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China Update

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Business News

Hong Kong is the Most Expensive Urban Centre for Renting an Office

Hong Kong has overtaken London to become the world's most expensive market for office space, for the first time since 2013. The average cost for operating an office space in Hong Kong has risen 5.5 per cent to US$27,432 per workstation per year at the end of the second quarter, from the same period in 2016.Mainland Chinese companies have been occupying more prime real estate in Hong Kong's Central business district, inclusive of Sheung Wan, Central and Admiralty. They have expanded their footprint over the area's occupancy rate by 6 percentage points from 2013 to 2016, representing a net growth equivalent to 1 million square feet of space, or the size of the entire Cheung Kong Centre building.

Tencent Tops Chinese Leader Board on Global Innovator List

Tencent, being commended for 'honoring content as king' and winning praise for building its hugely popular WeChat mobile messaging app into a leading entertainment platform, finished fourth on "The World's 50 Most Innovative Companies 2018" list published by Fast Company, behind only U.S. high-tech heavyweights Apple Inc., Netflix Inc. and Square Inc. Other Chinese companies that made the list included news aggregator ByteDance at No. 16; online educational services firm VIPKid at 29; and drone giant DJI at 35.

Trade top of agenda as Chinese economic adviser Liu He 'seeks coordination' with US officials

Liu He, director of the Office of the Central Leading Group for Financial and Economic Affairs and Xi Jinping's most trusted economic adviser, will meet US officials in Washington. It signals that Liu will be a key official handling economic relations between China and the US and he is likely candidate to take over as central bank governor when incumbent Zhou Xiaochuan retires following a reshuffle during Beijing's annual legislative session. It is estimated that trade and

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economic issues would be at the top of Liu's agenda, especially with the prospect of Peter Navarro being given more direct influence over US trade policy. During the trip, Liu will not only talk about trade, but also long-term Sino-US cooperation. The two sides will seek coordination on macroeconomic policy as there are uncertainties about a possible US interest rate rise and the stability of the US dollar.

Baidu's Netflix-Style App Marks Bumper Year for China Tech IPOs

Search giant Baidu owns about 70 percent of IQiyi, which as China's most-viewed video service outdoes Alibaba's Youku and Tencent Video. IQiyi's revenues are growing quickly as increasingly affluent users warm to subscription models with monthly fees, instead of platforms that stream free content that earns their money from advertisers. Sales at the company grew 55 percent to 17.4 billion Yuan in 2017. The growing number of paying subscribers -- 50.8 million as of 2017 -- was a positive sign but convincing more users to pay for content will require extensive marketing and heavy discounting. Baidu's Netflix-style video streaming service has filed for a U.S. initial public offering, revealing tremendous growth but also the enormous losses that came from competing against larger Chinese internet rivals Alibaba and Tencent.
IQiyi's prospectus put forward an offering size of $1.5 billion. Its float heralds a spate of highly anticipated debuts this year from the likes of Xiaomi Corp. and Tencent Holdings Ltd.'s music arm. IQiyi was said to be aiming for a public market valuation of as much as $10 billion.

Sharp Drops Complaints Against China's Hisense in U.S.

A legal feud between Hisense and Sharp Corp. has cooled, with Sharp's dropping a lawsuit it filed in the U.S. against Hisense for selling televisions under the Sharp name in North America. The Sharp-Hisense standoff originated from a deal back in 2015, when Hisense spent $23.7 million to purchase Sharp's television factory in Mexico. The deal came with the rights to manufacture and sell televisions using the Sharp name for five years in the Americas except Brazil. But Sharp, which was taken over by Taiwan-based manufacturer Hon Hai Precision Industry in 2016, has been seeking to pull the plug on the Hisense deal. As Hisense continued its Sharp business in North America, the Japanese company filed a complaint with the Superior Court of the State of California in May, accusing its Chinese rival of selling "shoddily manufactured, deceptively advertised" televisions in the Americas under its name. In late September, the U.S. International Trade Commission opened an investigation into Hisense after Sharp complained that the Chinese company was infringing on its patents. The commission said it would set a target date for completing the investigation within 45 days. However, no updates on the investigation have been published.

Daimler in $2 billion China investment with BAIC as Geely swoops

Daimler and its Chinese partner BAIC plan to invest almost $2 billion in a state-of-the-art factory in China, underlining their relationship as rival Geely makes a surprise swoop on the German carmaker. The two will invest more than 11.9 billion Yuan ($1.88 billion) in modernizing a plant to build premium Mercedes-Benz cars including electric vehicles. Meanwhile, the chairman of Chinese carmaker Geely said he had bought an almost 10 percent stake in Daimler, in a $9 billion bet to access the Mercedes-Benz owner's technology. The move poses a challenge to Daimler, which as well as its Chinese partnership with BAIC Motor Corporation has an industrial alliance to develop cars and trucks with Renault-Nissan, which owns a 3.1 percent stake in Daimler. Geely's Chairman Li Shufu, who quietly built up the 9.7 percent stake, is now expected to meet Daimler executives in Stuttgart, and hopes to meet top German government officials in Berlin. Berlin said it saw no need to take any action over Geely's purchase, either in terms of competition rules or of foreign investment rules.

BMW looking at Chinese-made electric MINI

BMW Group said it is talking with China's biggest SUV maker about a possible partnership to produce electric versions of its MINI as automakers ramp up electric development under pressure from Beijing to meet sales quotas. BMW said it signed a letter of intent with Great Wall Motors Co., headquartered in Baoding, southwest of Beijing, and needs to work out a cooperation agreement and investment details. Auto brands face pressure to meet quotas that require electric vehicles to make up at least 10 percent of sales starting next year. Later, they face pressure to raise that to meet increasingly demanding fuel efficiency standards. Beijing is using access to its auto market, the world's largest, as leverage to induce global automakers to help Chinese brands develop battery and other electric vehicle technology. Foreign automakers that want to manufacture in China must do so through local partners, which requires them to hand over know-how or help potential Chinese competitors develop their own. General Motors Co., Volkswagen AG, Nissan Motor Co. and other brands already have announced similar plans with local partners to produce dozens of electric models for China.

China Health Care Sector's Robust Growth to Continue Apace

China's health care sector is expected to continue its robust growth as the industry is benefiting from supportive policies and investors are drawn to surging biotech stocks listed in Hong Kong. Chinese pharmaceutical companies would get a boost from the government regulator's faster approvals of new drugs and medical devices. Last October, China's State Council announced proposals to expedite approvals for new drugs and for the first time permit the use of data from overseas clinical trials. Domestic drugmakers with a large pipeline of medications will be able to bring their new products to market more quickly. Meanwhile, a wave of consolidation in China's fragmented pharmaceutical industry would help those industry leaders to gain market shares. China has been pushing the implementation of a "two invoices" distribution system, designed to streamline medicine distribution channels, lower drug costs and prevent corruption. The new system has encouraged big distributors to increase their market shares through mergers and acquisitions. China has also updated its list of medicines covered by basic medical insurance programs, a boost to those pharmaceutical companies with newly included products.

People.cn, Tencent, Beijing Gehua to Set up Video Venture

People.cn Co., the online portal of official People's Daily, will set up a joint venture with Beijing Gehua CATV Network Co. and a unit of private tech giant Tencent Holdings. The new venture, with registered capital of 75 million yuan ($12 million), will engage in livestreaming and short video services.

China Construction Bank Seen as Pick for BlackRock, Goldman

Goldman Sachs Group Inc. and Morgan Stanley are among at least 16 brokerages that have raised their target prices for China's second-largest bank this year. Institutional investors including BlackRock Inc. and Invesco Ltd. have recently increased their CCB holdings. Among all major Chinese banks, CCB has been the one delivering good results time after time. Shares of China's four biggest banks have rebounded since late 2017 as economic growth accelerated and investors bet they will cope better than their smaller rivals with the government's crackdown on excessive debt. CCB's financials are trending the best, thanks to its strong deposit franchise, widening loan spreads, conservative handling of bad debts and higher capital ratios.

Flush with Cash, China's Electric Car-makers Swing into Fast Lane

Dozens of startup electric-vehicle manufacturers are benefiting from an investor gold rush spurred by government support for the domestic auto industry and new-energy transportation. Among the estimated 20 electric-vehicle startups that have launched since 2014, the first 10 out of the gate have reportedly secured investments totaling more than 50 billion Yuan ($7.9 billion). One of the most prominent startups is Nio, an automaker backed by the social media company Tencent Holdings Ltd. that raised about 15 billion Yuan in the course of five rounds of fundraising. Nio partnered with state-owned Anhui Jianghuai Automobile, also known as JAC, to introduce its ES8 model last year. Other internet players including search engine Baidu Inc. and the e-commerce company Alibaba Group Holding Ltd. have also raised money for electric-vehicle ventures. Baidu led a fundraising round in December for WM Motor, while Alibaba has gotten behind an electric vehicle-maker called Xpeng. Now that they've secured funding, it appears China's electric-vehicle startups are ready to compete against foreign automakers.

Chinese Investors Silent on Thwarted Bid to Buy Chicago Stock Exchange

A Chinese consortium, which was vying to take over Chicago Stock Exchange, is yet to respond after U.S. regulators rejected the deal, saying the transaction violated rules governing exchanges. The decision is the latest in a series of moves to block Chinese acquisitions of American assets. The U.S. Securities and Exchange Commission (SEC) in a document saying the exchange has failed to resolve concerns on "whether the proposed ownership structure will allow the Commission to exercise sufficient oversight of the Exchange." SEC's ruling ended a two-year attempt by the investor group to take over the Chicago Stock Exchange, which trade less about 1% of U.S. equities. The ambitious deal wanted to transform this small exchange into an international listing venue by wooing Chinese companies looking to access U.S. capital markets. Chicago Stocks Exchange has expressed its disappointment with the decision. But the Chinese investor group is yet to respond to the decision. Though the SEC didn't cite any security concerns linked to the Chinese investment, the deal was a sensitive one that had led to widespread political opposition since it was proposed in early 2016.

Swiss Watch Exports Are Booming, Thanks to Asia

Swiss watch exports kicked off 2018 with the strongest growth in more than five years, buoyed by strong demand for high-end timepieces in Asia and a later Chinese New Year. Shipments rose 13 percent to 1.6 billion francs ($1.7 billion) in January, the Federation of the Swiss Watch Industry. That's the biggest jump since October 2012 and the ninth consecutive month of gains. The January numbers follow the first annual gain since 2014. Exports were lifted by orders for Lunar New Year, which occurred a month later this year than in 2017. A rekindled appetite for luxury timepieces in China and Hong have led a rebound from the longest slump on record, which was caused by a Chinese crackdown on corruption, terrorist attacks in Europe and the rise of the smartwatch.

U.S. Sanctions Nine Chinese Firms for North Korea Ties

The U.S. Department of the Treasury announced its largest North Korea-related sanctions package, including nine Chinese firms, according to an announcement on its website. The U.S. Treasury has sanctioned 27 entities, 28 vessels and one individual, aiming to disrupt North Korean shipping and trading companies, which are seen as tools used by the regime to push forward its nuclear and ballistic missile programs. The nine Chinese firms sanctioned include two on the Chinese mainland, namely the Shandong province-based Weihai World-Shipping Freight Agency Co. Ltd., and the Shanghai-based Shanghai DongfengShipping Co. Ltd. Also included were five companies based in Hong Kong, namely Liberty Shipping Co. Ltd., Chang An Shipping & Technology Ltd., Hongxiang Marine (Hong Kong) Ltd., Shen Zhong International Shipping Ltd., and Huaxin Shipping (HongKong) Ltd.; as well as two based in Taiwan, namely Pro-Gain Group Corp., and Kingly Won International Co. Ltd. As a result of the sanctions, any property or interests in property of the designated persons in the possession or control of U.S. persons or those within the U.S. must be blocked, and U.S. persons are prohibited from dealing with any of the designated parties.

China Approves First License of Personal Credit Scoring

China's central bank granted a business license to Baihang Credit Scoring to provide personal credit information services. Baihang, a personal credit reference firm, is China's first national platform offering this service. With registered capital of 1 billion yuan ($150 million), Shenzhen-based Baihang was jointly founded by eight private credit agencies, including Tencent Credit, Alibaba-backed Zhima Credit, and the National Internet Finance Association of China, the last being the largest shareholder with a 36% stake.

Fosun Bid for Italian Lingerie-Maker Unravels

The lost deal for lingerie-maker La Perla marks a setback for Fosun, one of China’s leading private equity investors, in its bid to build up a fashion unit. A Dutch company has agreed to buy Italian high-end lingerie-maker La Perla, the pair announced, after earlier exclusive talks to sell the company to Chinese conglomerate Fosun Group collapsed. Financial details of the sale to Sapinda Holdings B.V. weren’t disclosed in a press release announcing the deal. The sale marked a setback for Fosun in its bid to build up a fashion unit to complement its older string of global purchases in the financial, pharmaceutical and entertainment sectors.

Legal News

Administrative and Constitutional Law

Proposed constitutional amendment package unveiled

The Communist Party of China Central Committee made public its proposal on amendment to China's Constitution. Highlights in the proposed constitutional amendment package include: 1) Addition of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era and the Scientific Outlook on Development; 2) Inclusion of "working to build a community with a shared future for humanity”; 3) Adding a sentence which stipulates that "the leadership of the Communist Party of China is the defining feature of socialism with Chinese characteristics"; 4) Inclusion of core socialist values; 5) Adding a clause which states that all state functionaries shall take a public oath of allegiance to the Constitution upon assuming office; 6) Removing the expression that the President and Vice-President of the People's Republic of China "shall serve no more than two consecutive terms" from the Constitution; 7) Listing supervisory commission as a new state organ.

China’s new super graft-buster will outrank courts and prosecutors

On 25 February 2018, the Communist Party’s proposed constitutional revisions was announced. It not only scraps limit on presidential term, but also reveals for the first time the status of a new agency – the National Supervisory Commission. The new agency is a combination of anti-graft watchdog and government departments against corruption. In accordance with the revealed document, the new agency will be listed along with the country's administrative, judicial and procuratorial bodies – all of which are appointed by the people's congresses to which they are responsible and by which they are supervised. All supervisory commissions will be accountable to the next level up and the local legislature. They will outrank courts and prosecutors, independently exercise their supervisory powers and not be subject to interference by any administrative body, public organization or individual.

Intellectual Property

Opinions on Several Issues of Strengthening Reform and Innovation in the Field of Intellectual Property Trial

Recently, Opinions on Several Issues of Strengthening Reform and Innovation in the Field of Intellectual Property Trial was issued by the General Office of the CPC Central Committee and the General Office of the State Council. The main points of the Opinions include: improving IP litigation system, such as establishing litigation evidence rules that meets the IP case characteristics; establishing infringement damage compensation system that reflects the IP value; promoting the reform of judging method that fulfills rules of IP litigation; strengthening IP court system construction, such as establishing and improving IP specialized judge system; exploring cross-area IP case trial offsite hearing mechanism; improving IP court's talents, finance and property ensurance; enhancing IP trial team's construction, such as increasing the intensity of training and selecting IP talents; strengthening the team construction of technical investigator; strengthening the organization lead, such as strengthening the organization's implementation; improving the work ensurance; improving the relevant laws and regulations.

Counterfeiters of popular TCM remedy detained

Shanghai's food and drug watchdog and the municipal police recently cracked a major case of producing and selling counterfeit ejiao, a gelatin made of donkey hides, while falsely using a famous brand name. Altogether 36 suspects from Shanghai and the provinces of Henan and Guangdong were detained in the case, and more than 8,000 bootleg products worth 40 million Yuan ($6.3 million) were confiscated. The counterfeit goods were fakes of those made by Shandong province-based Dong'e Ejiao Co, the country's top maker of a signature traditional Chinese medicine product. They were actually made with ox hide and edible gelatin. Official tests showed that the bogus goods did not pose a health risk to humans.

Court Sanctions Transformation of Registered Trademark into Infringing Trademark

In 2013 world-renowned innovative technology company 3M registered the trademark 3M in Class 11 for water filter and purification devices. The 3M mark had been used in China for a long time and was already known among the relevant public. On 1 July 2013 Qingyu Mao filed an application for the trademark "了 M" – comprising a Chinese character of '了' (which is pronounced 'liao' or 'le') and the letter 'M' – in Class 11 for the same goods, including water purification equipment and machines. The trademark was registered on 14 January 2015. On 2 April 2015 Mao established the company Zhongshan San En Meng Electronic Appliance Co, Ltd and authorised it to use its registered trademark. However, in practice, the '了' element had been subtly modified into a image similar to "3". The mark was now visually extremely similar to the 3M mark. 3M filed a civil suit against both Mao and San En Meng before the Zhongshan Intermediate Court, seeking cessation of the infringement and damages. The court ruled in favour of 3M and held that the registered trademark 了 M comprised the Chinese character '了' and the uppercase letter 'M', while the disputed trademark was a combination of the Arabic numeral '3' with the letter 'M'. The pronunciation and meaning of the two marks were clearly different. The modified mark was not merely a nuance, as the distinctive features of "丁 M" had been changed. Thus, its use did not constitute standard use of a registered trademark; given the strong distinctiveness of the 3M mark and the reputation of 3M products among the relevant public, the disputed mark constituted trademark infringement; and the "丁 M" trademark owner, Mao, and San En Meng, which was established to conduct the industrial activity, were jointly liable. 3M had submitted notarised websites and recordings to the court, proving that Mao and San En Meng were both aware of the 3M mark's high reputation in the water purification industry, and that Mao was aware that San En Meng had transformed his "丁 M" mark into the infringing mark. On 30 October 2017, the court ruled that Mao and San En Meng must bear joint and several liability for the compensation of RMB￥3 million.

Under Armour Successfully Ends Copying by Uncle Martian

Under Armour has won a major victory against the Chinese sportswear company Fujian Ting Fei Long Sports Products Co Ltd, which had used confusingly similar logos to Under Armour for its Uncle Martian branded sports footwear. The People's Higher Court of China's Fujian Province ruled in favour of Under Armour, finding that Ting Fei Long's acts constituted trademark infringement and unfair competition, and awarded the plaintiff RMB￥2 million (approximately US$300,000). This case is also important because of the preliminary injunction awarded before the matter was tried in full.

<u>Privacy</u>

China Issues New Data Protection Standard

Recently, it is reported that the National Information Security Standardization Technical Committee issued a national standard titled as Information Security Technology - Personal Information Security Specification (GB/T35273-2017, the Specification) on December 29, 2017. The Specification specifies the collection, storage, use, deletion, as well as handling of the personal information. The Specification defines "personal information" as various items of information that can identify certain natural person's identification or reflect certain natural person's activity, whether individually or combining with other information, in electronic or other format. It also brings up the definition of "personal sensitive information" therein, which means personal information that may endanger personal and property safety and are easily resulting in damage to personal reputation, physical and mental impairment or discrimination treatment and so on, once it is disclosed, illegally provided or abused.

<u>Customs and Trade</u>

U.S. Launches Fourth Anti-dumping Investigation against China in 2018

America's Department of Commerce (Commerce) announced the initiation of anti-dumping duties (AD) and countervailing duties (CVD) investigations of imports of rubber bands from China. According to the announcement, the investigation was petitioned by Alliance Rubber Company, involving three countries including China, Thailand and Sri Lanka. The U.S. International Trade Commission (ITC) is scheduled to make its preliminary injury determinations on or before 16 March 2018. Based on relevant regulations, if ITC determines that there is a reasonable indication that imports of rubber bands from the four countries materially injured or threaten material injury to domestic industry in the U.S., the investigations will continue, while the Commerce will be scheduled to announce its preliminary CVD determinations in April and its preliminary AD determinations in July. Statistics from the Commerce shows that imports of rubber bands from China were valued at an estimated $4.5 million, the highest among all three investigated countries. China's Ministry of Commerce issued a notification of U.S. Commerce's decision on its official website, without revealing China's further moves regarding the investigation.

<u>Competition</u>

MOFCOM Publishes Three Penalty Decisions for Failure to Notify

On 6 February 2018, the Ministry of Commerce (MOFCOM) published two penalty decisions for failure to notify, which followed another such decision on 31 January. In the first decision, MOFCOM found that Grand Baoxin Auto Group Limited and Beijing Yan Bao Auto Service Co., Ltd. did not notify their joint acquisition of a Chinese auto components wholesaler and proceeded to register the change of shareholding in the target and revise the target's board composition. The second decision involved the failure of Yihai Kerry Investments Co., Ltd. and Korean company CJ. In the third decision, Shandong Sun Holding Group Co., Ltd. failed to notify its acquisition of sole control of three joint ventures in which it previously held 45 per cent stakes respectively. The level of fines is still very low. In these three recent decisions, they ranged from RMB150,000 (approximately £17,000) to RMB300,000 (approximately £34,000). MOFCOM imposed a higher fine on each of Baoxin, Yan Bao and Shandong Sun because it was evident they were aware of their obligation to notify their transaction but nevertheless intentionally chose to implement without doing so: Baoxin had previously submitted merger filings to MOFCOM several times and Shandong Sun did submit a notification but this was rejected by MOFCOM for failing to comply with legal requirements. Shandong Sun subsequently re-filed but only after completion had already taken place. This is clearly an area of active enforcement by MOFCOM.

<u>Arbitration</u>

SCIA and SAC Arbitration Institutions Merge to Form New Arbitration Centre in Shenzhen

On 8 January 2018, the South China International Economic and Trade Arbitration Commission, also known as the Shenzhen Court of International Arbitration and the Shenzhen Arbitration Commission announced that they have merged to form one arbitration institution known as the "Shenzhen Court of International Arbitration (Shenzhen Arbitration Commission)" (SCIA-SAC). The merger took effect 25 December 2017. It is the first time that two international arbitration centres have merged in China. The SCIA-SAC merger reflects the institutions' joint ambition to become a leading international arbitration centre, and their common goal of facilitating Chinese outbound investment.