



# China IP SME Helpdesk

## The third revision of PRC Copyright Law

Nine years of discussion and its influences

Charles Feng, 24 June

# Helpdesk free services

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**CHINA IPR SME HELPDESK**  
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## IP Factsheet: Mainland China



**1. THE FACTS: Business in Mainland China for EU Companies**  
(Source: DG Trade)



**SIZE of Market:**

- EU exports to Mainland China: EUR 173.5 billion
- EU imports from Mainland China: EUR 299.9 billion
- Total trade in goods: EUR 473.4 billion

> Mainland China is the EU's second largest trading partner, after the USA.  
 > The EU is China's largest trading partner.

**Key INDUSTRY SECTORS:**

- EU exports to Mainland China are dominated by machinery and equipment, motor vehicles, aircraft, and chemicals.
- Mainland China's key export items to the EU include machinery and equipment, footwear and clothing, furniture and lamps, and toys.

Co-funded by:  
  
European Union

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## Protecting Your Trade Secrets in China

Prevention is the key to protection.



### WHAT EXACTLY CAN BE A TRADE SECRET

SOMETHING THAT

1. Is not publicly known
2. has commercial value
3. you took measures to keep secret

expressions of ideas

know-hows, manufacturing or design techniques

status of products or services under development

valuable business information, lists, cost and price information

**TRADE SECRETS**

### KEEP IT SECRET, KEEP IT SAFE

It is important to remember that once trade secrets become publicly known, they can no longer be protected as trade secrets.



**CONFIDENTIAL**

### DON'T FORGET YOUR EMPLOYEES

- Limit access and copying rights to the personnel who actually need it.
- Require all employees to sign an employment agreement with strict confidentiality provisions.
- Be sure to hold exit-interviews and have them return documents, materials, computers, and files.
- Establish an internal management system for trade secrets. Training and clear written guidelines are essential.

### DEALING WITH THIRD PARTIES

Business dealings or negotiations with third parties, potential partners, suppliers, contractors, licensees, or customers

monitor your partners, suppliers or licensees to make sure they are complying with your trade secrets protection policy

# Speaker's Bio



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Mr. Feng is a reputable IP and cyber law expert with substantial experience on intellectual property law, cyber law and anti-trust law, focusing on IP litigation, enforcement trademark and patent portfolio management, as well as cyber law related legal matters. Mr. Feng has represented numerous foreign clients from US, EU and Japan at various levels of courts as well as enforcement agencies in China. Mr. Feng is particularly experienced in addressing clients' commercial needs in the areas of IP litigation and arbitration, including patent, copyright, trademark, and domain names, unfair competition, trade secrets. In addition to his work in the courtrooms, he has been involved in IP transactional work, including the drafting, negotiation and enforcement of IP assignment or licensing agreements.

Besides, Mr. Feng and his team also represented a number of multinationals in dealing with their legal matters in relation to cyber security, privacy and data protection. as excellent IP lawyer from 2015 to 2019, excellent Cyber Security and Data Protection.

# Speaker's Bio



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As a highly regarded expert at home and abroad, Mr. Feng is currently serving as the Consultant Expert to Guiding Case Research Center of Supreme People's Court of China, Vice Director of Copyright Society of China, Standing Committee Member of China Intellectual Property Law Association, an IP Expert for EU-China IPR Helpdesk as well as a member of American Bar Association, China Bar Association and INTA.

Mr. Feng and his team are highly acclaimed in the Chinese IP and Cyber law practice. For four consecutive years since 2015, Mr. Feng has been consecutively listed in LegalBand lawyer from 2017-2021 as recommended lawyer, listed by Asian Legal Business as Top 15 IP Lawyer in 2015 as well as World Trademark Review as Top TM lawyer in 2020 and 2021.

The case represented by Mr. Feng was ranked as one of 50 Model IP Cases by Supreme People's Court of China in 2013.

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# The process of the revisions of PRC Copyright Law

## Backgrounds of past revisions

- China joined WTO in 2001.
- WTO disputed by United States in 2010
- China took the initiative to revise 2020

## Process of this revision

1. On July 13, 2011, CNIPA held an expert selections conference and established the Expert Drafting Team.
2. On January 13, 2012, CNIPA held a report conference.
3. On March 31, 2012, the first draft was published.
4. On November 16, 2012, requested by CNIPA, I participated in the draft and submission of proposal about software protection on behalf of industrial organizations of foreign software organizations
5. On July 6, 2012, the second draft was published.
6. On October 2012, the third draft was published.
7. On November 11, 2020, the NPC standing committee approved the revision.

# Summary of the system of copyright and Key points of the revision.

## (1) Copyright

- Subject Matter (Audiovisual work, any other intellectual work conforming the requisite features)
- Contents: legal rights and obligations. ( right of broadcasting, right of transmission via information network, etc.)
- Ownership (General works, Works of legal person, Works of joint authorship, Compilation works, Audio-visual work and Works for employment)
- Duration of Protection
- Restriction of Rights (Fair use and statutory license)
- Transfer of rights and licensing.

## (2) Neighboring rights

Rights of publishers, rights of performers, rights of producers of audio and video recordings, etc.

(3) Technical Protection Measures (technical measures approach and alteration of the rights management information).

(4) Legal Liability (addition of administrative fine, compensation based on the actual losses, technical measures approach and alteration of the rights management information.)



# Summary of Copyright Law System

	Rights	Origins of rights	Originality
Copyrights	Rights included in Art. 10  16 +1 categories of rights	Fundamental creations.	High
Neighboring rights (copyright related rights)	Rights of performers, rights of producer of audio and video recording and rights of layout designs., etc.	Uses and Transmission	Low

# Copyright Law Revision - Subject Matter

Old law: Article 3 Works referred to in this Law shall include literature, art and natural science, social science, ~~engineering and technical works~~ created in the following forms:

Current Implementing Rules ( under old law) Art. 2: The term "works" as stated in the Copyright Law shall include original works in the fields of literature, arts and sciences with intellectual results **which can be reproduced in a tangible form.**

Old Law:

- Reproducible – can be reproduced (\*)
- Fixable – can be fixed in a tangible form (△)

New law: Art 3(i): For the purpose of this Law, works shall refer to original intellectual achievements in the fields of literature, art and science which **can be expressed in a certain form.**

**Open-ended scope for subject matters**

**External expression v. internal idea (idea-expression dichotomy) (✓)**

# Copyright Law Revision - Subject Matter

Article 3(1)(vi)

Film works and works created using methods similar to film making

➡ Audio-visual works

The Beijing Treaty on Audiovisual Performances was adopted in Beijing, People republic of China on June 24, 2012.

The Beijing Treaty was adopted and published by Japan on April 28, 2020 in No. 89 Government publication.

Film works and works created using methods similar to film making ➡ **Audio-visual works**

Even though the range of the subjects is expanded, re-consideration of Art. 15 is needed.

e.g.: Transmission of sports broadcast programs, short video

# Copyright Law Revision - Subject Matter

Article 3 For the purpose of this Law, works shall refer to original intellectual achievements in the fields of literature, art and science which can be expressed in a certain form.

Old law: (vix) Any other works stipulated by **laws and administrative regulations.**

**New law:** 3.1.9 any other intellectual achievements which **comply with the characteristics of the works.**

Pros and Cons - New judgement may cause flooding and inundation of new type of works. e.g. sport broadcast programs, typeface, fountain

# Copyright Law Revision - Subject Matter

Hangzhou West Lake Scenic Area Lakeside Management Office v. Beijing Zhongke Waterscape Technology Co., Ltd



# Copyright Law Revision- Subject Matter

The first-instance judgment: *Even though Copyright Law does not have the specific type of work: **Music Fountain Works**, the work itself has originalities in deed. Concerning the situations of the appearances of the selected songs, approaches of the fountain, design based on the time of the music, the elements of tune, rhythm and emotion of the designers, arrangement of the fountain mouth, the lights and the multiple active motions combined with music, imaginary artistic image, expression of musical emotions, effects of the implementations and all management of art, lighting, fountain, water action of music fountain work, ideas and its process, which should be found as process of artistic creations, **it should be protected by Copyright Law.***

The second-instance judgement: *With elements of rhythm, tune, strength and speed and the presenting varieties of dynamic transformations of modeling shape, which are included within the scope of protection, the **subject matter can be found as expression of the effects of music fountain.***



# Copyright Law Revision - Subject Matter

Berne Convention Art.2: (1) *The expression “literary and artistic works” shall include every production in the literary, scientific and artistic domain, **whatever may be the mode or form of its expression, such as** books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramaticomusical works; choreographic works and entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.*

The term “such as” refers to enumeration, not all. **It allows members of the Union to give protection on other works which are beyond the range.** According to PRC Copyright Law: any other works stipulated by laws and administrative regulations, the works must be determined by laws and regulations. Therefore the judicial decisions should waive the application of this provision.

# Copyright Law Revision - Subject Matter

Even though stipulations of artistic work are listed through painting, writing and sculpture, but the expression of “**etc.**” **refers to no exhaustions**. The effects of “music fountain” in this case are 3D modelling expression with the combinations of fine music, bright lights, colors and fountains. It has aesthetic significance. as the status of movement and duration **are not excluded under the current situations of eligibility works of fine arts** , music fountain effects as **works of fine arts** do not violate the principles of legal interpretations.

Decisions: in the second-instance judgement, the protections of music fountain effects are protected as **works of fine art** rather than under the name of music fountain works.

Controversy: whether new subject matters not in the lists should be accepted.

Ole law: Negative.



# Copyright Law Revision Subjects

New law: Article 3(1)(vix) : any other intellectual achievements which comply with the characteristics of the works.

Possibility of judicial definitions on new works.

Focus :

Widespread judicial determination?

Excessive expansion of copyright objects?

e.g.: sport broadcast programs, fonts, music fountains?

Beida Fangzheng v. Shanghai Yuexingyue

**Increasing concerns on the risk of claims by typeface works copyright owner**



# Contents of Rights

## Copyright

### Moral rights

- 1 ) Right of publication
- 2 ) Right of authorship
- 3 ) Right of revision
- 4 ) Right to preserve the integrity of work.

### Property rights

- 1 ) Right of Reproduction
- 2 ) Right of Distribution, Right of Rental, Right of Display 、 Right of Broadcasting, Right of Information network transmission right
- 3 ) Right of Performance, Right of Filming, Right of Adaptation, , Right of Translation, Right of Compilation, etc.

# Contents of Rights

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## Contents of copyright

### New Law

(11) broadcasting right, i.e. the right to publicly transmit or relay a work through cable or wireless method and the right to transmit or broadcast a work to the public through a loudspeaker or other similar tools for transmission of symbols, sounds or images, **excluding the right stipulated in Item (12) of this paragraph;**

(12) information network transmission right

# Contents of Rights

Borne Convention (i) the broadcasting of their works or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images; (ii) any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one; (iii) the public communication by loudspeaker or any other analogous instrument transmitting, by signs, sounds or images, the broadcast of the work.

The broadcasting right includes:

(1) **Publicly transmitting** a work through **cable or wireless** method.

Reasons: unreasonable to limit within wireless method, with the development of Internet, it should include cable broadcast.

(2) **Publicly relaying** a work through **cable or wireless** method.

(3) Broadcasting a work to the public **through a loudspeaker or other similar tools** for transmission of symbols, sounds or images.

**Excluding the right stipulated in Item (12) of this paragraph (Inter-active/on demand transmission);**

# Contents of Rights

(12) information network transmission right, i.e. the right to provide a work to the public through cable or wireless method to enable the public **to access the work at a selected time and venue;**

Internet transmission:

- Interactive transmission (on demand broadcasting / common internet broadcasting)  
=protected by internet transmission right (P12)
- Non-interactive transmission/Internet live stream  
=protected by broadcasting right



# Contents of Rights

CCTV v. Huashu Media

2015 Spring Festival Gala

- CCTV is the producer of 2015 Spring Festival Gala and exclusively licenses the copyright and relevant rights to CCTV International Network Co., Ltd, including internet transmission and broadcasting to the public (live relay (transmission) and time delay relay.)
- Huashu Media conducted live stream without licenses.

Decision: Because the live broadcast via internet is a non-interactive transmission that are provided to the users after the television signals are converted into digital signals, the users cannot obtain the works **at the time and place as they choose**. And the transmission method is not included in the broadcasting rights under current law. **Therefore, it should be protected under Art. 10(xvii) “any other right enjoyed by copyright holders.”**

**If Under New Law: infringement of broadcasting right.**

# Ownership

Art.17 (Old law Art 15) (cinematography and film production) The copyright of ~~film works and works created using methods similar to film making~~ **a cinematographic work or television series work included in an audio-visual work** shall belong to the **producer**; however, **the screenwriter, director, cameraman, lyricist, composer and other authors** of the work shall have the right of authorship, and the right to obtain remuneration pursuant to the contract entered into with the producer.

**Ownership of copyright in an audio-visual work other than those stipulated in the preceding paragraph shall be agreed upon between the parties concerned; where there is no agreement or the agreement is unclear, the producer shall own the work, provided that the author shall have the right of authorship and the right to obtain remuneration.**

The authors of works included in an audio-visual work which can be used separately such as script, musical work, etc. shall have the right to exercise their copyright independently.

# Ownership

	Film and TV series of audio-visual work	Other audio-visual work
Ownership	Producer (can not be freely decided by contracts)	Can be decided by contracts and contracts first. If there is no contracts, producers own it.
The right of authorship and the right to obtain remuneration	<b>Authors: Only script, director, cameraman, lyricist or composer</b>	Any Authors
Works which can be used separately such as script, musical work, etc.	Relevant authors have the right to exercise their copyright independently	



# Fair use

**Art. 24 (Old law Art. 22):** Use of a work under the following circumstances does not require license by the copyright owner and remuneration need not be paid, provided that it shall state the name or designation of the author and the title of the work, and **shall not affect normal use of the said work or unreasonably harm the legitimate rights and interests of the copyright holder:**

## **New addition:**

(13) any **other circumstances stipulated by laws and administrative regulations.**

The provisions of the preceding paragraph shall apply to limitations of rights related to copyright.

# Fair use

- Art. 13 of TRIPS: Members shall confine limitations or exceptions to exclusive rights to certain special cases which **do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder.**
- Current Implementation Regulations Art. 21 :The Copyright Law provides that permissible use of published works without the consent of copyright holders shall not affect the normal use of such works or prejudice legitimate rights and interests of copyright holders.
- (xiii) any other circumstances stipulated by laws and administrative regulations.
- Possibility to expand the application of fair use. Such as the four-elements doctrine.  
**Nature and subjective of the use of work, nature of the used work, quantity and quality of the used part, influences on the potential market and value.**
  - **Supreme Court Opinion Fafa (2011) No. 18.**
  - **US Copyright Act. Section 107.**
- The provisions of the preceding paragraph shall apply to limitations of rights related to copyright.
- As well as neighboring right.

# Ownership

Existing problems:

1 . What is the reason to distinguish film, television program and common audio-visual work?

The participation of a large amount of staff, the complexity of the relationship and conveniences to use the work.

2 . How to treat common audio-visual work?

Less relevant staff? Simple relationship? No requirements on conveniences to use the work?

Short video, sports match broadcasting program.

# Copyright Law Revisions Ownership

(Newly added) Technical protection measures

Article 49 A right holder may adopt **technical measures** for the purpose of protecting copyright and the rights relating to copyright. No organization or individual may, without the permission of the right holder, intentionally circumvent or destroy the technical measures, manufacture, import or provide the general public with relevant devices or parts for the purpose of circumventing or destroying technical measures, or intentionally provide technical services for others to circumvent or destroy technical measures except the circumstances under which such measures may be circumvented as stipulated by the laws and administrative regulations.

Technical measures referred to in this Law shall mean **effective technologies, devices or parts used for prevention and restriction of browsing or appreciating** of works, performances, audio and video recordings or provision of works, performances, audio and video recordings through an information network to the general public without the permission of the right holder.

# Copyright Law Revisions Protection

- TPM is originated from the relevant provisions of WCT and WPPT of WIPO.
- Regulations on the Protection of Computer Software Art. 24(4), Regulations on Protection of Information Network Transmission Right Art.4, 18(1), 19 and 26, Decision of the Supreme People's Court Concerning the Amendment of the Interpretations of the Supreme People's Court on Some Matters Concerning the Application of Law in the Trial of Cases Related to Copyright Disputes over Computer Network, Fashi (2006)11 Art. 6 also have relevant stipulations. In practices, TPM includes password and user number setting by right holders.
- The introduction of TPM in this revision is a development of Regulations on Protection of Information Network Transmission Right Art.4, 18(1), 19 and 26.
- Even though Regulations on Protection of Information Network Transmission Right has related protection of online distributions, the revisions have broader range of TPMs which cover all field and forms of TPMs.

# Copyright Law Revisions Ownership

## (Newly added) Right Management Information

Article 51 The following acts shall not be committed without the consent of a right holder: (1) intentional deletion or alteration of the rights management information on works, layout designs, performances, audio and video recordings or radio and television broadcasts, in exception where such act is unavoidable due to technical reasons; or

(2) provision of works, layout designs, performances, audio and video recordings or radio and television broadcasts to the public when any person is or should be aware that the rights management information thereon has been deleted or altered without permission.

# Copyright Law Revisions Protection

- Right management information comes from WIPO WCT Art. 12(2) and WPPT Art. 19(2), it aims to enhance copyright protections through indicating the ownership of copyright and use conditions.
- Stipulations on Regulations on the Protection of Computer Software Art. 5 and 26 as well.
- The revisions introduced the definition of right management information and it is a development of above Regulations Art. 5 and 26.
- Even though the Regulations has relevant protections of online distribution, the revisions have wider range which covers all fields and forms technical measures.

# Copyright Law Revisions Protection

## Article 53

Article 53 Persons who have committed any of the following infringing acts shall bear civil liability stipulated in **Article 52** hereof as the case may be; where the infringing act also harms public interest, the competent copyright authority shall order the persons to stop the infringing act and give them a **warning**, confiscate illegal income, confiscate and **render innocuous destruction** of the infringing replicas and materials, tools, equipment, etc. used mainly for manufacturing of the infringing replicas; **where the illegal turnover is 50,000 yuan or more, a fine ranging from one to five times the illegal turnover may be imposed on them; where there is no illegal turnover or the illegal turnover is difficult to compute or is less than 50,000 yuan, a fine of not more than 250,000 yuan may be concurrently imposed on them**; if the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law:

(Revised: stop infringement, eliminate impact, apologies, compensate loss,)



# Copyright Law Revisions Protection

- (1) reproduction, distribution, performance, screening, broadcasting, compilation or dissemination to the public through information network of a work without the consent of the copyright holder, unless otherwise stipulated in this Law;
- (2) publication of a book for which the exclusive right of publication belongs to another;
- (3) reproduction or distribution of an audio or video recording of a performance or dissemination to the public through information network of a performance without the consent of the performer, unless otherwise stipulated in this Law;
- (4) reproduction or distribution of an audio or video recording or dissemination to the public through information network of an audio or video recording without the consent of the producer, unless otherwise stipulated in this Law;

# Copyright Law Revisions Protection

- (5) broadcasting, reproduction, or dissemination to the public through information network of a radio or television broadcast without the consent, unless otherwise stipulated in this Law;
- (6) **intentional avoidance or destruction of technical measures** without the consent of the copyright holder or the holder of copyright-related rights, intentional manufacturing, importation or provision of devices or components used principally for the avoidance or destruction of technical measures for others, or intentional provision of technical services to others for the avoidance or destruction of technical measures, unless otherwise stipulated in laws and administrative regulations;
- (7) without the permission of the copyright holder or holder of rights related to the copyright, **deliberate deletion or alteration of the rights management information** on a work, layout design, performance or audio and video recording, or radio or television broadcast, or provision to the public of such work, layout design, performance or audio and video recording, or the radio or television broadcast when any person knows or should have known that the rights management information thereon has been deleted or altered without the permission, unless otherwise provided for in any law or administrative regulation; or
- (8) **production or sale** of a work where the signature of another is forged.

# Copyright Law Revisions Protection

- **Punitive damages**

Article 54 Where the copyright or copyright-related rights are infringed, the infringer shall make compensation based on the actual losses suffered by the holder of rights **or** the illegal income of the infringer; **where it is difficult to compute the actual losses of the holder of rights or the illegal income of the infringer, compensation may be made with reference to the royalties for such rights. In the case of willful infringement of copyright or copyright-related rights, where the case is serious, compensation may be paid ranging from one to five times the amount determined pursuant to the aforesaid method.**

- **Statutory damages**

Where it is difficult to compute the actual losses of the holder of rights, the illegal income of the infringer or the royalties, a people's court shall rule on compensation ranging from CNY **500 to 5 million** based on the extent of the infringement.

The compensation amount shall also include reasonable expenses incurred by the holder of rights to curb the infringement act.

# Copyright Law Revisions Protection

- **Obstruction of evidence production**

Article 54 In the determination of compensation amount by a people's court, where the holder of rights has performed the requisite burden of proof, but the account books and materials relating to the infringement act are held by the infringer, the people's court **may order the infringer to provide account books and materials relating to the infringement act; where the infringer refuses to provide or provides false account books and materials, the people's court may determine the compensation amount with reference to the claims of the holder of rights and the evidence provided.**

- **Destruction of infringing goods, raw materials, tools and facilities**

In the trial of a copyright dispute case, a people's court shall, except under special circumstances, order that the **infringing replicas** be destroyed at the request of the holder of rights, order that the **materials, tools and equipment** used mainly for manufacturing the infringing replicas be destroyed without compensation, or order that the aforesaid materials, tools and equipment be **prohibited from entering into commercial channels** under special circumstances without compensation.

# Copyright Law Revisions Protection

- **Determination of damages:** a development of Art. 25 of Interpretation of the Supreme People's Court on Several Issues concerning the Application of Law in the Trial of Civil Cases Involving Copyright Disputes, it clears the determination of compensation based on the use fee, lost of the plaintiff and illegal benefit of the defendant.
- Punitive damages: intention to infringe: one to five times amount of compensations.
- Statutory compensation: increased from 500,000 CNY to ten times, 500-5,000,000 CNY.
- Obstruction of evidence: the infringer has evidences but does not submit, the court can make decisions based on the claims and evidences of the plaintiff, destroying illegal copies, materials, tools and equipment for production of illegal copies. (Special example: not allow to enter sales channels)

# Protection

Art. 55 The competent copyright authority may, when investigating into and punishing the acts of suspected infringement upon the copyright and copyright-related rights, question the relevant parties and investigate the matters relating to the alleged illegal acts, conduct on-site inspection of premises and articles of the parties concerned involving alleged illegal acts, inspect and make copies of contracts, invoices, account books and other relevant materials relating to the alleged illegal acts, and seal up or seize the premises and articles involving the alleged illegal acts.

When the competent copyright authority exercises the official powers stipulated in the preceding paragraph pursuant to the law, the parties concerned shall render assistance and cooperation and shall not refuse or hinder.

- Clarification of administrative reporting procedures.
- Advantages and expectations of administrative procedures.

# Notes

## Summary of copyright litigation

- On September 24, 2020, Beijing 15<sup>th</sup> NPC conference, Kou Fang, President of the Beijing People's Court, made a report which showed that from 2016 to 2020, the amount of cases of copyright infringement related to cultural industry is 141,303, which accounted for **62.6%** of the total number of IP cases.
- The amount of compensations increased, from 25443 CNY in 2015 to 39645 CNY in 2019. The In the case of malicious infringement and repeated infringement of the game adaptation rights of Jin Yong's martial arts novels, punitive compensations was applied, with the final judgment of **16 million CNY**.



# Take away messages

## In the perspective of plaintiff, right holders

- Re: Contracts of audio-visual
  - Because of the differences of broadcasting rights and internet transmission right, it requires to **clarify the range of the deal** (licenses and transfers). Regard to live stream and internet broadcasting, it can be better to **stipulate them separately**..
  - Because of the differences of film, television series and any other audio-visual work, the contract will be different.
- Re: Film and television series, even though the copyright belongs to producers, the script, director, photographer, lyricist and composer should be signed and remunerated.

Re: Other audio-visual work, it is better to clarify the belonging of the property rights and remunerations.



# Take away messages

## From the perspective of plaintiff / right holder:

- Use systems of TPMs and right management protection properly: destroy of password, delectation and tempering of right information.
- Copyright protection system.
- Judicial channels: compensations, loss of plaintiff, gains of defendant, **royalties**
  - ✓ **Evidences regarding the royalties (software, film and etc.) is important.**
  - ✓ **Within 5 million CNY, demand for high amounts of compensation.**
  - ✓ **Add the claims to destruction of infringing products, tools, facilities, etc.**
- Administrative produces: enrichment of law and the insufficiency of execution in practice
  - ✓ **Local press and publication office (copyright office), cultural law enforcement brigades, etc. : monitoring and trying.**
  - ✓ **Possibility and deficiency of customs control.**

# Take away messages

## From perspective of defendant / infringer.

- Possibility to expand, review and argue the range of fair use.
- Possibility to recognize new work. (typeface etc.)

## Responses on warning letter of font.

- Pre-compliance checks: advertising agencies, in particular, manage risk through contracts.
- Study the problems carefully (grasp the possibility of the work)
- Ask a professional lawyer for a careful response.

## Responses on warning letter and litigation of business use of software

- Pre-compliance checks.
- Check and delete.
- Deal with the evidence preservation by executive judge.
- Ask a professional lawyer for a careful response.

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Thanks a lot !

Questions?

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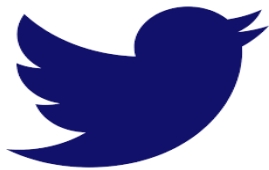
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