

W&B Legal Newsletter

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CAC Seeks Comments on Administrative Measures for Personal Information Protection Compliance Audit

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 Honored Several Nominations in the 2023 ALB China Regional Law Awards – East China and a Final Award

On July 27, the world renowned legal media under Thomson Reuters – Asian Legal Business released the finalists list for its 2023 ALB China Regional Law Awards – East China. Watson & Band’s professional services and good reputation are again recognized by this year’s law awards and wins three nominations for the final winners. The nominated awards are: Intellectual Property Law Firm of the Year: East China – Local; Technology, Media and Telecommunications Law Firm of the Year: East China – Local; and Wealth Management Law Firm of the Year: East China – Local. On August 18, Watson & Band was announced winner of the “Intellectual Property Law Firm of the Year: East China – Local” award.

Asian Legal Business is a high-end legal magazine under Thomson Reuters Group and one of the most influential legal media worldwide. The ALB rankings and awards have influences on multiple jurisdictions across the world and are regarded as one of the most authoritative benchmarks within the legal industry.

Watson & Band Again Listed in Patent Litigation and Prosecution in 2023 IAM Patent 1000



Recently, the internationally renowned IP media Intellectual Asset Management (“IAM”) released its 2023 IAM Patent 1000. Watson & Band, with its constant excellent performance and good reputation within the patent practice area, is again listed in both patent litigation and patent prosecution areas.

Meanwhile, four members from Watson & Band’s patent team again appear in the recommended individuals in either patent litigation or patent prosecution. They are:

Patent Litigation:



Jianguo Huang
Senior Partner,
attorney-at-law



Yue Zhang
Partner, attorney-at-law

Patent Prosecution:



Hua Xiao
General Manager,
senior patent attorney



Yingcong Xu
Vice General Manager,
senior patent attorney

Seven Authorities Release the Interim Measures for the Management of Generative Artificial Intelligence Services

On July 14, 2023, the Cyberspace Administration of China (CAC) and six other authorities jointly released the *Interim Measures for the Management of Generative Artificial Intelligence Services* (the “*Measures*”), with effect from August 15, 2023.

The *Measures* state that the State adheres to the principle of balancing the development and security and combining innovation with governance under the rule of law for the generative artificial intelligence (AI) services, and it will adopt effective measures to encourage the innovative development of generative AI and implement inclusive, prudent, and classified regulations for generative AI services based on their levels. The *Measures* outline the general requirements for the provision and use of generative AI services and introduce specific measures to promote the development of generative AI technology, and requirements for activities such as training data processing and data labeling are also specified. Furthermore, the *Measures* establish norms for generative AI services, specifying that providers should take effective measures to prevent excessive reliance or addiction to generative AI services among underage users, and they are also obligated to label generated content, such as images and videos, in accordance with the *Administrative Provisions on Deep Synthesis in Internet-based Information Services*. If any illegal content is discovered, prompt disposal measures should be taken. Additionally, the *Measures* establish systems for security assessment, algorithm record-filing, and complaint reporting, and clarify legal liability.

(Source: Cyberspace Administration of China)



CSRC Releases Administrative Measures for Independent Directors of Listed Companies

On August 7, 2023, the China Securities Regulatory Commission (CSRC) released the *Administrative Measures for Independent Directors of Listed Companies* (the “Measures”), with effect from September 4, 2023.

The *Measures* mainly involve: (1) clarifying the appointment qualifications and procedures for independent directors; (2) standardizing the job duties and performance methods for independent directors; (3) proposing guarantee measures for their job performance; (4) clarifying legal liability; and (5) setting forth the arrangements for transition period. Among others, The *Measures* improve the selection and appointment rules, optimize the selection and appointment mechanism of independent directors ranging from nomination, qualification review, election, continuous management, to dismissal, and establish a nomination avoidance mechanism and a qualification certification system. Meanwhile, the *Measures* specify that an independent director may only take up the position of independent director in at most three domestic listed companies in principle, requiring them to supervise potential major conflicts of interest through such platforms as special meeting of independent directors and special committee of the board of directors. They are also required to work at the listed companies on site for no less than 15 days each year and prepare work records.

(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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Cybersecurity and Data Protection

NISSTC Seeks Comments on the Information Security Technology — Security Requirements for Processing of Sensitive Personal Information

On August 10, 2023, the National Information Security Standardization Technical Committee (NISSTC) released the *Information Security Technology — Security Requirements for Processing of Sensitive Personal Information (Draft for Comment)* (the “Draft”), which is open for public comments until October 8, 2023.

The *Draft* is intended to regulate the activities of personal information processors in handling personal information. It can also serve as a reference for regulatory authorities and third-party assessment organizations to supervise, manage, and assess the personal information processing activities carried out by personal information processors. To comply with the stipulations of the *Personal Information Protection Law* pertaining to the processing of sensitive personal information, the *Draft* outlines scenarios involving the processing of sensitive personal information such as biometrics, religious beliefs, specific identities, medical and healthcare, financial accounts, whereabouts and tracks, and information on minors under the age of 14. It clearly sets out the security requirements for data processors engaged in activities related to the collection, storage, use, processing, transmission, provision, disclosure, and deletion of said sensitive personal information, particularly, focusing on specific requirements related to necessity of collection, security protection, and rules of desensitization, informed consent, and more.

(Source: China National Information Security Standardization Technical Committee)

CAC Seeks Comments on Provisions on the Application Security Management of Face Recognition Technology

On August 8, 2023, the Cyberspace Administration of China (CAC) drafted the *Provisions on the Application Security Management of Face Recognition Technology (for Trial Implementation) (Draft for Comment)* (the “Draft”) to solicit public opinions by September 7, 2023.

The *Draft* stipulates that face recognition technology can be used to process face information only when there is a specific purpose and sufficient necessity, and strict protection measures are taken. If there are other non-biometric identification technology solutions that can achieve the same purpose or meet the same business requirements, such non-biometric identification technology solutions shall be used first. Meanwhile, the *Draft* clarifies that the use of face recognition technology to process face information shall be subject to the individual’s separate consent or written consent in accordance with the law. It also stresses that users of face recognition technology who use face recognition technology in public places, or who store face information of more than 10,000 individuals, shall complete record-filing with the cyberspace authority at or above the municipal level within 30 working days.

(Source: Cyberspace Administration of China)

NISSTC to Regulate the Labeling of Content in Generative AI Services

On August 8, 2023, the National Information Security Standardization Technical Committee (NISSTC) released the *Practical Guide to Cybersecurity Standards -- Method for Labeling Content in Generative Artificial Intelligence Services (Draft for Comment)* (the “Draft”), which is open for public comments.

The *Draft* provides a method for labeling content in generative artificial intelligence (AI) services. According to its provisions, in the display area where AI-generated content is presented, prompt text should be continuously displayed below the display area or below the user input information area or an explicit watermark containing the prompt text should be added to the background of the display area. The prompt text should include information such as “Generated by Artificial Intelligence” or “AI Generated” at a minimum. Additionally, the *Draft* specifies that when images or videos are generated by AI, prompt text should be added within the frame for labeling. The prompt text should be located in the four corners of the screen, occupying an area of not less than 0.3% of the screen or a text height of not less than 20 pixels. The content of the prompt text should contain at least the information of “Artificial Intelligence Generated” or “AI Generated.”

(Source: China National Information Security Standardization Technical Committee)

CAC Seeks Comments on Administrative Measures for Personal Information Protection Compliance Audit

On August 3, 2023, the Cyberspace Administration of China (CAC) released the *Administrative Measures for Personal Information Protection Compliance Audit (Draft for Comment)* (the “Draft”), which is open for public comments until September 2, 2023.

The *Draft* stipulates that personal information processors who process personal information of more than one million individuals should conduct personal information protection compliance audits at least once a year, while other personal information processors should conduct such audits at least once every two years. It also specifies that departments responsible for personal information protection, as part of their duties, may request personal information processors to commission professional institutions for compliance audits on their personal information processing activities, when they identify significant risks in the personal information processing activities or encounter personal information security incidents. Moreover, the *Draft* requires that professional institutions must not subcontract or delegate the personal information protection compliance audits to third parties, and they should not maliciously disrupt the normal business activities of personal information processors during the audit process. The *Draft* also includes the release of the Reference Points for Personal Information Protection Compliance Audit.

(Source: Cyberspace Administration of China)

CAC Seeks Comments on the Guide for Developing the Minors Mode in the Mobile Internet

On August 2, 2023, the Cyberspace Administration of China (CAC) drew up the *Guide for Developing the Minors Mode in the Mobile Internet (Draft for Comment)* (the “Draft”), which is now open for public comments until September 2, 2023.

The *Draft* comprehensively upgrades the “Youth Mode” to the “Minors Mode,” extending its reach from mobile apps to mobile smart terminals and app stores. It aims to achieve the integration of software and hardware, enabling users to easily access the mode with a single click, and creating a secure and wholesome online environment for minors. The *Draft* sets forth the basic requirements, functional requirements, and management requirements for implementing the minors mode across various mobile smart terminals, mobile internet applications, and mobile app distribution service platforms. In the minors mode designed for users under 8 years old, the *Draft* stipulates that mobile smart terminals should provide a default total usage time of up to 40 minutes, with the option for parental exemptions. Additionally, under the minors mode, mobile smart terminals are prohibited from providing services to minors from 22:00 to 06:00 the next day.

(Source: Cyberspace Administration of China)

NISSTC Seeks Comments on Information Security Technology - Framework of Network Security Product Interconnect

On July 20, 2023, the National Information Security Standardization Technical Committee (NISSTC) issued the *Information Security Technology - Framework of Network Security Product Interconnect (Draft for Comment)* (the “*Draft*”) to solicit public opinions by September 18, 2023.

The *Draft* sets out the framework for building interconnectivity among network security products, covering both interconnect function and interconnect information, with a view to guiding the design, development, and application of network security product interconnect. According to the *Draft*, interconnect function mainly includes four categories of function, namely, identification, protection, monitoring, and disposal. The functional interface will support the realization of various functions, standardizing the communication protocol, request method and the required security mechanism. Interconnect information mainly includes six categories, namely, behavior information, alarm information, asset information, vulnerability information, threat information and event information. Information description is provided to standardize information content and format.

(Source: China National Information Security Standardization Technical Committee)

