

W&B Legal Newsletter

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Spotlights

The Latest from Watson & Band

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INTRODUCTION

Watson & Band has flourished into a full-service law firm with more than 400 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, Zhengzhou, Chengdu, 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 re-sponsible 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 National Intellectual Property Administration of China (CNIPA), Trademark Office of CNIPA, National Copyright Administration of China and other official institutions.
- ◆ This Newsletter has cited the source of the aforementioned official announcements, news and other public documents.

Watson & Band Partners Selected into the First Expert Directory for Resolution and Guidance on Overseas IP Rights Disputes

On August 30, the “2022 China · Shanghai ‘The Belt and Road’ IP Rights Protection Forum”, also the “Founding Ceremony for the Shanghai Overseas IP Rights Disputes Resolution and Guidance Expert Database”, was grandly hosted at Shanghai Hongqiao Libao Plaza.

At the Forum’s Opening Ceremony, the Expert Directory for Resolution and Guidance on Overseas IP Rights Disputes was officially published. 58 experts from various enterprises, domestic and foreign law firms, universities and scientific research institutes were honorably selected into the first expert directory. Among them are the three partners from Watson & Band: Liming Zhang, Jianguo Huang and Hairong Tao.

Watson & Band Selected into the First-batch Trade Secret Protection Demonstrative Station in Xuhui District, Shanghai



Recently, Shanghai Xuhui District Administration for Market Regulation released the name list of first-batch “Demonstrative Stations for Trade Secret Protection in Xuhui District”. Watson & Band was honored to be the only law firm among the first-batch stations in the said list and received the nameplate for this honor.

Over the nearly three decades’ time, Watson & Band had been dedicated to legal services within the intellectual property field, and actively provided and explored services related to intellectual property rights and trade secrets for the high-tech industry and the enterprises within the industry, for which Watson & Band’s service team is familiar with the legislative and regulatory documents and

the needs of the enterprises within the said field.

Relying on its specialized manpower division and cooperation and its rich experience and high-quality expertise, Watson & Band has long been provided full services for domestic and foreign clients including prosecution, management, transfer and transformation and dispute resolution concerning IP rights. In particular, Watson & Band has accumulated rich experience and successfully cases in terms of trade secret management and protection in the enterprises’ IP right system. The service team is able to, taking into account the changes in the relevant policies and legislation, tailor trade secret protection system and strategy for the enterprises, provide solutions to disputes over trade secrets and take actions accordingly, and thus the team becomes a strong backup force for the enterprises’ IP rights.

NISSTC Seeks Comments on Basic Security Requirements for Pre-installed Applications on Smartphones

On October 10, 2022, the National Information Security Standardization Technical Committee (“NISSTC”) released the Information Security Technology — Basic Security Requirements for Pre-installed Applications on Smartphones (Draft for Comment) (the “Draft for Comment”) for public comments by December 8, 2022.

The Draft for Comment focuses on solving issues, such as, there are a large number of pre-installed applications on smartphones that cannot be uninstalled or it is difficult to uninstall them; request of excessive permissions, default permissions, and covert collection of personal information; smartphone manufacturers lack the capability to manage data security of third-party pre-installed applications and personal information protection. The Draft for Comment sets out the basic security requirements for pre-installed applications on smartphones, including security technical requirements and security management requirements. The former includes uninstallability requirements, security functions and assurance requirements, personal information security requirements, etc., among them, the uninstallability requirements include uninstallation scope, requirements for pre-installed applications that cannot be uninstalled, and uninstallation security requirements.

(Source: National Information Security Standardization Technical Committee)

NITS Seeks Comments on General Specification for Child Protection of Smart Mobile Terminals

On September 27, 2022, the National Information Technology Standardization Technical Committee (“NITS”) released the General Specification for Child Protection of Smart Mobile Terminals (Draft for Comment) (the “Draft for Comment”) to solicit public opinions by November 30, 2022.

The Draft for Comment sets forth the requirements for the functions and performance capacity to be possessed by smart mobile terminals for the purpose of protecting the physical and mental health of minors, as well as the relevant methods for testing and experiment. It shall be applicable to and shall guide the design and development of the child protection mode of the smart mobile terminals (including smart mobile communication terminals and tablet computers). According to the Draft for Comment, the technical requirements for child protection functions of smart mobile terminals shall include basic requirements and additional requirements. The basic requirements cover the child protection mode, usage time control, application management, data management, payment management, content control, usage statistics, eye protection, and hearing protection, among others.

(Source: National Information Technology Standardization Technical Committee)

NISSTC Seeks Comments on the Information Security Technology — Requirements for Classification and Grading of Network Data

On September 15, 2022, the National Information Security Standardization Technical Committee (“NISSTC”) released the Information Security Technology — Requirements for Classification and Grading of Network Data (Draft for Comment) (the “Draft for Comment”) for public comments by November 13, 2022.

The Draft for Comment sets out the principles and methods of data classification and grading, including the basic principles of data classification and grading, framework and methods of data classification, framework and methods of data grading, etc. This standard is applicable to situations where the competent (regulatory) department of an industry formulates the standard and specifications for data classification and grading in the industry or field, or where various localities and departments carry out data classification and grading activities, and is also used as a reference for data processors to conduct data classification and grading. The Draft for Comment states that, data is classified into three categories from high to low: core, important, and general, according to the importance of data in economic and social development, and the degree of harm to national security, public interest, or the legitimate rights and interests of individuals and organizations once it is leaked, tampered with, destroyed, or illegally obtained or used.

(Source: National Information Security Standardization Technical Committee)

CAC Seeks Comments on Amending the Cybersecurity Law

On September 15, 2022, the Cyberspace Administration of China (“CAC”) released the Decision on Amending the Cybersecurity Law of the People’s Republic of China (Draft for Comment) (the “Draft for Comment”) for public comments, which has ended by this date.

The Draft for Comment aims to effectively ensure the alignment and harmonization between the Cybersecurity Law of the People’s Republic of China and the newly released laws, improve the legal liability systems, and further ensure cybersecurity. Relevant amendments include the following: firstly, improving the legal liability system for violations of general provisions on network operation security; secondly, amending the legal liability system for the security protection of critical information infrastructure (CII); thirdly, adjusting the legal liability system for network information security; and fourthly, amending the legal liability system for personal information protection.

(Source: Cyberspace Administration of China)

Three Authorities Jointly Issue the Administrative Provisions on Internet Pop-up Push Services

On September 9, 2022, three authorities including the Cyberspace Administration of China (“CAC”) jointly issued the Administrative Provisions on Internet Pop-up Push Services (the “Provisions”), with effect on September 30, 2022.

According to the Provisions, internet pop-up push service providers should perform the primary responsibility for management of information content, and establish and improve management systems such as content review, ecological governance, data security, personal information protection, and protection of minors. The Provisions emphasize that internet pop-up push service providers should comply with nine specific requirements: optimizing push content ecosystem, strengthening management of internet information service qualifications, regulating news push, scientifically setting the proportion of push content, improving the review process of push content, enhancing the protection of users’ rights, setting reasonable algorithm, standardizing advertising push, and eliminating malicious attraction of traffic. Specifically, the Provisions state that, it is prohibited to push news information through pop-up windows without obtaining the permission to provide internet news information service.

(Source: Cyberspace Administration of China)



CSRC Seeks Comments on Rules for Share Repurchases by Listed Companies and Others

On October 17, 2022, the China Securities Regulatory Commission (“CSRC”) issued the Rules for Share Repurchases by Listed Companies (Draft for Comment) (the “Draft for Comment”) and the Administrative Rules for Equity Shares of a Listed Company Held by its Directors, Supervisors and Senior Management Personnel and the Related Changes (Draft for Comment) to solicit public opinions by November 13, 2022.

The Draft for Comment mainly proposes the following revisions: (1) optimizing the repurchase conditions of listed companies; (2) relaxing the conditions for the implementation of repurchase by newly listed companies; (3) further clarifying the limit range when repurchase and refinancing become overlapping; and (4) optimizing the provisions on the window period for repurchase prohibition. The Draft for Comment specifies that, in the repurchase circumstance “where it is necessary for maintaining the company’s value and shareholders’ rights and interests”, one of the triggering conditions, reading “the company’s closing stock prices show a cumulative decrease of 30% on 20 consecutive trading days”, will be adjusted to “the company’s closing stock prices show a cumulative decrease of 25% on 20 consecutive trading days”.

(Source: China Securities Regulatory Commission)

Four Authorities Jointly Release Typical Cases on Lawfully and Severely Combating Securities-related Crimes

On September 13, 2022, four authorities, including the Supreme People’s Court (“SPC”), jointly issued the Circular on Issuing the Typical Cases on Lawfully and Severely Combating Securities-related Crimes (the “Circular”).

According to the Circular, the four authorities jointly select five typical cases of securities-related crimes, including the “case involving unlawful disclosure, failure to disclose important information, and manipulation of securities market committed by Ma X. tian et al.” These typical cases involve such securities-related crimes as the crime of committing unlawful disclosure or failing to disclose important information, the crime of manipulating securities market, the crime of using non-public trade information, the crime of insider trading, and the crime of harming the interests of a listed company in breach of fiduciary duty. Covering both the crimes commonly seen in capital market and the new-type crimes emerging in recent years, these cases unveil the features and trends of the existing securities-related crimes and clarify relevant matters concerning the application of law.

(Source: Supreme People’s Court)

SASAC Releases the Measures for the Compliance Management of Central Enterprises

On September 19, 2022, the State-owned Assets Supervision and Administration Commission (“SASAC”) of the State Council issued the Measures for the Compliance Management of Central Enterprises (the “Measures”), with effect on October 1, 2022.

The Measures state that a central enterprise should appoint a chief compliance officer (CCO) based on the actual needs, and the general counsel may serve concurrently as CCO, without creating a new leadership position or adding the number of positions, and the CCO, who is responsible for the person in charge of the enterprise, is tasked with leading the compliance management department on organizing and carrying out relevant work and directing affiliated units to strengthen compliance management. The Measures require that a central enterprise should embed compliance review into the operation and management process as an essential procedure, and the compliance review opinions on major decision-making matters should be signed by the CCO, who needs to make clear recommendations on the compliance of such matters. Business and functional departments as well as compliance management department should, to the extent of their duties, improve review standards, procedures and priorities, and regularly conduct post-assessment on the review results. The Measures also emphasize that central enterprises should hold accountable the entities and individuals who should have found but fails to find violations in performing their duties, intentionally or grossly negligent, or who fail to perform their duties in discovery of violations, thereby causing losses or adverse effects to the enterprises.

(Source: State-owned Assets Supervision and Administration Commission)

