|  |  |  |
| --- | --- | --- |
| 发文机关  Promulgator | ：  : | 全国人民代表大会常务委员会  The Standing Committee of the National People's Congress |
| 发布日期  Date of Issue | ：  : | 2019.04.23  2019.04.23 |
| 生效日期  Effective Date | ：  : | 2019.04.23  2019.04.23 |
| 时效性  Effectiveness | ：  : | 现行有效  Current |

# 中华人民共和国反不正当竞争法（2019修正）

# Anti-Unfair Competition Law of the People's Republic of China (Amended in 2019)

中华人民共和国反不正当竞争法

Anti-unfair Competition Law of the People's Republic of China

（1993年9月2日第八届全国人民代表大会常务委员会第三次会议通过　2017年11月4日第十二届全国人民代表大会常务委员会第三十次会议修订　根据2019年4月23日第十三届全国人民代表大会常务委员会第十次会议《关于修改〈中华人民共和国建筑法〉等八部法律的决定》修正）

(Adopted at the 3rd session of the Standing Committee of the 8th National People's Congress on September 2, 1993; revised at the 30th session of the Standing Committee of the 12th National People's Congress on November 4, 2017; and revised according to the Decision on Revising Eight Laws including the Construction Law of the People's Republic of China adopted at the 10th session of the Standing Committee of the 13th National People's Congress on April 23, 2019)

第一章 总 则

Chapter 1 General Provisions

第一条   为了促进社会主义市场经济健康发展，鼓励和保护公平竞争，制止不正当竞争行为，保护经营者和消费者的合法权益，制定本法。

Article 1 This Law is formulated for the purposes of promoting healthy development of socialist market economy, encouraging and protecting fair competition, curbing unfair competition, and protecting the legitimate rights and interests of business operators and consumers.

第二条   经营者在生产经营活动中，应当遵循自愿、平等、公平、诚信的原则，遵守法律和商业道德。

Article 2 Business operators shall follow the principles of voluntariness, equality, fairness, and good faith, abide by laws and observe laws and business ethics in carrying out production or business activities.

本法所称的不正当竞争行为，是指经营者在生产经营活动中，违反本法规定，扰乱市场竞争秩序，损害其他经营者或者消费者的合法权益的行为。

For the purpose of the Law, unfair competition refers to any business operator's act of participating in the production and operation activities in violation of the provisions herein to disrupt the competition order in the market and infringe the legitimate rights and interests of other business operators or consumers.

本法所称的经营者，是指从事商品生产、经营或者提供服务（以下所称商品包括服务）的自然人、法人和非法人组织。

For the purpose of this Law, a business operator refers to a natural or legal person or any other unincorporated association engaged in the manufacturing or trading of commodities or providing services ("commodities" referred to hereinafter include services).

第三条   各级人民政府应当采取措施，制止不正当竞争行为，为公平竞争创造良好的环境和条件。

Article 3 People's governments at various levels shall take measures to prevent acts of unfair competition and create favorable environment and conditions for fair competition.

国务院建立反不正当竞争工作协调机制，研究决定反不正当竞争重大政策，协调处理维护市场竞争秩序的重大问题。

The State Council shall establish an anti-unfair competition work coordination mechanism, study and decide on major anti-unfair competition policies, and coordinate and handle major issues to maintain the market competition order.

第四条   县级以上人民政府履行工商行政管理职责的部门对不正当竞争行为进行查处；法律、行政法规规定由其他部门查处的，依照其规定。

Article 4 The department responsible for administration for industry and commerce under a people's government at or above the county level or above shall investigate and deal with acts of unfair competition. Where laws or administrative regulations provide that such acts shall be investigated and handled by another department, those provisions shall apply.

第五条   国家鼓励、支持和保护一切组织和个人对不正当竞争行为进行社会监督。

Article 5 The State encourages, supports and protects all organizations and individuals in the exercise of social supervision over unfair competition acts.

国家机关及其工作人员不得支持、包庇不正当竞争行为。

State organs and their staff members shall not support or cover up acts of unfair competition.

行业组织应当加强行业自律，引导、规范会员依法竞争，维护市场竞争秩序。

Industry organizations shall strengthen industry self-regulation, guide and regulate their members to compete according to the law, and maintain the competition order in the market.

第二章 不正当竞争行为

Chapter 2 Acts of Unfair Competition

第六条   经营者不得实施下列混淆行为，引人误认为是他人商品或者与他人存在特定联系：

Article 6 A business operator shall not perform any of the following confusing acts that will enable people to mistake its products for another business's products or believe certain relations exist between its products and any business's products,

（一）擅自使用与他人有一定影响的商品名称、包装、装潢等相同或者近似的标识；

1. unauthorized use of a mark that is identical or similar to the name, packaging or decoration of another business's commodity, which has influence to a certain extent,

（二）擅自使用他人有一定影响的企业名称（包括简称、字号等）、社会组织名称（包括简称等）、姓名（包括笔名、艺名、译名等）；

2. unauthorized use of another business's corporate name (including its shortened name, trade name, etc.), the name of a social group (including its shortened name, etc.), or the name of an individual (including his or her pen name, stage name, translated name, etc.), which has influence to a certain extent;

（三）擅自使用他人有一定影响的域名主体部分、网站名称、网页等；

(III) unauthorized use of the main domain name, website name or webpage, etc. which has influence to a certain extent; and

（四）其他足以引人误认为是他人商品或者与他人存在特定联系的混淆行为。

(IV) other confusing acts that are sufficient to enable people to mistake its products for another business's products or believe certain relations exist between its products and any business's products.

第七条   经营者不得采用财物或者其他手段贿赂下列单位或者个人，以谋取交易机会或者竞争优势：

Article 7 A business operator shall not resort to bribery, by offering money or goods or by any other means, to any of the following entities or individuals, in order to seek a transaction opportunity or competitive advantage,

（一）交易相对方的工作人员；

1. employees of the counterparty to a transaction;

（二）受交易相对方委托办理相关事务的单位或者个人；

2. any entity or individual entrusted by the counterparty in a transaction to handle relevant affairs; or

（三）利用职权或者影响力影响交易的单位或者个人。

3. any entity or individual that is to take advantage of powers or influence to influence a transaction.

经营者在交易活动中，可以以明示方式向交易相对方支付折扣，或者向中间人支付佣金。经营者向交易相对方支付折扣、向中间人支付佣金的，应当如实入账。接受折扣、佣金的经营者也应当如实入账。

A business operator may expressly allow a discount to the counterparty or pay a commission to the middleman of a transaction in the course of transaction activities. Where a business operator gives a discount to the transaction counterparty or pays a commission to the middleman, it shall truthfully enter it in its account books. A business operator that accepts such discount or commission shall also enter it in its account books.

经营者的工作人员进行贿赂的，应当认定为经营者的行为；但是，经营者有证据证明该工作人员的行为与为经营者谋取交易机会或者竞争优势无关的除外。

The bribery committed by an employee of a business operator shall be deemed as the practice by the business operator itself, unless otherwise proven by the business operator with evidence that such bribery is not related to efforts of seeking a transaction opportunity or competitive advantage for the business operator.

第八条   经营者不得对其商品的性能、功能、质量、销售状况、用户评价、曾获荣誉等作虚假或者引人误解的商业宣传，欺骗、误导消费者。

Article 8 A business operator shall not effect commercial promotions for the performance, function, quality, sales status, user evaluation, honor received concerning its commodities in a false or misleading manner, attempting to cheat or mislead consumers.

经营者不得通过组织虚假交易等方式，帮助其他经营者进行虚假或者引人误解的商业宣传。

A business operator shall not help any other business operator effect commercial promotions in a false or misleading manner by organizing false transactions or any other means.

第九条   经营者不得实施下列侵犯商业秘密的行为：

Article 9 A business operator shall not engage in any of the following infringements of commercial secrets:

（一）以盗窃、贿赂、欺诈、胁迫、电子侵入或者其他不正当手段获取权利人的商业秘密；

1. obtaining an obligee's trade secrets by theft, bribery, fraud, intimidation, electronic intrusion or other improper means;

（二）披露、使用或者允许他人使用以前项手段获取的权利人的商业秘密；

(II) disclosing, using, or allowing others to use the trade secrets obtained from the obligee by the means mentioned in the preceding paragraph; or

（三）违反保密义务或者违反权利人有关保守商业秘密的要求，披露、使用或者允许他人使用其所掌握的商业秘密；

(III) in violation of the obligation of confidentiality or against the obligee's demand for keeping trade secrets, disclosing, using or allowing another person to use the trade secrets he possesses; or

（四）教唆、引诱、帮助他人违反保密义务或者违反权利人有关保守商业秘密的要求，获取、披露、使用或者允许他人使用权利人的商业秘密。

(IV) Instigating, inducing or helping any other person to violate the confidentiality obligation or the requirements of the owner of commercial secrets to obtain, disclose, use or permit any other person to use the owner's commercial secrets.

经营者以外的其他自然人、法人和非法人组织实施前款所列违法行为的，视为侵犯商业秘密。

Any natural person, legal person or unincorporated association other than the operator commits any of the illegal acts listed in the preceding paragraph shall be deemed as infringing upon trade secrets.

第三人明知或者应知商业秘密权利人的员工、前员工或者其他单位、个人实施本条第一款所列违法行为，仍获取、披露、使用或者允许他人使用该商业秘密的，视为侵犯商业秘密。

Where a third party knows or should know of the fact that the obligee's employee or former employee or any other entity or individual conducts any of the illegal acts specified in Paragraph 1 of this Article, but still obtains, discloses, uses or allows any other to use such trade secret, such practice shall be deemed as infringement upon the trade secret.

本法所称的商业秘密，是指不为公众所知悉、具有商业价值并经权利人采取相应保密措施的技术信息、经营信息等商业信息。

For the purpose of this Law, a trade secret refers to any technical information, operation information and other trade information that is not known to the public and has commercial value, and for which the obligee thereof has adopted corresponding confidentiality measures.

第十条   经营者进行有奖销售不得存在下列情形：

Article 10 The prize-attached sale activities of a business operator shall not involve the following situations:

（一）所设奖的种类、兑奖条件、奖金金额或者奖品等有奖销售信息不明确，影响兑奖；

1. prize-giving sales information such as the prize type, terms for claiming prizes, the amounts of cash or the goods as prizes, etc. is unclear, which affects claiming of prizes;

（二）采用谎称有奖或者故意让内定人员中奖的欺骗方式进行有奖销售；

(II) lottery-attached sale conducted by such deceptive means as falsely declaring prize or intentionally making a person designated inside win the prize;

（三）抽奖式的有奖销售，最高奖的金额超过五万元。

3. making sales with prizes attached in the form of a lucky draw where the amount of the highest prize exceeds 50,000 yuan.

第十一条   经营者不得编造、传播虚假信息或者误导性信息，损害竞争对手的商业信誉、商品声誉。

Article 11 A business operator shall not fabricate or disseminate any false or misleading information to injure the credit standing of its competitors or the reputation of its competitors' commodities.

第十二条   经营者利用网络从事生产经营活动，应当遵守本法的各项规定。

Article 12 Business operators that engage in production and business activities by making use of the network shall abide by all the provisions herein.

经营者不得利用技术手段，通过影响用户选择或者其他方式，实施下列妨碍、破坏其他经营者合法提供的网络产品或者服务正常运行的行为：

A business operator shall not perform any of the following acts by taking advantage of technical means to influence users' choices or otherwise to impede or disrupt the normal operation of network products or services legally provided by another business operator:

（一）未经其他经营者同意，在其合法提供的网络产品或者服务中，插入链接、强制进行目标跳转；

1. inserting a link into a network product or service legally provided by another operator to compel a destination jump without the consent of such other operator;

（二）误导、欺骗、强迫用户修改、关闭、卸载其他经营者合法提供的网络产品或者服务；

(II) misleading, deceiving or compelling users into modifying, closing, or uninstalling a network product or service legally provided by another business operator;

（三）恶意对其他经营者合法提供的网络产品或者服务实施不兼容；

3. implementing in bad faith an incompatibility with a network product or service legally provided by another business operator; or

（四）其他妨碍、破坏其他经营者合法提供的网络产品或者服务正常运行的行为。

(IV) other acts that impede or disrupt the normal operation of network products or services legally provided by another business operator.

第三章 对涉嫌不正当竞争行为的调查

Chapter 3 Investigation into Suspected Unfair Competition Acts

第十三条   监督检查部门调查涉嫌不正当竞争行为，可以采取下列措施：

Article 13 The supervision and inspection authorities may take any of the following measures to investigate suspected unfair competition conduct,

（一）进入涉嫌不正当竞争行为的经营场所进行检查；

1. accessing the business premises involved in a suspected unfair competition act for inspection;

（二）询问被调查的经营者、利害关系人及其他有关单位、个人，要求其说明有关情况或者提供与被调查行为有关的其他资料；

(II) questioning the business operators under investigation, any interested party, or any other related entity or individual, and requiring them to explain relevant situations or provide other materials in relation to the investigated act;

（三）查询、复制与涉嫌不正当竞争行为有关的协议、账簿、单据、文件、记录、业务函电和其他资料；

3. inquiring into and copying the agreements, account books, invoices, documents, records, business letters and telegrams or other materials related to a suspected unfair competition act; and

（四）查封、扣押与涉嫌不正当竞争行为有关的财物；

(IV) sealing up and/or detaining the property involved in a suspected unfair competition act; and

（五）查询涉嫌不正当竞争行为的经营者的银行账户。

(V) inquiring into the bank account of a business operator that is suspected of an unfair competition act.

采取前款规定的措施，应当向监督检查部门主要负责人书面报告，并经批准。采取前款第四项、第五项规定的措施，应当向设区的市级以上人民政府监督检查部门主要负责人书面报告，并经批准。

Before any measure specified in the preceding paragraph is adopted, a written report shall be submitted to the principal of the supervision and inspection authority for his or her approval. Where the measure specified in Item 4 or Item 5 of the preceding paragraph is to be adopted, a written report shall be submitted to the principal of the supervision and inspection authority under the people's government at or above the level of a city with districts for his or her approval.

监督检查部门调查涉嫌不正当竞争行为，应当遵守《中华人民共和国行政强制法》和其他有关法律、行政法规的规定，并应当将查处结果及时向社会公开。

The supervision and inspection authorities shall abide by the Administrative Coercion Law of the People's Republic of China and other applicable laws and administrative regulations while investigating into suspected unfair competition conduct, and promptly disclose the investigation and punishment results to the public.

第十四条   监督检查部门调查涉嫌不正当竞争行为，被调查的经营者、利害关系人及其他有关单位、个人应当如实提供有关资料或者情况。

Article 14 The business operators under investigation, interested parties, and other related entities or individuals, shall truthfully provide the relevant materials or information when the supervision and inspection authorities are investigating into suspected unfair competition conduct.

第十五条   监督检查部门及其工作人员对调查过程中知悉的商业秘密负有保密义务。

Article 15 The supervision and inspection authorities and their staff members are obliged to keep confidential any trade secrets accessed during investigations.

第十六条   对涉嫌不正当竞争行为，任何单位和个人有权向监督检查部门举报，监督检查部门接到举报后应当依法及时处理。

Article 16 Any entity or individual shall have the right to report any suspected unfair competition acts to the supervision and inspection authority. The supervision and inspection authority shall promptly deal with such reports according to the law upon receipt of such reports.

监督检查部门应当向社会公开受理举报的电话、信箱或者电子邮件地址，并为举报人保密。对实名举报并提供相关事实和证据的，监督检查部门应当将处理结果告知举报人。

The supervision and inspection authorities shall make available to the public the phone number, mailing address or email address for such reports and keep the identity of the whistleblower confidential. For a real-name whistleblower who has provided relevant facts and evidence, the supervision and inspection authorities shall inform his/her of the handling results.

第四章 法律责任

Chapter 4 Legal Liabilities

第十七条   经营者违反本法规定，给他人造成损害的，应当依法承担民事责任。

Article 17 A business operator that violates this Law and thus causes damage to others shall bear civil liability for such damage in accordance with the law.

经营者的合法权益受到不正当竞争行为损害的，可以向人民法院提起诉讼。

A business operator whose lawful rights and interests are infringed upon by an unfair competition act may file a lawsuit with a people's court.

因不正当竞争行为受到损害的经营者的赔偿数额，按照其因被侵权所受到的实际损失确定；实际损失难以计算的，按照侵权人因侵权所获得的利益确定。经营者恶意实施侵犯商业秘密行为，情节严重的，可以在按照上述方法确定数额的一倍以上五倍以下确定赔偿数额。赔偿数额还应当包括经营者为制止侵权行为所支付的合理开支。

The amount of compensation for damage caused by any unfair competition conduct to a business operator shall be determined depending on the actual losses suffered by such operator as a result of the infringement; where it is difficult to work out the actual losses, such amount shall be determined in accordance with the benefits obtained by the infringer from the infringement. Where a business operator commits an act of infringement of trade secrets with malicious intent and the circumstance is serious, the amount of compensation shall be one to five times the amount determined according to the aforesaid method. The amount of compensation shall also include the reasonable expenses incurred by the business operator in stopping the infringement act.

经营者违反本法第六条、第九条规定，权利人因被侵权所受到的实际损失、侵权人因侵权所获得的利益难以确定的，由人民法院根据侵权行为的情节判决给予权利人五百万元以下的赔偿。

Where a business operator violates the provisions stipulated in Article 6 or Article 9 herein, and it is truly difficult to determine the actual losses suffered by the obligee as a result of the infringement or the benefits obtained by the infringer from the infringement, the people's court shall award the obligee less than CNY5 million in damages, depending on the seriousness of the infringement.

第十八条   经营者违反本法第六条规定实施混淆行为的，由监督检查部门责令停止违法行为，没收违法商品。违法经营额五万元以上的，可以并处违法经营额五倍以下的罚款；没有违法经营额或者违法经营额不足五万元的，可以并处二十五万元以下的罚款。情节严重的，吊销营业执照。

Article 18 Where a business operator violates Article 6 herein by performing any confusing act, the supervision and inspection authority shall order it to cease the offense, and confiscate its illicit commodities. Where the illegal turnover is RMB50,000 or more, a fine of not more than five times the illegal turnover may be imposed; where there is no illegal turnover or the illegal turnover is below RMB50,000, a fine of not more than RMB250,000 may be imposed. Where the case is serious, the business licence shall be revoked.

经营者登记的企业名称违反本法第六条规定的，应当及时办理名称变更登记；名称变更前，由原企业登记机关以统一社会信用代码代替其名称。

Where a corporate name registered under a business operator violates the provisions of Article 6 hereof, the business operator shall go through formalities to change its registered corporate name in a timely manner. Prior to such change, the original corporate registration authority shall use the unified social credit code in lieu of its corporate name.

第十九条   经营者违反本法第七条规定贿赂他人的，由监督检查部门没收违法所得，处十万元以上三百万元以下的罚款。情节严重的，吊销营业执照。

Article 19 Where a business operator bribes any other party in violation of Article 7 herein, the supervision and inspection authority shall confiscate its illegal gains, and impose on it a fine of between CNY100 ,000 and CNY3 million. Where the case is serious, the business licence shall be revoked.

第二十条   经营者违反本法第八条规定对其商品作虚假或者引人误解的商业宣传，或者通过组织虚假交易等方式帮助其他经营者进行虚假或者引人误解的商业宣传的，由监督检查部门责令停止违法行为，处二十万元以上一百万元以下的罚款；情节严重的，处一百万元以上二百万元以下的罚款，可以吊销营业执照。

Article 20 Where a business operator violates the provisions of Article 8 herein to conduct commercial promotions for its commodities in a false or misleading manner, or assists other business operators with commercial promotions in a false or misleading manner by way of organizing false transactions or by other means, the supervision and inspection authority shall order the business operator to cease its violations and impose on it a fine of between CNY200, 000 and CNY1 million; where the circumstance is serious, it shall be fined between CNY1 million and CNY2 million, and its business license may be revoked.

经营者违反本法第八条规定，属于发布虚假广告的，依照《中华人民共和国广告法》的规定处罚。

Where a business operator's violation of Article 8 herein constitutes the releasing of a false advertisement, it shall be punished according to the Advertising Law of the People's Republic of China.

第二十一条   经营者以及其他自然人、法人和非法人组织违反本法第九条规定侵犯商业秘密的，由监督检查部门责令停止违法行为，没收违法所得，处十万元以上一百万元以下的罚款；情节严重的，处五十万元以上五百万元以下的罚款。

Article 21 Where a business operator or any other natural person, legal person or unincorporated organization in violation of Article 9 hereof infringes upon trade secrets, the supervision and inspection authorities shall order it to cease the offense, confiscate its illegal gains, and impose on it a fine ranging from 100,000 yuan to 1 million yuan; in serious cases, the fine shall be not less than 500,000 yuan but not more than 5 million yuan.

第二十二条   经营者违反本法第十条规定进行有奖销售的，由监督检查部门责令停止违法行为，处五万元以上五十万元以下的罚款。

Article 22 Where a business operator makes a prize-attached sale in violation of Article 10 herein, the supervision and inspection authority shall order it to cease the illegal act and impose on it a fine of between CNY50,000 and CNY500,000.

第二十三条   经营者违反本法第十一条规定损害竞争对手商业信誉、商品声誉的，由监督检查部门责令停止违法行为、消除影响，处十万元以上五十万元以下的罚款；情节严重的，处五十万元以上三百万元以下的罚款。

Article 23 Where a business operator causes injury to the credit standing of its rivals or the reputation of its rivals' commodities in violation of Article 11 herein, the supervision and inspection authority shall order it to cease the illegal act and eliminate any bad influences, and impose on it a fine of between CNY100, 000 and CNY500, 000; where the circumstance is serious, the fine shall be between CNY500, 000 and CNY3 million.

第二十四条   经营者违反本法第十二条规定妨碍、破坏其他经营者合法提供的网络产品或者服务正常运行的，由监督检查部门责令停止违法行为，处十万元以上五十万元以下的罚款；情节严重的，处五十万元以上三百万元以下的罚款。

Article 24 Where a business operator impedes or disrupts the normal operation of network products or services legally provided by another business operator, which is in violation of Article 12 hereof, the supervision and inspection authorities shall order it to cease the illegal act and impose on it a fine ranging from 100, 000 yuan to 500, 000 yuan; in serious cases, the fine shall be not less than 500, 000 yuan but not more than 3 million yuan.

第二十五条   经营者违反本法规定从事不正当竞争，有主动消除或者减轻违法行为危害后果等法定情形的，依法从轻或者减轻行政处罚；违法行为轻微并及时纠正，没有造成危害后果的，不予行政处罚。

Article 25 Where a business operator who has committed unfair competition in violation of the provisions hereof takes the initiative to eliminate or reduce the harmful consequences brought about by its illegal act, it shall be given a lighter or mitigated administrative penalty according to the law, and may not be given an administrative penalty if the illegal act is considered a minor violation and is corrected in a timely manner, resulting in no harmful consequences.

第二十六条   经营者违反本法规定从事不正当竞争，受到行政处罚的，由监督检查部门记入信用记录，并依照有关法律、行政法规的规定予以公示。

Article 26 Where a business operator is subject to the administrative penalty for performing an unfair competition act in violation of this Law, the supervision and inspection authority shall enter such penalty in its credit record and publicly disclose the same in accordance with the relevant laws or administrative regulations.

第二十七条   经营者违反本法规定，应当承担民事责任、行政责任和刑事责任，其财产不足以支付的，优先用于承担民事责任。

Article 27 Where a business operator shall bear civil liability, administrative liability and criminal liability as a result of its violation of the provisions herein, but its property is not sufficient to cover all the damages, the civil liability shall take precedence.

第二十八条   妨害监督检查部门依照本法履行职责，拒绝、阻碍调查的，由监督检查部门责令改正，对个人可以处五千元以下的罚款，对单位可以处五万元以下的罚款，并可以由公安机关依法给予治安管理处罚。

Article 28 Where a party obstructs the efforts of the supervision and inspection authority to fulfill its duties according to this Law, refusing or impeding the investigations, the supervision and inspection authority shall order it to make corrections, and impose a fine of up to CNY5, 000 if the party is an individual, or a fine of up to CNY50, 000 if the party is an entity, and the public security organ may impose a public security punishment according to the law.

第二十九条   当事人对监督检查部门作出的决定不服的，可以依法申请行政复议或者提起行政诉讼。

Article 29 Where the party concerned disagrees with the decision made by the supervision and inspection authority, it may apply for administrative reconsideration or file an administrative lawsuit.

第三十条   监督检查部门的工作人员滥用职权、玩忽职守、徇私舞弊或者泄露调查过程中知悉的商业秘密的，依法给予处分。

Article 30 Where any staff member of a supervision and inspection authority abuses his or her power, neglects his or her duties, commits fraud for personal gains or divulges trade secrets accessed during an investigation, such staff member shall be subject to punishment in accordance with the law.

第三十一条   违反本法规定，构成犯罪的，依法追究刑事责任。

Article 31 Where a violation of the provisions of this Law constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

第三十二条   在侵犯商业秘密的民事审判程序中，商业秘密权利人提供初步证据，证明其已经对所主张的商业秘密采取保密措施，且合理表明商业秘密被侵犯，涉嫌侵权人应当证明权利人所主张的商业秘密不属于本法规定的商业秘密。

Article 32 In the civil procedure for trial of infringement of trade secrets, if a right holder of trade secrets provides preliminary evidence that it has taken confidentiality measures against the trade secrets claimed and reasonably shows that the trade secrets are infringed, the person suspected of infringement shall prove that the trade secrets claimed by the right holder do not belong to trade secrets as prescribed herein.

商业秘密权利人提供初步证据合理表明商业秘密被侵犯，且提供以下证据之一的，涉嫌侵权人应当证明其不存在侵犯商业秘密的行为：

If the obligee of a trade secret provides preliminary evidence which reasonably shows that the trade secret is infringed and provides any of the following evidences, the person suspected of infringing the trade secret shall prove that he/she has not infringed the trade secret:

（一）有证据表明涉嫌侵权人有渠道或者机会获取商业秘密，且其使用的信息与该商业秘密实质上相同；

1. Any evidence shows that the suspected infringer has access or opportunities to obtain a business secret and the information used by it is essentially identical to the business secret; or

（二）有证据表明商业秘密已经被涉嫌侵权人披露、使用或者有被披露、使用的风险；

2. Any evidence shows that any business secret has been disclosed or used by the suspected infringer or there is risk of disclosure or use;

（三）有其他证据表明商业秘密被涉嫌侵权人侵犯。

(III) there is other evidence proving that a business secret is infringed by the suspected infringer.

第五章 附 则

Chapter 5 Supplementary Provisions

第三十三条   本法自2018年1月1日起施行。

Article 33 This Law shall come into force as of January 1, 2018.