cited the source of the aforementioned official announcements, news and other public documents.

The Latest from Watson & Band

Lawyers Attend Senior Seminar for International Cooperation Under the Belt and Road Initiative for the Textile and Apparel Industry, Lecture in English

On the afternoon of March 29th, 2018, the Second Session of the Senior Seminar for International Capacity Cooperation Under the Belt and Road Initiative for the Textile and Apparel Industry, hosted by Donghua University, took place in the university's Research Center for International Cooperation and the Development of the Textile Industry. This seminar attracted over 30 international participants from Kazakhstan, Pakistan, Sudan, Uzbekistan and other countries. The lectures provided the participants with a deep understanding of the current status, prospects and international cooperation of the textile industry under China's the Belt and Road Initiative. As a legal expert participating in the seminar, W&B lawyer Mr. Gao Wei presented a specially designed lecture tailored to the audience's needs that was entitled "Professional Advice on International Investment and Overseas Manufacturing and Processing Under Chinese Law". W&B Partner Ms. Yiqi Cai and attorney Frank Jin presented English language lectures to participants from all over the world in the third section of the "Chinese Culture and Systems" seminar.

W&B Partner Xiaosu Zhu Wins Sixth Shanghai Outstanding Young Lawyers Award

The Fourth Session of the 10th Shanghai Lawyers' Congress was held on March 31, 2018, where legal professionals with outstanding performance in legal services and great contributions to legal industry development and public service activities were honored. Watson & Band Partner Xiaosu Zhu won the Sixth Shanghai Outstanding Young

Lawyers Award after a process of evaluation and selection. Mr. Zhu focuses on areas such as corporate and commercial law, market exit, culture and entertainment and anti-monopoly, and he has accumulated rich practical experience in each of these areas.



W&B Partner Cathy Wu Attends the Forum "Design for China" Held by Denmark and The Netherlands Consulates, Hosts Panel Discussion

On the afternoon of March 16, 2018, the Consulates of Denmark and The Netherlands and the Shanghai International Industrial Design Center successfully hosted the forum "Design for China" at the famous No.8 Bridge Creative Industry Center. Watson & Band Partner Cathy Wu was invited to attend the Forum and host the panel discussion on "Topic 3: IP Rights Protection and Culture Conflict". Ms. Wu has long practiced in the IP rights area, and she has accumulated rich practical experience in IP rights commercialization and enforcement. She has provided overall IP rights protection strategies and suggestions for a number of multinational corporations.

W&B Successfully Hosts China Law Salon Series – Contract-Related Risk Control and Prevention for Enterprises

On March 30, Watson & Band successfully held its first China Law Salon of 2018 entitled “Contract-Related Risk Control and Prevention for Enterprises” .

As the first lecturer, W&B partner William Zhou started his lecture by presenting survey data on contract disputes heard in courts over the past three years, and he introduced concepts related to contractual risks using vivid literary quotations. Mr. Zhou then reminded the attendees of the contractual risks that might arise during three phases, i.e. before signature, at signature and during performance of the contract. He also listed specific matters to be noted for these three phases and advised enterprises on how to prevent and control such risks.

The second lecturer, W&B attorney Mr. Gehlen Zhu, provided a detailed introduction on the types of liability for breach of a contract, the consequences of rescission of a contract, the means of rescinding a contract and the time limit for exercising the right of rescission, based on the latest provisions of applicable statutes and regulations. Mr. Zhu also cited a number of actual cases, provided a practical in-depth analysis of how to effectively draft terms of rescission and liability for breach of contract, and explained how to lawfully exercise the right of rescission.

Watson & Band Hosts the Lecture “The Roadmap for ‘Made in China’ – Tips on Financing and Core Technology Protection for New Ventures”

The Sixth China (Shanghai) International Technology Fair (the “CSITF”) was held in Shanghai World Expo Exhibition and Convention Center (the “SWEECC”) from April 19th to April 21st. As an exhibitor and participant of the event, Watson & Band specially invited experts from the relevant government department and enterprises, and jointly with its partners with rich experience in this practice, successfully hosted the captioned lecture at the SWEECC on the afternoon of April 19th. The lecture attracted attendees from enterprises as well as legal professionals interested in the topic, and was well received among the attendees.



Bank of China: Daily Upper Limit of 500 RMB for Static Bar/QR Code Payment as of April 1st, 2018

On December 27, 2017, the People's Bank of China published regulations on payment by bar codes and QR codes, which targeted small value and convenience payments, categorized the risk-prevention capabilities of bar/QR code payment, and set different daily cumulative upper limits for the different categories. The regulations came into effect on April 1, 2018.

According to the People's Bank of China, payment by static bar/QR code falls into Category D in terms of risk-prevention capability; no matter which means is used to verify the transaction, a bank or payment institution of a single customer may not exceed the accumulative daily upper limit of 500 RMB. For example, when a consumer uses WeChat Wallet static bar/QR code for payment, his or her daily upper limit for such payment shall not exceed 500 RMB; in addition, all of the consumer's bank cards bound to the WeChat account are allowed an independent daily upper limit of 500 RMB.

When dynamic bar/QR code (e.g. a real-time bar/QR code generated on a mobile phone) is used for payment purposes, the payments will fall into categories A, B and C based on their different means of verification, and accordingly the cumulative daily upper limits will be as agreed -- 5,000 RMB and 1,000 RMB.

(Source: www.people.com.cn)

Obligation to Offer Tariff Concessions on Some Imported Goods Originating from the U.S Canceled with Immediate Effect

Recently, the Customs Tariff Commission of the State Council issued the Circular of the Customs Tariff Commission of the State Council on Suspending Performance of Obligations to Offer Tariff Concessions on Some Imported Goods Originating from the U.S. (the "Circular") which took effect on April 2, 2018.

The Circular states that in order to safeguard the country's interests and to recoup China's interest losses brought by the U.S. Action (the "232 Action") to impose additional tariffs on imported steel and aluminum products, the Customs Tariff Commission of the State Council has decided to cease offering tariff concessions on some imported goods originating from the U.S.

According to the Circular: (1) tariff concessions will be suspended for 120 items of imported products, including U.S.-origin fruits and products made therefrom, and additional tariffs will be imposed at a rate of 15 percent plus the current applicable tariff rate; (2) tariff concessions will be suspended for eight items of U.S.-origin pork and products made therefrom, and tariffs of 25 percent will be imposed in addition to duties based on the currently applicable tariff rate; and (3) existing policies on bonded goods and tax relief will remain unchanged. The relevant formula for calculating additional tariffs was also specified in the Circular.

(Source: Ministry of Finance)

2018 National People's Congress and the Chinese People's Political Consultative Conference (CPPCC) Departmental and Institutional Reform – the State Administration for Press, Publication, Radio, Film and Television and the State Intellectual Property Office to be Dissolved

On March 13, 2018, the Fourth Plenary Session of the First Session of the 13th National People's Congress was held, during which a departmental and institutional reform plan was passed. As published in the State Council's institutional reform plan, SAPPRT (i.e. the State Administration for Press, Publication, Radio, Film and Television) will no longer exist; instead, based on the duties of SAPPRT, the State Administration of Radio and Television ("SART") will be formed as an administrative bureau directly under the State Council.

According to the plan, the major duties of SART will implement the CPC's promotional guidelines and policies; formulate administrative policies and measures for radio and television and urge enforcement of the same; conduct the overall planning, instruction and coordination of the development of the radio and television and industries, promote institutional reform in the radio and television industries, supervise and examine the content and quality of radio and television and online audiovisual programs, take charge of the introduction, inclusion and management of radio and television programs, and coordinate and promote institutional outreach by the radio and television industries.

(Source: The Beijing News)



National Development and Reform Commission Releases Catalog of Sensitive Sectors for Outbound Investment (2018 Edition)

Recently, the National Development and Reform Commission (the "NDRC") released the Catalog of Sensitive Sectors for Outbound Investment (2018 Edition) (the "Catalog") which was implemented on March 1, 2018.

The Catalog includes: (1) research, development, manufacturing and maintenance of weaponry; (2) exploitation and utilization of water resources across borders; (3) news media; (4) According to Circular of the General Office of the State Council on Forwarding the Guiding Opinions of the National Development and Reform Commission, the Ministry of Commerce, the People's Bank of China and the Ministry of Foreign Affairs on Further Guiding and Regulating the Direction of Outbound Investment (Guo Ban Fa [2017] No.74), outbound enterprise investment in the following industries and sectors will be restricted: (I) Real estate; (II) Hospitality; (III) Cinemas; (IV) Entertainment; (V) Sports clubs; (VI) Equity investment funds or investment platforms that are established overseas without specific industrial projects.

(Source: National Development and Reform Commission)

State Council Provides Stronger Preferential Policies to Reduce Financing Costs of Small and Micro Businesses

The State Council Information Office hosted a regular State Council policy press conference with a Q&A session at 10:00 a.m. on March 30, 2018. At the conference, stronger preferential policies were announced in addition to the original support for small and micro businesses.

Among these policies, preferential tax policies are provided for income tax and stamp duties in addition to VAT. VAT will be exempted for small and micro businesses with monthly sales revenue of less than 30,000 RMB; and it will be levied at the rate of only 3% for businesses with annual sales revenue of less than 5,000,000 RMB. Enterprise income tax rates for small and micro businesses with incomes of less than 500,000 RMB will be calculated based on half of their taxable income and levied at the rate of 20% --

in other words, an actual tax burden of 10% of total taxable income.

Financing for small and micro businesses and for "agriculture, rural areas and farmers" will be supported by establishing development funds for small and medium sized enterprises and by financing guarantee funds and a number of other funds. Moreover, certain incentives will be allocated to financial institutions from special funds to support the establishment of local innovation bases for small and micro sized businesses. (Source: www.gov.cn)

MOF Regulates Financial Enterprises' Investment and Financing for Local Governments and SOEs

The Ministry of Finance ("MOF") has recently issued the Circular on Matters Concerning Regulating the Investment and Financing Behavior of Financial Enterprises for Local Governments and State-owned Enterprises (the "Circular"), effective immediately on the issue date.

The Circular states that except for purchasing bonds issued by local governments, state-owned financial enterprises shall neither provide local governments and departments thereof with financing in any direct or indirect form through local state-owned enterprises (SOEs) and public institutions, nor may they illegally increase loans offered to financing platform companies run by local governments. Moreover, local governments will be prohibited from providing guarantees or bearing repayment liability in violation of applicable statutes and regulations, and from offering debt funds utilized as capital funds for local construction projects, government investment funds and public-private-partnership (PPP) projects. The Circular also stipulates that state-owned financial enterprises must ramp up their review of capital funds under the "penetration principle" while providing financing to SOEs or PPP projects that are engaged in local construction, so as to ensure that capital funds of financing subjects originate from legal sources and that projects in need of financing meet the requirements of the percentage of capital funds. Furthermore, the Circular emphasizes that state-owned financial enterprises must tighten the examination of shareholders' qualifications.

(Source: Ministry of Finance)



State Administration for Industry and Commerce Initiates a Special Program to Police Internet Advertising

The State Administration for Industry and Commerce ("SAIC") has recently issued the Circular on Launching a Special Program to Remedy Internet Advertising (the "Circular").

The Circular states that the program will focus on Internet media that enjoy powerful social influence and extensive coverage including portals, search engines, e-commerce platforms, mobile client terminals, and new media accounts, and intensively remedy five categories of inaccurate and unlawful Internet advertisements that cause adverse social impact, arouse strong concerns among the general public, and harm the personal and property safety of the public. Specifically, such advertising includes "false and illegal Internet advertisements for foods, dietary supplements, medical care, drugs and medical devices that jeopardize the personal safety or the physical health of the public". The Circular expressly sets out arrangements for each stage, stating that in the remedial stage beginning from April to October this year, efforts will be made to investigate and crack down on various Internet advertisements that are found to be inaccurate or illegal, concentrate forces on probing into major and key cases, and promptly refer leads in cases involving suspected criminal offences to judicial organs. Authorities for industry and commerce must work together with member entities at the joint conference on the remedy of false and illegal advertisements by holding discussions and investigating advertisers. Typical cases will be released to create the deterrent effect.

(Source: State Administration for Industry and Commerce)

Authorities Issue Key Tasks for 2018 Inter-Ministerial Joint Meeting for Cracking Down on Inaccurate and Illegal Advertising

Eleven authorities, including the State Administration for Industry and Commerce (the "SAIC"), have recently issued the Key Tasks for the 2018 Inter-Ministerial Joint Meeting for Cracking Down on Inaccurate and Illegal Advertising (the "Key Tasks").

The Key Tasks map out major work to be done in seven respects including "stepping up oversight of the direction of advertising", "designing a plan for a special program to overhaul Internet advertising" and "strengthening the supervision of major media". The Key Tasks call for focusing on certain core fields such as medical care, drugs, foods, dietary supplements, investment promotion, financial investment and collections, and key areas such as rural areas and outskirts, to crack down on the inaccurate and illegal advertising of products involving the physical health and safety of the public. Additionally, the Key Tasks outline the responsibilities of each authority. In particular, food and drug authorities will impose severe penalties on food or drug manufacturers or sellers if they are caught issuing unlawful advertising. Where serious violations concerning illegal advertising occurs, authorities will not only notify the appropriate organs of the concerned enterprises and products, but also publicly announce them, cancel or revoke their advertising approval, order them to cease selling problematic products, and then list them as targets subject to stricter oversight. (Source: State Administration for Industry and Commerce)

MOT Strengthens Administration of Interactive Platform for Regulatory Information on Online Taxi Hailing

The General Office of the Ministry of Transport ("MOT") recently issued the Administrative Measures for Operating Interactive Platforms for Regulatory Information on Online Taxi Hailing (the "Measures"), effective on March 1, 2018 and valid for three years.

The Measures stipulate that competent transport authorities in all cities must promptly input licensing information for platform companies operating online taxi-hailing services, vehicles used for such services and drivers thereof into the interactive platform for regulatory information on online taxi-hailing, and must interconnect the information system for transport administration with the interactive platform in order to transmit and update licensing information in real time. Furthermore, the Measures clearly state that a company operating an online taxi-hailing service platform shall, after obtaining a License for the Operation of Online Taxi Hailing Services, transmit operating data such as basic statistical information, order information, information on business operations, position information and service quality information to the ministerial-level platform by midnight the next day. These companies must also step up the standardized management of data information and transmit relevant data on online taxi-hailing operations and services directly to the interactive platform for regulatory information on online taxi-hailing, instead of directly transmitting through third-party platforms or systems.

(Source: Ministry of Transport)

First Public Interest Lawsuit Involving Bicycle Sharing: Unreturned Deposit Must be Escrowed within 10 Days

On March 22, 2018, a trial judgment was issued in the first public interest civil lawsuit in China that involved bicycle sharing. The Guangzhou Intermediate People's Court held a public hearing and ruled that the operator of Xiaoming Bicycle, Yueqi Company, must return the deposit as it promised.

The Court found that the defendant Yueqi Company, as the operator of Xiaoming Bicycle, was unable to return a portion of customer deposits because it used the deposits for a purpose other than the agreed purpose without informing the consumers, and that this act harmed the consumers' legitimate rights and interests, jeopardized market order based on the good faith principle, damaged consumer confidence and endangered the public interest.

The Court therefore ruled that Yueqi Company must return deposits as promised. Received but unreturned deposits must be escrowed with the notary office rather than the business, and a public announcement to the consumers must be issued. The company must also disclose to the public the mechanism and procedure for the receipt, disbursement, use and refund of deposits and publish an apology in the newspaper and on television.

(Source: Legal Daily)

MPS Seeks Opinions on the Provisions for the Supervision and Inspection of Internet Security by Public Security Organs

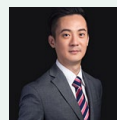
The Ministry of Public Security ("MPS") recently enacted and released the Provisions for the Supervision and Inspection of Internet Security by Public Security Organs (Draft for Comments) (the "Draft for Comments") for public comment by May 4, 2018.

The Draft for Comments clearly states that when supervising and inspecting Internet

security, public security organs shall abide by applicable statutes, administrative regulations and rules of the State, and shall safeguard the lawful rights and interests of citizens, legal persons and organizations of other kinds. Public security organs must keep strictly confidential all personal data and trade secrets that are accessed in the legal performance of their duties, and they are prohibited from divulging, selling or illegally providing such data and secrets to third parties. In addition, the Draft for Comments stipulates that supervision and inspection of Internet security shall be undertaken by public security organs at the place of the Internet service operators of Internet service providers and the Internet management departments of units that utilize networked systems. Public security organs are required to focus on investigating eight issues, including "whether they have their own Internet security management system in place, whether they have established operating rules and whether they have designated a supervisor in charge of Internet security". Furthermore, the Draft for Comments expressly states that an effort to supervise and inspect Internet security may be conducted in the form of on-site inspections or remote testing.

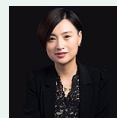
(Source: Ministry of Public Security)

If you are interested in learning more legal information concerning compliance management in China, or if you have any query in that respect, please feel free to contact us. More W&B compliance lawyers will be ready to address your concerns.



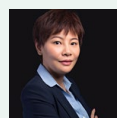
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Monopoly and Competition

Relying on its rich theoretical knowledge and practical experience, W&B is able to thoroughly understand the legislative trend in the anti-monopoly law. Meanwhile, with its close cooperation and active communication with the relevant administrative and judicial authorities, W&B is able to assist the clients by properly applying the anti-monopoly law system to effectively reduce the risk of occurrence of monopolistic and unfair competition acts, to provide prompt solutions in the event of legal issues or imminent legal penalties, and to adequately safeguard their legitimate rights and interests in the face of monopolistic or unfair competition acts of other business operators or competitors.

Our services in this area mainly include:

- Providing legal opinions on litigation and investigation
- Participating in anti-monopoly investigations and petitioning for leniency
- Providing legal opinions on unannounced investigations, including responding to “simulated scenarios”
- Providing legal opinions on anti-monopoly compliance issues
- Providing compliance guidance and training on anti-monopoly practices
- Conducting reviews of suspected horizontal/vertical monopoly agreements
- Providing analyses on potential anti-monopoly issues in businesses including mergers and acquisitions, etc.
- Providing customized compliance projects;
- Holding lectures, seminars and in-house employee training programs on anti-monopoly and compliance issues;
- Assisting clients in establishing anti-monopoly warning and emergency mechanisms and preparing countermeasures to simulated anti-monopoly risks
- Collecting, sorting out and compiling information related to anti-monopoly issues as per clients’ requirements

State Administration for Market Regulation Established to Initiate a New Era for China’s Unified Anti-Monopoly Law Enforcement Agency

The CPC Central Committee recently printed and circulated the Proposal for Strengthening CPC and National Institutional Reform. In the section concerning the institutional reform of the State Council, it proposed that the State Administration for Industry and Commerce, the State Administration for Quality Supervision and Inspection and Quarantine and the State Food and Drug Administration be dissolved and instead a new State Administration for Market Regulation be formed.

The main duties of the State Administration for Market Regulation will include taking charge of integrated market supervision and regulation; unifying the registration system for market participants and establishing an information disclosure and sharing mechanism; organizing integrated law enforcement concerning market supervision and regulation; assuming unified anti-monopoly law enforcement; regulating and maintaining market order; organizing implementation of the “strong nation” strategy; taking charging of industrial product quality and safety, food safety, and special equipment safety supervision; and unifying the supervision of measurement standards, inspections, detection, certification, accreditation, etc. (Source: ThePaper.cn)

China’s First Administrative Case Involving a Vertical Monopoly Agreement Concluded: The Effect on Competition of a Monopoly Requires No Review

Recently the Hainan Province Higher People’s Court issued an appeal judgment in which the Court supported the penalty decision by the Hainan Province Price Bureau against an enterprise due to its vertical price monopoly. It is not rare for price control authorities to investigate and punish vertical price monopolies; however, this is the first case that was brought before a People’s Court.

This case represents a milestone in the anti-monopoly law enforcement area in that for the first time it confronted the difference between the views of administrative law enforcement and the views of judicial authorities concerning the identification of vertical price monopoly agreements.

According to the appeal judgment, since the vertical price monopoly agreement on its face fell within the scope of “monopoly agreements” prohibited by the Anti-Monopoly Law, there was no need to further verify whether it incorporated the effect of eliminating or restricting competition.

(Source: Antitrust Review)

Xinhua Dictionary Case Concluded, Court Identifies Xinhua as an Unregistered Well-known Trademark

To adapt to the rise of knowledge-based services, numerous publishing enterprises are building various platforms. After the “Xinhua Dictionary App” issued by the Commercial Press was launched in June 2017, it attracted downloads by a large number of users in a short time. In the wake of the remarkable transformation of the Internet, this dictionary, which was originally a palm-sized book, was involved in a dispute over whether “Xinhua Dictionary” (in Chinese “新华字典”) should be identified as an unregistered well-known trademark or a generic name.

The Beijing Intellectual Property Court recently concluded a trademark infringement and unfair competition dispute that was initiated by the plaintiff Commercial Press against the defendant Sinolingua Publishing House. The Court ruled that the defendant must immediately cease infringing the disputed trademark and publish an apology in a relevant medium such as the China Press and Publication to eliminate the adverse influence of the infringement, and that it must compensate the plaintiff for its economic losses in the amount of 3,000,000 RMB as well as reasonable expenses in the amount of 270,000 RMB. The Court held that as a trademark, the reputation of “Xinhua Dictionary” is closely related to its content; and that the Commercial Press, as the rights holder of the unregistered trademark “Xinhua Dictionary”, in addition to enjoying rights over the mark, also bears the obligation to guarantee the quality of the goods as the trademark rights holder under the Trademark Law, as well as the public interest responsibility to communicate accurate Chinese language, characters and knowledge, so as to be compatible with the high reputation of its well-known trademark. Protecting the “Xinhua Dictionary” as an unregistered well-known trademark will not harm the normal management or order within the publishing industry or the dissemination of knowledge.

(Source: Economic Daily)

China Cracks down on Child Videos Containing “Disguised Pornography and Violence” : Internet Enterprises including Youku and iQIYI Investigated and Punished

Under assignment from the National Working Group Office for Eliminating Pornography and Illegal Publications, offices in Guangdong and Beijing conducted in-depth investigations into cases involving child videos containing “disguised pornography and violence”. It was discovered that Guangzhou Yinjun Company engaged in Internet video production and dissemination without obtaining an administrative license; specifically, it filmed the roles in classic cartoons using physical dolls or colored clay, and produced videos with plots using the staged photography of the finished samples, and then it uploaded the videos to platforms such as Youku, iQIYI and Tencent. The company signed contracts with Youku and iQIYI in November 2016, according to which it used the account “Happy Disney” to upload videos and gain profits of over 2.2 million RMB. Investigation and evaluation revealed that some of the videos involved violent and horrifying content. The culture law enforcement departments in Beijing and Guangdong recently issued administrative penalty decisions that ordered the enterprise to cease its illegal conduct and imposed a warning along with a monetary fine (Source: www.people.com.cn)

State Administration of Press, Publication, Radio, Film and Television: Websites Prohibited from Re-editing Film and Television Programs

The State Administration of Press, Publication, Radio, Film and Television (SAPPRFT) issued a circular on March 22, according to which all program websites are prohibited from producing and disseminating any program that distorts, spoofs or vilifies any classic literary work. The circular also prohibits the re-editing, re-dubbing or re-subtitling of any classic literary work, and the interception of clips from programs to join them as new programs for distribution, or the distribution of any clip of a program that distorts the original intent and causes ambiguity.

All programs that correspond to the trailers or previews distributed on various audio-visual program websites must be legitimate radio and television programs or Internet original audio-visual programs. Trailers and previews for film and television plays that have not been licensed, Internet original audio-visual programs that have not been filed, and radio and television programs that have been reported or dealt with by the SAPPRFT may not be broadcast; and produced and broadcast trailers and previews shall not display any inappropriate content such as “unedited” versions or “edit deleted” versions.

(Source: www.xinhuanet.com)

SPC Issues Three Judicial Interpretations Including One on Enforcement of Settlements

The Supreme People's Court ("SPC") recently distributed the Provisions on Several Issues Concerning the Enforcement of Settlements (the "Provisions"), the Provisions on Several Issues Concerning the Enforcement of Guarantees, and the Provisions on Several Issues Concerning the Enforcement of Arbitral Awards by the People's Courts" all of which took effect on March 1, 2018.

Encompassing 20 articles, the Provisions are formulated to address the major issues listed below.

- A distinction is drawn between enforceable and unenforceable settlements.
- A People's Court may not order a debt to be paid in kind based on a settlement agreement.
- It is clearly stated that an enforcement applicant may file a lawsuit to enforce a settlement agreement.
- The conditions for the resumption of enforcement are clarified; and
- The effect of guarantee-related terms in settlement agreements is clarified.

In particular, according to the Provisions, where the parties concerned agree on terms of a stipulations in a settlement agreement, and the guarantor warrants before a People's Court that it voluntarily accepts direct compulsory enforcement if the party subject to enforcement refuses to perform the settlement agreement, then after the enforcement of the original effective legal instrument is resumed, the People's Court may directly enforce the settlement agreement against the pledged property or the guarantor's property, based on the terms of the settlement. (Source: Supreme Court)

Supreme People's Court Issues Minutes of Bankruptcy Trial Meeting

The Supreme People's Court ("SPC") recently released the Minutes of the Meeting on Bankruptcy Trials by National Courts (the "Meeting Minutes").

The Meeting Minutes, comprising fifty articles, specify the general requirements for hearing bankruptcy cases from the perspectives of the bankruptcy manager system, bankruptcy liquidation, bankruptcy of affiliate enterprises, the connection between enforcement procedures and bankruptcy proceedings, cross-border bankruptcies, etc. The Meeting Minutes expressly state that in a case where a listed company goes bankrupt; a bankruptcy case has a great impact on the country; or a bankruptcy case deals with complex relationships among claims and debts and involves a large number of creditors, employees and stakeholders, the bankruptcy manager assigned to such case shall be selected in a generally competitive manner. According to the Meeting Minutes, a creditor may require a warrantor to bear guaranty liability for unsecured debts within six months after the bankruptcy proceedings have been concluded. Once a guarantor accepts guaranty liability, he may not enforce liability against the debtor after the settlement or reorganization.

(Source: Supreme People's Court)

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