

SPC Guiding Case No. 263: [X] Network Information Technology Co., Ltd. v. [X] Information Technology Co., Ltd. (Unfair Competition Dispute)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Keywords

Civil / unfair competition / data / linked account services / user authorization

Holding

Where a network platform provides users with linked account services and, upon user authorization, transfers the data obtained from the linked network platforms, thereby facilitating the user's processing of such data within a reasonable scope, and this does not disrupt the market competition order, it does not constitute an act of unfair competition.

Basic Facts

[X] Network Information Technology Co., Ltd. (“[X] Network Company”) operated Website A, providing job seekers with job and career development opportunities. Individual members could set control permissions when filling in their resumes, allowing recruiting enterprise users to search their resumes or prohibiting anyone, including recruiting enterprise users, from searching them. After recruiting enterprise users posted job openings on Website A, job seekers could search for positions through their individual member accounts and proactively submit resumes to the target positions. In addition, Website A also provided recruiting enterprise users with a paid resume search service, whereby after purchasing the service, recruiting enterprise users could enter Website A's database to search for resumes that job seekers allowed to be searched. Resumes obtained by recruiting enterprise users through the above two methods of receiving submissions and proactive searching could be viewed and downloaded within the member account or sent to a designated email address. Users logging into Website A were required to enter an image-character verification code.

[X] Information Technology Co., Ltd. (“[X] Information Company”) operated Website B, mainly providing resume management, recruitment management, big data services, and the like. Website B had a “link external website accounts” function, facilitating recruiting enterprise users in centrally processing resumes obtained from Website A and other websites. Recruiting enterprise users using this function needed special authorization; by entering their account and password for Website A and other websites, they could automatically log into the linked websites and could choose on their own whether to synchronize and obtain resumes into Website B's recruitment management process or resume database.

[X] Network Company discovered that the personal resumes obtained by recruiting enterprise users on Website A through the two methods of receiving submissions and proactive search download could be searched on Website B after using the “link external website accounts” function. In response, [X] Information Company asserted that recruiting enterprise users, after using the “link external website accounts” function, could only synchronize resumes into their own accounts on Website B, and that other users could not search for them in Website B's aggregated resume database. With respect to the above situation, [X] Network Company and [X] Information Company respectively fixed the relevant evidence by notarization.

On November 23, 2017, [X] Network Company brought a lawsuit over an unfair competition dispute, alleging that [X] Information Company's provision of linked account services, using recruiting enterprise users' accounts and passwords and circumventing the identity verification code mechanism to automatically access Website A's system and obtain, save, and use the resume data in issue, constituted an act of unfair competition, and requesting the court to order [X] Information Company to cease the unfair competition, eliminate the impact, and compensate for economic losses of RMB 5 million.

Judgment

The Yangpu District People's Court of Shanghai rendered the civil judgment (2017) Hu 0110 Min Chu No. 25167 on May 17, 2019, dismissing [X] Network Company's claims. After the judgment was pronounced, [X] Network Company appealed. The Shanghai Intellectual Property Court rendered the civil judgment (2019) Hu 73 Min Zhong No. 263 on October 13, 2020: the appeal was dismissed and the original judgment was affirmed.

Reasoning

The focus of dispute in this case was whether [X] Information Company's provision of linked account services and its obtaining, saving, and use of the resume data in issue constituted an act of unfair competition.

First, linked account services are a relatively common service model in cyberspace. Specifically, linked account services achieve the purpose of sharing data, permissions, or functions by binding a user's multiple accounts on different network platforms, so as to provide a more convenient use experience. For example, there are currently many information publication platforms in the online recruitment service market, and recruiting enterprises, in order to obtain more talent resource information, generally register simultaneously as enterprise users of multiple recruitment websites. In order to facilitate recruiting enterprise users in simultaneously managing the job-seeking information dispersed across different platforms, some operators use website linking technology to aggregate data from different platforms, facilitating recruiting enterprise users in linking to their accounts on the original platforms through their websites and thereby aggregating information for "one-stop" processing. As another example, the linked account function is also widely used in the field of email. On the premise of not infringing data security, personal information, or the public interest, network users' use of the linked account function to transfer the data they hold between different network platforms is a lawful and legitimate act.

Second, [X] Information Company's provision of linked account services was legitimate. [X] Network Company made substantial investment in and contribution to the data collected and generated by Website A, and enjoyed rights and interests protected by law, but could not obstruct recruiting enterprise users from reasonably processing, including transferring, the collected data. Accordingly, the relevant recruiting enterprise users could transfer the resume data collected through means such as paying consideration or accepting job seekers' submissions, including transfer through linked accounts. Moreover, the linked accounts in issue did not exceed job seekers' expectations regarding the scope of processing of personal information. Recruiting enterprise users, after using the "link external website accounts" function, could only synchronize resumes into their own accounts on Website B; job seekers' information could not be searched in Website B's aggregated resume database, and there was no infringement of job seekers' lawful rights and interests.

Third, [X] Information Company's obtaining, saving, and use of Website A's resume data upon user authorization did not constitute an act of unfair competition. First, the linked account services provided by [X] Information Company required recruiting enterprise users to choose on their own whether to link accounts and whether to automatically synchronize or save resumes, and to enter on their own their account and password for Website A and other websites. The realization of the linked account function services was entirely based on the user's own will and required the user to perform the corresponding operations on their

own. Second, as verified by the technical investigator, [X] Information Company's setting of a program to read the verification code was a technical means used to realize the linked account function, facilitating users' login to the website without separate verification after linking accounts, and did not constitute the act of "obstructing or undermining the normal operation of network products or services lawfully provided by other operators" under the Anti-Unfair Competition Law of the People's Republic of China. Third, recruiting enterprise users' use of Website B's linked account service and choice to synchronize resumes would cause the resumes obtained on Website A to be downloaded to Website B's servers, which was the inevitable result of the realization of the linked account function. At the same time, resumes synchronized to Website B could only be searched and viewed in the recruiting enterprise users' own accounts, and could not be obtained by others on Website B. Therefore, the acts of obtaining and saving the data in issue also did not constitute unfair competition.

In summary, [X] Information Company's acts in issue did not disrupt the market competition order, nor did they damage the lawful rights and interests of other operators or consumers, and did not constitute an act of unfair competition.

Relevant Legal Provisions

Article 2 of the Anti-Unfair Competition Law of the People's Republic of China.

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