

W&B Legal Newsletter

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Watson & Band Hosts Legal Symposium on Performing Arts Industry – “The AI+ Era for Culture and Performing Arts: Harmonious Coexistence of Law and Technology” at the 23rd China Shanghai International Arts Festival

A Blend of Traditional Culture and Global IP Networking: Watson & Band Hosts Traditional Tea Reception at West Lake during 2024 AIPPI World Intellectual Property Congress

THE LATEST LEGAL DEVELOPMENTS

State Council Publishes Regulations on Network Data Security Management

SPC Publishes Judicial Interpretation on the Part on Tort Liability in the Civil Code (I)

CORPORATE AND COMMERCIAL

2024 Negative List for Foreign Investment Access Published, Achieving "Zero" Access Restrictions on the Manufacturing Sector

CYBER-SECURITY AND DATA COMPLIANCE

TC260 Releases the Guide for Identifying Sensitive Personal Information

CAC Seeks Public Feedback on the Measures for Labeling Content Generated by Artificial Intelligence

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.

Watson & Band Hosts Legal Symposium on Performing Arts Industry – “The AI+ Era for Culture and Performing Arts: Harmonious Coexistence of Law and Technology” at the 23rd China Shanghai International Arts Festival



Watson & Band hosted a groundbreaking legal symposium titled “The AI+ Era for Culture and Performing Arts: Harmonious Coexistence of Law and Technology” at the Qiantan 31 Performing Arts Center on the afternoon of October 20, 2024. This specialized legal forum was a key event of the 23rd China Shanghai International Arts Festival’s International Performing Arts Conference, which commenced with its opening and contract signing ceremonies on October 19 at

the same venue.

The symposium attracted dozens of prominent figures from the performing arts and creative sectors. W&B’s legal experts, alongside distinguished industry guests, led engaging presentations and moderated interactive roundtable discussions, sparking in-depth insight and lively debate. Attendees praised the high caliber of insights and practical value of the discussions.

This year’s International Performing Arts Conference, recognized as one of the Asia-Pacific region’s premier cultural forums, welcomed an impressive gathering of over 500 professional organizations and more than 2,000 industry leaders from around the world. The conference reinforced Shanghai’s position as a cultural hub, advancing the festival’s mission to foster artistic excellence and promote international cultural exchange. Through its comprehensive programming, the event demonstrated the China Shanghai International Arts Festival’s commitment to bridging cultural divides and fostering global artistic dialogue.

A Blend of Traditional Culture and Global IP Networking: Watson & Band Hosts Traditional Tea Reception at West Lake during 2024 AIPPI World Intellectual Property Congress

Watson & Band hosted an exclusive four-day tea reception during the 2024 AIPPI (International Association for the Protection of Intellectual Property) World Intellectual Property Congress in Hangzhou, China, held from October 19 to 22. This prestigious global congress, taking place in China for the first time in AIPPI’s 127-year history, brought together an unprecedented gathering of intellectual property professionals, with approximately 2,300 leading experts, scholars, business representatives, and IP professionals from 92 countries and regions, including more than 1,500 international IP practitioners.

Located near the Hangzhou International Expo Center, the main congress venue, W&B’s tea reception offered a unique networking platform that celebrated both Hangzhou’s renowned tea culture and international IP dialogue, exemplifying the harmonious blend of traditional Chinese hospitality with contemporary professional exchange.

Throughout the four-day reception, senior IP professionals from Watson & Band facilitated in-depth discussions on global intellectual property trends and opportunities with representatives from numerous international organizations. The traditional tea ceremony setting provided an authentic cultural experience while creating an atmosphere conducive to meaningful professional dialogue and relationship building. This unique approach to networking demonstrated the firm’s commitment to fostering cross-cultural understanding while delivering excellence in intellectual property services.





State Council Publishes Regulations on Network Data Security Management

On October 8, the State Council published the *Regulations on Network Data Security Management* (the “*Regulations*”), with effect from January 1, 2025.

The *Regulations* aim to regulate network data processing activities, ensure the security of network data, promote the lawful, reasonable, and effective use of network data, protect the legitimate rights and interests of individuals and organizations, and safeguard national security and public interest. Consisting of 64 articles in nine chapters, the *Regulations* mainly involve: (1) introducing the overall requirements and general provisions on network data security management; (2) detailing the provisions in personal information protection; (3) improving the rules for important data security protection; (4) optimizing the management rules for cross-border security of network data; and (5) clarifying the obligations to be assumed by network platform service providers. Notably, the *Regulations* specify the conditions where network data processors may transfer personal information to overseas parties, clarifying that outbound transfer of personal information may be allowed in accordance with the international agreements or treaties that China has concluded or acceded to. If any data is not identified or announced by relevant regions or departments to be important data, it is not required to declare for security assessment of outbound data transfer as important data.

(Source: www.gov.cn)



SPC Publishes Judicial Interpretation on the Part on Tort Liability in the Civil Code (I)

On September 26, the Supreme People’s Court (SPC) released the *Interpretation on the Application of the Part on Tort Liability in the Civil Code of the People’s Republic of China (I)* (the “*Interpretation*”), effective from September 27, 2024.

The *Interpretation* consists of 26 articles, all targeting specific issues except Article 26, which specifies the implementation time and effectiveness. It mainly involves: (1) clarifying the tort liability on the unlawful removal of a person under guardianship from their guardian; (2) defining the responsibilities of guardians, the liability on instigating or aiding any torts, and the substantive and procedural rules for the liability of educational institutions; (3) specifying the scope of application for employers’ liability and the forms of tort liability in labor dispatch relationships; (4) introducing the application rules for liability in motor vehicle traffic accidents; (5) clarifying that damage caused to a product itself due to defect (i.e., product self-damage) falls under the scope of product liability compensation; (6) clarifying that no liability exemption shall apply in cases where a person is harmed by any prohibited dangerous animals, such as ferocious dogs; and (7) specifying the substantive and procedural rules for liability in cases where harm is caused by any objects thrown or falling from a height.

(Source: Supreme People’s Court)

Latest Legal Developments

NFRA Releases Revised Administrative Measures for Financial Leasing Companies

On September 23, the National Financial Regulatory Administration (NFRA) released the *Administrative Measures for Financial Leasing Companies* (the “Measures”), which will take effect on November 1, 2024.

The *Measures* consist of nine chapters, with the main revisions including: (1) modifying and improving the system for major contributors; (2) enhancing the regulatory classification for business operations; (3) strengthening oversight of corporate governance; (4) reinforcing the risk management; (5) regulating foreign-related financing leasing business; and (6) refining rules for business operations. Notably, the *Measures* increase the minimum registered capital requirement for financial leasing companies to bolster their risk resilience; they also introduce three new types of major contributors: state-owned capital investment and operation companies, state-owned financial capital investment and operation companies, and overseas manufacturing enterprises. Additionally, the market access criteria for major contributors, covering total assets, operating income, and registered capital, as well as the minimum shareholding ratios, are appropriately raised to enhance shareholders’ responsibilities of major contributors.

(Source: National Financial Regulatory Administration)

MOFCOM Seeks Public Input on Revising the PRC Foreign Trade Law

On September 14, the Ministry of Commerce (MOFCOM) and relevant authorities released the *Foreign Trade Law of the People’s Republic of China (Draft Revision for Comment)* (the “Draft”) for public comments. The solicitation for comments has drawn to a close by now.

The *Draft* proposes several key revisions: (1) Expanding high-level openness to align with international standards and trade rules; (2) Advancing the transformation of government functions and improving the foreign trade management system; (3) Implementing major reform initiatives and establishing and improving the negative list system for cross-border trade in services; (4) Strengthening policy support to foster innovation and development in foreign trade; and (5) Balancing development and security and enhancing risk prevention and control capabilities. Additionally, the *Draft* refines the legal liability system and introduces new penalty provisions for relevant violations.

(Source: Ministry of Commerce)



2024 Negative List for Foreign Investment Access Published, Achieving "Zero" Access Restrictions on the Manufacturing Sector

On September 9, the National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) jointly released the *Special Administrative Measures (Negative List) for Foreign Investment Access (2024 Edition)* (the "Negative List"), effective from November 11, 2024.

Compared with the 2021 edition, the 2024 *Negative List* removes the only two remaining restrictions in the manufacturing sector: (1) "publication and printing enterprises must be controlled by Chinese party"; and (2) "prohibiting the investment in the application of traditional Chinese medicine processing techniques (such as steaming, stir-frying, roasting, and calcining), and the production of secret formula of Chinese patent medicines". Upon these revisions, the number of restrictive measures in the Negative List has been reduced from 31 to 29, and foreign investment access restrictions in the manufacturing sector have been fully lifted.

(Source: National Development and Reform Commission)



Cyber-security and Data Protection

TC260 Releases the Guide for Identifying Sensitive Personal Information

On September 19, 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* (the “*Guide*”).

The *Guide* provides rules for identifying sensitive personal information, alongside common categories and examples of such information. It can be used by organizations to identify sensitive personal information and provide reference for processing and protecting such information. According to the *Guide*, personal information processors must follow four specific rules, one of which states that “any personal information that meets one or more specified conditions shall be identified as sensitive personal information.” Furthermore, the *Guide* identifies eight common categories of sensitive personal information, including biometric data, religious beliefs, and personal information of specific identities.

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

CAC Seeks Public Feedback on the Measures for Labeling Content Generated by Artificial Intelligence

On September 14, 2024, the Cyberspace Administration of China (CAC) released the *Measures for Labeling Content Generated by Artificial Intelligence (Draft for Comment)* (the “*Draft*”), with feedback period open until October 14, 2024. Additionally, the Office of the Central Cyberspace Affairs Commission published a mandatory national standard “*Cyber-security Technology — Labeling Method for Content Generated by Artificial Intelligence (Draft for Comment)*”, also available for public consultation.



According to the *Draft*, if the synthetic content services provided by a service provider fall under the circumstance stated in Paragraph 1 of Article 17 of the *Administrative Provisions on Deep Synthesis in Internet-based Information Services*, explicit labels must be added to the generated content as per the *Measures*. The *Draft* also emphasizes that no organization or individual may maliciously delete, tamper with, forge, or conceal the generated content labels required by these *Measures*, nor shall they provide tools or services to others for committing such malicious acts. Furthermore, improper labeling methods that infringe upon the legitimate rights and interests of others are strictly prohibited.

(Source: Cyberspace Administration of China)

Cyber-security and Data Protection

Implementation Guidelines on the Standard Contract for Cross-boundary Flow of Personal Information within the Guangdong-Hong Kong-Macao Greater Bay Area (Mainland, Macao) Take Effect

On September 11, the Cyberspace Administration of China and the Economic and Technological Development Bureau of the Macao Special Administrative Region jointly developed the *Implementation Guidelines on the Standard Contract for Cross-boundary Flow of Personal Information Within the Guangdong-Hong Kong-Macao Greater Bay Area (Mainland, Macao)* (the “*Guidelines*”), which took effect on the date of issuance.

According to the *Guidelines*, enterprises or institutions in the nine Mainland cities (Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen, and Zhaoqing) of the Greater Bay Area and those in Macao may opt to conduct the cross-boundary flow of personal information and data within the Greater Bay Area by entering into the *Standard Contract for Cross-boundary Flow of Personal Information within the Guangdong-Hong Kong-Macao Greater Bay Area (Mainland, Macao)* (hereinafter referred to as the “*Contract*”). The *Contract* must be filed with the Guangdong Provincial Cyberspace Administration or Macao’s Office for Personal Data Protection. It exempts personal information processors from limitations on the quantity of personal information involved in cross-boundary flows and simplifies the content of personal information protection impact assessments. The *Contract* also stipulates the contractual obligations and responsibilities of personal information processors and recipients, the rights of personal information subjects, contract termination, liability for breach of contract, and dispute resolution methods.

(Source: Cyberspace Administration of China)
