



Legal Updates

[MOHRSS Releases Guidelines for the Conclusion of Electronic Labor Contracts](#) [Read more](#)

In order to instruct employers and employees on how to conclude electronic labor contracts according to the law, the Ministry of Human Resources and Social Security recently released the Guidelines for the Conclusion of Electronic Labor Contracts. According to the Guidelines, lawfully concluded electronic labor contracts are protected by law; employers and employees should fulfill their respective obligations under the electronic labor contract.

The Guidelines stipulate that if an employer plans to conclude an electronic labor contract with employees, they should do it through a special online platform. If both parties agree to conclude an electronic labor contract, the employer should explicitly inform employees of the procedures and methods for concluding the contract, and matters needing attention, as well as how to check and download the electronic labor contract. Furthermore, the employer must not charge any fee from employees.

[General Administration for Market Regulation drafts regulations regarding the administrative penalty for price violations](#) [Read more](#)

In order to accelerate the process of revision of regulations regarding the administrative penalties for price violations, and to timely revise or abolish unreasonable administrative penalties, as well as stimulate the vitality of market players, on July 2, the General Administration for Market Regulation issued the "Administrative Penalties for Price Violations (revised draft for comment)", the period for public comments will continue until August 2, 2021.

The draft of the Provisions stipulates that operators that violate Article 14 (2) of the Price Law in order to crowd out competitors or monopolize the market, dumping with a below-cost prices, disrupting the normal order of production and operation, detriment the national interests or the legitimate rights and interests of other operators, should be ordered by the regulator to correct their relevant behaviors, confiscating the illegal income, and can be fined up to 5 times of the total of the illegal income.

[SPC Issues Judicial Interpretation to Strengthen IPR Protection of New Plant Varieties](#) [Read more](#)

The Supreme People's Court released on July 5, 2021 Several Provisions (II) of the Supreme People's Court on Issues Concerning the Application of Law in the Hearing of Cases Involving Disputes over Infringement upon the Rights of New Plant Varieties. The new judicial interpretation of variety right is different from the relevant judicial interpretation issued on the matter of new plant varieties before. The new judicial interpretation mainly stipulates the determination of variety right infringement, while the previous judicial interpretation mainly stipulates procedural issues such as cause of action and jurisdiction.

In order to prevent further damages to the owner of new plant variety rights due to lengthy legal proceedings, Article 24 of the judicial interpretation stipulates that if the People's court determines that the infringement is established on the basis of the facts that have been found out about the infringement of variety rights, it may first make a judgment to stop the infringement, and may, according to the request of the parties and the specific circumstances of the case, order the relevant parties to take measures such as eliminating activity to prevent the proliferation and reproduction of the alleged infringement.



[SPC Releases Judicial Interpretation about Drug Patent Protection](#) [Read more](#)

In order to correctly hear civil cases of patent disputes related to drugs applied for registration, the Supreme People's Court released on July 5, 2021 the Provisions of Supreme People's Court on Several Issues Concerning the Application of Law in the Hearing of Civil Cases Involving Disputes over Patent Rights Relating to Drugs under Application for Registration

According to the judicial interpretation, the first-instance cases filed by the parties under Article 76 of the Patent Law to confirm whether a dispute falls within the scope of protection of patent rights, shall be under the jurisdiction of the Beijing Intellectual Property Court.

According to the judicial interpretation, where the patentee or any interested party fails to file a lawsuit with the people's court within the time limit prescribed in the transition measures, the drug marketing authorization applicant may file a lawsuit with the people's court, requesting the confirmation that the drug under application for registration does not fall within the relevant protection scope of patent rights.

[The Data Regulations of Shenzhen Special Economic Zone, the first comprehensive legislation for data in China was officially announced](#) [Read more](#)

The Standing Committee of Shenzhen Municipal People's Congress released on July 6, 2021 the Data Regulations of Shenzhen Special Economic Zone, which will take effect from January 1, 2022. This is the first comprehensive legislation for data in China. The Regulation makes clear provisions on problems such as "App's user agreement on 'not allowed to use without comprehensive authorization'", "set varied prices for same product or service based on different consumers by using big data", "willful personal information collection", "mandatory personalized advertising recommendation", etc.

The Regulations point out that data processors shall not refuse to provide relevant core functions or services to natural persons on the grounds that they do not agree to process personal data. However, with the exception when personal data is necessary for providing relevant core functions or services.

The Regulations also put forward that the processing of personal data should provide a way for natural persons to withdraw their consent in an easily accessible way, and it is not allowed to use service agreements or technologies to impose unreasonable restrictions or attach unreasonable conditions on the withdrawal of consent of natural persons.

[Five Authorities Issue the Implementing Rules for the Fair Competition Review System](#) [Read more](#)

On July 8, five departments, including the General Administration for Market Regulation and the National Development and Reform Commission, jointly issued the "Implementing Rules for the Fair Competition Review System". The Rules shall be implemented from the date of publication. The Rules for the Implementation of the Fair Competition Review System (Provisional) were repealed at the same time.

The Rules proposed (a) shall not set unreasonable or discriminatory market entry and exit conditions; (b) without fair competition shall not grant the operator a franchise; (c) shall not limit the operation, purchase or use of goods and services provided by a specific operator; (d) shall not set no laws, administrative regulations or the State Council regulations based on the approval or administrative approval nature of the prior filing procedures. (E) shall not set up approval procedures for industries, fields, businesses, etc. beyond the negative market access list.

The Rules propose that (1) unreasonable or discriminatory market access and exit conditions shall not be set (2) no franchising right shall be granted to business operators without fair competition (3) it is not allowed to restrict the operation, purchase and use of goods and services provided by specific operators (4) it is not allowed to set up procedures for examination and approval or prior filing with the nature of administrative examination and approval without the basis of laws, administrative regulations or provisions of the State Council (5) it is not allowed to set up approval procedures for any industries, fields and businesses other than the negative list of market access.



[Shanghai Carries Out Pilot Work on Judicial Confirmation Procedures for Administrative Mediation Agreements on Intellectual Property Disputes](#) [Read more](#)

Shanghai Higher People's Court and Shanghai Intellectual Property Administration recently released the Implementation Measures for the Pilot Work on Judicial Confirmation procedures for Administrative Mediation Agreement on Intellectual Property Disputes in Shanghai.

According to the Measures, the content of the administrative mediation agreement for intellectual property disputes applying for judicial confirmation shall be the civil intellectual property disputes that can be adjudicated or mediated by administrative organs as stipulated by laws, regulations and rules, including:

1. Administrative mediation agreement on patent infringement disputes;
2. Administrative mediation agreement on patent infringement and trademark compensation disputes;
3. Administrative mediation agreement on reward & compensation disputes with patent inventors and designers;
4. Administrative mediation agreement on the disputes over the use of an invention without paying an appropriate fee after the publication of an application for a patent for invention and before the grant of a patent right.

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