

# W&B Legal Newsletter

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## INTRODUCTION

Watson & Band has flourished into a full-service law firm with more than 400 pro-fessionals 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.

## The 13<sup>th</sup> China International Trademark and Brand Festival: Watson & Band received two honors

On the evening of June 16, the 13<sup>th</sup> China International Trademark and Brand Festival hosted its welcome reception at the Jiahua Hotel in Dongguan, Guangdong Province.



Earlier this year the China Trademark Association published the winner lists of “2021-2022 Outstanding Trademark Agencies” and “Top-class Models for Trademark Agency Services” through its official website. Watson & Band Intellectual Property Agent Ltd. was included in both lists for its high-quality trademark agency services and good reputation within the IP industry. At the welcome reception Watson & Band received the plaques for the said two honors.

## Watson & Band again Ranked in 2023 Benchmark Litigation China



On June 5, the world renowned legal rating agency Benchmark Litigation released its 2023 China Rankings. With our constant outstanding performance and good reputation within the IP area, Watson & Band is ranked for the third time in Tier 2 in the “Shanghai: Intellectual Property” area since the launch of the Benchmark Litigation China Rankings in 2021. Meanwhile, Watson & Band’s Senior Partner, Yizhou Liu, is again named a “Litigation Star” in the said area.

## Watson & Band Again Ranked in Leading Tiers in 2023 ALB China IP Rankings

On May 22, the high-end legal magazine under Thomson Reuters – Asian Legal Business published its 2023 ALB China IP Rankings. Watson & Band is again recognized as a Tier 2 firm in both “Patent” and “Copyright/Trademark” areas for its professional services, good reputation and outstanding performance in the intellectual property area.

## SAMR Seeks Comments on Anti-Monopoly Compliance Guidelines for Concentrations of Undertakings

On June 20, the State Administration for Market Regulation (SAMR) drafted and released the *Anti-Monopoly Compliance Guidelines for Concentrations of Undertakings (Draft for Comment)* (the “Draft”), which is now open for public comments until July 3, 2023.

The *Draft* consists of six chapters, covering the main provisions on the review system for concentrations of undertakings, key compliance risks, compliance risk management, and measures to safeguard compliance management. The *Draft* clarifies that undertakings that violate the provisions on concentrations of undertakings under the *Anti-Monopoly Law of the People’s Republic of China (Revised in 2022)* may be held legally liable, such as, “those receiving administrative penalties due to illegal acts will have their illegal acts recorded in their credit records according to relevant regulations of the State and publicly disclosed.” The *Draft* also provides undertakings with case examples and encourages them to refer to the administrative penalty decisions on illegal concentrations of undertakings released by the SAMR. Furthermore, the *Draft* emphasizes the importance of establishing anti-monopoly compliance management systems for concentrations of undertakings, especially for undertakings with an annual turnover exceeding CNY400 million within China. It also suggests that undertakings with an annual turnover exceeding CNY10 billion within China should establish anti-monopoly compliance systems for concentrations of undertakings.

(Source: State Administration for Market Regulation of China)

## Revised Regulations on the Administration of Commercial Cryptography Issued by State Council

On May 25, the State Council distributed the Regulations on the *Administration of Commercial Cryptography (Revised in 2023)* (the “Regulations”), with effect from July 1, 2023.

The *Regulations* mainly involve: (1) improving the management system for commercial cryptography; (2) promoting the technological innovation and standardization of commercial cryptography; (3) establishing a sound testing and certification system for commercial cryptography; (4) strengthening the use of cryptography in electronic authentication services and the management of e-government electronic authentication service activities; (5) standardizing import and export management for commercial cryptography; and (6) promoting the application of commercial cryptography. Among others, the *Regulations* adopt list-based management of the import license and export control for commercial cryptography in accordance with the provisions on the import and export of commercial cryptography in the *Cryptography Law*, as well as the national export control and the administrative rules for dual-use item import and export, and clarify the approval procedures. The *Regulations* encourage the legal use of commercial cryptography by citizens, legal persons and other organizations to protect network and information security, and support the use of commercial cryptography for network products and services to enhance security. The requirements for the use of commercial cryptography for critical information infrastructure and the relevant requirements for national security review are also provided.

(Source: [www.gov.cn](http://www.gov.cn))







## SCA Seeks Comments on Administrative Measures for the Security Assessment of Commercial Cryptography Application and Others

On June 12, the State Cryptography Administration (SCA) drafted the *Administrative Measures for Commercial Cryptography Testing Institutions (Draft for Comment)* and the *Administrative Measures for the Security Assessment of Commercial Cryptography Application (Draft for Comment)* (the “Draft”) for public consultation by July 9, 2023.

The formulation of the *Draft* highlights the following concepts: (1) refining the provisions to implement the requirements for “three synchronous efforts and one assessment”; (2) demonstrating the systematic principles for the security assessment of commercial cryptography application; and (3) clarifying the basis for security assessment activities. Among others, the *Draft* specifies that, for the network and information systems that are lawfully required to be protected with commercial cryptography, efforts should be made to synchronously plan, build, and operate commercial cryptography security systems, and conduct security assessment of commercial cryptography application on a regular basis. The requirements for security assessment are detailed and arrangements are made for each stage ranging from planning, building and operation, so as to set up a basic framework for the systems regarding security assessment of commercial cryptography application.

(Source: State Cryptography Administration of China)



## CNIPA Issues the Plan for Systematically Addressing Malicious Trademark Registrations

On May 8, the China National Intellectual Property Administration (CNIPA) issued the *Work Plan for Systematically Addressing Malicious Trademark Registrations to Promote High-quality Development (2023-2025)* (the “Plan”).

The *Plan* outlines several objectives to be achieved by 2025, these include making significant strides in addressing malicious trademark registrations, further improving the management system as well as the policies and regulations on addressing malicious trademark registrations, and defining clearly the rights and responsibilities of the competent authorities, to ensure an efficient management mechanism and an a multi-dimensional integrated system with clear laws to follow and participation from all parties. To this end, the *Plan* sets out specific tasks such as enhancing the legal system for addressing malicious trademark registrations, improving the working mechanism for combating malicious trademark registrations in accordance with the law, cracking down on malicious trademark registrations across all areas. In particular, the *Plan* emphasizes the need to establish a credit commitment system for trademark authorization and confirmation procedures, and this system will clearly define the scope of application and credit commitments. For parties who seriously violate their commitments and obtain trademark registrations through deception or other means, their registered trademarks will be declared invalid, and their acts will be listed as dishonest acts according to law.



(Source: China National Intellectual Property Administration)

## CAC Releases the Guide to Filing the Standard Contract for Outbound Cross-border Transfer of Personal Information

On May 31, the Cyberspace Administration of China (CAC) prepared and released the *Guide to Filing the Standard Contract for Outbound Cross-border Transfer of Personal Information (First Version)* (the “Guide”).

The *Guide* provides specific requirements for the filing methods, filing procedures, and documents required for filing the standard contract for the outbound cross-border transfer of personal information (“*Standard Contract*”). A personal information processor who provides personal information to an overseas recipient through the establishment of a Standard Contract should file a record with the provincial cyberspace authority in accordance with the *Measures for the Standard Contract for Outbound Cross-border Transfer of Personal Information*. The *Guide* further clarifies that a personal information processor shall, within ten working days from the effective date of a *Standard Contract* executed, file a record with the provincial cyberspace authority where it is domiciled by submitting written documents and electronic copies thereof. Additionally, the *Guide* emphasizes that a personal information processor must not split up the amount of the personal information to be transferred overseas or adopt other means to provide to any overseas recipient under a standard contract such personal information whose outbound cross-border transfer should be subject to a security assessment according to law.

(Source: Cyberspace Administration of China)

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## CAC Seeks Comments on Administrative Provisions on Information Services of Short-range Ad Hoc Networks

On June 7, the Cyberspace Administration of China (CAC) released the *Administrative Provisions on Information Services of Short-range Ad Hoc Networks (Draft for Comment)* (the “Draft”) to solicit public opinions by July 6, 2023.

According to the *Draft*, Short-range ad hoc network information service refers to the use of Bluetooth, Wi-Fi, and other information technologies to establish a network at a short distance on a real-time basis and provide services for sending and receiving information. The *Draft* encourages short-range ad hoc network information service operators to firstly adopt short-range ad hoc network technologies that are secure and reliable, requiring them to provide authentic identity information according to the provisions of the Cybersecurity Law of the People’s Republic of China. The *Draft* also stresses that users of such service shall not post or re-post any illegal information by way of the service; they shall take measures to prevent and reject the production, copy, or distribution of harmful information, and shall refrain from forwarding any illegal or harmful information and have the right to file a report or complaint to cyberspace administration and other authorities after receipt thereof.

(Source: Cyberspace Administration of China)



## NISSTC Seeks Comments on Security Requirements for Personal Information Protection in Face Recognition Payment Scenarios

On May 24, the National Information Security Standardization Technical Committee (NISSTC) issued the *Practical Guide to Cybersecurity Standard - Security Requirements for Personal Information Protection in Face Recognition Payment Scenarios (Draft for Comment)* (the “Draft”) to solicit public opinions, which has come to an end by this minute.

The *Draft* provides the security requirements for personal information protection in response to the face recognition payment scenarios in both indoor and outdoor areas. According to the *Draft*, for the purpose of maintaining public security and financial security, the data processed as per the explicit requirements of a relevant administrative department during the face recognition payment process shall only be used for the specified purpose and shall not be used for any irrelevant activity without permission. The *Draft* also sets forth the security requirements for service providers, which touch upon five aspects, including “data shall not be collected outside the face recognition period: data shall only be collected after a clear interaction, such as a click, is manually performed; data collection shall be terminated after face recognition is completed or one minute after data collection commences.

(Source: National Information Security Standardization Technical Committee of China)



## Six Departments to Eliminate Child Labor at Workplaces and Enhance Special Labor Protection for Underage Workers

On June 6, six departments, including the Ministry of Human Resources and Social Security (MOHRSS) formulated and issued the *System for Eliminating Child Labor at Workplaces and Strengthening Special Labor Protection for Underage Workers at Workplaces (Model Text)* (the “*Model Text*”).

The *Model Text* aims to guide employers in formulating sound regulations and rules, or provide reference for the execution of labor contracts with underage workers, covering general provisions, recruitment management, publicity and training, labor protection, supervision and inspection, as well as supplementary provisions. Among others, the *Model Text* specifies that, relevant education and training on occupational safety and health shall be provided to underage workers before they take up their jobs. Meanwhile, employers are required to hold featured training on elimination of child labor and special labor protection for underage workers, or incorporate relevant contents of such featured training into various training. The *Model Text* also clarifies that, employers shall not arrange underage workers to engage in any operation that is exposed to occupational disease hazards or any work that is prohibited by the state; they shall not arrange underage workers to engage in any labor in for-profit entertainment venues, bars, or business premises providing internet access service.

(Source: Ministry of Human Resources and Social Security of China)