

W&B Legal Newsletter

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Spotlights

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Watson & Band Again Listed in MIP's 2024 IP STARS Trademark Rankings

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SAMR Seeks Comments on Guidelines for Review of Horizontal Concentration of Undertakings

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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COMPETITION AND ANTI-MONOPOLY

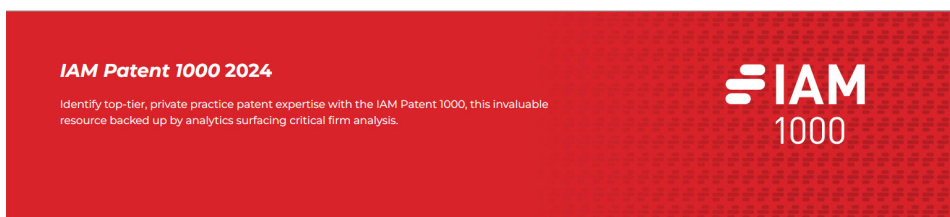
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Disclaimer

- ◆ 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 Again Recognized in 2024 IAM Patent 1000 Ranking, Several Professionals Acclaimed as Outstanding Individuals

Recently, the internationally renowned intellectual property media outlet, Intellectual Asset Management (IAM), unveiled its 2024 “IAM Global Patent 1000” rankings (IAM Patent 1000 2024). Watson & Band’s exceptional professional capabilities, outstanding achievements, and stellar reputation in the patent realm have once again been recognized, earning the firm listings on both the patent application and patent litigation sectors for China.



Furthermore, Hua Xiao, General Manager and Yingcong Xu, Deputy General Manager of Watson & Band Intellectual Property Agency Ltd., have been recognized as Outstanding Individuals in the patent application sector for another consecutive year. Additionally, Senior Partner Jianguo Huang and Partner Yue Zhang of Watson & Band Law Offices have also been honored again as Outstanding Individuals in the patent litigation category.

The IAM Patent 1000 is dedicated to the patent sector, conducting comprehensive research and providing objective ratings for professionals and law firms across various specialized patent areas within key jurisdictions worldwide. This allows the publication to recommend the top-performing firms and practitioners to industry professionals globally.

Watson & Band Again Listed in MIP's 2024 IP STARS Trademark Rankings

The prestigious “IP STARS 2024 China Trademark Law Firm Rankings” have recently been released, with Watson & Band once again securing its position among the top echelons. For the fifth consecutive year, the firm’s exceptional track record and esteemed reputation in trademark dispute resolution have secured its place among the elite, highlighting its leadership in the “Trademark Disputes” category.

IP STARS stands as the go-to comprehensive guide in the global intellectual property landscape, providing invaluable insights for corporations and individuals seeking to engage top-tier IP legal talent.

Managing Intellectual Property (MIP) launched its pioneering legal directory in 1994, which evolved into the renowned IP STARS in 2013. With its extensive coverage spanning over six intellectual property domains and more than 70 jurisdictions, IP STARS has firmly established itself as the definitive, globally acknowledged and authoritative resource for IP firms and professionals.



Watson & Band's Senior Founding Partner Shenmin Xu Elected as Executive Director of the 11th Council of the All-China Patent Attorneys Association

During the prestigious 11th National Member Representative Conference of the All-China Patent Attorneys Association, held at Beijing's Friendship Hotel on June 12, **Shenmin Xu, Senior Founding Partner and Senior Patent Attorney at Watson & Band, was elected as an Executive Director of the 11th Council.**

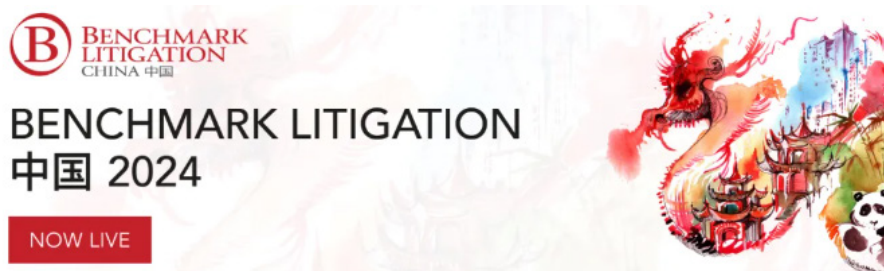
The conference attracted over 300 delegates nationwide, including high-profile figures such as Changyu Shen, Party Secretary and Director of the National Intellectual Property Administration. Prominent officials from the United Front Work Department, the Supreme People's Court, and the Ministry of Civil Affairs also attended, along with officials and member representatives from various provinces, autonomous regions, and municipalities across the country.



Watson & Band Again Listed in Benchmark Litigation 2024 China Rankings

On June 4, 2024, Benchmark Litigation, a globally respected legal rating agency, released its 2024 China Rankings, reaffirming Watson & Band's position as a leader in the field. The firm was ranked in the second tier in the "Shanghai: Intellectual Property" category for the fourth consecutive year, a recognition that began with its debut in the inaugural edition of Benchmark Litigation China in 2021.

This consistent recognition highlights Watson & Band's relentless dedication to excellence and its formidable reputation in the intellectual property dispute resolution. Yizhou Liu, Secretary General of Watson & Band's Management Committee and a distinguished Senior Partner, has once again been honored as a "Litigation Star" in this area.





SPC Seeks Comments on Judicial Interpretation on the Trial of Civil Cases Concerning Prepaid Consumption Disputes

On June 6, the Supreme People's Court (SPC) drafted and released the *Interpretation on Several Issues Concerning the Application of Law in the Trial of Civil Cases Involving Disputes over Prepaid Consumption (Draft for Comment)* (the "Draft") for public comments, which has come to an end by now.

The *Draft* addresses disputes arising from prepaid consumption scenarios across various sectors of daily life, including retail, accommodation, catering, fitness, transportation, hairdressing, beauty, education, and training. It specially targets cases where service providers collect advance payments from consumers for goods or services to be delivered or provided multiple times or on an ongoing basis. Key provisions of the Draft include: 1) Clarification of several types of invalid "imparity clause" in prepaid consumption contracts; 2) Measures to combat issues such as "absconding with funds" and "deceptive marketing practices"; 3) Establishment of a seven-day cooling-off period during which consumers can request a refund without stating a reason after making a prepayment; 4) Safeguards for legitimate prepaid consumption business models. Notably, the *Draft* stipulates that if an individual lacking capacity for civil conduct enters into a prepaid consumption contract and makes a prepayment, their legal representative may request the court to declare the contract invalid and order the service provider to return the prepayment. The court is directed to support such requests.

(Source: Supreme People's Court)

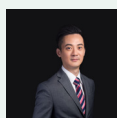


CSRC Releases New Regulations on Shareholding Reduction in Listed Companies

On May 27, the China Securities Regulatory Commission (CSRC) released the *Interim Administrative Measures for Shareholding Reduction by Shareholders of Listed Companies* (the “Measures”) and the Administrative Rules for Equity Shares of a Listed Company Held by Its Directors, Supervisors and Senior Management Personnel and the Related Changes (Revised in 2024). Both regulations took effect immediately upon release. The *Measures* introduce several key provisions: (1) Stringent regulation of shareholding reduction by major shareholders; (2) Prevention of disguised shareholding practices; and (3) Enhanced liability provisions for violations. Notably, the Measures prohibit controlling shareholders and actual controllers from reducing their shareholdings through centralized bidding or block trading under specific circumstances, such as when stock prices fall below the issuance price or net asset value, or when dividend standards are not met. Additional key points include: (1) Introduction of pre-disclosure obligation for major shareholders before their reduction of shareholdings through block trading; (2) Requirement for both major shareholders and their concert parties to adhere to shareholding reduction restrictions. Meanwhile, the Measures provide that in the case of illegal shareholding reduction, shareholders can be ordered to repurchase and pay the price difference to the listed company. The Measures also specify circumstances warranting penalties and strengthen the obligations of listed companies and board secretaries.

(Source: China Securities Regulatory Commission)

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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Cyber-security and Data Compliance

Four Departments Release Provisions on the Governance of Cyber-violence Information

On June 17, four departments, including the Cyberspace Administration of China (CAC), jointly released the *Provisions on the Governance of Cyber-violence Information* (the “Provisions”). These new regulations are set to take effect on August 1, 2024.

The Provisions aim to strengthen the governance of cyber-violence by introducing several key measures:

- 1) Clarifying the primary responsibilities for online information content management;
- 2) Establishing sound prevention and early warning mechanisms;
- 3) Standardizing the handling of cyber-violence information and associated accounts;
- 4) Enhancing the protection of users’ rights and interests;
- 5) Strengthening supervision and management; and
- 6) Defining legal liability for violations.

Notably, the Provisions emphasize the prevention and early warning of cyber-violence information. They mandate that cyber information service providers, under the guidance of the national cyberspace authority and relevant departments of the State Council, develop detailed classification standards and rules for cyber-violence information. Additionally, these providers are required to establish databases of cyber-violence information features and typical cases. Meanwhile, the Provisions call for establishing user protection mechanisms, requiring cyber information service providers to establish and improve their anti-cyber-violence functions, improve direct messaging rules; where any risk of cyber-violence is detected, they shall promptly alert users in a prominent manner and inform users of available protective measures.

(Source: Cyberspace Administration of China)(Source: Ministry of Industry and Information Technology)

TC260 Seeks Comments on the Practical Guide to Cyber-security Standard on Identifying Sensitive Personal Information

On June 12, the National Technical Committee 260 on Cyber-security Standardization Administration of China (TC260) released the *Practical Guide to Cyber-security Standard - Guide for Identifying Sensitive Personal Information (Draft for Comment)* (the “Draft”), which is open for public comments until June 24, 2024.

The *Draft* proposes methods for identifying sensitive personal information and provides categories and examples of common sensitive personal information. This standard is designed to guide organizations in identifying the scope of sensitive personal information and serve as a reference for the processing, cross-border transfer, and protection of sensitive personal information. The *Draft* stipulates that any personal information that meets any of the conditions such as “if leaked or illegally used, it is likely to infringe upon the personal dignity of a natural person” should be identified as sensitive personal information. Common sensitive personal information includes biometric information, religious belief information, specific identity information, medical and health information, financial account information, and several other categories.

(Source: National Technical Committee 260 on Cyber-security Standardization Administration of China)

Cyber-security and Data Compliance

TC260 Invites Public Comments on Cyber-security Technology - Basic Security Requirements for AIGC Services

On May 24, the National Technical Committee 260 on Cyber-security of Standardization Administration of China (TC260) issued the *Cyber-security Technology - Basic Security Requirements for AIGC Services (Draft for Comment)* (the “*Draft*”) to solicit public opinions by July 22, 2024.

The *Draft* aims to help service providers clarify the cyber-security baseline of AIGC services and improve the security level in their services; in response to the key challenges faced by AIGC services, such as cyber-security, data security, and personal information protection, the *Draft* introduces comprehensive security requirements covering the entire life cycle of the service. These requirements are designed to prevent and mitigate security risks in application scenario, software and hardware environment, content generation, and rights protection during the service process. Regarding the model development process before the launch of AIGC services, the *Draft* focuses on the security of training data sources, training data content security, data annotation security, and model security. Regarding the service provision process after a service is open to the public, the *Draft* focuses on the security measures that shall be taken during the service provision process.



(Source: National Technical Committee 260 on Cyber-security of Standardization Administration of China)



Annual Report on Anti-Monopoly Law Enforcement in China (2023) Released: 27 Monopoly Cases Investigated, 2.163 Billion Yuan in Fines and Confiscations Imposed

The State Administration for Market Regulation (National Anti-Monopoly Bureau) has recently released its “Annual Report on Anti-Monopoly Law Enforcement in China (2023)” (the “Report”). This document underscores China’s commitment to fostering fair competition and cultivating a level playing field in its rapidly evolving market. According to the Report, the State Administration for Market Regulation (National Anti-Monopoly Bureau) diligently executed the directives of the Party Central Committee and the State Council throughout 2023. The agency maintained a focus on economic development as its central mission, with high-quality growth as its primary objective. This approach led to intensified anti-monopoly supervision and rigorous law enforcement efforts. In 2023, a total of 27 cases involving monopoly agreements and abuse of market dominance were investigated, resulting in fines and confiscations amounting to 2.163 billion yuan. Additionally, 39 cases of abuse of administrative power to exclude and restrict competition were addressed, and 797 merger control cases were concluded. SAMR prioritized the acceleration of a unified national market, reinforcing the fundamental role of competition policy in China’s economic landscape. The agency efficiently promoted the development of institutional mechanisms, vigorously advocated for a culture of fair competition, and deepened international cooperation and exchanges in the antitrust domain. These concerted efforts have made significant contributions to optimizing China’s competitive environment, promoting industrial upgrading, and driving economic recovery and improvement.

SAMR Seeks Comments on Guidelines for Review of Horizontal Concentration of Undertakings

On June 18, the State Administration for Market Regulation (SAMR) released the *Guidelines for Review of Horizontal Concentration of Undertakings (Draft for Comment)* (the “Draft”) to solicit public opinions by July 6, 2024.

For the purposes of the *Draft*, the term of “horizontal concentration of undertakings” refers to the existence of the horizontal relationship between the undertakings that participate in the concentration, which means that undertakings involved in the concentration are actual or potential competitors in the same relevant market. To determine whether the undertakings involved in the concentration are in the same relevant market, both the relevant product market and the relevant regional market shall be considered. The *Draft* stipulates that, when analyzing whether a horizontal concentration of undertakings has or may have the effect of eliminating or restricting competition, the anti-monopoly enforcement authority shall mainly look into seven factors, including the purpose of the concentration and the market concentration level of the relevant market. The *Draft* also adds that, to assess whether a concentration has or may have the effect of eliminating or restricting competition, the anti-monopoly enforcement authority may compare the potential competitive circumstances in the relevant market if the concentration had not occurred.

(Source: State Administration for Market Regulation)

State Council Publishes Regulations on Fair Competition Review

On June 14, the State Council released the *Regulations on Fair Competition Review* (the “*Regulations*”), set to take effect on August 1, 2024.

The *Regulations*, comprising 27 articles across five chapters, mainly involve: (1) clarifying the scope of fair competition review; (2) stipulating stakeholder responsibilities; (3) clarifying the standards for fair competition review; (4) specifying fair competition review mechanism; and (5) strengthening supervision and guarantee. The **Regulations** mandate that administrative organs and organizations authorized by laws and regulations to manage public affairs shall conduct fair competition reviews in accordance with the provisions of these Regulations when drafting laws, administrative regulations, local laws, rules, normative documents and specific policy measures affecting the economic activities of operators. The legislation emphasizes stakeholder engagement, requiring that relevant parties’ opinions be sought during the review process. For policies impacting public interests, public opinion must also be solicited. Policies and measures that have not undergone fair competition review or fail to comply with the provisions of these Regulations shall not be issued.

(Source: www.gov.cn)

