

RECONSIDERATION ON THE REGULATION OF COMPETITION LAW ON COMMERCIAL DATA GRABBING FROM THE PERSPECTIVE OF DATA CIRCULATION

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ABSTRACT

The competition in the Internet industry is escalating, and new disputes related to data are emerging, especially the number of data scraping and restriction data scraping cases is increasing significantly. Before the implementation of the "Amendment to the Anti-Unfair Competition Law", our country's judicial law often prioritized data protection as the adjudication goal, focusing on the regulation of data scraping behavior, while restricting data scraping behavior whether or not to win the competition, due to the lack of specific and actionable legal rules, there are obvious differences in legal and legal adjudication. This paper intends to re-examine the current competition legal system of commercial data scraping from the perspective of data circulation, and put forward optimization suggestions in combination with the changes in the relevant provisions of the Anti-Unfair Competition Law Amendment.

Keywords: Data capture behavior; Competition Law Regulation; Optimization.

1. INTRODUCTION

With the deepening of the development of the digital economy, the importance of commercial data resources has become more and more prominent, and the status of data in industrial upgrading and development has risen to an unprecedented height. Data capture is an important skill for obtaining data elements. It is also an important tool for the use of data elements. The development of data capture technology comes from the information disclosure of the Internet, and the application of data capture technology to capture data on a large scale at a lower cost and faster speed, bringing great convenience to enterprises to collect and process data. However, with the escalation of competition in the Internet industry, the commercial value of data is gradually explored, and new disputes related to data continue to emerge, especially the number of data capture and restriction data scraping cases is increasing significantly. With the advancement of the two special laws that coordinate the development and security of data competition and security in 2021, the Anti-Data Security Law and the Anti-Personal Information Protection Law of the State Department, it provides timely and effective institutional guarantees for the opening and competition of various types of data and the protection and utilization of personal information.

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In particular, the Anti-Personal Information Protection Law has established clear and actionable methods and means for the protection of personal information, and also provides clear and specific legal norms for the collection, processing and sharing of various types of data and information. Before the implementation of the Anti-Unfair Competition Law Amendment, our country's judicial law often prioritized data protection as the goal of adjudication, focusing on the regulation of data scraping behavior. In view of the natural behavioral guiding effect of legal judgments, the non-competitive legal and legal discretionary standards will inevitably have a negative demonstration effect on the digital economic order, and will have a potential inhibitory impact on the data capture behavior of the competition, affecting the current reasonable circulation and commercial use of data.

[1][1] Ας α νω φαχτορ οφ προδυχτιον, της εχονομιχ παλυε οφ δατα λιεσ ιν χιρχυλατιον, ησω το ρεασοναβλην ρεγυλατε δατα χαπτυρε β ειαπιωρ, ωηιχη χαν νοτ ονλην εφφεχτιπελην προτεχτ δατα ριγητ ανδ ιντερεστς, βυτ αλσο προμοτε δατα χιρχυλατιον ανδ σηαρινγ, ανδ φυλλην ρεαλιζε της παλυε οφ δατα, ωηιχη ισ της χυρρεντ νεεδ φορ της δεπελοπμεντ οφ της διγital εχονομψ. Τηισ πατερ ιντενδς το ρε-εξαμινε της χυρρεντ χομπετιτιον λεγαλ συστεμ οφ χομμερχιαλ δατα σχραπινγ βειαπιωρ φορμ της περσπεχτιβε οφ δατα χιρχυλατιον, ανδ πυτ φορωαρδ οπτιμιζατιον συγγεστιονς ιν χομβινατιον ωιτη της χιανγες ιν της ρελεπαντ προπισιονς οφ της Αντι-Υνφαιρ Χομπετιτιον Λαω Αμενδμεντ.

2. READY-TO-USE APPLICATIONS OF COMMERCIAL DATA CAPTURE

Data scraping is a program that traverses network content, extracts the required web page data according to specified rules, and downloads it to the local Internet web page image backup. [2] The technical mode of data capture mainly revolves around "how to efficiently and accurately obtain target data". Based on the huge commercial value brought by data, enterprises with competitive advantages do not want their data to be captured by other enterprises, and use anti-crawling technology to limit data capture accordingly. Restricting data scraping is the creation of an anti-crawler network firewall that puts barriers to data scraping, with the core goal of stopping illegal or excessive data scraping to protect website data security, server performance and legitimate user experience, and safeguard the legitimate rights and interests of data holders. Data capture technology and limited data capture technology coexist in the era of digital economy, and the two check and balance each other and play dynamically to jointly promote the balance between data acquisition and protection.

[1] Huang Wushuang, Qiu Siyu. Anti-unfair competition laws and regulations for public data capture from the perspective of behavior differentiation[J]. Science and Technology and Law Revision Chinese and English, 2025

Revision 3: 3.

[2] GUO Wei. Research on the Criminal Law and Regulation of Network Data Scraping: From the Perspective of the Crime of Illegally Obtaining Computer Information System Data[J]. Xinjiang Social Science

Science, 2020(03): 91.

[3] Tong Yunfeng. Journal of Dalian University of Technology (Social Sciences Edition), 2022, 43(2): 88-97.

Common modes of existing data scraping technologies include: general web crawling, API interface scraping, dynamic rendering crawling, and distributed crawler technology. Starting from the starting URL, it automatically parses the HTML structure of the web page, extracts links and crawls recursively, and then extracts the target data through tools such as XPath and CSS selectors. API API scraping is authorized by the platform, calling the API API provided by the platform, applying for an API key, sending a request according to the interface documentation, and directly obtaining structured data. Because API data scraping does not need to parse web pages, its data format is standardized, and its retrieval efficiency is high and stable, making it a highly compliant technical model. However, such data scraping behavior is subject to platform rules, with restrictions on call frequency and data scope, and must comply with the API usage agreement. Dynamic rendering and crawling simulate the rendering process of the browser, load the web page and execute the JavaScript code, and then extract the data after the page is fully rendered. Or use an interfaceless browser to render and scrape in the background. Dynamic rendering scraping can solve the problem that general-purpose crawlers cannot obtain rendered data, but it consumes more resources, is slower than general-purpose crawlers, and is easily recognized by anti-crawling technology. Distributed crawler technology decomposes the scraping task into multiple subtasks, assigns them to different crawler nodes, coordinates task allocation and data aggregation through the scheduling center, and uses IP proxy pools, multi-account rotation, etc. to circumvent the reverse crawling restriction, and implements large-scale, high-concurrency data capture, which increases the scraping efficiency exponentially. With its advantages of multi-node collaboration, efficient expansion, and strong anti-risk ability, distributed crawler technology has broken through the performance bottleneck of single-node crawlers and has become the core solution of large-scale data collection, which has been widely used in large-scale e-commerce data monitoring, social media public opinion analysis, and search engine data index construction.

Because crawler technology captures data through unauthorized autonomy, some believe that data scraping is the use of web crawler technology to bypass the authorization mechanism of data subjects, access and copy specific web page information content on a large scale, and form local storage or online mirroring through high-frequency requests.

[3] Ατ της σάμε τιμε, ιν ορδερ το φυρτηερ ιμπροσε της θυαλιτη ανδ θυαντιτη οφ δατα σχραπινγ, της δεπελοπιμεντ οφ χραωλερ τεχηνολογιη παψις μορε αττ εντιον το χομβινινγ

AI technology to implement intelligent anti-crawling and dynamic page parsing. The evolution to lightweight architecture reduces deployment costs, so the widespread application of distributed crawler technology faces the challenge of anti-crawling mechanism, and its legitimacy under the existing competition regulations has been questioned.

3. THE CURRENT STATUS OF COMPETITION LAWS AND REGULATIONS FOR COMMERCIAL DATA CAPTURE

As an emerging industry, there is no consensus on the market rules of the data industry. In the face of data capture disputes, court rulings have played a role in promoting the formation of existing competition laws and regulations. Since the qualitative substitution rule was first proposed by the court in 2010 through the interpretation of the general provisions on the legal facts of anti-unfair competition, it has gradually become a generally accepted rule in legal trials. Since then, the Draft Amendment to the Anti-Unfair Competition Law has tried to introduce specific judgment criteria such as "qualitative substitution" and "unreasonable increase in

operating costs". In June 2025, the State Administration for Market Regulation of Sijia announced typical cases of illegal data scraping□□□: Zhenjiang Weifeng Computer Software Co., Ltd. Public Law Revision hereinafter referred to as "Competitor" independently develops and sells software such as "w loading assistant" and "w distribution assistant", which can provide services such as "one-click moving" and "one-click dropshipping" of commodity information data, and online in the service market of different e-commerce platforms and collects software usage fees. The law enforcement agency believes that without the consent of the data source e-commerce platform and the successful users on the platform, the competitor uses the software to crawl the product information data of the shopping platform and uploads it to other shopping platforms with a competitive relationship with one click, which constitutes a qualitative subscription of the data source platform and the successful people on the platform, hinders and destroys the regular operation of online products or services legally provided by other successful operators, disrupts the order of the Internet market, and damages the legitimate rights and interests of the successful operators of other platforms. It can be seen that the "qualitative substitution rule" has become the crystallization of the wisdom of legal adjudication and is the most accepted rule.

However, with the gradual emergence of theoretical conflicts in the qualitative substitution rule, some people believe that the essence of the "substitution" emphasized by the qualitative substitution rule is competition, and the basis of the illegality of the act is determined on "competition", which does not solve the problem of "improper competition". The qualitative substitution rule uses direct competition and the post-judgment of competition as the way to judge "improper competition", and this misalignment makes it difficult to become a judgment rule for judging whether a behavior is competitive.

[5] Τη Σνπρεμε Πεοπλεεζ Χουρτ δελετεδ της θυαλιτατισε συβστιτυτιον ρυλε ιν της δραφτ οφ της Χονσυλτατιον Δραφτ ιν της φιναλ ιντερπρετατιον οφ της αντι-αντι-υνφαιρ χομπετιτιον λαω οφ της Πεοπλεεζ Ρεπυβλιχ οφ Χηινα ον σεπεραλ ισσυεσ >ον της αππλιχατιον οφ της Αντι-Υνφαιρ Χομπετιτιον λαω οφ της Πεοπλεεζ Ρεπυβλιχ οφ Χηινα (hereinafter referred to as the "Fixed") has also adopted a more flexible expression. Paragraph 3 of Article 13 of the Proposed Case stipulates that "successful parties shall not obtain or use data legally held by other successful parties by fraud, coercion, avoidance, or sabotage of technical management measures, harm the legitimate rights and interests of other successful parties, and disrupt the order of market competition". The "Amendment to the Anti-Unfair Competition Law" is the first time that "legal holding" is used as the protection of data, which will promote data protection competition

The formation of a combination of legal system and confirmation of rights. The two models of competition law and rights confirmation mode of data protection are not opposites, and compared with the relevant provisions of the Actual Tort Liability Part of the Anti-Civil Code, the improper competition to obtain data as stipulated in Article 13 of the Contract can be regarded as infringement.

[4] https://www.samr.gov.cn/xw/zj/art/2025/art_0d043840ec9445a689496bcf30c94820.html,访问日期:2025- 11-05

[5] Li Jian. Competitive Judgment of Data Scraping Behavior: Reflecting on the Rules of Qualitative Substitution[J]. Political and Legal Review, 2024 Revision 02": 67

Specifically, the conditions for determining the illegality of data scraping include: 1. The successful person uses technical means to obtain and use other data legally held by the successful person by means of unfair competition such as circumventing or destroying technical measures. At the same time, the technical means here include not only traditional unfair competition methods, but also accurately point to "non-destructive" data acquisition behaviors such as simulated login and bypassing verification codes, and the data obtained by circumventing platform control is clearly included in the scope of regulation. 2. Data scraping has caused damage to the post-judgment, seriously harmed the legitimate rights and interests of other successful players and consumers, and disrupted the order of fair competition in the market. The case has simplified the criteria for determining data scraping behavior, giving legal and law enforcement agencies the space to make flexible judgments based on different industries and different technical scenarios.

4. RE-EXAMINATION OF THE DETERMINATION OF IMPROPER COMPETITION IN COMMERCIAL DATA CAPTURE UNDER THE ORIGINAL COMPETITION LAW AND REGULATION MODEL

The identification of competition and illegality of data scraping behavior has become an impact on the orderly competition and efficiency of the digital economy

The key to innovation. According to the relevant provisions of the Contract, to determine whether data scraping is a competition, it is first necessary to clarify the ownership of data rights and interests, that is, to determine the legality of the data held by other successful parties. However, due to the lack of rules for data confirmation, "due to the unclear nature of data ownership, it is necessary to change from the traditional regulatory thinking of focusing on the protection of rights to the regulatory thinking of competitive judgment of behavior" □□□。 This has led to the court confirming that as long as the data scraping behavior violates the relevant provisions of the Anti-Unfair Competition Law, the perpetrator will be held responsible, forming a status quo of single-application competition laws and regulations. Before and after the implementation of the "Amendment to the Anti-Unfair Competition Law", the original competition legal model of data scraping behavior must be re-examined.

Amendment 1: Is the capture of public commercial data unfair competition?

Based on whether access is required, data scraping can be divided into non-public data scraping and public data scraping. Public data refers to data content that is not subject to access restrictions, that is, data that can usually be accessed without obtaining access permission or logging in to the relevant platform account. In my opinion, judging from the judgment of the judgment enforced by the law and the law enforcement, the court generally believes that the defendant did not obtain permission to access the data. However, I mentioned that the use of technical means to destroy or bypass the access restrictions set by the public law of data collection for data scraping is unfair competition. However, regarding the scraping of public data, the courts in the law and law have different judgments on the unfair competition of the behavior.

[6] Wang Liming. Property Rights Definition and Legal Protection of Data Assets[[N/OL].2025 Financial Street Forum Annual Meeting, 2025-11-04

[7] Zhang Shiming The Argument of the Protection of the Object of the Anti-Unfair Competition Law[J] Political and Legal Reviews, 2024(4): 26

In the case of Dianping v. Baidu Unfair Competition, the ^{της}
 χουρτ ηελδ τηατ Βαιδουεσ αχθουσιτιον ανδ υσε οφ Διανπινγ υσερ χομμεντσ υνδερ πυβλιχ λαω χονστιτυτεδ υνφαιρ χομπετιτιον. Iv The case of

Guanlan Network v. Shanghai Medical Rice Unfair Competition, the ^{της}
 χουρτ οφ φιρστ ινστανχε φουνδ τηατ της αχτ οφ οβταινινγ πυβλιχ δατα χονστιτυτεδ υνφαιρ χομπετιτιον. Iv The case of Alibaba v. Codenote

'1688 Data'[11], the court held that although the data involved had been made public, because the plaintiff made a legal statement on the website prohibiting the use of crawlers to obtain and use the data involved without permission, the data involved in the case was not open data that could be arbitrarily obtained and used. Excessive public data scraping is also subject to the Unfair Competition Act. In the case of Weimeng v. Yunzhilian 'Super Fan Tuan Xing' [12], the court held that data that was not accessible even if users logged in to their Sina Weibo account was non-public data in Sina Weibo and that data capture was unfair competition. However, with regard to public data, the court proposed that platform operators should tolerate others to a certain extent the legal collection or use of data published on their platforms, otherwise it may hinder the operation of data for public interest research or other beneficial purposes. Whether the scraping behavior is competitive needs to be legal, and it is necessary to further judge the competition of the scraping of public data based on the amount and scale of the scraped data and whether the subsequent use behavior produces qualitative substitution. The different judgments and conclusions of the courts in the above-mentioned dispute resolution of data scraping behavior reveal the inherent contradictory attitude towards public data capture in the implementation of law and law. [13]

As the basic production factor of the digital economy, data will not disappear due to use, but will continue to grow and generate value in circulation and sharing. Because the data held by each social subject is limited, it is necessary to use the data held by others to form a large enough data set to meet various purposes, and at the same time, it is necessary to let others use their own data resources to implement the social use of data, not only for their own use. Data circulation is the inevitable path to realize the social utilization of data and the value of data resources, and there should be social data flow Only by using it can we form a data economy. [14] For public data, data scraping itself does not necessarily lead to changes in market interests between data controllers and data scrapers. If the determination of the compete nature of data scraping behavior is too strict, it will inevitably lead to the restriction of unfair competition in the circulation of public data. Based on the characteristics of data, when the court makes an unfair competitive judgment on public data scraping, on the one hand, it should consider the impact of data scraping on data openness, and on the other hand, it also needs to consider the unfavorable post-judgment that excessively restricts the freedom of data circulation caused by prohibiting public data scraping. [15] Improper competition judgments on public data scraping behavior should be handled with caution. The purpose of regulating data scraping behavior in the competition law model is to maintain the market preemption rights and interests brought about by the data controller's prior investment and effort in the process of data collection, production or processing.

Amendment II: Is it necessary to violate the law before commercial data scraping avoids or destroys the restrictive measures?

Those who take data as the core factor of production often use algorithm technology and platform rules to collect, store, and process data resources with commercial value formed from users' raw data, so as to become the controller of data. For public data, it has become the main source of low-cost data for competing enterprises. In order to gain an advantage over the competition, data controllers often use anti-crawling techniques or take technical measures to restrict other competitors' access to data. Common restrictions on data scraping include setting up web crawler

protocols, modifying robot protocols, and setting up obstacles for data scraping before setting up login restrictions, traffic restrictions, verification code restrictions, and other technical measures. Data scraping is mostly regarded as unfair competition in the context of existing competition laws and regulations. In the case of *Weibo v. Ant Fang* [16], the court held that the public law of the ant workshop used technical means to destroy or bypass the access rights set by Weibo, and its behavior was non-competitive. In *Tencent v. Si* [17], the court held that the defendant's acquisition of a large amount of data before breaking through IP access restrictions and banning measures was also considered unfair by the court. For example, the only criterion for determining whether data scraping behavior is obstructed or destroyed before technical measures is used as the only criterion for judgment, which to a large extent gives data holders more "absolute" control over the data. It is one-sidedly inclined to protect the rights and interests of data holders and not to increase the acquisition cost of data demanders, which will ultimately affect the development of the digital economy.

In the dispute over improper competition in data capture, the court is also permeated with rational thinking about whether to compete before the restrictive measures foundation, which is an illegal act; [18] Some courts held that restricting scraping harms the public interest and is not conducive to the circulation and sharing of data, which is illegal. [19] From this point of view, the competition and defense of data capture and restriction capture are not only a game of interests at the commercial level, but also a test of the level of legal adjudication. [20] However, the court's determination of restricting data scraping not only damages the authority of the law, but also is not conducive to maintaining the order of data circulation and protecting data interests. Therefore, it is necessary to regulate the data scraping behavior before obstructing or destroying the restrictive measures.

5. SUGGESTIONS FOR OPTIMIZING THE COMPETITION LEGAL SYSTEM OF COMMERCIAL DATA CAPTURE BEHAVIOR OF THE STATE DEPARTMENT FROM THE PERSPECTIVE OF DATA CIRCULATION

From the 2021 "14th Five-Year Plan" digital economy development plan, the development of the digital economy has been comprehensively announced

Bureau; In 2022, the General Office of the State Council issued the overall plan for the pilot comprehensive reform of market-oriented allocation of counter-factors, explored the establishment of rules for the circulation of data elements, established the legislative orientation of balancing data circulation and data protection, and provided goals for the construction of the basic data system of the State Department. Data rights protection and data circulation and sharing are the focus of the competition for the right to speak in data capture cases, and they are also important trade-offs in the legal process. [21] The introduction of Article 13 of the "Special Fund for Data Protection" of the Amendment to the Anti-Unfair Competition Law of the State Department has increased the consideration factors for data improper competition judgment, established the "legal possession" + "before technical management measures" data shall not be illegally captured, and provided an opportunity for the optimization of the system for the competition law system of data scraping. Specifically, the optimization of competition laws and regulations for data scraping behavior is mainly reflected in the following aspects:

Amendment 1 balances data circulation and data protection, and establishes the principle of appropriate regulation of data scraping behavior

In the increasingly fierce development trend of data competition, to implement the regulatory goal of balancing data circulation and data protection, it is necessary to prevent data theft in the name of "data circulation" and be vigilant against data monopoly under the guise of "data protection". Establish reasonable regulatory rules for data scraping behavior, and at the same time regulate the competition before data holders restrict capture measures, not only support the innovation and development of data holders, consider the competitive advantages brought by the subject's investment in data resources for reasonable protection, ensure the reasonable and stable operation of data rights and property rights, but also strengthen anti-monopoly and prevent the disorderly expansion of capital, break the data monopoly, remain open to undeveloped public or raw data, and encourage open competition in data. Provide fairness for the innovation and development of the data industry economy Competitive market environment. The introduction of the special fund for data protection reflects the importance that legislators attach to the protection of data rights and interests, but the implementation of a "one-size-fits-all" approach to protected data does not fully consider the differences in attributes and protection needs of different types of data.

Amendment II: The competition regulations for commercial data scraping are intended to harm the rights and interests of "legally held" data raise

The judgment of improper competition in data scraping behavior should be based on the harm to the lawful protectable rights and interests of data holders

I mention that this is made clear in the Amendment to the Anti-Unfair Competition Law, and it is also considered to promote the formation of a model that combines data protection competition laws and regulations with rights confirmation. According to the legislative goal of balancing data protection and data circulation, the data rights granted to data holders should be limited, and the scope of rights of data holders should be delineated by means of limited enumeration, and data holders should be given limited protection. Protectable data rights and interests involve the legality of data generation, the contribution made by data holders to generate data, and the resulting competitive benefits or competitive advantages, and these data rights and interests should be lawfully held by data holders.

^[8] See: Gumi (Kumike) v. Guang (Che Coming) : (2017) Yue 03 Min Chu No. 822 Civil Judgment; Weibo v. Chuangrui: (2021) Jing 73

Min Zhong No. 1011 Civil Judgment; Weimeng v. Fuyu: (2019) Jing 73 Min Zhong No. 2799 Civil Judgment; Weimeng v. Ant Workshop: (2019) Beijing

73 Min Zhong No. 3789 Civil Judgment; Lianjia v. Tianjin Hut: (2021) Jing 0108 Min Chu No. 9148.

^[9] See: Shanghai Intellectual Property Court Amendment 2016 Hu 73 Min Zhong No. 242 Civil Judgment.

^[10] See: Shanghai Yangpu District People's Court Revision 2021 Hu 0110 Min Chu No. 3349 Civil Judgment.

^[11] See: Binjiang District People's Court of Hangzhou City, Zhejiang Province Revision 2019 Zhejiang 0108 Min Chu No. 5049 Civil Judgment.

^[12] See: Beijing Haidian District People's Court Revision 2017 Jing 0108 Min Chu No. 24512 Civil Judgment.

^[13] Huang Wushuang, Qiu Siyu. Anti-unfair competition laws and regulations for public data capture from the perspective of behavior differentiation[J]. Science and Technology and Law Revision Chinese and English, 2025 Revision 03": 2.

Specifically, for "legal holding", the main consideration is whether the data holder is the legal subject of the data; whether the data has invested in operating costs and provided economic services, including but not limited to collection, storage, orchestration, management, dissemination and other economic activities; paying for maintaining data security; Other derivative use and development of data; whether there is an agreement on the ownership and use of data in the agreement signed with the user; Whether commercial benefits can be obtained and competitive advantages can be obtained as a result.

[22] However, the Regulations did not classify the attributes of data from the supply level and constructed differentiated rules for the competition laws and regulations of data capture behavior, making it difficult to adapt to the diversified competition scenarios in the digital economy. In the implementation of the law, it is still necessary to determine the reasons for the differences in data scraping behavior due to improper competition, and the scraping of data originating from users and data holders that has not been deeply processed and public data should not be subject to competition regulations as long as they do not violate the principles of "legality, competition, necessity, non-excess, and obtaining user consent".

Amendment 3: The competition legal system of commercial data scraping behavior should be based on the requirement of the legality of data scraping measures. Whether the data scraping method is unfairly competitive and whether it avoids or destroys data holding

The technical protection measures set by the data holder should be considered in the judgment whether the restriction measures set by the data holder are reasonable and necessary. Most of the normative provisions restricting data scraping behavior are principled and lack operability. The legality judgment before the restrictive measures can only be discretionary by invoking abstract principles or industry norms, and cannot be directly matched to specific legal rules to accurately determine the restriction of data scraping.

[14] Gao Fuping. Data circulation theory: the basis of data resource rights allocation[J].Chinese and Foreign Law, 2019 Revision 06": 1407-1408

[15] Huang Wushuang, Qiu Siyu. Reflection on the Anti-Unfair Competition Regulatory System of Public Data Capture from the Perspective of Data Circulation[J]. Competition Policy Research, 2025 Revision 03": 42.

[16] See: Beijing Intellectual Property Court (2019) Jing 73 Min Zhong No. 3789 Civil Judgment

[17] See: Hangzhou Railway Transportation Court (2021) Zhejiang 8601 Min Chu No. 309 Civil Judgment

[18] See: Beijing Haidian District People's Court Revision 2017 Jing 0108 Min Chu No. 51904, Beijing Intellectual Property Court Revision 2019 Jing 73 Min Zhong No. 2475, Beijing Intellectual Property Court Revision 2020 Jing 73 Min Zhong No. 3422 Civil Judgment.

[19] See: Beijing Haidian District People's Court Amendment 2021, Jing 0108 Min Chu No. 9148, Hangzhou Yuhang District People's Court Amendment 2021, Zhejiang 0110

Min Chu No. 2914, Guangdong Provincial High People's Court Revision 2022 Yue Min Zhong No. 4541 Civil Judgment.

[20] Sun Jin, Feng Tao. Review of legal and legal judgments on unfair competition disputes such as data capture in the digital age[J].

Application of Law, 2022, (06):116. [21] Sun Jin, Feng Tao. Review of legal and legal judgments on unfair competition disputes such as data capture in the digital age[J]. Application of Law, 2022, (06): 118

[22] Kong Xiangjun. On the construction of the "Special Provisions on Commercial Data" of the Anti-Unfair Competition Law: A method of implementing the top-level design of the central government on the data property rights system

Eastern Methodology, 2022, (05): 18.

The illegality of the act has led to different judgments in similar cases. [23] When judging the improper competition of commercial data scraping, it is necessary to consider whether the restrictive data scraping measures set by the data holder are reasonable and necessary, so as to indirectly determine whether the data holder's holding of the data is legal. Based on the fact that the law does not refine the restriction of scraping behavior, it is recommended to interpret the law and clarify that data holders shall not improperly compete to restrict data scraping behaviors as follows: Amendment 1 fails to assign value to commercial data, illegally sets up technical obstacles to data sharing, and restricts data capture and data circulation; Amendment II: Violating the agreed or reasonable and competitive data capture agreement, restricting other successful parties from scraping data; Amendment 3: Violating industry norms or transaction habits, setting up technical obstacles to data sharing, and restricting other successful people from capturing data; Amendment 4: Others improperly restrict the use of commercial data by other economic entities in a way that violates good faith and business ethics.

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- [3] Tong Yunfeng. Journal of Dalian University of Technology (Social Sciences Edition),2022,43(2):88-97.
- [4] https://www.samr.gov.cn/xw/zj/art/2025/art_0d043840ec9445a689496bc_f30c94820.html,访问日期:2025-11-05.
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- [7] ZHANG Shiming. Political and Legal Commentary, 2024 Revision 4": 26.
- [8] See: Gumi (Kumike) v. Guang (The Car is Coming) :(2017) Yue 03 Min Chu No. 822 Civil Judgment;
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- Book; Lianjia v. Tianjin Hut: (2021) Jing 0108 Min Chu No. 9148.
- [9] See: Shanghai Intellectual Property Court Amendment 2016 Hu 73 Min Zhong No. 242 Civil Judgment.
- [23] Yang Changbiao. Price Theory and Application, 2025 Revision 03: 70
- [10] See: Shanghai Yangpu District People's Court Revision 2021 Hu 0110 Min Chu No. 3349 Civil Judgment.

- [11] See: People's Court of Binjiang District, Hangzhou City, Zhejiang Province Revision 2019 Zhejiang 0108 Min Chu No. 5049 Civil Judgment.
- [12] See: Beijing Haidian District People's Court Revision 2017 Jing 0108 Min Chu No. 24512 Civil Judgment. [13] Huang Wushuang, Qiu Siyu. Anti-Unfair Competition Regulatory System for Public Data Capture from the Perspective of Behavior Distinction[J]. Science and Technology and Law Revised Chinese and English, 2025 Revision 03": 2.
- [14] Gao Fuping. Data Circulation Theory: The Basis of Data Resource Rights Allocation[J]. Chinese and Foreign Law, 2019 Revision 06": 1407-1408.
- [15] HUANG Wushuang, QI Siyu. Reflection on the Anti-Unfair Competition Regulatory System of Public Data Capture from the Perspective of Data Circulation[J]. Competition Policy Research, 2025 Revision 03": 42.
- [16] See: Beijing Intellectual Property Court (2019) Jing 73 Min Zhong No. 3789 Civil Judgment.
- [17] See: Hangzhou Railway Transportation Court (2021) Zhejiang 8601 Min Chu No. 309 Civil Judgment.
- [18] See: Beijing Haidian District People's Court Revision 2017, Beijing 0108 Min Chu No. 51904, Beijing Intellectual Property Court Revision 2019 Jing 73 Min Zhong No. 2475, Beijing Intellectual Property Court Revision 2020 Jing 73 Min Zhong No. 3422 Civil Judgment.
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