

Research Report

**The Development and Protection
of Intellectual Property for
China's Film & Video Industry (2023)**



This report was jointly released by Rouse International and Lusheng Law Firm during the Shanghai International Film Festival in June 2024.

Expert Authors



Aria Tian

Rouse International

Research Center Head

atian@rouse.com

Aria is Head of the Research Center at Rouse International, leading a team in conducting legal, commercial, and industrial research with a focus on intellectual property. Her team provides customized reports for clients, and organizes multiple large-scale research projects and foreign collaborations. She is also responsible for the development of multiple digital products, including the CIELA database, the STAR/IPC diagnosis tool, and a patent-value evaluation system.



Carol Wang

Lusheng Law Firm

Dispute Resolution and Entertainment Business

Co-head

cwang@lushenglawyers.com

Carol has extensive experience in intellectual property litigation and rights protection. She specializes in copyright and industrial-design protection, recognition of well-known trademarks, patent litigation, and unfair competition law. Carol has led her team in representing numerous landmark cases, several of which have been selected by various levels of courts – including China’s Supreme People’s Court – as example cases to highlight. She has been recognized by various global legal rating agencies, such as The Legal 500, Managing IP, and IAM.



Landy Jiang

Lusheng Law Firm

Dispute Resolution and Entertainment Business

Co-head

ljjiang@lushenglawyers.com

Landy has over 18 years of experience practicing in the field of intellectual property. She represents multinational companies in matters related to intellectual property strategies, portfolio management,

and litigation. Her expertise covers trademarks, copyrights, patents, trade secrets, trade names, domain names, and unfair competition. With proven abilities and an outstanding industry reputation, Landy has been continuously selected as one of the 'TOP 50 Outstanding Intellectual Property Lawyers in China' by leading intellectual property organizations.

*** Special thanks to Helena Zhang, Angus Wang, Ziwen Chen, Eve Cheng, Claire Zhang, Jenney Zhang, Katherine Zhu, and Dongmi Wang for their joint contributions to this report.**

Contents

ForeWord	1
I. Trends in the Development of Intellectual Property in the Film-Video Industry	3
1. Development Status of Film-Video Copyright in 2023	3
2. Development of Film-Video Brand IPs Authorization and Operations	6
3. Recent Trends and Hot Topics in Intellectual Property in the Film Industry	11
(1) In the 'Human-AI Co-Creation' New Era, Copyright Compliance has Become a Focal Point	11
(2) With Chinese Micro-Dramas Rapidly Going Abroad, Attention Should be Paid to Local Regulations and Strengthened IPR Protection	15
(3) New Directions in Film and Television IP Exploitation: A Catalyst for Cultural Tourism Growth	20
II. Administrative Protection of Intellectual Property Rights in the Film-Video Industry	25
1. Data of Administrative Law Enforcement Activities in the Film-Video Industry	25
2. Major Characteristics of Intellectual Property Administrative Law Enforcement Cases in Film-Video Industry	32
3. Overview of Administrative Protection Measures in Overseas Film-Video Markets in 2023	34
III. Judicial Protection of Intellectual Property Rights in the Film-Video Industry	35
1. Overview of Intellectual Property Disputes in Film-Video Industry	35
2. Major Characteristics of Intellectual Property Judicial Disputes in Film-video Industry ...	40
(1) Development Stage	42
(2) Promotion and Distribution Stage	45
(3) IP Exploitation Stage	49
IV. Challenges and Suggestions for Intellectual Property in the Film-Video Industry	51
Appendix: Typical Cases	55
1. Production Stage	55
2. Promotion and Distribution Stage	67
3. Development and Operation Stage	83

Foreword

In 2023, China's film-video industry demonstrated positive changes and strong vitality from the demand side, supply side, and distribution end. The total national box office reached RMB 54.915 billion (approximately USD 7.556 billion)¹ – a year-on-year increase of 83.4%. This highlights the tremendous resilience and potential of China's entertainment market, while also underlining broader demands for the protection of film-video copyright.

In 2023, the Chinese government continued to strengthen the protection of intellectual property rights (IPR), achieving significant optimization and adjustment of the **intellectual property management system**. Administrative agencies at all levels focused on the core task of 'the last mile' in building a government based on the rule of law, thereby strengthening the **administrative protection of copyright**. The Publicity Department of the Central Committee of the Communist Party of China – together with six departments, including the Ministry of Public Security – jointly carried out the 'Youth Copyright Protection Season' campaign. They also performed special operations to combat the piracy and distribution of theatrical films, as well as the 'Sword Net campaign 2023' special operation against online copyright infringement. From 2013 to 2022, a total of 11,600 cases involving film-works intellectual property rights were concluded in the first instance **by courts at all levels across the country**, with an average annual growth rate of 7.46% – higher than ordinary civil cases in the same period of by 4.73%. In 2023, the Supreme People's Procuratorate issued the Prosecutorial Work Guidelines for Intellectual Property Cases for the first time, to ensure and standardize the performance of **procuratorial duties** in intellectual property cases according to law. In 2023, **copyright trading** in China was prosperous, being represented by the China International Copyright Expo. Various local copyright trading fairs, exhibitions, and expos were held across the country, reflecting the leading role of copyright in the high-quality development of the film-video industry. In 2023, China's annual retail sales of **licensed merchandise** amounted to RMB 140.1 billion (approximately USD 19.3 billion), a year-on-year increase of 0.8%. Animated cartoons produced the most brand IP, while merchandise licensing and brand co-branding remain the two most popular forms of cooperation.

This year's research report (2023) adheres to the research structure of the previous year (2022), with a **spotlight on three key issues within the realm of intellectual property development in**

¹ For reference purposes only, the exchange rates for currency conversion in this Research Report are based on the rates on 27 June 2024.

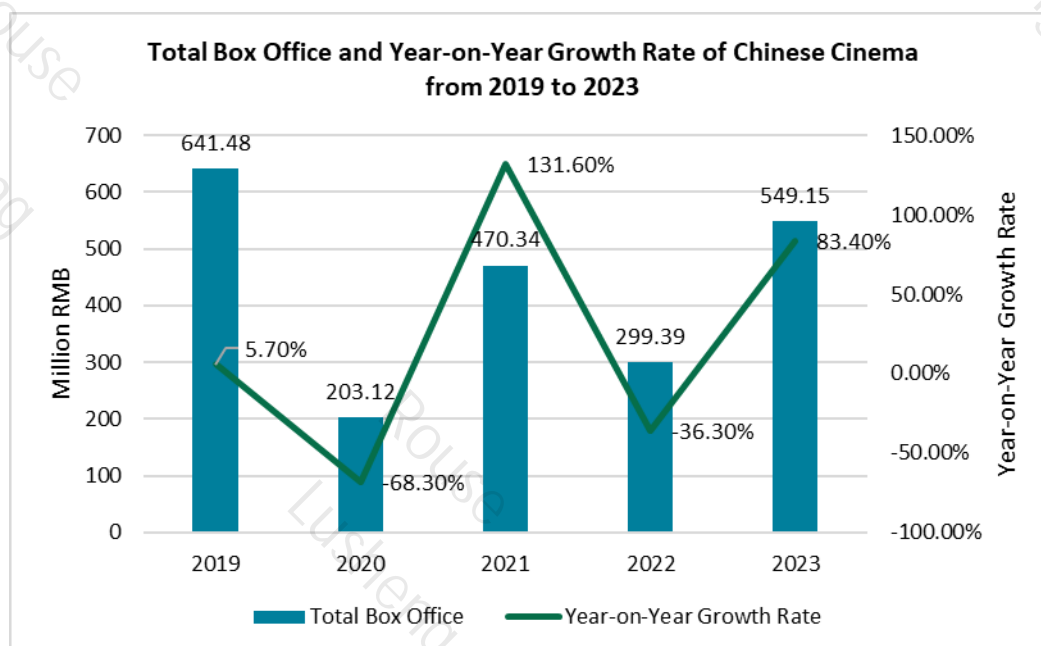
the film-video industry: 1) The gradual widespread application of **AI** has made copyright compliance a focal point; 2) During the surge of **micro-dramas going abroad**, there is a need to pay close attention to local regulations and culture, and to ensure adequate protection of IP rights overseas; 3) The collaboration between **cultural tourism and film-video IPs** is flourishing, highlighting prominent issues related to IP licensing and performance risks.

In the section on **IPR protection in the film-video industry**, the research maintains the '**dual-track' approach of administrative and judicial protection**. It provides analysis based on extensive data and real cases, connecting disputes scattered across various stages of the industry through the production, promotion, distribution, and development operation chain of film-video works. Thus, the analysis serves as a valuable reference. Finally, based on the detailed analysis presented, the report reiterates the key points of IP protection in the film-video industry and offers pertinent opinions and suggestions.

I. Trends in the Development of Intellectual Property in the Film-Video Industry

1. Development Status of Film-Video Copyright in 2023

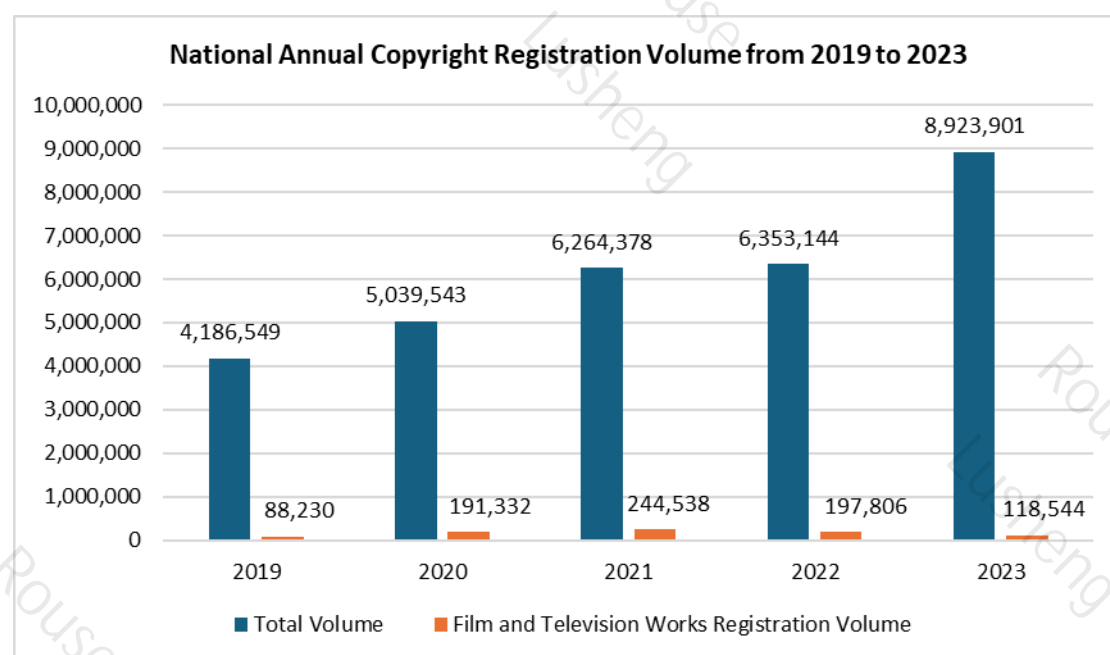
In 2023, the film-industry market returned to normal, with the total box office nationwide reaching RMB 54.915 billion (approximately USD 7.556 billion) – a year-on-year increase of 83.4%. Within this, the box office for domestic films was RMB 46.005 billion (approximately USD 6.330 billion), accounting for 83.77%. A total of 73 films exceeded a box office of RMB 100 million (approximately USD 14 million), with 50 being domestic films. The top 10 films of the year at the box office were also all domestic productions. The number of urban cinema viewers reached 1.299 billion. The Chinese film market has shown positive changes and strong vitality from the demand side, supply side, and distribution end, highlighting the great resilience and potential of the entertainment market. At the same time, broader demands for the protection of film-video copyrights have been raised.²



Data Source: Maoyan Research Institute By: Rouse International

² Maoyan Research Institute. (2024) '2023 China Film Market Data Insights.' CHINADEVELOPMENT.COM, available at: <http://www.chinadevelopment.com.cn/xc/2024/0102/1876970.shtml>.

The number of copyright registrations continued to grow in 2023. According to data released by the National Copyright Administration, the total number of copyright registrations nationwide reached 8,923,901 – a year-on-year increase of 40.46% – with both the number of registrations and the growth rate reaching a five-year high. Among all types of copyright registrations, **the registration of film-video works ranked fourth**, with 118,544 items. This accounts for 1.84% of the total number of copyright registrations.



Data Source: National Copyright Administration By: Rouse International

In 2023, the Chinese government continued to strengthen the protection of intellectual property rights. **Significant optimization and adjustment of the intellectual property management system was achieved**, with a social satisfaction score of 82.04 for intellectual property protection.³ During the same year, **the inter-ministerial joint meeting system for the construction of a country strong in intellectual property** was approved and established. The system comprises 29 departments and units, including the CNIPA and the Publicity Department of the Communist Party of China, which will coordinate the construction work of intellectual property nationwide.⁴ Tianjin Binhai New Area, Shanghai Pudong New Area, Nanjing City in Jiangsu Province, and seven other places were **selected as the first batch of cities (regions) for**

³ CNIPA. (2024) 'The State of Intellectual Property Protection in China in 2023.' *CNIPA*, available at: https://www.cnipa.gov.cn/art/2024/4/30/art_2436_192131.html.

⁴ CNIPA. (2024) 'The Central Committee of the Communist Party of China and the State Council approved the establishment of the Inter-Ministerial Joint Meeting System for the Construction of a Strong Country in Intellectual Property.' *CNIPA*, available at: https://www.cnipa.gov.cn/art/2024/1/9/art_2743_191555.html

the Construction of National Intellectual Property Protection Demonstration Zones.⁵ The Supreme People's Court and the CNIPA issued the Opinions on Strengthening the Joint Protection of Intellectual Property Rights, clarifying the responsibilities, authority, and jurisdiction of administrative and judicial organs, and **improving the connection mechanism between administrative and judicial protection of intellectual property.**⁶

At the legislative level, throughout 2023, approximately 20 intellectual property laws, regulations, and rules were formulated and revised, including the Implementation Rules of the Patent Law of the People's Republic of China; two judicial interpretations related to the protection of intellectual property were formulated and perfected; about 30 normative documents and policy documents related to the protection of intellectual property were issued; local comprehensive legislation made positive progress, such as the Regulations on the Protection and Promotion of Intellectual Property Rights in Hebei Province published by the Hebei Provincial People's Congress, and the Shanghai Science and Technology Progress Regulations (2024 Revision) published by the Shanghai Municipal People's Congress.⁷

In terms of administrative protection, various administrative departments focused on solving the 'last mile' of the construction of a rule-of-law government, strengthening the **administrative protection of copyright**. The Publicity Department of the Communist Party of China, in conjunction with the Ministry of Public Security and six other departments, jointly carried out the 'Youth Copyright Protection Season' campaign, special operations against the piracy and dissemination of theatrical films, and the 'Sword Net Campaign 2023' special operation against online infringement and piracy. These initiatives focused on infringement and piracy behaviors that harm the rights and interests of young people, the piracy and dissemination of theatrical films, and the illegal copying and dissemination of popular TV dramas and films. In 2023, copyright-enforcement departments at all levels nationwide performed 720,000 related inspections in the physical market, handled 4,745 cases of infringement and piracy, transferred 231 cases to judicial authorities with a total amount involved of RMB 2.664 billion (approximately USD 0.367 billion), closed 2,390 infringing and pirate websites, and deleted more than 2.44 million infringing and pirate links. The National Copyright Administration, together with the

⁵ CNIPA. (2024) 'The National Intellectual Property Administration's Notice on Designating the First Batch of National Intellectual Property Protection Demonstration Zones in Cities (Regions).' *gov.cn*, available at: https://www.gov.cn/zhengce/zhengceku/2023-04/27/content_5753411.htm

⁶ The Intellectual Property Court of SPC. (2024) 'The SPC and CNIPA's Opinions on Strengthening the Coordinated Protection of Intellectual Property Rights.' *CNIPA*, available at: https://www.cnipa.gov.cn/art/2023/2/24/art_75_182287.html

⁷ CNIPA. (2024) 'The State of Intellectual Property Protection in China in 2023.' *CNIPA*, available at: https://www.cnipa.gov.cn/art/2024/4/30/art_2436_192131.html

Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of Culture and Tourism, and other relevant departments, supervised 150 key cases.⁸

In terms of judicial protection, various organs strengthened the trial and prosecution of civil, administrative, and criminal cases involving intellectual property rights, and intensified the prosecution of criminal cases involving intellectual property rights. National courts newly accepted 462,200 first-instance civil cases involving intellectual property rights, and national procuratorates accepted 7,049 cases for review and arrest for infringement of intellectual property rights. **The reform of the appeal trial mechanism for intellectual property cases at the national level was deepened**, improving the unified trial of patent and other technically strong intellectual property appeal cases by national-level judicial organs, promoting the continuous optimization of the jurisdiction of intellectual property courts, and amending the types of cases heard by intellectual property courts. The procuratorial organs comprehensively fulfilled their duties in intellectual property, and the Supreme Procuratorate issued the Guidelines for the Handling of Intellectual Property Cases by the People's Procuratorates for **the first time** to ensure and standardize **the performance of the procuratorial duties of the people's procuratorates in accordance with the law**. Public security organs at all levels nationwide deeply promoted the summer security crackdown and special operations such as 'Kunlun 2023,' strictly cracking down on various crimes of infringement and counterfeiting. A total of 40,000 cases of crimes involving infringement of intellectual property rights and the production and sale of substandard goods were identified, including more than 800 cases of copyright infringement.⁹

2. Development of Film-Video Brand IPs Authorization and Operations

In 2023, led by the China International Copyright Expo, **the national copyright exhibition system continued to improve**, incorporating regional copyright fairs, exhibitions, and expos as integral components. These efforts comprehensively enhance the role of copyright in guiding the high-quality development of industries.¹⁰ In November 2023, the National Copyright Administration of China and the World Intellectual Property Organization jointly hosted **the 9th China International Copyright Expo** in Chengdu, Sichuan Province, marking the largest international copyright event held in China since 2020. Themed 'Copyright New Era, Empowering New Development,' this

⁸ CNIPA. (2024) 'The State of Intellectual Property Protection in China in 2023.' *CNIPA*, available at: https://www.cnipa.gov.cn/art/2024/4/30/art_2436_192131.html

⁹ National Copyright Administration. (2024) 'Added Value of China's Copyright Industry Accounted for 7.41% of the GDP.' *National Copyright Administration*, available at: <https://www.ncac.gov.cn/chinacopyright/contents/12227/358847.shtml>

¹⁰ China Press, Publication, Radio, Film and Television Journal. (2024) 'Review of 2023 | Copyright Industry: Striving Forward with Vigorous Efforts and Enhancing Past Achievements.' *Copyright Administration of Anhui Province*, available at: http://ahsbqj.anhuinews.com/zixun/wzxw/202401/t20240104_7306191.html

edition featured specialized copyright trading activities covering the entire chain of copyright creation, utilization, protection, management, and services. It promoted deep integration between copyright and cultural industries, achieving a transaction volume of RMB 12.412 million (approximately USD 1.708 million) and strategic cooperation agreements totaling RMB 1.341 billion (approximately USD 0.185 billion).¹¹

Other units and regions also actively conducted related copyright-trading activities. The 29th **Beijing International Book Fair** concluded 2,000 Sino-foreign copyright trade agreements or intentions, including 1,387 agreements for various copyright exports, 502 agreements for imports, and 111 agreements for cooperative-publishing intentions.¹² Guangdong hosted the 13th **China International Film and Animation Copyright Protection and Trade Expo**, which has been held annually in Dongguan since 2009. It has attracted over 4,500 domestic and foreign exhibitors and garnered over RMB 25 billion (approximately USD 3 billion) in transactions, establishing itself as a prominent showcase and influential copyright trading platform in the Guangdong-Hong Kong-Macao Greater Bay Area cultural industry.¹³

In December 2023, the **'Copyright Plus' Cultural Digital Asset Trading Platform** was launched in Shaanxi. This platform focuses on copyright registration, rights confirmation of cultural digital assets, content creation, copyright trading, monitoring and protection, as well as value assessment. It aims to build a large database of cultural digital resources, enhance copyright-monitoring and protection systems, and create a service platform for cultural digital assets in Western China, fostering new scenes of 'Copyright + Digital' cultural consumption.¹⁴

The domestic copyright agency's transaction volume is also considerable. Two companies, **AliFish** (Alibaba's copyright trading platform) and **Guangzhou Yizhouren**, achieved a total retail turnover of USD 2.75 billion in 2022, ranking 11th and 12th respectively on the 'Top Copyright Licensing Agents Ranking in 2024.' **Medialink Group** ranked 42nd with a retail turnover of USD 142 million.

According to the 2023 Global Top Licensors Report released by License Global, **the global retail sales of licensed merchandise reached USD 278 billion in 2022. The entertainment category – encompassing animation, films, and games – achieved retail sales of USD 156.5 billion,**

¹¹ Xinhua. (2023) 'New Cultural Perspectives | Empowering Copyright, Infinite Splendor.' *news.cn*, available at: http://www.news.cn/local/2023-11/30/c_1130001806.htm

¹² The Paper. (2023) 'China Voice to the World, 2000 Copyright Trade Deals Concluded on BIBF.' *The Paper*, available at: https://m.thepaper.cn/kuaibao_detail.jsp?contid=23537184&from=kuaibao

¹³ Southern Metropolis Daily. (2023) 'Gather Global Animation IPs and Focus on Chinese Comics! The Trendiest Animation Expo is Opening.' *qq.com*, available at: <https://new.qq.com/rain/a/20230720A08YXB00.html>

¹⁴ Yang Anqi. (2023) 'The Launch Event of the Copyright+ Cultural Digital Asset Trading Platform was Held in Xi'an.' *CCTV.com*, available at: <https://local.cctv.com/2023/12/28/ARTI7BtrTDch6xP4kKgoNIRE231228.shtml>

accounting for 56.3% of the total, thus maintaining its position as the leading IP development industry.¹⁵ Among the top ten brands, Disney, Warner Bros. Discovery, and NBCUniversal are film companies, while Pokémon, Hasbro, and Mattel have all extended their IP into film content, underscoring the significance of the film industry in the realm of brand licensing.

This year, two Chinese companies made it onto the 2023 Global Top Licensors Report, namely **Shanghai Skynet Brand Management Corp.** and **B.DUCK**. Compared to last year, Shanghai Skynet Brand Management Corp. rose eight places to rank 48th. This is the first time B.DUCK appeared on the list, ranking 81st with annual retail sales of USD 30 million. However, Aofei Entertainment – known for its popular IP such as *Super Wings*, *Pleasant Goat and Big Big Wolf*, and *Armor Hero* – did not make the list this time.

On March 28, 2024, the China Toy & Juvenile Products Association (CTJPA) released the 2024 China Brand Licensing Industry Development White Paper. According to this white paper, the annual retail sales of licensed merchandise in China reached RMB 140.1 billion (approximately USD 19.3 billion) in 2023, marking 0.8% year-on-year growth. Annual licensing revenue in China was RMB 5.47 billion (approximately USD 0.75 billion), reflecting a 0.9% year-on-year increase.

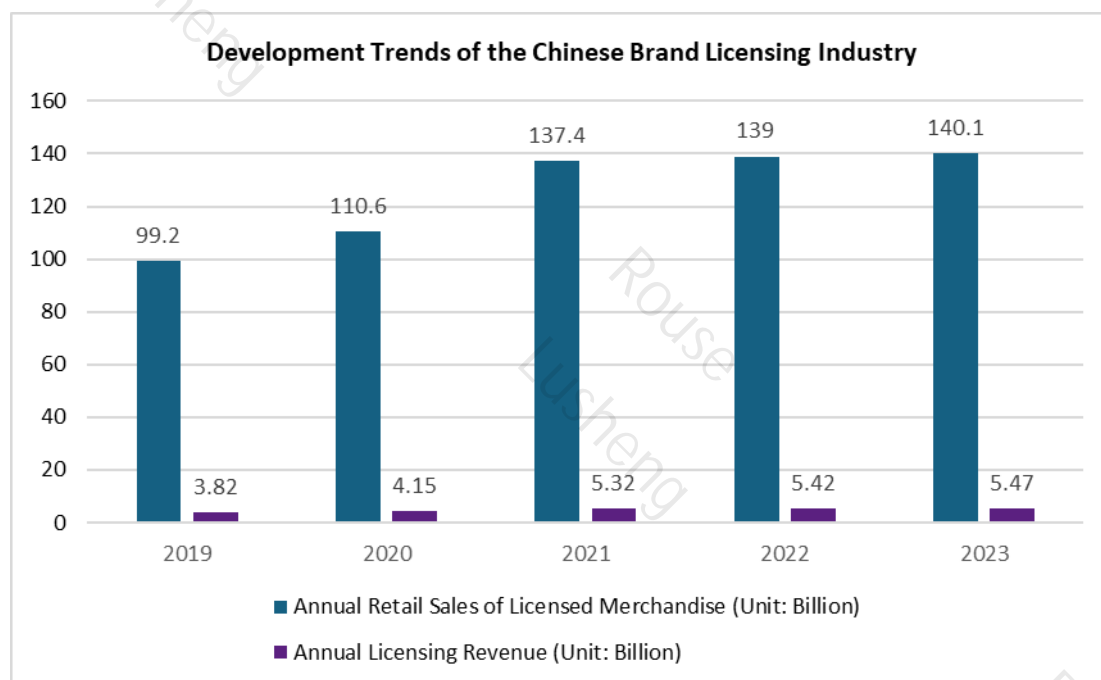
Notably, cartoon and animation generated the most brand IP, while film and variety show IP ranked fifth, accounting for 9.2% in 2021.¹⁶

In 2023, the total number of active licensing enterprises in China reached 654, representing a 1.4% increase compared to the previous year. There were 2,483 IPs engaged in licensing activities, up by 3.1% from the previous year. Among these enterprises, 51.8% reported growth in retail sales of licensed merchandise. Licensees increasingly recognize the value of IP licensing, with contract durations trending towards medium- and long-term agreements. Surveyed consumers remain optimistic about their intentions to spend on licensed products in 2024. Currently, **product licensing and brand collaborations continue to be the two most popular forms of cooperation.**¹⁷

¹⁵ Ian Hart. (2024) 'Special Report: Movie and Streaming Brand Licensing Trends.' License Global, available at: <https://www.licenseglobal.com/entertainment/special-report-movie-and-streaming-brand-licensing-trends>

¹⁶ China Toy & Juvenile Products Association. (2022) '2022 China Brand Licensing Industry Development White Paper.' CTJPA, available at: <http://www.wjyt-china.org/shichang/105113.html>

¹⁷ China Toy & Juvenile Products Association. (2024) '2024 China Brand Licensing Industry Development White Paper.' CTJPA, available at: <https://www.chinalicensingexpo.com/exponews/2062.html>



Data Source: China Toy & Juvenile Products Association By: Rouse International

Since 2023, various types of Chinese companies have undertaken diversified attempts to expand film-video IPs. For major IPs that are substantial in size, rich in content, and capable of producing long-term effects, operators tend to open up IP authorization across different fields and countries. This includes advancing projects in books, audiovisual media, games, and live entertainment, to maximize the IP's influence. Take *The Three-Body Problem* as an example. The novel began serialization in 2006 and won the 73rd Hugo Award for Best Novel. Against this backdrop, the copyright holders have developed a series of derivative works, extending the 'Three-Body' IP to books, audiovisual media, interactive entertainment, and other areas, while operating and developing the IP globally. By the end of 2022, the market value of commercial projects involving consumption and experience related to the 'Three-Body' IP had risen to RMB 2 billion (approximately USD 275 million). In December 2022, the animated version of *The Three-Body Problem* premiered on Bilibili, breaking the record for the fastest animation series to reach one billion views within 10 hours of its debut.¹⁸ Since 2023, Tencent and Netflix versions of *The Three-Body Problem* TV series have been launched. The former broke Tencent Video's daily heat-index record upon its release, while the latter achieved remarkable results overseas. According to Netflix's official ratings, *The Three-Body Problem* premiered on March 21, and by May 5 the series had attracted 46 million viewers on Netflix. It remained at the top of the ratings charts for several weeks in 38 countries and regions, including France, Germany, Italy, and

¹⁸ Feng Cuiting. (2023) 'Comprehensive Research on Three Body's Copyright Management and Licensing.' *Cinda Securities*, available at: https://pdf.dfcfw.com/pdf/H301_AP202307011591977502_1.pdf

Switzerland. It also drove a surge in overseas sales of the English version of the Three-Body novel. On May 16, Netflix announced the renewal of *The Three-Body Problem* for a second season, marking the success of Chinese sci-fi IP on a global scale.¹⁹ In addition to TV series, other licensees such as Bilibili, Octmedia (a subsidiary of Enlight Media), Ximalaya, Youzu Network, and PICO hold adaptation rights for animations, films, radio dramas, games, and VR formats. Furthermore, Wenqu Star – invested in by B-ray Media, Cape Cloud, and Chengdu Cultural Equity Exchange – is developing the ‘Cosmic Flicker’ enhanced observation station for offline scenes.²⁰ The cross-industry and cross-national cooperation and authorization of the Three-Body IP not only enhance the international influence of Chinese sci-fi works and broaden the commercial application scope of well-known IPs, but also drive content consumption growth. This provides domestic and international consumers with a wealth of cultural products, promoting the popularization of sci-fi culture and more innovative ways to experience the content.

For another group of works that have achieved good results in box office and viewership, the copyright holders actively leverage the enthusiasm of fans during the peak broadcast period to focus on creating IP-derived merchandise, thereby developing greater commercial value for the works. Taking the development and sales of derivative products from the film-video IP of *The Wandering Earth 2* as an example, companies and manufacturers such as SaiFan Science Fiction Space, 52TOYS, XCMG Group, SenseTime Technology, and Sembo Building Blocks have all reached official licensing agreements with *The Wandering Earth 2*. The licensed products include both ‘hard’ merchandise like mecha models, and ‘soft’ merchandise such as badges and magnets. In addition, the derivative products from the TV series *Till the End of the Moon* are also a successful example of licensing. The crowdfunding campaign for derivative bracelets on Alifish’s ‘Create New Products’ platform achieved sales exceeding ten million yuan in a short period after the project launch, and the official Q-version figurines achieved monthly sales exceeding 6,000 units.²¹ On the whole, the expansion of film-video IP provides new ideas and models for the commercialization of the film-video industry. Through cross-industry cooperation, online and offline integration, and diversified means such as fan economy, film-video IP rights holders effectively explore and amplify the commercial value of film-video IPs.

Apart from traditional film-video IPs, variety shows/artist management combined with e-commerce programs also represent a direction for exploration. Currently, Mango Excellent

¹⁹ Chuanguan News. (2023) ‘3 Body Problem Renewed for Season 2 at Netflix.’ *Xinhuanet*, available at: <http://www.news.cn/ci/20240516/3c7bbdb8ccdc4a73a14966433723f5af/c.html>

²⁰ See footnote 16.

²¹ Lei Bao. (2023) ‘Mid-Year Review: THE WANDERING EARTH 2 Derivatives Hit RMB 117M in Crowdfunding; Notable IPs and Companies Emerge.’ *Jiemian News*, available at: <https://www.jiemian.com/article/9789890.html>

Media holds nearly 20% of its business in content e-commerce. Leveraging Hunan Television and Mango TV's strengths in variety-show production, the parties deeply integrate variety-show IP with e-commerce content to form a commercial closed loop of 'content + video + e-commerce.' This has produced hot-selling items such as the 'Nanbowan' baseball jacket from *Detective Academy*, the board game Forest Evolution from *Detective*, the Little Breeze T-shirt from *Ride the Wind 2023*, and the IKF headphones from *Treasure Island Season*, thus forming a relatively stable revenue sector through the continuity of their variety shows.²² In 2023, the Gross Merchandise Value (GMV) of Mango's first self-operated trendy clothing brand 'Nanbowan' exceeded RMB 270 million (approximately USD 37 million), successfully achieving a leap from single products to a brand.²³

3. Recent Trends and Hot Topics in Intellectual Property in the Film Industry

(1) In the 'Human-AI Co-Creation' New Era, Copyright Compliance has Become a Focal Point

Film-video production can be broadly divided into four main stages: pre-production, filming, post-production, distribution and marketing. Looking at the average budget-allocation ratio in the film industry, the budgets for filming and post-production are relatively high, both around 35%, with special-effects production accounting for some 10-20% of the total budget. The advancement of AI technology has provided more possibilities for the entire production chain of the film-video industry, including script creation, special-effects production, and marketing promotion. In particular, **the text-to-video model named Sora, released by OpenAI in February 2024, has attracted widespread attention.**

Image and Video Generation Tools		
Image Generation	Materials and Content	DALLE3、Runway、MidJourney、SkyBox AI、Adobe's FireFly
Video Generation	Image Model Video Enhancement	AnimateDiff、VisionCrafter、Hotshot-XL

²² Mango Excellent Media. (2023) '2023 Half-year Report of Mango Excellent Media Co. Ltd.' *cninfo*, available at: <https://static.cninfo.com.cn/finalpage/2023-08-18/1217563265.PDF>

²³ Mango Excellent Media. (2023) '2023 Annual Report of Mango Excellent Media Co. Ltd.' *Sohu Stock*, available at: <https://q.stock.sohu.com/cn,gg,300413,10297954757.shtml>

	Video Generation Model	Videocrafter、Zeroscope、Enfugue、MotionCtrl、Kaiber、Emu video、Runway、Pika labs、Stable Video
--	------------------------	--

Material Source: Stable Diffusion By: Rouse International

The rapid development of AI technology has also brought to the fore a series of legal issues, which mainly include: 1) Whether AI-generated content can be protected by copyright law or other legal provisions, 2) The risks of copyright and personality-rights infringement in the training of AI models, 3) The risk of infringement associated with AI-generated content, 4) Who can claim rights and assume responsibility for AI-generated content, etc.

During **the content-generation phase** of film-video works, training AI models requires the use of a large amount of existing content, including copyrighted works, photographs, sounds, etc. **The use of copyrighted works may lead to copyright-infringement disputes.** Whether such use constitutes ‘fair use’ is still a matter of much debate and uncertainty. Currently, China’s Copyright Law has not explicitly included the use of copyrighted works in AI model training within the scope of copyright-rights limitations or ‘fair use’. There are also no domestic cases that have made a clear determination on this issue.

At the theoretical level, some scholars believe that the traditional licensing model stipulated by China Copyright Law is not suitable for the use of works in AI model training. It is necessary to include AI data training within the scope of ‘fair use’ to encourage the development of AI technology.²⁴ On the one hand, AI model training is based on massive amounts of data, and the quality of the data largely determines the quality and value of the content generated by AI. Generally, data that requires authorization to use tends to be of higher quality compared to other data. To use such works in AI model training, from a compliance perspective, it is necessary to seek authorization from the rights holder or their agent. However, obtaining authorization and paying fees for each work would incur huge costs, which is not conducive to the research and application of AI. If works in the public domain works or works that can easily be authorized are chosen for AI model training, it may lead to homogenization and low-quality issues in AI-generated content, which is also not conducive to the development and prosperity of cultural and artistic endeavors in society. Additionally, the data used in the AI model training process is covert, making it difficult for rights holders to deduce from the AI-generated output which data was used during the training process. After weighing the risks, costs, and output quality of data use, some companies may still choose to use others’ works while knowing that the data use

²⁴ Liu Wei, Wang Shuqi. (2023) ‘Analysis of Fair Use for Works in AI Model Training’, China Intellectual Property No. 196.

constitutes an infringement, which would render the protection of copyright law virtually ineffective. On the other hand, in the new technological revolution, the development of AI technology is of great importance, and many countries around the world are considering institutional designs for creating a policy environment conducive to the development and industrial application of AI technology. In summary, it is necessary to limit copyright in order to encourage the development and application of AI technology. The fair use system is congruent with the development needs of AI technology. At the same time, considering the difficulty in implementing the statutory-licensing system and its supporting measures, adopting fair use rules may be the best choice to maximize interests.²⁵

Nonetheless, the judicial practice of the fair use system in our country is still limited to the rights-limitation acts explicitly listed in the Copyright Law, and the 'fair use' scenarios do not explicitly include the reproduction and use of copyrighted works in the development, learning, and training of artificial-intelligence models. Therefore, current model developers still cannot be exempted from the risk of being deemed infringing when using copyrighted works in the data training phase.²⁶ For example, in 2023 four artists – upon discovering that their original works were highly similar to the images generated by the AI drawing software 'Trik AI' under Xiaohongshu – believed that Xiaohongshu's act of using the artists' works as a training set for its AI drawing software's big-data model infringed upon their copyright. Consequently, they sued the parent company of Xiaohongshu, Xingyin Information Technology (Shanghai) Co., Ltd., and the entity behind the Trik software, Yipuxilong Information Technology (Beijing) Co., Ltd. The case has currently been filed with the Beijing Internet Court.²⁷

Additionally, if AI training databases incorporate the use of personal photos or voices, there may also be risks of infringement of personality rights. In the case of Yin versus a Beijing intelligent-technology company, a Shanghai network-technology company, and a Beijing technology-development company regarding voice protection disputes, the voice actor, Mr. Yin, found that works produced using his voice were widely circulated on several well-known apps. After voice screening and tracing, it was discovered that the voices in the works originated from the text-to-speech product on the platform operated by the defendants, where users could input text and adjust parameters to convert text into speech. Therefore, he initiated a lawsuit claiming

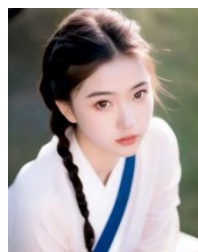
²⁵ Jiao Heping. (2022) 'Copyright Risks and Resolution Paths in Data Acquisition and Utilization in AI-Generated Creations.', Contemporary Law Review No. 4 in 2022.

²⁶ Landy Jiang, Dongmi Wang. (2024) 'An Analysis of Copyright Issues Related to Generative Artificial Intelligence from the First Global AI Platform Infringement Case.' *Lusheng Law Firm*, available at: <https://www.lushenglawyers.com.cn/cn/奖项与新闻/从广互全球首例 ai 平台侵权案评析生成式人工智能相关著作权问题/>

²⁷ Yang Yan. (2023) 'Artists and AI's Battle Has Reached the Courtroom, with Multiple Illustrators Suing Xiaohongshu's AI Tool.' *new.qq.com*, available at: <https://new.qq.com/rain/a/20231204A09Q8P00#>

that the defendants infringed upon his voice rights. The Beijing Internet Court ruled that the plaintiff's voice rights extended to the AI voice involved in the case, and that the defendants, having used the plaintiff's voice and developed the AI text-to-speech product without legal authorization, should bear the responsibility for the infringement and offer a written apology.

At the same time, **whether AI-generated content enjoys copyright protection** has also attracted widespread attention. In November 2023, the Beijing Internet Court made a judgment in China's first case of copyright infringement of AI-generated images, affirming that AI-generated images are protected by copyright law if they meet the requirements for being considered a 'work'.²⁸ In this case, the plaintiff generated the disputed images by inputting prompt words in a certain software program. The court held that the process of generating the disputed images reflected the plaintiff's intellectual input, thus the images met the requirement of being an 'intellectual achievement.' The plaintiff designed the elements of the characters and their presentation through the prompt words, and set the parameters for the images, layout, and composition. The work thus reflected the plaintiff's choices and arrangements. The process of later adjustments and corrections demonstrated the plaintiff's aesthetic choices and personal judgment; thus, the disputed images were considered intellectual achievements with originality and could be recognized as a work.



The Disputed Image

Regarding the identification of the **copyright holder** in the case, the court held that the author is limited to natural persons, legal entities, or unincorporated organizations. Therefore, an artificial intelligence model itself cannot be considered an author under China's Copyright Law. The designers of the model did not have the intention to create the disputed images, nor did they preset the subsequent content generation. They did not participate in the process of generating the disputed images, so they are not the authors of the disputed images. The plaintiff directly made the necessary settings for the AI model according to his needs, and he was the person who

28

Beijing Internet Court. (2023) Jing 0491 Min Chu No. 11279 civil judgement.

ultimately selected the disputed image. Therefore, the plaintiff is the author of the disputed image and holds the copyright to it.

Additionally, in other cases determining whether AI-generated content is protected by copyright, the court will also assess whether the content in question possesses the characteristics that constitute a 'work' through originality and aesthetic choices, and then determine whether it is protected by copyright. For instance, in the case of copyright infringement and unfair competition between Morefun (Shanghai) Information Technology Co., Ltd. and a Hangzhou network company, the court held that the virtual digital human in question, Ada, was a human-driven type of virtual digital human. Its form of expression drew on the physique of a real person, while also expressing the author's unique aesthetic choices and judgments on lines, colors, and specific image design through virtual beautification techniques, thereby constituting a work of fine art. The two videos involving the image of Ada constituted an audiovisual work and a sound recording. Morefun Company reserved the property rights and the rights of the producer of the sound recording for the works. Moreover, since the virtual digital human Ada was driven by a real person, created through real-time voice generation and motion capture by intelligent wearable equipment, the 'performance' it displayed in terms of voice, expression, and movements highly reproduced the relevant performances of the real actress Xu, rather than creating a new performance based on the real person's performance. Xu, as a performer stipulated by the Copyright Law, performed in her professional capacity as an employee of Morefun Company. In accordance with the written agreement between the parties, Morefun Company should enjoy the property rights in the performer's rights. The Hangzhou company published the two accused infringing videos, infringing upon Morefun Company's rights to the audiovisual work, fine artwork, video recording, and its performer's rights of information-network dissemination.²⁹

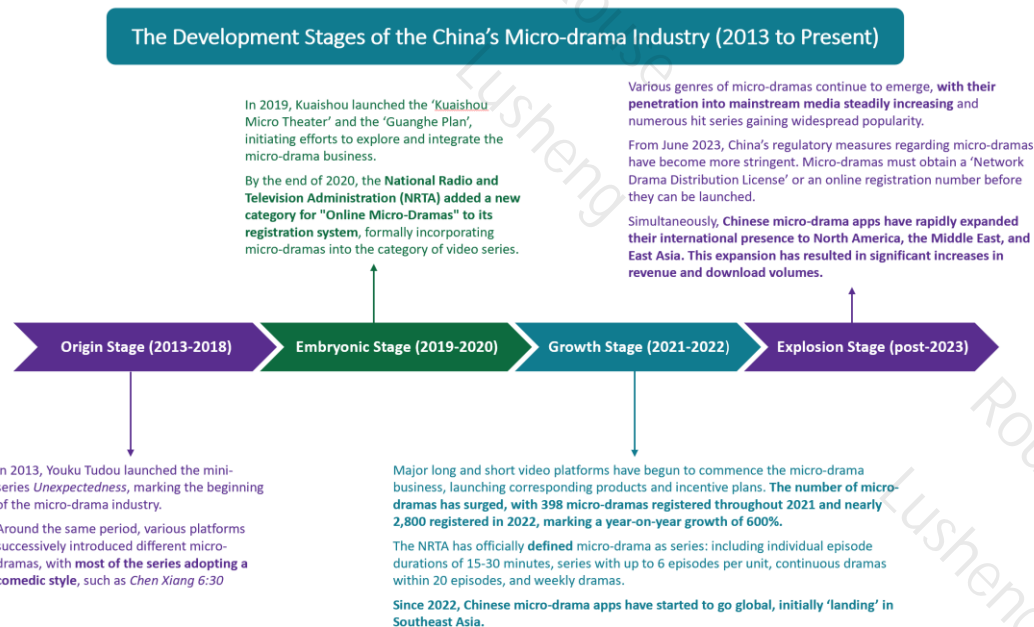
The discussion on issues related to AI-generated content is conducive to risk management for the film-video industry when generating and using AI works, and the judicial practice of granting copyright to AI-generated content that meets the conditions also has positive significance for the protection of works generated by the film-video industry using AI technology.

(2) With Chinese Micro-Dramas Rapidly Going Abroad, Attention Should be Paid to Local Regulations and Strengthened IPR Protection

In 2023, the market size of China's micro-drama industry reached RMB 37.39 billion (approximately USD 5.14 billion), representing a tenfold increase from 2021. The projected

²⁹ The Intermediate People's Court of Hangzhou, Zhejiang Province. (2023) Zhe 01 Min Zhong No. 4722 Civil Judgement.

market size for 2027 is expected to reach RMB 100 billion (approximately USD 14 billion).³⁰ Over the past decade, China's micro-drama market has undergone four development stages: the Origin Stage (2013-2018), the Embryonic Stage (2019-2020), the Growth Stage (2021-2022), and the Explosion Stage (post-2023). Micro-dramas, with a wide range of themes, have now entered the mainstream spotlight.³¹



Data Source: Eastmoney.com By: Rouse International

Distribution licensing and content review of domestic micro-dramas in China have entered a new regulatory phase, where **broadcasting is subject to prior declaration, content review, and the obtaining of a permit**. Meanwhile, benefiting from the well-developed domestic commercial model of 'webnovel-adapted micro-dramas,' micro-drama platforms such as ReelShort have achieved significant success overseas.

The international expansion of Chinese micro-dramas commenced in 2022. As of the end of February 2024, after nearly two years of development, over 40 Chinese short drama apps – including ReelShort (under COL Group), ShortTV (under Jiuzhou Wenhua), and TopShort (under Shanghai Jiashu Technology) – have collectively accumulated over 55 million downloads and USD 170 million of in-app purchase revenue in overseas markets.³² According to relevant market

³⁰ Beijing Youth Daily 'The Market Size of Micro-Dramas is Expected to Exceed RMB 100 Billion by 2027.' CCTV, available at: <https://news.cctv.com/2024/03/10/ARTIjqhOR8p1v9V6Vp9QILtQ240310.shtml>.

³¹ Gao Bowen, Chen Ziyi. (2024) 'Short Play Market Driven by Both Supply and Demand, Cultural Impact Resonates Globally and Domestically.' *Eastmoney Securities*, available at: https://pdf.dfcfw.com/pdf/H301_AP202401051616649253_1.pdf

³² Rui Ma. (2024) 'State of Bitesize Streaming APPs 2024.' *Sensor Tower*, available at: <https://sensortower.com/zh-CN/blog/state-of-bitesize-streaming-apps-2024-CN>

forecasts, the long-term revenue potential for the international expansion of short dramas is expected to reach USD 36 billion.³³

In terms of **business models**, unlike the domestic market – which primarily relies on mini-programs for paid micro-dramas – the leading companies in the international expansion of short dramas currently fall into two main categories. The first category consists of major domestic platforms – such as Youku, iQIYI, Tencent Video, and Kuaishou – which **have launched specific micro-drama brands or dedicated channels for micro-dramas for overseas business**. These platforms leverage their extensive experience in the domestic long/micro-drama sectors and use their brand influence to expand internationally. For example, Youku attempted to develop and launch micro-dramas for the overseas market at the end of 2021. In the same year, Kuaishou's international version, Kwai, introduced the micro-drama brand Telekwai. Additionally, Tencent Video and iQIYI have gradually increased their investments in the overseas market and begun to release micro-drama content.

Another content type involves Chinese online literature companies translating or adapting web novels into micro-dramas and independently launching them on **overseas micro-drama apps**. These short dramas are typically presented in vertical screen mode, with each episode lasting 1-3 minutes and the series comprising over 50 episodes. To enhance user retention and profitability, these short drama apps primarily utilize a 'hybrid monetization' model combining single-episode purchases, advertising monetization, and subscriptions.

In terms of the destinations for micro-dramas going abroad, Chinese micro-drama platforms initially ventured into **Southeast Asia** in 2022, and subsequently expanded rapidly to **North America, Europe, and the Middle East**. Regarding revenue, from April 2023 to January 2024 – due to the relatively lower economic development in Southeast Asia and lower willingness to pay among users – the estimated revenue accounted for only **9%** of the global total revenue from popular micro-drama apps going abroad, amounting to **USD 9.49 million**.³⁴

In comparison, the willingness of users in North America and Europe to pay within applications is significantly higher than that in Southeast Asia.³⁵ Taking North America as an example, the proportion of downloads of popular micro-drama apps going abroad in this region from April 2023 to January 2024 was **31%**, and the region contributed 68% of the global revenue share

³³ Yao Lei, Fang Boyun. (2024) 'China Micro Dramas Go Global: An In-Depth Report on Tapping the New Frontier in the Blue Ocean Market.' *Sealand Securities*, available at: https://pdf.dfcfw.com/pdf/H3_AP202401301619520729_1.pdf?1706638653000.pdf

³⁴ Ding Heng. (2024) 'Micro-Drama Overseas Expansion: A Deep Dive Report - Short Yet Powerful, Narrating Dramatic Changes.' *Horizon Insights*, available at: <https://www.vzkoo.com/document/20240311953d003c8e823453ed3ec353.html>

³⁵ The average revenue per user (ARPU) in North America and Europe is USD 4.7 and USD 2.3 in subjectively.

during the aforementioned period, amounting to **USD 71.72 million**. Furthermore, users in the Middle East have higher per capita income³⁶ and exhibit higher spending power and willingness to pay compared to Southeast Asia, although overall revenue in the Middle East is relatively low.

In terms of popular micro-drama genres, Southeast Asia has a high acceptance of popular Chinese domestic themes. This is due to cultural similarities with China and a high concentration of Chinese communities across the region. The most favored genres include **sweet romance, tragic love stories, and family-ethics dramas**. By contrast, in Europe and North America the dominant themes are **powerful CEOs and locally influenced werewolf and vampire stories**, with female protagonists often depicted as strong, independent women. As for the Middle East micro-drama market, where the primary audience is predominantly male, the popular genres tend to be male-oriented thrillers that include **war heroes and underdog success stories**.

Overall, the issues of copyright protection faced by Chinese micro-drama platforms going abroad mainly include the following aspects:

- **Originality and Compliance:** In foreign countries, particularly in Europe and America, copyright regulations are relatively strict. Therefore, micro-drama producers need to ensure the originality and compliance of their content to avoid losses due to copyright-infringement issues. This means that during the production process, micro-drama producers must strictly adhere to the copyright laws and content-review regulations of the destination country, ensuring that the content on platforms complies with local laws and regulations.

For example, in Southeast Asia and the Middle East there are regulatory ‘red lines’ regarding content related to royalty, religion, and pornography. For instance, Saudi Arabia prohibits the appearance of non-Islamic religious information, including crosses, books, or images with cross-related texts. Both regions have special requirements for women’s attire and prohibit LGBTQ+ content. Therefore, when producing micro-dramas for international markets – specifically Southeast Asia and the Middle East – it is important to avoid the inclusion of religious elements in the plot.

Additionally, particular attention should be paid to female attire in promotional materials to prevent the appearance of ‘explicit’ images or plots, as well as to avoid depicting intimate LGBTQ+ actions. In contrast, there are no special restrictions in Europe and America regarding the aforementioned content. The regulatory limitations for advertising and promotion are also minimal in these regions.

³⁶ ARPU in Middle East and Southeast Asia is USD 1.1 and USD 0.7 subjectively.

- **Issues of Passing off and Borrowing Elements:** Instances of passing off and borrowing elements are common occurrences within micro-dramas, which can lead to serious copyright disputes abroad. For example, the plot and background music of a micro-drama cannot be arbitrarily 'copied' or 'excerpted' from others' works without facing infringement liabilities.
- **Differences in Copyright Protection in Various Destinations:** Copyright protection laws vary from region to region. When micro-dramas are launched internationally, it is crucial to understand and adapt to these differences to avoid violating local copyright laws.
- **Platform Responsibility:** Micro-drama platforms bear legal obligations for platform copyright governance and are required to establish copyright-protection rules in accordance with the law. Platforms must take corresponding governance measures against uploaders suspected of copyright infringement. If platforms fail to fulfill these obligations, they may face infringement liability.

For instance, the United States Digital Millennium Copyright Act (DMCA), the European Union's Directive on Copyright in the Digital Single Market adopted in 2019, and Thailand's revised Copyright Act all require micro-drama platforms operating as online content sharing platforms to immediately remove or block infringing content upon receiving a valid take-down notice from the rights holder. Otherwise, they will be held jointly liable for infringement. Therefore, micro-drama platforms entering international markets should provide a channel on their apps or webpages for rights holders to submit infringement notices. Once a valid take-down notice is received from a rights holder, the platform should immediately remove or block the allegedly infringing content.

- **Strengthen Copyright Infringement Monitoring and Actively Protect Rights:** While micro-dramas in China may be able to avoid domestic copyright risks through various means, once detected and litigated by copyright holders abroad, the cost and difficulty of safeguarding rights will significantly escalate. Therefore, micro-drama platforms going abroad should enhance their awareness of monitoring infringing content on overseas video platforms. Upon discovering instances where their micro-drama works are illegally 'reposted' or 'compiled for disseminating as short videos after being segmented and edited into clips' on other video platforms, platforms going abroad should promptly send infringement notices to the relevant platforms after preparing ownership proof and gathering evidence of the infringement. This proactive approach aims to prevent the reduction of revenue generated by micro-dramas that platforms have produced through infringement activities.

Furthermore, micro-drama platforms going abroad can fully leverage the administrative enforcement channels for rights protection in their target markets. For example, the Saudi Authority for Intellectual Property (SAIP) allows rights holders to initiate copyright complaints online through its official website. Upon substantiating the complaints, the SAIP has the right to block the related pirate websites. According to official data, the frequency of actions taken by the SAIP in combating online piracy has been steadily increasing. In 2023, the number of infringing websites blocked by the SAIP grew by 112% compared to the same period in 2022.³⁷

In general, the Chinese micro-drama market has vast potential when it comes to international expansion. Faced with regulatory risks in different regions, micro-drama platforms should adopt meticulous and cautious strategies, placing emphasis on the legal regulations and policy trends of each region. During the production and promotion stages, it is crucial to acquire copyright authorization in advance, to respect the cultural and religious sensitivities of the destination, and to avoid crossing regulatory 'red lines.' In the operational phase, the platform should actively fulfill its responsibilities, promptly respond to take-down notices from rights holders, and enhance awareness of monitoring and safeguarding against infringements related to its own micro-drama content. Utilizing diverse channels to protect its legitimate rights, the platform can achieve compliant content dissemination and ensure the stable development of its business.

(3) New Directions in Film and Television IP Exploitation: A Catalyst for Cultural Tourism Growth

Since 2021, China's Ministry of Commerce and Ministry of Culture and Tourism have rolled out a series of policy documents, including the 14th Five-Year Plan for Business Development, the 14th Five-Year Plan for Cultural and Tourism Development, the Opinions on Advancing 'Internet Plus Tourism' to Enhance the High-Quality Development of the Tourism Industry, and the Notice on Implementing Pilot and Demonstration Projects for Cultural and Tourism Consumption. These documents indicate a strategic pivot in China's tourism sectors towards comprehensive development, integrated innovation, thematic hotels, and cultural elements. In this context, the fusion of film and television with cultural tourism has emerged as a prominent trend in 2023, capturing the imagination of younger audiences who increasingly seek out travel destinations inspired by the stories they see on screen. This convergence is swiftly becoming an innovative strategy for cities looking to draw in visitors.

³⁷ Dr. Abdulaziz bin Mohammed Al-Swailem. (2023) 'Annual Report of Intellectual Property Enforcement for the Year 2022.' *Saudi Authority for Intellectual Property*, available at: <https://externalportal-backend-production.saip.gov.sa/sites/default/files/2023-06/تقرير%20الانفاذen.pdf>

The surge in popularity of the TV series *The Knockout* at the start of 2023 had a significant impact on tourism to Jiangmen. According to official statistics, the city welcomed 765,200 visitors and generated tourism revenue of RMB 439 million (approximately USD 60 million) during the first two days of the May Day holiday. This marked a visitor increase of 173.01% and a tourism revenue increase of 184.29% year-on-year.³⁸ In March, the hit TV drama *The Road of Life* brought a wave of interest to Qingjian County in Shaanxi, both as a key filming location and the hometown of the underlying novel's author, Lu Yao. The Life Film and Television City, spanning 35.6 acres and built specifically for the series, has quickly become a sought-after destination for tourists. For the May Day holiday, Qingjian introduced a specialty tour route inspired by *The Road of Life*, showcasing streets steeped in the essence of Northern Shaanxi, time-worn buildings, and vibrant small eateries that draw in visitors with their charm.³⁹ In recent years, numerous examples have demonstrated the power of film and television IPs in enhancing tourism. In Bengbu, the North-South dividing line and the Woman in the Pearl sculpture have both become popular spots due to their connection with the narrative of *Till the End of the Moon*. The TV show *Meet Yourself* has shone a spotlight on Fengyangyi Village in Yunnan, a short distance from Dali Ancient Town, and has even sparked the launch of Huace Media's inaugural B&B project, Wind Homestead. Meanwhile, *The Pavilion* has helped Shaoxing Ancient Town gain fame through its association with a traditional 'yellow wine' offering, among other examples.⁴⁰

The fusion of cultural tourism with film and TV/film IPs is maturing into an advanced model, with production companies playing a more strategic role, starting from the conceptualization phase of cultural tourism projects. This early engagement is enhancing tourism by leveraging character licensing, coordinated marketing materials, and the development of thematic routes or distinctive themed areas. A case in point is the mini-series *To the Wonder*,⁴¹ an adaptation of Li Juan's prose collection of the same name. This series has formed a collaborative partnership between iQIYI, Huacheng Publishing House, Xinjiang Uygur Autonomous Region's Department of Culture and Tourism, and the Altay Cultural and Tourism Department in a novel approach to

³⁸ Chen Tong. (2023) 'How can Cultural Tourism and the Film-Video Industry Achieve a Win-win integration?' *Weyujiazhiguan*, available at: <https://36kr.com/p/2248697968799624>

³⁹ Hui Xuanxuan. (2023) 'Filling the Void in Shaanxi Qingjian's Tourism Industry, The Road of Life Film and Television City Becomes a Breakout Hit.' *CN West*, available at: <http://m.cnwest.com/sxxw/a/2023/10/13/21967661.html>

⁴⁰ Shanghai Observer. (2023) 'How Did Liu Yifei and Li Xian Promote Yunnan Tourism in Find Yourself?' *Sohu*, available at: https://www.sohu.com/a/637047988_121332532

⁴¹ The direct translation of 'To the Wonder' in English is 'My Altay,' centering on Li Wenxiu, a Han Chinese girl who embarks on a journey back to her native Altay. Through her experiences, the story paints a vivid picture of the traditional Kazakh nomadic lifestyle and the rich cultural landscape of the region.

cultural tourism: 'Read a good book, watch a good drama, visit a beautiful place.'⁴² The Altay region has skillfully utilized local media to disseminate captivating marketing content, such as promotional photos or behind-the-scenes videos, to attract the attention of fans. The Habahe County, being a significant filming location, is also developing premium tourism routes covering major shooting spots. iQIYI adds value by extending discounts on tourist attraction tickets, meals, and accommodation to its VIP members.⁴³ These integrated efforts have led to a marked increase in tourism. Since the series premiered in May, the Altay region has welcomed approximately 2.67 million visitors, marking a significant 80% increase compared to the same period last year. Concurrently, the region's tourism revenue has soared to RMB 2.2 billion (approximately USD 302.7 million), reflecting a substantial 93% year-on-year growth. This surge in tourism has also shifted the onset of the peak season forward – now typically commencing in mid-to-late June – indicating an earlier and more robust tourism period for the Altay region.⁴⁴

Beyond natural wonders in places like Xinjiang and Yunnan, the historic city of Xi'an has leveraged its rich cultural heritage to foster cultural tourism. Home to the Grand Tang Dynasty Everbright City, one of China's National Demonstration Pedestrian Streets, Xi'an has become a showcase for the vibrant Tang Dynasty culture. Following the success of the TV drama *The Longest Day in Chang'an*, a themed district was established in Qujiang New District. Constructed with the original artistic design and fully recreating the scenes from the TV IP, the District offers an immersive experience into Tang folk culture. Since its opening in 2022, it has drawn over two million visitors, exemplifying the successful transformation of a TV IP into a cultural tourism attraction, and sustaining revenue four years post-broadcast.⁴⁵ Building on this, Xi'an's Publicity Department announced a strategic partnership with iQIYI in 2023 to develop a 'new ecology of urban cultural IP,' including a VR Theatre for *Strange Tales of the Tang Dynasty*, covering a VR immersive experience, merchandise exploitation, theme park development, offline markets, and other projects. *Strange Tales of the Tang Dynasty* premiered on iQIYI in 2022 and has since captivated audiences. The continuation of the series, *Strange Tales of the Tang Dynasty*:

⁴² Shen Jiequn. (2024) 'To the Wonder - New Cultural Tourism Collaboration Mechanism Released, Calling for 'Read a good book, watch a good drama, visit a beautiful place.' *China Youth Daily*, available at: <https://new.qq.com/rain/a/20240424A09OEY00>

⁴³ Ren Jiang. (2024) 'Cultural China Tour: Exploring the Beautiful Xinjiang - Tonight, Join CCTV To the Wonder.' *www.ts.cn*, available at: https://www.ts.cn/xwzx/shxw/202405/t20240507_20842419.shtml

⁴⁴ Mosi Qige. (2024) 'Film and Television IP and Cultural Tourism Embrace Each Other to Jointly Discover To the Wonder.' *Guangzhou Daily*, available at: https://news.ycwb.com/2024-06/03/content_52724278.htm

⁴⁵ Xu Weina. (2023) 'Film-video + Tourism: A New Engine to Drive the High-Quality Development of Integrated Cultural Tourism.' *People.cn*, available at: <http://finance.people.com.cn/n1/2023/1220/c1004-40143389.html>

Westward, has now also been completed. In a strategic move, the introduction of the new VR Theater is anticipated to align with the launch of the sequel series.⁴⁶

In contrast to the nascent domestic approach, the integration of film and TV IPs with cultural tourism has reached a high level of maturity in international markets. *The Lord of the Rings* trilogy, released between 2001 and 2003, transformed New Zealand, its primary filming location, into a distinctive 'Middle Earth' destination for tourists. Capitalizing on the films' success, New Zealand has diversified its development of the *Lord of the Rings* IP. Visitors can immerse themselves in Hobbiton at the Matamata-themed town in the Waikato region,⁴⁷ explore the craftsmanship behind the movies at Weta Studios in Wellington, and embark on a journey through Queenstown, encountering iconic locations like the Elven Kingdom of Lothlorien, the Arrow River, and the Mirkwood.⁴⁸ The release of *The Hobbit* trilogy from 2012 to 2014 rekindled New Zealand's tourism boom. Data from the New Zealand Herald indicates that in the 12 months leading up to March 2015, Hobbiton saw approximately 360,000 visitors, up from 232,000 in the same period of 2014 and a mere 33,000 in 2011. The New Zealand government estimates that the Matamata region alone generates annual tourism revenue of between NZD 50 million and NZD 500 million (approximately USD 30.5 to USD 305 million) attributable to *The Lord of the Rings* and *The Hobbit* films.⁴⁹ **This enduring innovation, which has spanned nearly 15 years, relies on the synergy of the local cultural-tourism industry and the enduring appeal of *The Lord of the Rings* franchise. It is also a testament to *The Lord of the Rings*' rich narrative, prowess in film production, the enduring impact of its IPs, and the ongoing introduction of new related works.**

These cases illustrate that integrating with cultural tourism is a vital strategy for TV and film companies to enhance IP development and diversify revenue streams. However, the construction of film and TV IP towns often depends on the timeliness of the IP or the strength of a super IP.⁵⁰ While popular dramas can boost short-term tourism, the long-term success of themed scenic spots requires a pipeline of compelling and enduring local TV and film IPs.

⁴⁶ Zhang Wenyu, Xu Xiahua. (2023) 'iQIYI Creates a Hit in Xi'an for Cultural Tourism?' *Jiemian News*, available at: <https://m.jiemian.com/article/10003149.html>

⁴⁷ Xinyu. (2021) 'The Lord of the Rings is Re-released, but Those Filming Locations are Gone Forever' *Life and Arts*, available at: <https://mp.weixin.qq.com/s/aSHphTq4j8t5JdrVdn3jXw>

⁴⁸ See one of the one-day trips from Queenstown, New Zealand offered on Klook: <https://www.klook.com/zh-CN/activity/18807-lord-of-the-rings-day-tour-queenstown/>

⁴⁹ Zhang Tianyu. (2015) 'Chinese Tourists Spend Millions of Dollars at The Lord of the Rings Filming Locations.' *Xinhuanet*, available at: http://www.xinhuanet.com/world/2015-11/13/c_128425341.htm

⁵⁰ Wangshi Network. (2017) 'Are the Film and Television Towns Popping Up One After Another Merely a Stake-Claiming Movement by the Film and Television Magnates in the Entertainment Industry?', *jiemian.com*, available at: <https://m.jiemian.com/article/1448025.html>

Collaborations between film and television IPs and local cultural-tourism departments often encounter various intellectual property protection challenges, primarily in the following areas:

- **Copyright Licensing and Authorization:** To lawfully utilize film and television IPs, it is essential to secure the appropriate copyright licenses and authorizations, thus preventing infringement disputes. For instance, the South Korean drama *Winter Sonata*, popular in 2002, significantly increased tourism in Gangwon Province, its filming location. Proactive communication with production team and talent agents during filming resulted in successfully obtaining permissions for promotional materials featuring stills from the drama.⁵¹

Conversely, not securing the required permissions or exceeding the scope of granted authorization can expose one to legal repercussions and the risk of monetary compensation. A case in point is Rovio Entertainment's aggressive move in 2014 to file 15 infringement suits in Chinese courts against a Guangxi real estate firm and its business-hotel affiliate. Rovio, holder of the Angry Birds copyright, claimed that the companies had unlawfully operated an Angry Birds themed adventure park, rampantly using its game characters across promotional materials, tickets, activities, and information brochures. The park's walls, entrances, and signage were adorned with Angry Birds imagery, and it featured numerous large-scale installations of the game's characters. The dispute was resolved through a mediated settlement facilitated by the Nanning Intermediate Court.⁵²

Beyond theme parks, scenic areas must also be vigilant about permissions for individual elements. An example of this is the 2010 incident at the Guose Tianxiang Amusement Park in Chengdu, Sichuan, where an unauthorized attempt to replicate the Gundam RX-78 statue from Shinagawa District, Tokyo, resulted in a copyright infringement claim from the Japanese rights holder. The park ultimately dismantled the unlicensed sculpture.⁵³

- **Contractual Compliance:** It's crucial to adhere to contractual terms that cover the scope, duration, and payment for the use of film and television IPs. Contract violations can lead to legal disputes and liabilities.

⁵¹ Huize Network. (2017) 'Korean TV Dramas Stimulate Local Tourism Consumption.' *Huize Network*, available at: <https://xuexi.huize.com/study/detail-13552.html>

⁵² Tu Yuanyuan. (2014) 'Cartoon Characters Infringed: Angry Birds Sues and Wins Compensation.' *Chinacourt.org*, available at: <https://www.chinacourt.org/article/detail/2014/10/id/1469063.shtml>

⁵³ Wang Yadong, Zhang Jing. (2012) 'Theme Park Copyright Infringement Risks and Resolution Strategies.' *China Business Law Journal*, available at: <https://law.asia/zh-hans/主题公园著作权侵权隐患及解决策略/>

- **Intellectual Property Management Deficiencies:** A lack of a robust IP management system in cultural tourism departments can result in poor IP protection, hindering the development of a lasting competitive edge.
- **Third-Party Intellectual Property Considerations:** Cultural tourism entities must be vigilant about potential infringement of third-party IP rights beyond film and television IPs. This includes music, exhibit designs, product appearances, experiential entertainment designs, and so on. For example, Beijing Happy Valley faced copyright protection actions from the China Music Copyright Association for using music without permission.⁵⁴
- **Public Awareness and Copyright Protection:** It is imperative for cultural and tourism departments to conduct IP training and education to raise awareness about copyright protection to relevant participants in the tourism industry and the general public. A lack of public understanding can lead to unauthorized use and frequent infringement of film and television IPs.

Protecting copyrights in the synergy between film and television IPs and cultural tourism is multifaceted, necessitating a holistic approach that includes legal, technical, and managerial strategies. By raising public awareness and implementing effective copyright-protection measures, collaboration can foster the healthy growth of the cultural tourism sector and cultivate unique, culturally resonant IPs.

II. Administrative Protection of Intellectual Property Rights in the Film-Video Industry

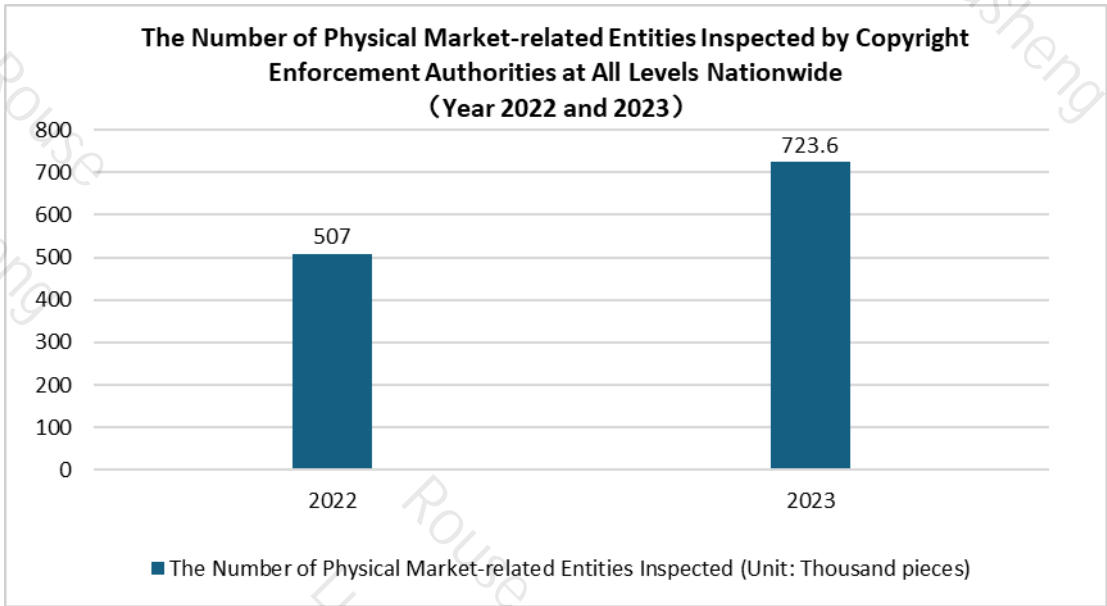
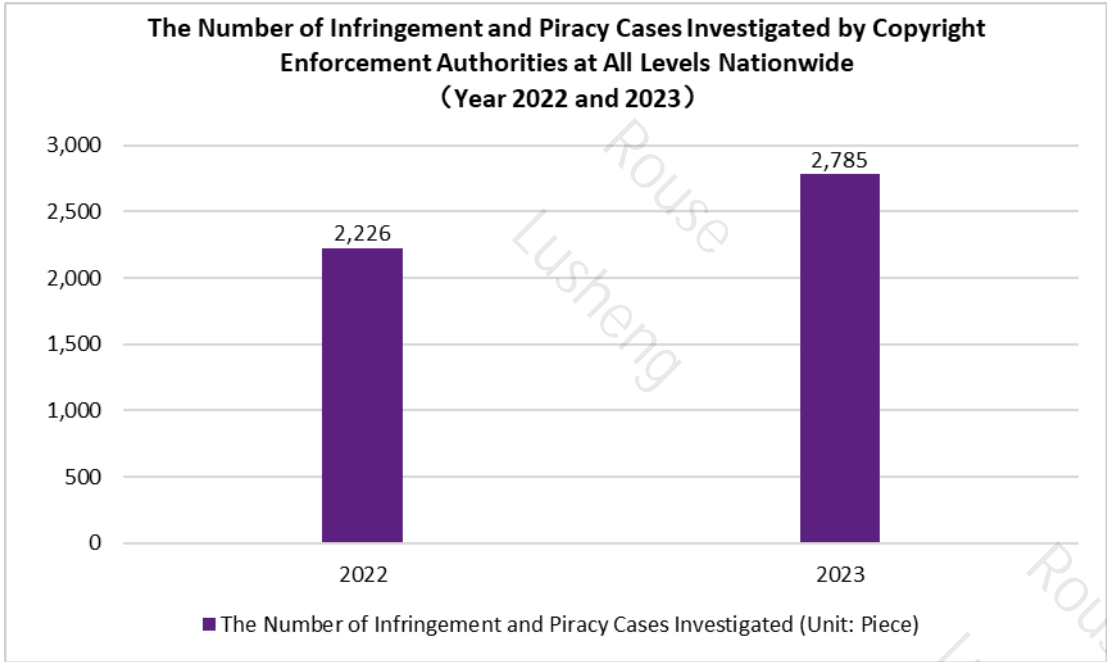
1. Data of Administrative Law Enforcement Activities in the Film-Video Industry

In 2023, copyright-enforcement agencies across various regions continued to adopt a closely coordinated approach, both online and in the field. By combining special actions with routine enforcement, agencies have rigorously cracked down on copyright infringement activities.

Regarding **routine enforcement**, data from the National Copyright Administration indicates that in 2023, **copyright-enforcement authorities at all levels nationwide** inspected 723,600 physical market-related entities and investigated 2,785 cases of infringement and piracy in physical

⁵⁴ Zhang Binbin. (2018) 'How Do Theme Parks Avoid Intellectual Property Disputes?' *people.cn*, available at: <http://ip.people.com.cn/n1/2018/1011/c179663-30334457.html>

markets. These figures represent increases of 42.7% and 25.1% respectively, compared to the same period in 2022.⁵⁵

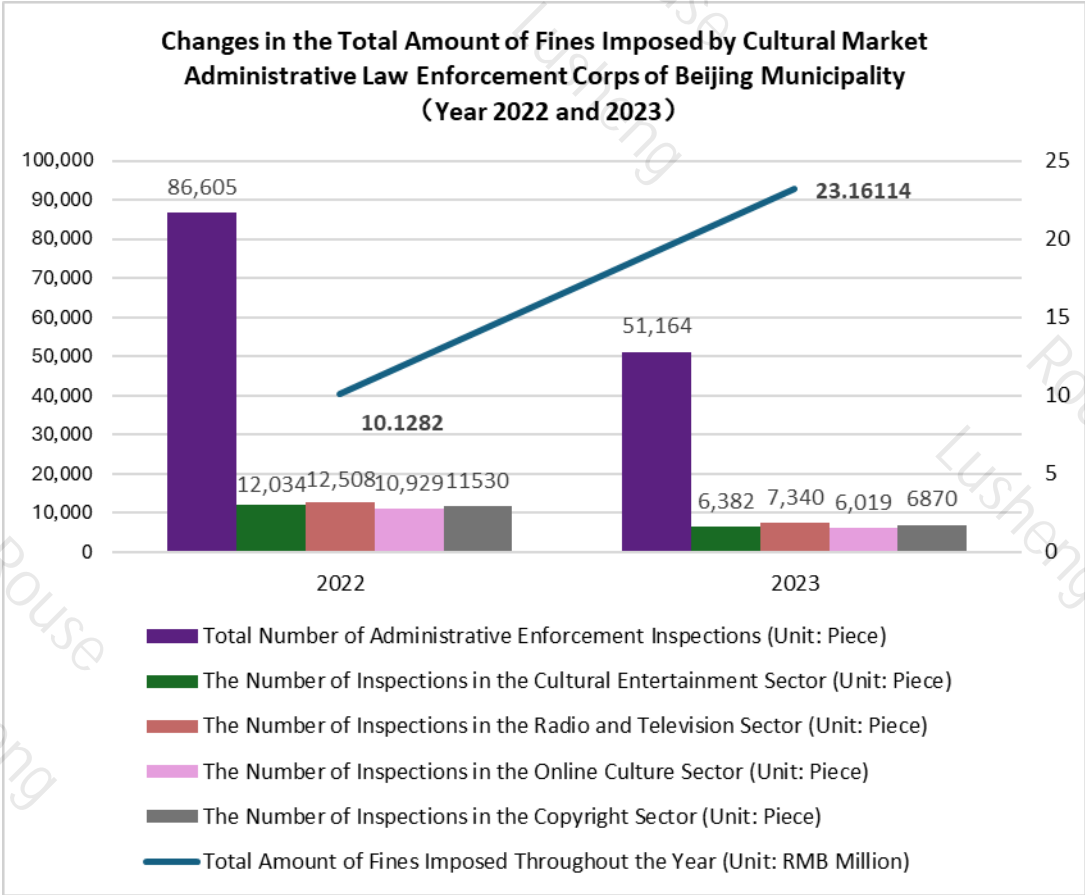


Data Source: National Copyright Administration By: Rouse International

Various regions have tailored a series of offline copyright administrative enforcement actions to local conditions. Taking Beijing as an example, the **Cultural Market Administrative Law Enforcement Corps of Beijing Municipality** continued their administrative enforcement inspections throughout 2023. In total, they conducted 51,164 administrative enforcement

⁵⁵ National Copyright Administration. (2024) 'Copyright Enforcement in 2023 Achieves Positive Results in Combating Infringement and Piracy.' *National Copyright Administration*, available at: <https://www.ncac.gov.cn/chinacopyright/contents/12227/358942.shtml>

inspections during the year, including 6,382 inspections in the cultural entertainment sector, 7,340 in the radio and television sector, 6,019 in the online cultural sector, and 6,870 in the copyright sector.⁵⁶ In 2023, a total of 17 administrative enforcement measures (seizures) were taken, resulting in fines totaling RMB 23.16114 million (approximately USD 3.19 million), representing an increase of over 128% compared to the same period in 2022, reflecting a more stringent enforcement approach.



Data Source: Cultural Market Administrative Law Enforcement Corps of Beijing Municipality By: Rouse International

Regarding customs enforcement, using keywords such as ‘film,’ ‘movie,’ ‘video,’ ‘TV series,’ ‘episode,’ or ‘micro-drama,’⁵⁷ a search in the Wolters Kluwer database from May 1, 2023, to May 1, 2024, revealed a total of 18 administrative penalties imposed nationwide by various levels of customs authorities. Among these, **16 administrative penalties were issued by the customs enforcement authority in Ningbo City, Zhejiang Province.**

⁵⁶ Cultural Market Administrative Law Enforcement Corps of Beijing Municipality. (2024) ‘2023 Administrative Enforcement Annual Report on Cultural Market in Beijing.’ *Cultural Market Administrative Law Enforcement Corps of Beijing Municipality*, available at: https://whsczfzd.beijing.gov.cn/zwgk/xzzfgs/zfxx/zftjnb/202401/t20240122_3542555.html

⁵⁷ Research date: May 11, 2024

The infringements involved imprinting copyrighted or trademarked images or logos of film and television characters on exported goods such as clothing, toys,⁵⁸ luggage, shower-curtain rods, and backpacks.⁵⁹ Characters affected by infringement included popular figures like *Mickey Mouse*, *Minions*, *Peppa Pig*, and *Transformers*.

Notably, rights holders involved in said cases, including Universal City Studios (Universal Pictures), The Walt Disney Company, and Entertainment One UK Limited (owner of the *Peppa Pig* copyright), have all filed their copyright or trademark registration information with the General Administration of Customs. They also submitted applications and guarantees for intellectual property protection within specified deadlines, supporting customs in identifying and intercepting goods suspected of infringing on these registered intellectual properties during import and export processes. This approach has enhanced the precision and efficiency of customs enforcement, effectively preventing acts of infringement.

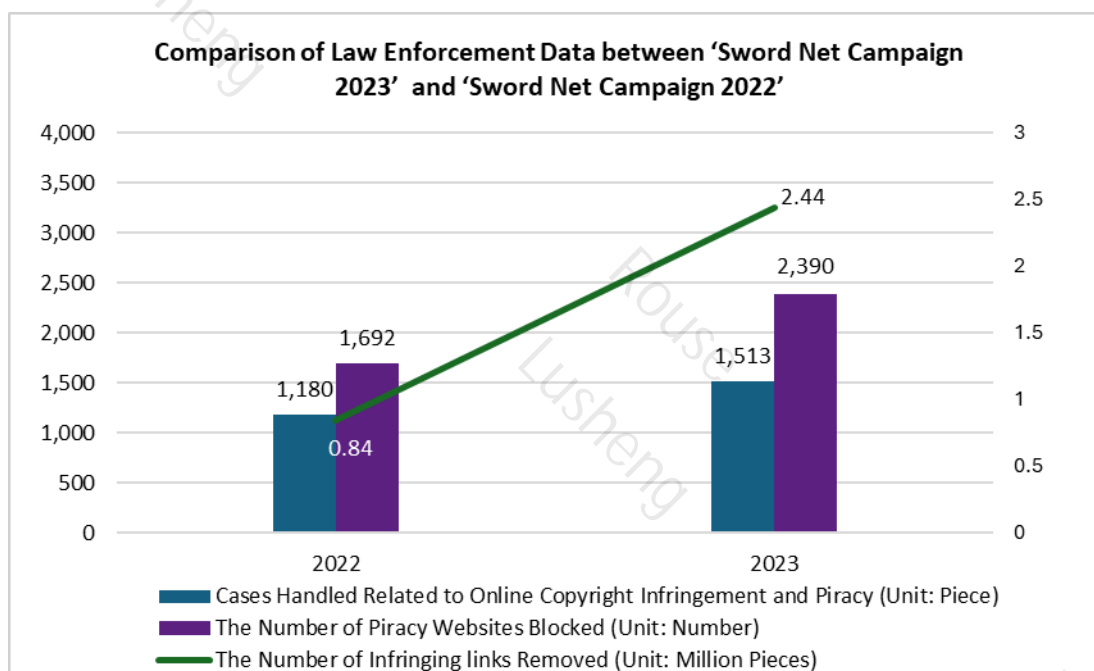
Regarding **special actions**, the National Copyright Administration, the Ministry of Industry and Information Technology, the Ministry of Public Security, and the Cyberspace Administration of China have continued the **‘Sword Net Campaign 2023’ special action** since August 2023. This marks the 19th nationwide initiative targeting online copyright infringement and piracy since the inaugural ‘Sword Net Campaign’ in 2005, with a **particular focus towards on-demand cinemas and online video platforms**.

During this campaign, copyright-enforcement authorities at all levels nationwide handled 1,513 cases related to online copyright infringement and piracy. They blocked 2,390 infringing websites and removed over 2.44 million infringing links. These figures represent increases of 28.2%, 41.5%, and 190.5%, respectively, compared to the ‘Sword Net Campaign 2022.’⁶⁰

⁵⁸ Beilun Customs House. Yongbeiguanzhi (2023) No.0338 Administrative Penalty Decision.

⁵⁹ Beilun Customs House. Yongbeiguanzhi (2023) No.0385 Administrative Penalty Decision.

⁶⁰ State Council Information Office. (2024) ‘State Council Information Office Holds Press Conference on the ‘China’s Annual Report on Combating Infringement and Counterfeiting (2023).’ *Southcn*, available at: <https://nflive.southcn.com/index?id=3240>



Data Source: State Council Information Office By: Rouse International

Furthermore, in response to illegal activities involving the **unauthorized recording and distribution of theatrical films in cinemas**, the National Copyright Administration – along with three other state-level governmental agencies – launched a **special campaign during the 2023 Spring Festival period to combat such practices**.⁶¹ During this campaign, copyright enforcement authorities investigated 63 major cases of unauthorized recording and distribution of theatrical films, resulting in the removal of over 53,000 infringing links and the shutdown of 224 illegal websites (or apps), achieving significant effectiveness in curbing these illegal activities.⁶²

Simultaneously, copyright-enforcement authorities have strengthened their focused online supervision of platforms such as online video sites. From January to October 2023, copyright-administration departments at all levels nationwide deleted over 250,000 infringing links and dealt with more than 40,000 infringing accounts.⁶³

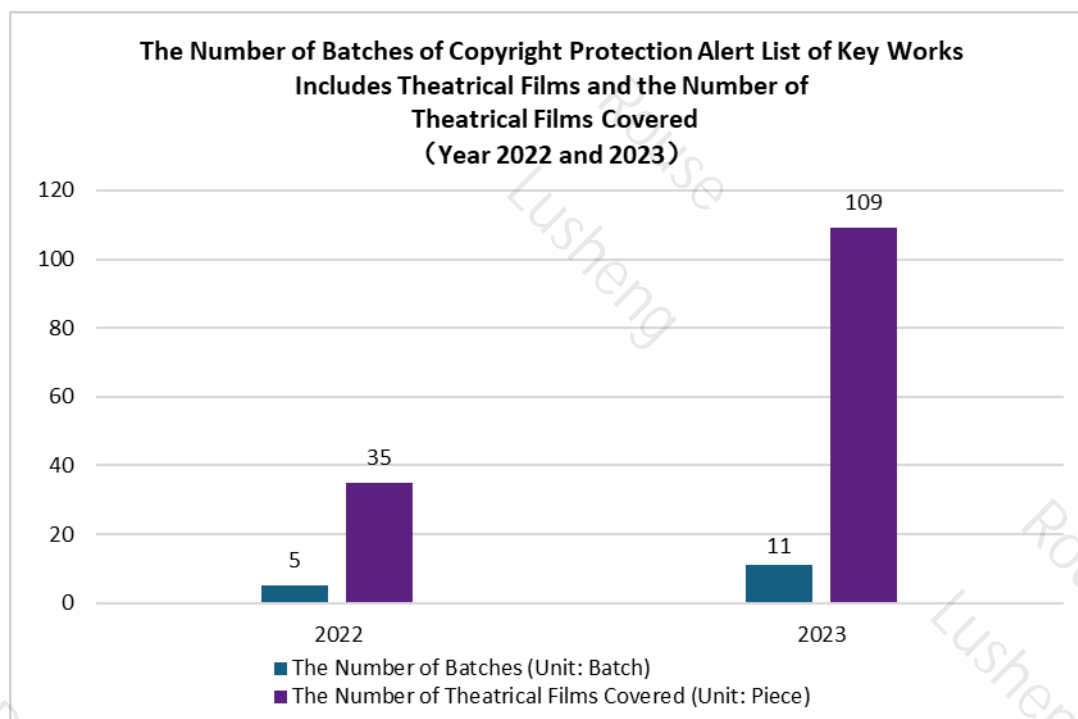
Additionally, the National Copyright Administration has continued to provide special **protection for key theatrical film works by publishing priority copyright-protection alert lists**. In 2023, the

⁶¹ National Copyright Administration. (2023) 'National Copyright Administration and Three Other Departments Continue Special Operations Against Piracy and Distribution of Theatrical Films.' *National Copyright Administration*, available at: <https://www.ncac.gov.cn/chinacopyright/contents/12227/357216.shtml>

⁶² CINPA. (2024) 'Status of Intellectual Property Protection in China (2023).' *CNIPA*, available at: https://www.cnipa.gov.cn/art/2024/4/30/art_91_192134.html

⁶³ Wang Yi. (2023) 'Publicity Department's Copyright Management Bureau: This Year, Administrative Law Enforcement Departments at All Levels Have Removed Over 250,000 Infringing Links.' *Chinanews.com*, available at: <https://www.chinanews.com.cn/gn/2023/11-08/10108374.shtml>

National Copyright Administration released 11 batches of such lists, covering 109 key theatrical film works, representing increases of 120% and 211% respectively compared to the same period in 2022.



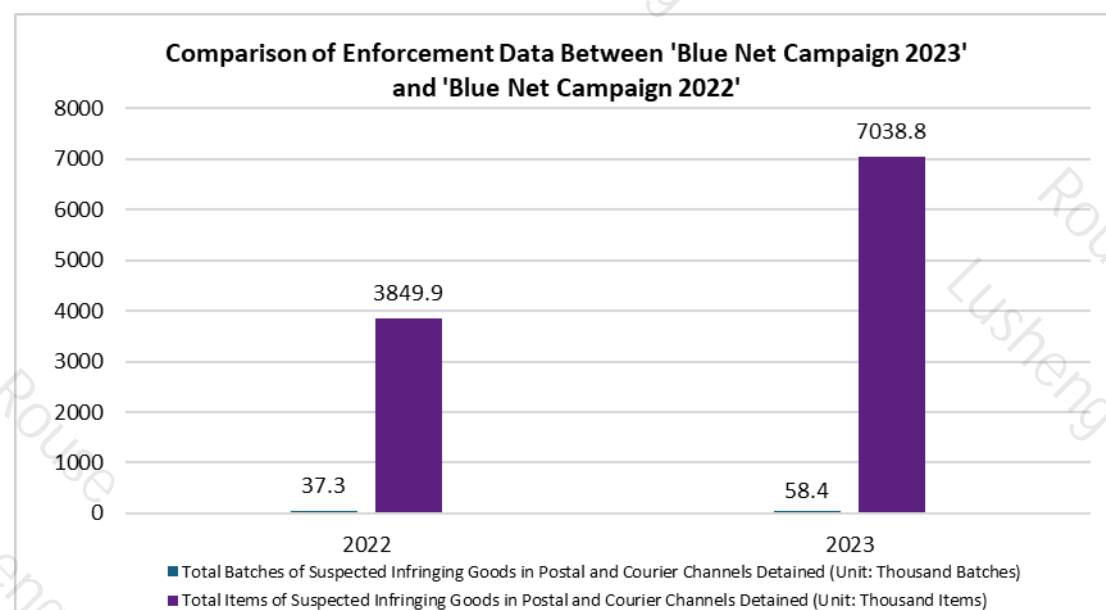
In response to the issue of undesirable content in emerging online micro-dramas and short videos, the broadcasting authority has **initiated a special enforcement campaign**. Specifically, from November 2022 to February 28, 2023, the National Radio and Television Administration took down over **25,300 micro-dramas comprising 1,365,004 episodes** that contained pornographic, vulgar, violent, or aesthetically offensive content. Additionally, **2,420 ‘mini-programs’ with non-compliant content were removed**, effectively curbing the unrestrained proliferation of online micro-dramas.⁶⁴

In response to the issue of intellectual property infringement in the field of customs enforcement, the General Administration of Customs launched the **‘Dragon Campaign’ for the seventh consecutive year in 2023, aimed at comprehensively strengthening intellectual property protection by customs**. Additionally, for the fourth year in a row, it has initiated the **‘Blue Net Campaign’ to protect intellectual property rights in postal and courier channels**, and the **‘Clean Net Campaign’ to safeguard intellectual property rights in export transit cargo**.

⁶⁴ Audiovisual in New Era (social media account of the National Radio and Television Administration). (2023) ‘National Radio and Television Administration Takes Multiple Measures to Continuously Conduct the Regulation of Online Micro-Dramas.’ Cctv.com, available at: <https://news.cctv.com/2023/11/15/ARTIifBx3LyulQpfxDGIIjiW231115.shtml>

During the 'Blue Net Campaign 2023,' customs authorities across the country confiscated a total of 58,400 batches of suspected infringing goods in postal and courier channels, marking an increase of 56.6% compared to the 'Blue Net Campaign 2022.' The confiscations involved more than seven million items, indicating an 82.8% year-on-year increase.⁶⁵ This effectively combated intellectual property infringement through postal and courier channels.

In the 'Clean Net Campaign 2023,' the Guangdong Branch of the General Administration of Customs – in collaboration with local customs authorities and the customs offices of Hong Kong and Macau – conducted three joint intellectual property enforcement operations, achieving significant results.⁶⁶



Data Source: General Administration of Customs By: Rouse International

Additionally, we have observed a new development in the administrative protection of copyright, namely the **administrative adjudication mechanism for copyright infringement**. In April 2024, the Bureau of Justice of Shanghai Pudong New Area issued the Provisions on Administrative Adjudication of Copyright Infringement Disputes in Pudong New Area (Draft). The draft delineates the scope and jurisdiction of cases and clarifies that the administrative adjudication procedure for copyright should only be initiated upon mutual agreement by both parties involved, rather than being a mandatory dispute resolution process.

On May 27, 2024, CNIPA and eight other state-level governmental agencies jointly issued the Implementation Plan for the Construction of the Intellectual Property Protection System, which

⁶⁵ CNIPA. (2023) 'Status of China's Custom Intellectual Property Protection (2022) Released.' *CNIPA*, available at: https://www.cnipa.gov.cn/art/2023/5/6/art_1413_187275.html

⁶⁶ See footnote 64.

calls for the strengthening of standardized construction of copyright administrative adjudication, and explores the implementation of administrative adjudication for copyright infringement disputes in Special Economic Zones, State-level New Areas, and Pilot Free Trade Zones.⁶⁷

We reasonably speculate that, in the future, the administrative adjudication procedure for copyright will also become a method for copyright owners in the film-video industry to protect their rights.

2. Major Characteristics of Intellectual Property Administrative Law Enforcement Cases in Film-Video Industry

We conducted a comprehensive search within the Wolters Kluwer database, utilizing a range of keywords including ‘film and television,’ ‘movie,’ ‘film,’ ‘television,’ ‘TV series,’ or ‘micro-drama’. Our findings reveal that between May 1, 2023, and May 1, 2024, market regulation authorities and cultural and tourism authorities at all levels nationwide issued a total of 25 administrative penalty decisions regarding trademark and copyright infringements in the film and television industry.⁶⁸ Among these administrative penalties, 21 cases involved copyright infringement, while four cases involved trademark infringement.

In terms of the forms of infringement, **trademark infringement cases** mainly involved the unauthorized use of well-known film-video characters for promotional purposes to attract customers, as well as the unauthorized production or sale of clothing featuring patterns identical or similar to those of well-known film-video companies’ characters. In **copyright-infringement cases**, the primary forms of infringement included providing viewing or on-demand services to the public without authorization from the copyright owner, and illegally recording and distributing theatrical film content.

We also meticulously reviewed and compiled typical cases related to the film-video industry from the 2023 exemplary cases released by central and local public security, market regulation, and cultural and tourism authorities. We ultimately selected and summarized four representative and prominent administrative enforcement cases to provide reference for practitioners in the film-video industry.⁶⁹

Through the analysis of typical administrative law enforcement cases, we have identified several key issues: On the one hand, **a significant number of individuals are involved in the**

⁶⁷ CNIPA, Central Publicity Department, SPC, SPP, Ministry of Public Security, Ministry of Justice, Ministry of Commerce, General Administration of Customs, and State Administration for Market Regulation. (2024) ‘Implementation Plan for the Construction of the Intellectual Property Protection System’ *CNIPA*, available at: https://www.cnipa.gov.cn/art/2024/5/27/art_75_192629.html

⁶⁸ Research date: May 11, 2024.

⁶⁹ The detailed summaries of all cases discussed in Sector II & III can be found in ‘Appendix: Typical Cases.’

infringement cases, indicating a trend towards organized crime. These groups have clear divisions of labor in making piracy recordings and selling counterfeit films, with cases spanning a wide geographical area and involving a diverse range of pirated works in large quantities.

Taking the '2.12' *Series of Cases Involving the Illegal Recording of Theatrical Films During the Spring Festival Period* and the '2.06' *Case of Copyright Infringement of Theatrical Films* as examples, the number of individuals involved in these two cases were 26 and 18, respectively. The regions involved include multiple provinces and cities, such as Jiangsu, Zhejiang, Anhui, and Guangxi. The infringing groups had designated personnel responsible for illegally recording in cinemas ('front-end') and selling pirated films via online stores ('back-end'). In one of the cases, the number of pirated film and television works exceeded 800,000, including a variety of Spring Festival-themed works with different titles such as *YOLO*, *Pegasus 2*, *Boonie Bears: Time Twist*, *Article 20*, *Jurassic Era*, and *Boonie Bears: Guardian Code*. In light of this, public security departments and copyright-enforcement agencies in various regions have established joint task forces to form a united front, quickly investigating and solving these cases, and effectively curbing the risk of pirated film and its dissemination.

On the other hand, cases of unauthorized use of well-known film-video images for promotional purposes continue to occur, resulting in administrative penalties. In the case of *Sichuan Faya Cultural Development Co., Ltd. and Junku (Shanghai) Information Technology Co., Ltd. infringing the copyrights of Universal Pictures and DreamWorks Animation*, the infringers used the poster of the film *Kung Fu Panda 4* to promote their children's stage play on their WeChat public account and ticketing links without the right holder's permission, leading to a fine of RMB 10,000 (approximately USD 1,376) imposed by the Chengdu Copyright Bureau.

In this case, the infringers claimed that the said poster was downloaded from a picture aggregation website called 'IGWORK,' but upon investigation by the rights holder it was discovered that the website stored posters, character images, and various other materials of almost all the film series of the rights holder without authorization. Furthermore, the website promoted 'free, copyright-free high-definition image resources available for commercial use' on social media, offering VIP paid-download services to users. The Chengdu Copyright Bureau transferred the case to the Shanghai Municipal Administration of Culture and Tourism, and subsequently, the website operator was fined a substantial amount of RMB 100,000 (approximately USD 13,760).

This case serves as a reminder for professionals in the film-video industry to enhance their awareness of rights protection and monitoring in promotional activities within the performing arts sector. It also alerts business entities engaged in performances to obtain prior authorization from trademark rights holders when using well-known film-video works or images for

promotional purposes, in order to avoid infringement risks. For those who have obtained authorization, it is imperative to carefully verify the authenticity of the authorization. In the case of obviously copyrighted content, one should not readily believe in the promotion of 'free for commercial use.'

3. Overview of Administrative Protection Measures in Overseas Film-Video Markets in 2023

In the 2022 version of this report we introduced the newly established Copyright Claims Board (CCB) in **the United States**, which is primarily focused on resolving small copyright claims. In 2023, the CCB handled a total of 419 cases, with 85 cases involving audiovisual works. Among the 13 effective administrative rulings issued, one video-infringement case was successfully resolved, with the claimer receiving USD 9,000 in compensation.⁷⁰

In 2022 we also presented the newly established Audiovisual and Digital Communication Regulatory Authority (Arcom) in **France**, which has the administrative power to block pirate websites. In 2023, Arcom achieved remarkable results by blocking 1,544 infringing pirate websites, representing a 100% increase compared to the same period in 2022.⁷¹

Additionally, we observed new initiatives in copyright administrative protection in various other countries in 2023.

In April 2023, the Content Overseas Distribution Association (CODA) of **Japan** collaborated with the Brazilian government to conduct a special enforcement operation against piracy websites operating within Brazil that targeted Japanese anime content. This operation yielded significant results, with 36 piracy websites successfully shut down and several infringers arrested by Brazilian police, effectively protecting the legitimate rights of Japanese anime and audiovisual content owners. Notably, this marked CODA's first overseas joint-enforcement action targeting piracy websites aimed at local users in a foreign jurisdiction.⁷²

In July 2023, the **Italian Senate** passed legislation granting the telecommunications regulator AGCOM more rapid and extensive authority to block online infringing streaming sites. Once AGCOM detects pirated streaming content or receives a qualified complaint from a rights holder, it is empowered to block the streaming link within 30 minutes. AGCOM can also proactively block future links likely to contain the same infringing content, and can impose administrative penalties

⁷⁰ Rachel Kim. (2023) 'The 12 CCB Final Determinations.' *Copyright Alliance*, available at: <https://copyrightalliance.org/ccb-final-determinations/>

⁷¹ Piracy Monitor. (2024) 'France: Anti-Piracy Regulation Works but Piracy Access Has Migrated to Social, VPNs, Alternate DNS.' *Piracy Monitor*, available at: <https://piracymonitor.org/france-sports-piracy-increases-in-2024-anti-piracy-methods-evolve/>

⁷² Content Overseas Distribution Association (Japan). (2023) '36 Japanese Anime Pirated Sites Closed due to Brazil's 'Operation Animes' All-out Crackdown.' *Content Overseas Distribution Association*, available at: <https://coda-cj.jp/en/news/289/>

on the operators of pirated streams.⁷³ This measure provides rights holders with a more efficient and precise way to protect their rights, allowing for a swift response to mitigate losses caused by online infringement.

In September 2023, the **Intellectual Property Office of the Philippines (IPOPHL)** issued the **Rules on Voluntary Administrative Site Blocking**, aimed at further enhancing administrative enforcement capabilities to combat piracy websites and more quickly block such sites through administrative means. The Philippines became the second country globally after Germany to establish a voluntary administrative site-blocking mechanism. Under this mechanism, IPOPHL has reached an agreement with five domestic Internet Service Providers (ISPs). According to the agreement, copyright holders can directly submit valid infringement complaints to IPOPHL's Enforcement Office (IEO) without needing a prior court ruling. The IEO must complete the review within five working days, and once approved, the IEO will immediately issue instructions to the ISPs to block the pirated websites or disconnect the links. The ISPs are required to comply with these instructions within two days.⁷⁴ Compared to lengthy litigation processes, this system significantly reduces the time and financial costs for rights holders in their enforcement activities and offers considerable value for adaptation and reference.

III. Judicial Protection of Intellectual Property Rights in the Film-Video Industry

1. Overview of Intellectual Property Disputes in Film-Video Industry

According to the **Judicial Suggestions on Strengthening Intellectual Property Protection to Promote High-Quality Development of the Film Industry** issued by the SPC, from 2013 to 2022, the people's courts across China have concluded 11,600 first-instance cases concerning the intellectual property rights of films. This figure indicates an average annual growth rate of 7.46%, outpacing the increase in general civil cases by 4.73% over the same period.⁷⁵

Utilizing search results from Wolters Kluwer, it is noted that between May 1, 2023, and May 1, 2024, the courts have issued a total of 1,485 intellectual property judgments related to terms

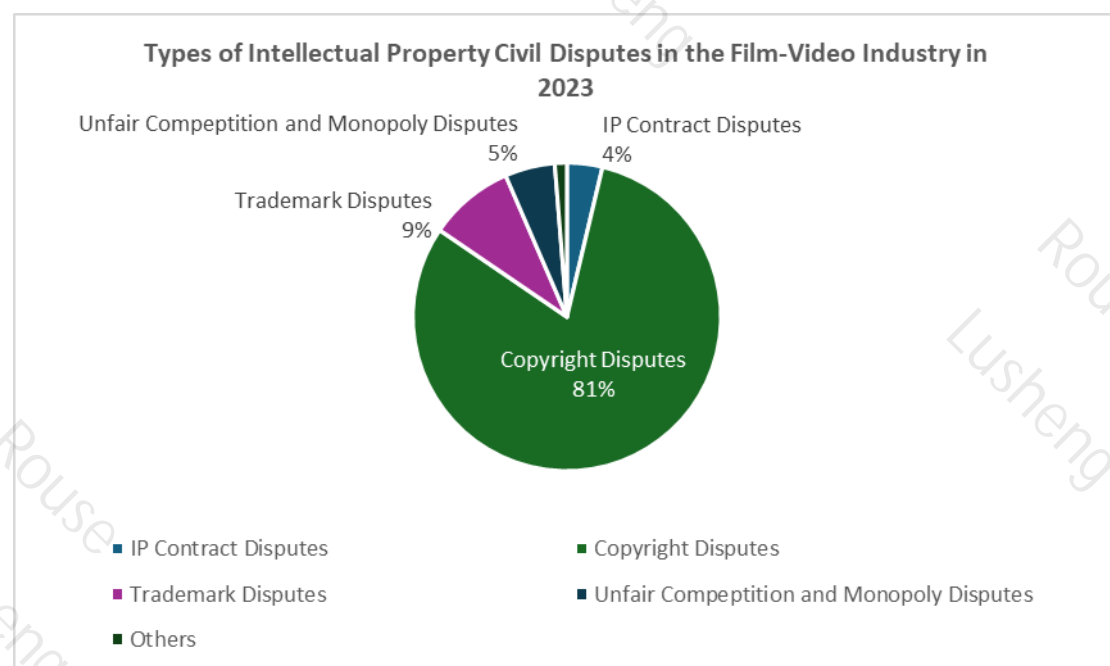
⁷³ Andy Maxwell. (2023) 'New Law to Crush Pirate IPTV Unanimously Approved by Italian Senate.' *TorrentFreak*, available at: <https://torrentfreak.com/new-law-to-crush-pirate-iptv-unanimously-approved-by-italian-senate-2307114/>

⁷⁴ Carlo B. Valerio. (2024) 'IPOPHL's Voluntary Site Blocking Rules Take Effect 14 January 2024.' Cruz Marcelo & Tenefrancia, available at: <https://cruzmarcelo.com/ipophls-voluntary-site-blocking-rules-take-effect-14-january-2024/>

⁷⁵ Zhao Zhao. (2023) 'The Supreme People's Court Issues Judicial Suggestions to Promote High-quality Development of the Film Industry.' *www.CHINACOURT.ORG*, available at: <https://www.chinacourt.org/article/detail/2023/11/id/7620296.shtml>

such as ‘film and television,’ ‘movie,’ ‘film,’ ‘television,’ ‘TV series,’ or ‘micro-drama.’ These include 1,471 civil cases, 11 administrative cases, and three criminal cases, with 1,057 cases being first-instance and 428 being second-instance.⁷⁶

Upon examining **the causes of action**, copyright infringement stands out as the most frequent dispute, amassing 1,197 cases. Within this, **the infringement of the right of information network dissemination** with 461 cases, **and the infringement of the right to broadcast works** with 274 cases, are the most commonly asserted specific rights. The distribution of these legal disputes is largely consistent with the patterns observed in the 2022-2023 fiscal year.

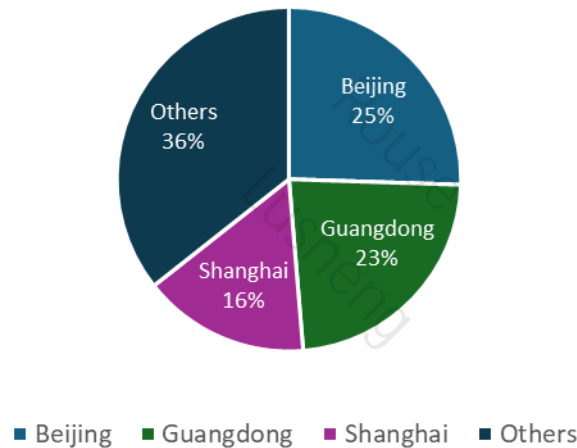


By: Rouse International

Geographically, the jurisdictions of **Beijing, Guangdong, and Shanghai** have taken the lead in adjudicating intellectual property litigation within the film and television sector, **accounting for more than 60% of all cases**. Over the past year, they have each delivered judgments in 368, 344, and 233 cases respectively. In contrast, other provinces, autonomous regions, and municipalities directly governed by the central government have seen a significantly lower volume, with none exceeding 70 cases. The Beijing Intellectual Property Court stands out as the most active in handling film-video intellectual property disputes, with a total of 243 cases on its docket, representing a substantial 16.5% share of the overall national caseload.

⁷⁶ Research date: May 11, 2024.

Geographical Distribution of Intellectual Property Judicial Disputes in the Film-Video Industry in 2023



By: Rouse International

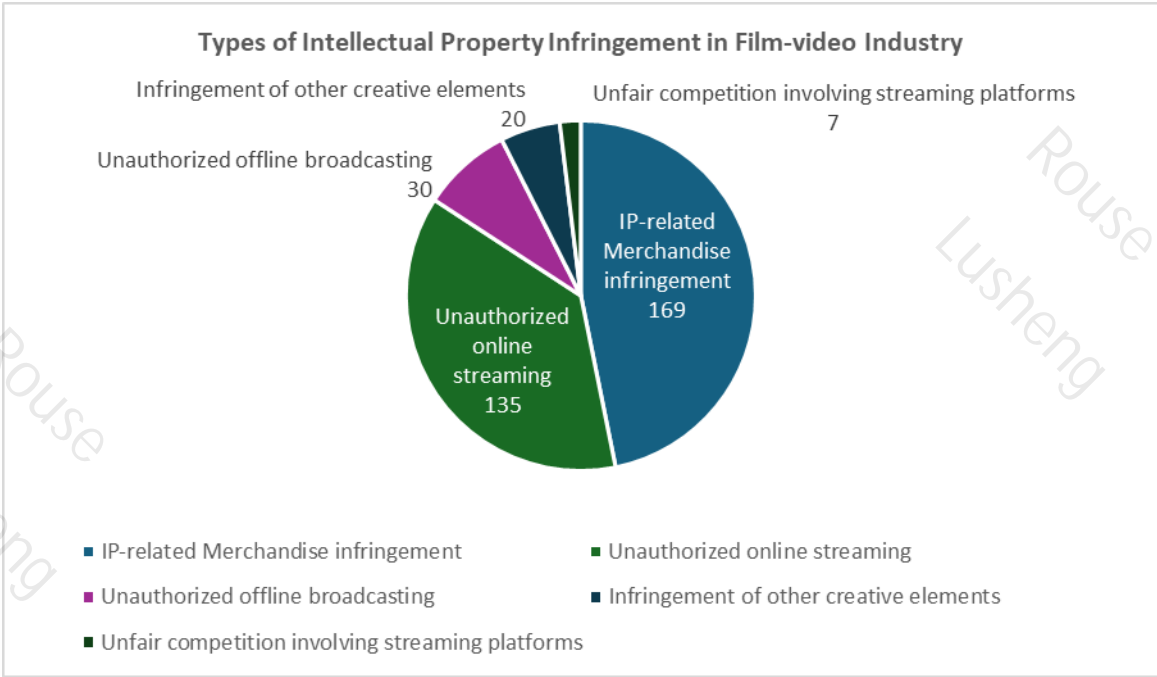
To gain a deeper understanding of intellectual property cases within the film-video industry, we meticulously examined the 1,485 aforementioned rulings, extracting 399 civil cases that are intimately connected to the industry. This subset encompasses 362 instances of infringement disputes and 37 contract-related cases.

Our selection criteria were aligned with the overarching goals of our research, concentrating on the spectrum of intellectual property rights associated with the development, management, exploitation, and safeguarding of creative works such as films, television series, web series, micro-dramas, and animations. We deliberately excluded disputes that, while relevant to the general entertainment industry, fell outside the scope of our study, including celebrity agency contracts, contracts for advertisement production, and the collective management of copyrights for music used in film and television.⁷⁷

Based on the results, we found that infringement cases can be classified into five principal categories: (1) **Unfair competition involving streaming platforms**, where the primary revenue streams – membership subscriptions and advertising – are jeopardized by third-party services that offer ad-blocking or VIP account circumvention, thereby disrupting the platforms' business

⁷⁷ Since the majority of copyrights for film and television songs are owned by music companies and subsequently authorized directly by the copyright collective management association without the involvement of film and television producers, and most are mass litigations that do not differ in characteristics and types from general music-related copyright litigations, we have not collected these cases. However, we have included some cases involving songs from music variety shows, for example, the lawsuit concerning the right to screen 75 music audiovisual works from the second and third seasons of 'The Voice of China' in case number (2023) Hu 0114 Minchu No. 22669, was directly initiated by the program producer, Shanghai Canxing Culture & Media Co., Ltd.

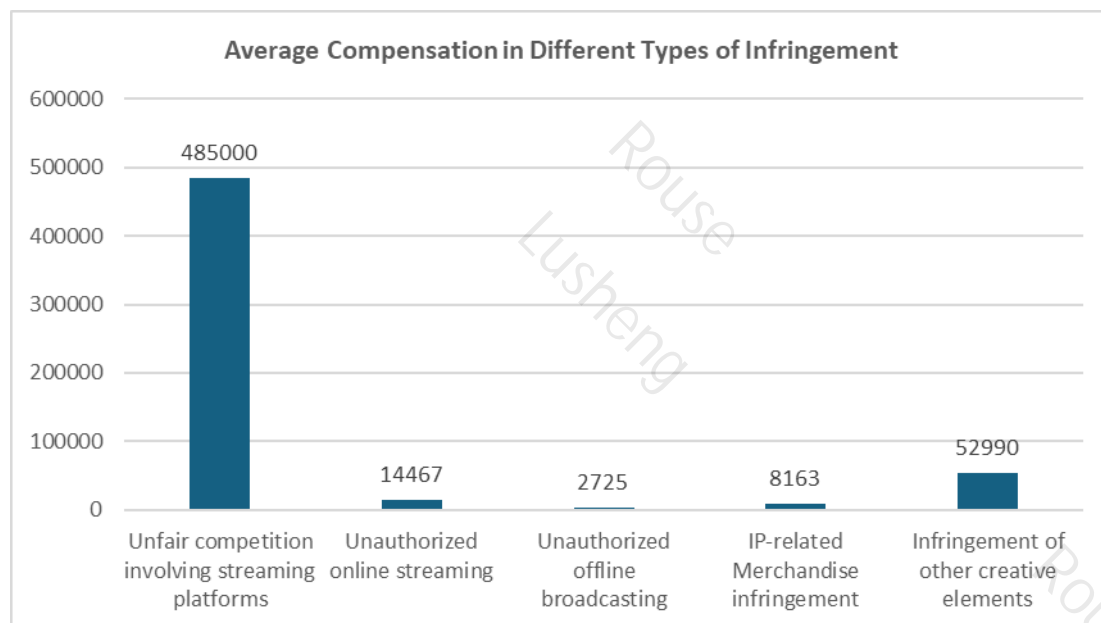
model; (2) **Online infringement** through unauthorized streaming and file-sharing of pirated content; (3) **Offline infringement** through the public broadcasting of copyrighted materials in settings such as hotels, cinemas, and karaoke venues; (4) **Infringement of intellectual property in merchandise**, which involves the unauthorized production, sale, or distribution of products bearing the likeness of characters or themes from film and television, such as toys and umbrellas; (5) **Infringement of other creative elements**, where the unauthorized use of music, still images, or character names in promotional materials and other contexts is also considered a violation of rights. Notably, **the two most prevalent forms of infringement are related to unauthorized online content streaming**, with 135 cases (33.8%), **and the infringement of intellectual property in merchandise**, totaling 169 cases (42.4%).



By: Rouse International

When it comes to **compensation**, the average intellectual property rights holder in the film-video industry typically receives RMB 21,798 (approximately USD 2,999) per case. While this figure is on the lower side, there is considerable disparity in the amounts awarded, depending on the type of infringement. For cases of unauthorized online streaming, IP-related merchandise infringement, and offline broadcasting of infringing content, the average compensation is under RMB 15,000 (approximately USD 2,063). Notably, for the offline broadcasting of infringing content, the average compensation is as low as RMB 2,725 (approximately USD 375), which suggests a limited return on investment for rights-protection efforts. In contrast, disputes concerning unfair competition by streaming platforms yield the most favorable compensation outcomes, with an average award of RMB 485,000 (approximately USD 66,733) per case. This

figure substantially outpaces the compensation awarded for other infringement types, indicating a significant advantage for rights holders in such cases.



By: Rouse International

In contrast to the modest compensation amounts, the plaintiffs, or intellectual property rights holders, boast an impressive success rate in litigation. For example, of the 362 intellectual property infringement cases identified within the core film-video industry chain, 78.1% resulted in plaintiffs receiving compensation. When considering all 1,485 intellectual property lawsuits, the success rate for civil-infringement cases soars to 89.2%. However, the success rate plummets to 45.2% when it comes to ‘unauthorized online streaming’ of copyrighted works. This is primarily attributed to the swift changes in the registration details of pirate site operators, which hinders rights holders from identifying the correct infringer, leading to a notably lower success rate.

It’s important to recognize that our analysis, while centered on litigations concluded by judgements, does not reflect the common resolution methods in practice, where the majority of cases are settled through mediation or withdrawal. SPC’s Intellectual Property Protection by Chinese Courts in 2022 indicates that 44,155 intellectual property civil first-instance cases were resolved through mediation. This represents a rate of 9.64% rate, which is a 0.78% increase from

the previous year. In 2023, over 90,000 disputes were directed to pre-litigation mediation by the people's courts, with a success rate of over 80%.⁷⁸

This trend is mirrored in the film-video industry. The White Paper on Serving and Safeguarding the Construction of the G60 Science and Innovation Corridor in the Yangtze River Delta and Protecting the High-Quality Court Trial of Shanghai's Science and Film Capital (2021-2023) by the People's Court of Songjiang, Shanghai reveals that from 2021 to June 2023, of the film and television industry disputes handled by the court, 329 cases, or 73.43%, were concluded via mediation or withdrawal. Only 85 cases, 18.97%, were resolved through judgment, while 34 cases, 7.58%, ended through other means such as jurisdiction transfer or dismissal.⁷⁹ Thus, in the realm of judicial practice, judgments constitute a minor fraction of the legal disputes within the film and television sector.

2. Major Characteristics of Intellectual Property Judicial Disputes in Film-video Industry

The film-video industry has developed a comprehensive industrial chain that encompasses the development and production of film and television works, promotion and distribution, as well as the development and exploitation of IP. The production phase, as the vanguard of the industry, is pivotal in dictating the quality and volume of content available. During this stage, film and television investment and production companies take the lead. They utilize diverse strategies – including the acquisition of novel copyrights and the execution of service contracts – to develop and produce works, while ensuring the proper allocation of rights and interests related to intellectual property. Upon transitioning to the promotion and distribution phase, film and television productions select distribution channels tailored to their unique attributes, such as theatrical releases, television broadcasts, and online streaming. This phase integrates new players into the industry, including cinema chains, broadcasters, streaming services, and ticketing platforms. In the subsequent IP development and exploitation phase, copyright owners enhance and exploit the copyright elements within their works. This is achieved through the creation of derivative products, production and licensing of original soundtracks, establishment of theme parks, and other similar endeavors. Throughout each of these stages, there are specific

⁷⁸The Intellectual Property Court of the Supreme People's Court of China. (2024) 'Intellectual Property Protection by Chinese Courts.' *The Intellectual Property Court of the Supreme People's Court of China*, available at:

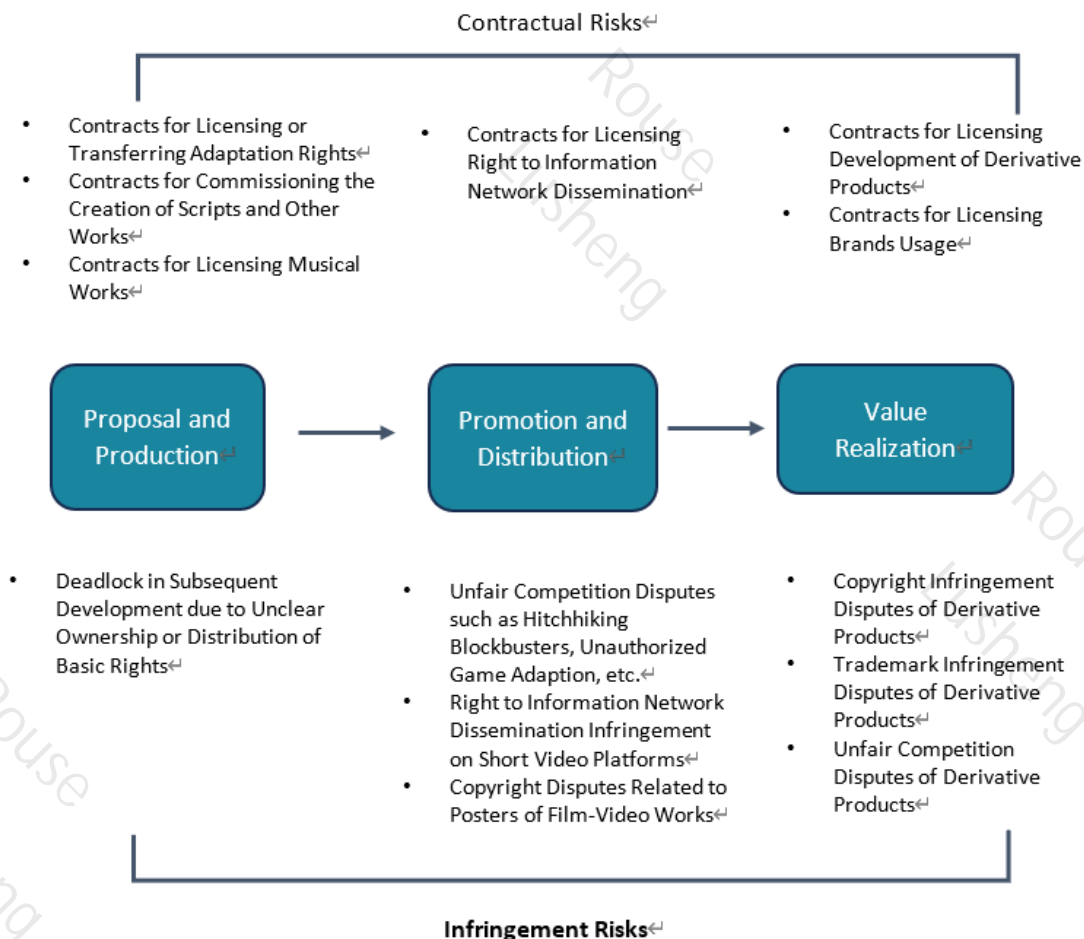
https://www.court.gov.cn/upload/file/2024/04/22/19/26/20240422192620_78943.pdf

⁷⁹ The People's Court of Songjiang, Shanghai. (2023) 'The White Paper on Serving and Safeguarding the Construction of the G60 Science and Innovation Corridor in the Yangtze River Delta and Protecting the High-Quality Court Trial of Shanghai's Science and Film Capital (2021-2023).' *The People's Court of Songjiang, Shanghai*, available at:

<https://www.hshfy.sh.cn/css/2023/10/07/202310071146358001929.pdf>

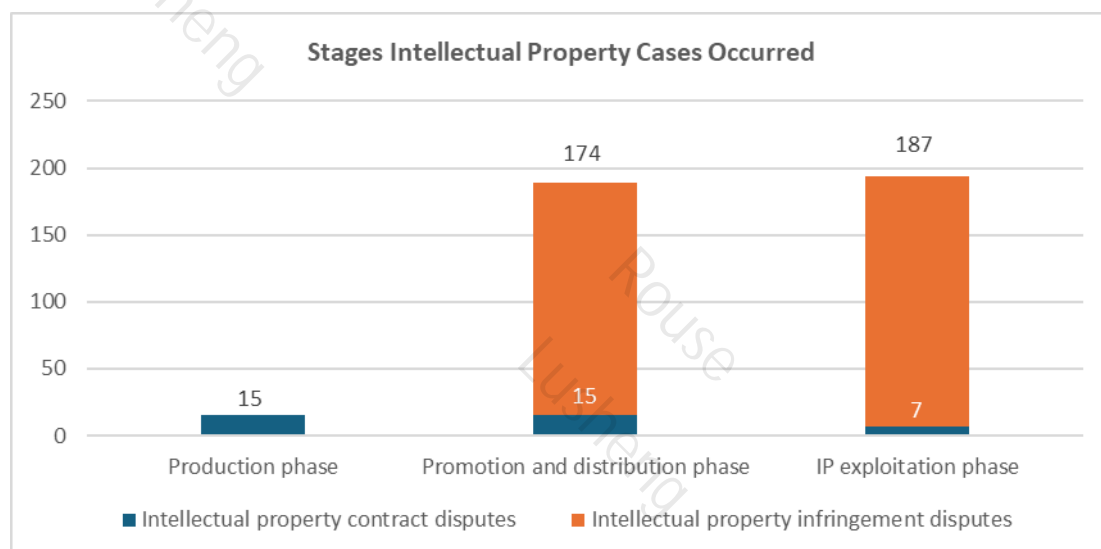
intellectual property contracts that govern the relationships and transactions, alongside the ever-present risk of infringement and the associated legal challenges.

Identification of Intellectual Property Risks in the Operation of Film-Video Works⁴¹



By: Rouse International

By analyzing the aforementioned 399 cases, **it is evident that intellectual property disputes in the film-video industry are spread across various stages**, including production, promotion and distribution, and IP development and exploitation of film and television works.



By: Rouse International

We will now select specific cases to analyze the characteristics of intellectual property cases at different stages.

(1) Development Stage

The proposal of film and television projects, the purchase of IP, and the production process are often the epicenters of contractual disputes.

- **Investment and Production Contracts:** Film and television ventures typically involve multiple investing parties. Disputes commonly emerge from dissatisfaction with the final product or a breach of contractual duties, such as the failure to conduct audits. These issues can escalate into disagreements over the termination of contracts and the resolution of financial settlements
- **Commissioned Scriptwriting Contracts:** Tensions can arise from commissioned scriptwriting agreements when screenwriters either miss deadlines or submit work that does not meet the expectations of the commissioning party. This can lead to the termination of contracts and associated disputes
- **IP Purchase Contracts:** While existing cases predominantly focus on the acquisition of novel copyrights, the actual process of IP purchase is more complex. Beyond the original literary works, other elements such as musical compositions and the artistic pieces used in set designs also necessitate thorough copyright clearance to avoid infringement

a. The production phase involves investment and financing, ensuring that rights and obligations can protect the basic interests of both parties.

From the 399 cases selected, it can be seen that intellectual property disputes involving the production phase of film and television works represent the least number of cases. We counted only 15 cases, all of which are contract disputes. This is because at this stage, the production and distribution of film and television works have strong uncertainty. If the production is not completed on time or broadcast as scheduled, or if the broadcast results do not meet expectations, it is easy for both parties to have disputes over the performance of rights and obligations and the sharing of losses. At the same time, due to the irregularity of market supervision, crimes such as fraud in the name of film and television project investment and illegal absorption of public deposits occur frequently. For example, in the *dispute over the cooperation creation contract between Shanghai Film (Group) Television Production Co., Ltd. and Beijing Yaoyi Film Co., Ltd.*, the People's Court of Xuhui District, Shanghai, ruled to terminate the contract because the defendant, Beijing Yaoyi Film Co., Ltd., failed to fulfill its obligations, such as budget notification, financial settlement, and contractually agreed credits. Beijing Yaoyi Film Co., Ltd. was ordered to return the investment of RMB 5,400,000 (approximately USD 743,003) and pay overdue interest.⁸⁰

Therefore, **on the one hand, investors should accurately identify the qualifications of the production company, and on the other hand, they should clearly stipulate the core issues in the contract, such as filing obligations with local authorities, production plans, financial budgets, credit, publicity and distribution plans, ownership of finished products, and settlement methods.** In this way, when problems arise such as untimely settlement of film and television distribution income, financial disputes caused by project suspension, and investors trying to recover investment funds by terminating the contract due to income not reaching the expected investment occur, both parties can also clearly determine the responsibility with the help of the contract agreement.

b. Film and television productions frequently engage a vast array of copyrighted elements, leading to recurrent disputes over original IP and scriptwriting.

The creation of film or television works entails the use of numerous copyrighted elements. In addition to the final production, elements such as promotional stills, musical scores, scripts, and even letters and props featured within the work may involve issues related to commissioned work or the need for copyright clearance. For example, during the period under review, we observed five disputes arising from commissioned creation contracts. These disputes were all initiated by production or distribution companies against screenwriters who either failed to

⁸⁰ See the judgement (2021) Hu 0104 Minchu No.33480 by People's Court of Xuhui District, Shanghai.

submit scripts on time or did not adhere to the agreed terms, resulting in legal actions for contract termination.

The surge in IP acquisition and adaptation underpins this phenomenon. The term ‘IP’ in this context is not synonymous with general intellectual property rights but rather refers to the process of adapting existing works, such as novels, games, and animations, into film and television formats. In the first half of 2023, eight dramas achieved a viewership count of over 40 million per episode 30 days after their initial launch, with the top five – *The Knockout*, *Lost You Forever Season 1*, *Till the End of the Moon*, *Destined*, and *Mysterious Lotus Casebook* – being adaptations of novels.⁸¹ However, the market’s pool of novels with genuine development potential is inherently limited. Consequently, to safeguard their interests, copyright holders of novels, be they authors or online platforms, often negotiate a production commencement deadline with film and television producers. Should the work not be filed with regulating authorities or production not initiated within this timeframe, copyright holders are at liberty to engage other production entities. The pandemic environment has seen a multitude of film and television projects put on hold, with contract fulfillment encountering numerous impediments. In *a copyright license dispute between Lou Wenshe and Khorgos Xiangnai Culture & Media Co. Ltd.*, the production side was unable to commence filming as scheduled due to the pandemic, leading to a deadlock in contract performance. The producers subsequently sought to terminate the contract, which the court granted, stipulating that the novel’s rights holder return the contract payment, with the losses due to the production side’s breach to be addressed in a separate proceeding.⁸²

Beyond the script, producers must also meticulously clear the copyright and related rights for all other elements utilized in the film. This includes ensuring that all components – such as music, fine arts, character imagery, and real human voices – have been properly authorized or have fallen into the public domain, thereby mitigating the risk of subsequent legal action. Among the exemplary intellectual property protection cases publicized by major courts this year, there have been instances where variety shows have used other parties’ musical works or letters without permission, or have modified them beyond acceptable limits, resulting in the need for compensation. A case in point is the program *Letters Alive*, produced by Heilongjiang Radio and Television Station, where actors read excerpts from a letter written by Sanmao’s father, Chen Siqing, to Sanmao, with alterations to the name, certain words, and paragraph order. The program, which included introductions and commentary by the host and guests before and after

⁸¹ Cheng Xiaoying. (2023) ‘What Does a Truly Smash Hit TV Series Look Like in the 2023 Chinese Drama Viewership Rankings TOP 30?’ 36Kr, available at: <https://36kr.com/p/2409886784021251>

⁸² Beijing Intellectual Property Court. (2022) Jing 73 Minzhong No.932 Civil Judgement.

the reading, was widely broadcast through Tencent Video and Heilongjiang Network Radio and Television Station. The Beijing Internet Court determined that the program's use of the letter constituted modification, reproduction, performance, and dissemination via information networks, clearly exceeding the bounds of fair use. The court ultimately ruled in favor of the three plaintiffs, awarding them RMB 50,000 (approximately USD 6,880) for economic losses and RMB 12,636 (approximately USD 1,739) for reasonable expenses.⁸³

(2) Promotion and Distribution Stage

In this stage, film and television productions are showcased across a spectrum of platforms, including theatrical screenings, television broadcasts, and online streaming. However, the prevalence of online infringement stands out as the most frequent violation.

- **Unauthorized Online Streaming:** Streaming via mobile apps, digital set-top boxes, television catch-up services, and the sharing of unauthorized links
- **Unauthorized Offline Broadcasting:** Physical venues, such as hotels and movie theaters, also contribute to infringement when they offer screenings or on-demand viewing services without the proper licensing agreements
- **Ad Filtering on Platforms:** The use of technological interventions that remove or bypass advertisements on video platforms, including ads in content videos and introductory splash ads
- **Broadcasting Contract Issues:** Contractual disputes in broadcasting involve a range of issues. These include the provision of content with right defects, failure to meet the agreed-upon broadcast criteria on key networks, instances of duplicative authorizations, and the non-payment or delay in payment of the expected licensing fees

a. Pirated streaming rampant, compensation low, identifying defendants challenging

The China Online Audiovisual Development Research Report (2024) indicates that as of the end of 2023, the number of online audiovisual users in China had surged to 1.074 billion, with an astonishing 98.3% of netizens accessing audiovisual content. Over the course of the year, online platforms debuted 17,000 long-form video works, amassing a collective library of over 120,000 titles.⁸⁴ The explosion of web series, micro-dramas, and short videos has channeled intellectual property disputes in the film-video sector towards the realm of information network dissemination rights in recent years. **The predominant mode of infringement is through the**

⁸³ Beijing Internet Court. (2020) Jing 0491 Minchu No.2880 Civil Judgement.

⁸⁴ Shen Xiao. (2024) 'The China Online Audiovisual Development Research Report (2024) was Released in Chengdu.' CCTV.com, available at: <https://ghrp.cctv.com/2024/03/28/ARTIHknUHtrOLFZY5K4UX2N0240328.shtml>

unauthorized distribution of pirated video content online by third parties, utilizing apps, mini-programs, web pages, link redirection services, and similar methods. There are also instances of unauthorized transfer of short-video content, audio from film and television works, or the provision of pirated content via TV catch-up services. Such disputes are ubiquitous, typically involving straightforward case details and singular legal interests, often instigated by rights holders in a batch proceeding, and usually concerning a single copyright work, which contributes to the generally low compensation awards. As illustrated in the previously mentioned chart 'Average Compensation in Different Types of Infringement,' the average compensation in the 135 sampled cases of online unauthorized content streaming was a mere RMB 14,467 (approximately USD 1,991).

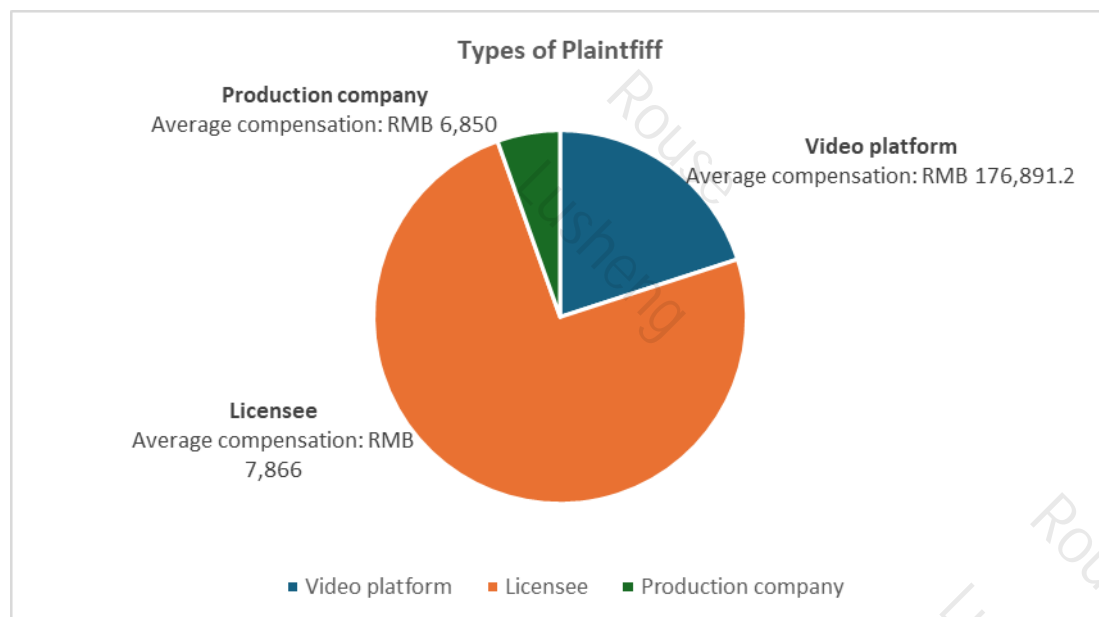
The success rate for plaintiffs in these cases is notably lower than the overall average, at 45.2%, with over 90% of losses attributable to this category of dispute. Rights holders, having obtained the rights of information network dissemination for certain film and television works through multiple sublicensing agreements, often initiate mass litigation against infringing websites.

However, without adequate evidence, it is a common setback for plaintiffs to lose because they fail to establish that the defendant is the appropriate infringing party. For instance, Beijing Tianbao Zhisheng Culture Media Co., Ltd. and Beijing Houda Pucheng Legal Consultancy Service Co., Ltd. are prominent plaintiffs in disputes involving rights of dissemination through information networks. The former has secured exclusive rights to works such as *Back to Youth 1997* and *Love in Reincarnation*, while the latter holds rights to films like *Back to Seventeen*, *Young at That Time*, and *My Incumbent*. Nonetheless, both companies have predominantly faced defeat in the majority of their legal battles. In the case of Tianbao Zhisheng, upon identifying an infringing site, the company typically utilizes the Ministry of Industry and Information Technology's ICP/IP address/domain name information-filing management system to identify the domain's hosting entity as the defendant. Yet, given the clandestine and intricate nature of the internet, or the non-standard updates in ICP registration records, discrepancies often arise between the ICP registration information and the actual domain user. Should the defendant provide verifiable counter evidence of real-name registration, it is generally accepted by the courts.

b. Video Platforms Lead Film and Television Distribution Rights Protection, Particularly in Defending the Information Network Dissemination Rights

In the realm of film and television distribution, **video platforms**, rather than production companies, **have emerged as the proactive agents in rights protection.** While production companies are seldom the initiators of such actions, **video platforms (involved in 22 cases) and copyright operators obtaining the works after successive authorizations (involved in 82 cases) are far more active in filing lawsuits.** Video platforms notably excel, with an average

compensation award of RMB 176,891.2 (approximately USD 24,340) per case, showcasing their formidable capacity for rights protection. Notably, 14 of the top 20 high-compensation infringement cases were instigated by major video platforms like iQIYI, Youku, and Tencent.



By: Rouse International

The rationale behind this proactive stance is twofold: video platforms are the primary competitors of pirated streaming media. They suffer the most immediate impact from such piracy, which can directly erode their audience base and revenue. Additionally, these platforms possess extensive libraries of copyrighted content across various genres, including TV shows, movies, and animations. Backed by robust legal teams, external counsel, and substantial funds allocated for rights protection, these platforms are well-equipped to pursue legal action across a broad spectrum of content, potentially securing higher compensation per case. Observations from recent cases reveal that video platforms are not only taking action against operators of pirate sites and apps, but are also strategically targeting legitimate yet infringing audio-visual platforms, such as those offering short videos, audio content, and TV catch-up services. For instance, iQIYI's litigation with Gehua CATV Network focused on whether the 'Gehua Cloud CATV' APP's online playback and 7-day catch-up features infringed upon information network dissemination rights. The court ruled in favor of iQIYI, recognizing that the interactivity of the catch-up function makes the service subject to the rights of information network dissemination. Another high-profile case involved Youku's lawsuit against a prominent short video platform, which resulted in the highest compensation of RMB 1,300,000 (approximately USD 178,880) among all information network dissemination right infringement cases we analyzed for failing to filter infringing content.⁸⁵ The

⁸⁵ The People's Court of Pudong New District, Shanghai. (2021) Hu 0115 Minchu No.108453 Civil Judgement.

plaintiff identified 1,398 unauthorized short videos from the original series *Lurk*, and the court found the defendant at fault for contributing to the infringement, considering the show's popularity, the plaintiff's prior notifications, the hashtags such as 'Lurk' 'TV series' the accused short videos used and other factors.

Furthermore, video platforms have been embroiled in disputes over unfair competition, where third parties have disrupted the platforms' 'subscription + advertising' business model, yielding above-average compensation. In a notable case, *unfair competition dispute between Youku and TV Mao*, the People's Court of Pudong New District, Shanghai determined that TV Mao's software had illicitly captured video storage links for content released by Youku, avoiding all advertising formats and distributing the content through unauthorized channels. This conduct was deemed to be the use of technical measures that influence user choices, thereby disrupting or undermining the normal functioning of the network products or services legally offered by other operators, which is a form of unfair competition. By claiming 621 film and television works being infringed, Youku was awarded RMB 2,800,000 (approximately USD 385,280) in damages, marking the highest compensation among the analyzed cases.⁸⁶

In light of these frequent infringements, rights holders must strategically select appropriate measures for rights protection based on the specifics of each case. For instances where the distribution of copyrighted works is limited and the anticipated benefits of rights protection are minimal, it may not be cost-effective to invest extensive resources in identifying elusive pirate site operators. When contemplating mass litigations based on ICP filings, rights holders should weigh the potential for lost cases and associated legal expenses. However, for video platforms facing large-scale infringements that significantly impact their commercial interests, the potential for higher compensation makes litigation a more attractive option.

c. Multi-channel distribution of film and television work leads to contractual disputes over the right allocation

While contract disputes in the film and television industry might not be as numerous as infringement cases, they encompass a diverse range of situations and can involve significant financial stakes. These disputes are crucial for companies to assess and mitigate risks across the lifecycle of their productions. Beyond the previously discussed investment, commissioning, and copyright acquisition contracts, companies also engage in a variety of broadcasting agreements during the distribution phase, with entities such as cinemas, television networks, and streaming platforms. A prevalent issue arises when copyright owners grant authorizations for works that

⁸⁶ The People's Court of Pudong New District, Shanghai. (2022) Hu 0115 Minchu No.51227 Civil Judgement.

have underlying copyright defects, including instances of duplicative exclusive licenses for the same work, which can adversely affect the interests of the broadcasting platforms. Additionally, some information network dissemination license agreements may stipulate conditions for the initial television broadcast of a work. Should the copyright owner fail to fulfill these conditions, the anticipated transition of audience engagement from television to online platforms may not materialize on schedule, allowing the broadcasting platform to potentially terminate the contract. Furthermore, the cash flow of film and television companies has been significantly impacted by the pandemic, potentially leading to delays in license fee payments. Such delays have, in some cases, escalated to the point where legal intervention becomes necessary to resolve the outstanding issues.

(3) IP Exploitation Stage

The development and exploitation of intellectual properties in the film and television industry encompass a variety of activities, including the creation of games, the production of ancillary merchandise, and the execution of promotional tie-ins.

- **Infringement on Merchandise Sales:** Entities that own the rights, such as Wanda Children's Culture Development Co., Ltd. (right holder of *The Octonauts* in China) and Alpha Group Co., Ltd. (*Super Wings* and *Armor Hero*), are proactive in their efforts to suppress the sale of counterfeit goods
- **Diverse Application Scenarios:** The utilization of film and television IPs extends to a range of scenarios, including offline exhibitions, the development of games, promotional campaigns for products, creation of short-form video content, and song-selection services in KTV establishments. Furthermore, there are instances where businesses capitalize on the allure of popular IPs to entice third-party franchising partners. However, it is worth noting that some of these ventures are undertaken without the requisite official licensing agreements

a. Prevalent counterfeit merchandise infringes on rights, with rights holders' vigilance varying in proactivity

Conflicts within the IP development and exploitation sphere are predominantly centered on the manufacturing and distribution of counterfeit merchandise, with a minority of cases concerning production, gifting, and online traffic manipulation via keywords. Beyond tangible goods, a small subset of cases also encompasses KTV licensing for music from variety shows, joint promotional events, and game development, suggesting that numerous opportunities for IP licensing remain untapped. The average compensation for infringement cases in this phase is a mere RMB 12,960 (approximately USD 1,783), a relatively low figure. Excluding cases where specific amounts were

not disclosed, only five cases saw compensation exceeding RMB 100,000 (approximately USD 13,760).

It is noteworthy that original film and television producers/IP owners are more proactive in initiating lawsuits against counterfeit merchandisers compared with other kinds of infringement. These cases account for 31% of such actions. Additionally, companies holding domestic copyright-agency rights for overseas works have also filed lawsuits. The entities actively pursuing rights protection in this phase are notably concentrated. The market for counterfeit goods is substantial, especially for popular IP characters, extending beyond licensed toys and co-branded products. The rights holders' strategies significantly influence the volume of cases. For example, Wanda Children's Culture Development Co., Ltd. and Alpha Group Co., Ltd. have been particularly vigilant in enforcing their rights over the past year. *The Octonauts*, a British children's television series, saw Wanda obtaining Chinese authorization in 2017, which includes exclusive rights to reproduce, exhibit, and disseminate the series through information networks. In the last year, Wanda has won 52 infringement judgments related to *The Octonauts*. Alpha Group Co., Ltd., a Chinese animation company with a plethora of film and comic IPs like *Armor Hero* and *Super Wings*, initiated 22 infringement lawsuits during the reporting period, primarily targeting unauthorized sales of toys, stickers, and other goods by third parties, focusing on issues of reproduction and distribution rights. Furthermore, NewStyle Media Group, co-producer of the TV drama *The Untamed*, and Enlight Media, producer of the animated film *Ne Zha*, are also notable for their active stance on rights protection.

b. Contracts protect IP licensing and exploitation, with a high-value compensation case reflecting IP potential

IP exploitation phase disputes are prevalent across diverse IP operations, including game development, merchandise production, offline exhibitions, and franchise stores. A landmark case involved the Beijing High Court ruling in June 2023 on a contract dispute with a compensation amount of RMB 24,304,547.5 (approximately USD 3,344,305). The case revolved around the cancellation of the 'Avatar: Discovery of Pandora' exhibition at Beijing Happy Valley due to the absence of administrative approval, resulting in the breaching party facing a substantial compensation. This case underscores the commercial potential of significant film and television IPs.⁸⁷

Assessing contract disputes across the three stages reveals a dichotomy in resolution compared to infringement disputes. In the film and television industry, when performance becomes

⁸⁷ Beijing High People's Court. (2021) Jingminzhong No.993 Civil Judgement.

impossible, a party may sue for contract termination and refund of payments, including interest or liquidated damages based on the overdue period. If a party has fulfilled their obligations, they seek payment of the deserved remuneration. This approach reflects the inherent uncertainties of film and television projects, such as meeting deadlines, avoiding creative stagnation amidst numerous participants, and ensuring sufficient production funding to complete the project, all of which could lead to project termination. Therefore, the demand for payment refunds and contract termination often becomes the primary concern for the paying party. Statistically, without considering overdue interest and liquidated damages, the contract amounts range from RMB 48,000 (approximately USD 6,605) for a screenwriter's remuneration to RMB 15,840,000 (approximately USD 2,179,584) for investment funds, with an average of RMB 2,422,000 (approximately USD 333,267), markedly higher than compensation amounts for infringement damages.

IV. Challenges and Suggestions for Intellectual Property in the Film-Video Industry

1. Production Phase: The Need for Film and Television Companies to Cautiously Craft an IP Protection Framework

During the production phase, film and television projects are typically developed in secrecy in order to preserve confidentiality. Even though the content is not yet public, a multitude of preliminary contracts are established, copyrights are assigned, content is licensed, and emerging technologies like AI – which may affect the eligibility for copyright protection – are employed. These elements can shape the risks a project may encounter during distribution and further IP exploitation. This complexity arises because film and television production involves significant funding, extended timelines, and intricate content, engaging various investors, production companies, distributors and individual creators or studios. Meanwhile, China's Copyright Law divides copyright into several specific rights, including the right of dissemination through information networks, distribution rights, and reproduction rights. Hence, during production, it is crucial that all parties clearly stipulate the ownership of intellectual property through contracts and secure the necessary authorizations from individual creators. As per the Copyright Law, the production entity is generally considered the copyright holder of films and television works, although individual components such as scripts and music can be separately copyrighted.

Beyond intellectual property concerns, to balance stakeholders' interests, the production phase should also aim to avoid common disputes by drafting appropriate contracts. These should encompass the specifics and structure of credits, financial settlement methods, and plans for production and distribution. Given the unpredictable nature of the film and television industry, the completion and financial success of a project are not guaranteed. Clear contractual terms can mitigate the risk of one party defaulting on obligations, withholding payments, or seeking investment refunds under false pretenses.

2. Distribution Phase: Confronting the Prevailing Issue of Pirated Streaming Through Collective Action

In recent years, the digital piracy of film and television content has seen a sharp increase, with streaming now surpassing downloads as the primary method of piracy. According to MUSO's The Film and TV Piracy Report 2022, China ranks as the fourth-largest nation globally for pirate viewership, with 4,149,583,093 instances of pirate access annually, trailing only the United States, India, and Russia.⁸⁸ From an intellectual property dispute standpoint, the online streaming of infringing content poses the most substantial threat to the film and television industry. However, the identification of website operators is challenging, cases are often straightforward, infringements are typically minor, and the commercial value of the affected works is limited, resulting in modest compensation for individual rights holders, except for video platforms with extensive film and television copyrights. In this way, it's necessary for the right holder to realize that litigation is not always the best approach towards infringement. Since 2023, copyright, cultural law enforcement, and market supervision agencies have intensified their efforts against copyright infringement – such as online piracy and authorized on-demand cinema in the film-video sector through the 'Sword Net Campaign' and routine enforcement – thereby significantly expanding the scope and rigor of enforcement compared to the previous year. Administrative penalties offer advantages in terms of time and cost for rights protection, suggesting that rights holders should consider collaborating with local administrative bodies to safeguard their interests through routine law enforcement.

Globally, Internet Service Providers (ISPs) commonly follow court orders to block pirate websites. The Motion Picture Association (MPA) reported in 2022 that 20,000 websites had been blocked across 39 countries/regions, affecting over 75,000 domain names.⁸⁹ In the European Union, for

⁸⁸ Andy Chatterley. (2023) 'The Film and TV Piracy Report 2022.' *MUSO*, available at:

https://www.199it.com/archives/1651086.html#google_vignette

⁸⁹ Luo Xianqun. (2022) 'MPA Blocked More Than 20,000 Pirated Sites Globally.' *Intellectual Property Protection in China*, available at:

<http://ipr.mofcom.gov.cn/article/gjxw/zfxd/mz/202210/1973755.html>

example, Article 8(3) of the Directive on Copyright and Related Rights in the Information Society, enacted in 2001, established the legality of website blocking orders, ensuring that right holders are in the position to apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right in each Member State. The EU Directive on the Enforcement of Intellectual Property Rights (Directive 2004/48), enacted in 2004, further clarified the principal conditions and procedures for injunctions in Article 3 and emphasized that such measures should not create barriers to legitimate trade. Article 11 once again highlighted the right to apply for a site-block order.⁹⁰ While the ‘notice-and-takedown’ approach often grapples with persistent ‘whack-a-mole’ issues, website-blocking orders offer a more stringent and effective solution. Countries like France and Italy have recently introduced rapid blocking mechanisms to counter piracy, particularly in the context of live broadcasting of sport events, achieving some success in curtailing pirate visits, despite the potential for over blocking. This blocking approach merits consideration for emulation.

3. Unlocking the High Development Potential of IP Licensing: A Challenge for China’s Film and Television Industry

Currently, the revenue of China’s film-video industry is primarily derived from the production of and investment in films and television works, with some cinema companies also generating income from theater merchandise sales. However, substantial IP development and licensing activities are often categorized as ‘other’ in the annual reports of leading companies, representing an insignificant part of their primary business. Many companies highlight innovative IP development initiatives in their annual reports, underscoring the allure of brand licensing within the industry. For instance, China Film Group’s strategic partnership with China Youth Travel Group Co., Ltd. in 2023 aimed to develop a science-fiction film theme park in Huairou District, Beijing, although the project remains in development with no revenue generated to date. Similar revenue structures are observed in top companies like Wanda Film, Bona Film, Enlight Media, and Huayi Brothers.

For successful IPs like the *Three-Body* universe, a comprehensive strategy that transcends entertainment silos is essential. However, crafting successful content is a time-consuming process. Amid a dearth of leading film and television IPs, some companies have experimented with fresh approaches to IP operations, aligning with the evolving cultural and entertainment market. Post-pandemic recovery has spurred a boom in China’s tourism sector, especially with the ‘14th Five-Year Plan’ prioritizing cultural and themed tourism. This trend has seen a surge in young tourists

⁹⁰ Hu Kaizhong. (2018), ‘The System Analysis of Website Blocking Orders and its Implications for China.’ *China Intellectual Property Rights Collaborative Innovation Network*, available at: <https://ciipr.njust.edu.cn/ff/56/c11083a196438/page.psp>

choosing destinations inspired by TV dramas and films. Film and television producers can synergize with local cultural and tourism departments, leveraging social media to release promotional materials and attract visitors with scheduled updates. For TV dramas with the right conditions, integrating the natural and cultural resources of filming locations can pave the way for themed districts, curated tourism routes, snap and social media posts of specific sites, travel discounts for video platform subscribers and other 'film-video IP + cultural tourism' projects. This all actively contributes to cultural tourism promotion and the diversification of revenue streams for TV dramas.

Disputes at this stage indicate that while average compensation for offline counterfeit merchandise enforcement may be low, significant IP development contract disputes reveal the vast potential of this market. The cancellation of the 'Avatar: Discovery of Pandora' exhibition at Beijing Happy Valley due to administrative permissions resulted in over RMB 20 million (approximately USD 2.8 million) in breach of contract compensation for the responsible party. This case illustrates the substantial influence of film and television IPs in the Chinese market, even for overseas copyright holders, highlighting opportunities for Chinese film and television companies to explore and capitalize on.

Appendix: Typical Cases

We have screened out 28 typical cases of judicial and administrative protection with reference value from the typical cases issued by courts and intellectual property administrative departments at all levels nationwide since 2023, combined with representative cases in the film and television industry found in the research and practical work. According to the industrial structure of the film and television industry from production, publicity and IP authorization, we have also categorized and presented the cases, of which 10 cases occurred in the production stage, 16 cases in the promotion and distribution stage, and the other two cases occurred in the IP development and operation stage. It should be noted that, considering the complexity of film and television production, the facts and core disputes of some cases may involve different stages at the same time. Therefore, the following categorization is for reference only.

1. Production Stage

(1) Dispute over Copyright Infringement between a Shanghai Y Information Technology Company, Tang and a Beijing W Technology Company

Case Number: (2022) Gan 10 Zhiminchu No. 44

Facts

In April 2017, Shanghai Y Information Technology Company (Hereinafter referred to as 'Shanghai company') and the author Zhan signed the Exclusive Authorization Agreement for Literary Works, which stipulates that the copyrights of all the long novels created by Zhan within six years shall be exclusively granted to Shanghai Company, and that Zhan started to serialize the online novel *The God of Gaming Crush on Me* on novel websites such as Qidian.com, and that more than 1,000 chapters with more than 2,000,000 words had been serialized at the time of the lawsuit filed.

In July 2021, the defendant, Tang, based on some of the chapters of the said novel, adapted and filmed a micro-drama series called *God Raiders Manual*. A total of 26 episodes were released on Tang's account named 'Su' on D platform. The username 'Su' on D platform was accompanied by the 'Hot micro-drama List' tag. Clicking on 'Hot micro-drama List' revealed both 'Most Popular' and 'latest' categories, neither of which included the disputed micro-drama series. The Shanghai company sued Tang and the operator of D platform, Beijing W Technology Company (hereinafter referred to as 'Beijing Company'), requesting the court to order Tang and Beijing Company to

cease disseminating the micro-drama, and to compensate for the economic losses and reasonable litigation costs. During the litigation process, the disputed micro-drama series was taken down by D platform.

The court held that: Firstly, on the issue of determining whether the infringing acts established. The novel in the case can reflect the author's personalized expression, that is, the novel is creative. (1) From the complete expression of the work itself of the novel *The God of Gaming Crush on Me*, its work has originality and is protected by the copyright law. As a part of the work, some chapters of the work express the author's thoughts and form a whole with the plot development of the whole work, reflecting the author's conception, which is also protected by the copyright law. (2) The generic characters and plot settings of the disputed micro-drama *God Raiders Manual* and the novel *The God of Gaming Crush on Me* are highly similar, and the two works are evidently similar from the point of view of ordinary viewers. (3) Although the disputed micro-drama only involves more than ten chapters in the novel, the ten chapters mainly explain the character traits, the relationship between the characters, and involve the whole plot development of the novel, which constitutes an indispensable original expression in the whole work. Therefore, despite the low proportional similarity between the disputed micro-drama and the novel, the substantial similarity with certain chapters of the novel establishes infringement by Tang. Considering factors such as the reputation of the involved works, the viewership of the disputed micro-drama, and the duration of infringement, the court determined that Tang should compensate Shanghai Company with an economic loss of RMB 100,000 (approximately USD 13,760).

Secondly, regarding the issue of whether Beijing Company, which provides D platform, should bear joint liability for broadcasting the disputed micro-drama, the court ruled that: (1) the disputed micro-drama was uploaded by users, as an Internet Service Provider (ISP), Beijing company subjectively did not conspire with users to commit infringement, did not form a mutual agreement with users to create the disputed mini dramas, and did not collaborate with users objectively to commit infringement and gain direct economic benefits. Therefore, Beijing Company did not engage in direct infringement or joint infringement. (2) the 'Hot micro-drama List' tag is automatically generated by the system after the user uploads the video to create a micro-drama album. By clicking on the 'Hot micro-drama List' tag, users can access both the 'Most Popular' and 'Latest' lists, neither of which contained the disputed micro-drama. This situation does not constitute 'active' promotion, and Beijing Company was not aware of or should have been aware of Tang's infringement of Shanghai Company's right of information network dissemination. Based on the existing evidence, it cannot be determined that Beijing

company knowingly or should have known about the infringing acts. Therefore, Beijing Company did not commit infringement.

The court of first instance ruled that Tang should compensate Shanghai Company for economic losses (including reasonable litigation costs) totaling RMB 100,000 (approximately USD 13,760). After the judgment of the first instance, none of the parties appealed.

Typical Significance

In determining whether an audiovisual work of a micro-drama infringes on the adaptation right of a work of novel, the primary consideration lies in whether the adaptation retains the fundamental expressions of the original work. When the character settings, plot arrangements, and narrative development closely resemble those of the original work, it should be considered that the accused infringing work substantially resembles the original. Assessing the platform's fault in the process of information-network dissemination should include whether the platform was aware of or should have been aware of users' infringing acts of copyright and owner's right of information-network dissemination. While there is the generation of 'tags,' it does not directly imply access to the relevant disputed audiovisual works, thus not constituting a fault of the platform based on 'should have been aware of' principle.

(2) Dispute over Copyright Infringement between Shanghai Fine Arts Film Studio Limited and Chongqing Cloud Media Information Technology Co.

Case Number: (2019) Yu 05 Minchu No. 3828

Facts

The plaintiff, Shanghai Fine Arts Film Studio Co., Ltd., holds that the copyright of the movie works of the animated films *Calabash Brothers* and *Calabash Little Diamond*, as well as the copyright of the artistic works of the character modeling of *Calabash Brothers* and *Calabash Little Diamond*.

The defendant, Chongqing Cloud Media Information Technology Co., Ltd (hereinafter referred to as 'Cloud Media Company') and others produced multiple short videos titled *Calabash Brothers Dialect Version* based on characters and story segments from the said animated series. In these videos, they replaced the original Mandarin audio data with Sichuan and Chongqing dialects, altered the original dialogue content, and uploaded them to websites and public accounts for dissemination.

Shanghai Animation Film Studio Co., Ltd. filed a lawsuit alleging copyright infringement against Cloud Media Company and others for the aforementioned actions. After trial, the Fifth Intermediate People's Court of Chongqing Municipality found that Cloud Media Company and

others collaborated to produce the disputed short videos deliberately using coarse, negative, and obscure uncivilized language from the dialects, altering the original dialogue content to degrade the characters from the original works. They disseminated these videos widely on online platforms, conflicting with socialist core values and causing harm to the legitimate rights and interests of the copyright owner.

The court ruled that the actions of Cloud Media Company constituted copyright infringement and ordered Cloud Media Company and other defendants to immediately cease the infringing activities, publish a statement to mitigate the effects, and jointly compensate for economic losses. After the first-instance judgment was issued, none of the parties appealed.

Typical Significance

The judgment in this case emphasizes that **when using others' film works for re-creation**, it is prohibited to tarnish the characters' images or include cultural slurs. It stresses the promotion of socialist core values and serves as a positive guide towards establishing a healthy, civilized, and lawful framework for the film industry.

(3) Dispute over Copyright Ownership and Infringement between Yu and Zhejiang Dongyang Mayla Media Co., Ltd.

Case Number: (2018) Chuan 01 Minchu No. 1122

Facts

The plaintiff, Yu, using a pen name, published his novel *Wild Lilies in Bloom* on a website and adapted it into a screenplay of the same title, which he submitted to Emei Film Group. Subsequently, Zhejiang Dongyang Mayla Media Co., Ltd. commissioned others to create a screenplay for the film *Youth*, which was jointly produced and released by Huayi Brothers Media Corporation and others. Yu believes that the film *Youth* substantially overlaps with his novel and screenplay in plot, character relationships, dialogue, and musical compositions, exceeding reasonable adaptation boundaries and infringing on his adaptation and production rights. Zhejiang Dongyang Meila Media Co., Ltd. and others, as the producers of the film *Youth*, jointly committed the infringement.

The Intermediate People's Court of Chengdu City, Sichuan Province, held that there were obvious differences between the film *Youth* and Yu's work in terms of the specific subject materials, story line and overall theme. Regarding the plot, the court found that several allegedly identical plot points claimed by Yu are factual and commonly expressed, lacking originality and thus not eligible for copyright protection. The court also determined substantial differences between the disputed plot points, dialogue, and character relationships asserted by Yu and those present in the film

Youth, which would not lead readers or viewers to experience similarity between the two works. Therefore, the court dismissed all of Yu's claims. Dissatisfied with the decision, Yu appealed. In the second-instance judgment, the Sichuan High People's Court upheld the first-instance judgment and dismissed the appeal brought by Yu.

Typical Significance

The judgment in this case clarified that objective facts and limited expressions lacking originality are not protected under copyright law and should be filtered out during infringement comparison analysis. The judgment also **defined the correct content and methods for determining whether a film infringes on another's work**, thereby legally protecting the legitimate rights of film copyright holders and maintaining a fair market competition order. This decision holds positive implications for fostering the prosperity of film creation.

(4) Dispute over Performers' Rights Infringement between Li Chaoqiong and Jilin Radio and Television Station

Case Number: (2020) Jing 0491 Minchu No. 28159

Facts

Plaintiff A claimed that he and third-party C participated in the recording of the reality show involved in the case, according to the script provided by defendant B. In the program, third-party C portrayed plaintiff A's ex-partner, and the TV station did not inform the public that the disputed episode featured with the said actors. After the show aired on the TV station, defendant B proceeded to broadcast it on its official accounts on various video websites without plaintiff A's permission. Plaintiff A believed that these actions infringed upon his rights as a performer to have their identity acknowledged and their rights to information network dissemination. Therefore, plaintiff A requested the court to order defendant B to cease infringement immediately, issue a public apology, and compensate him for the losses totaling of RMB 10,150 (approximately USD 1,397).

Defendant B argued that plaintiff A was aware of the name of the program and the scope of broadcasting before recording the program, and defendant B paid plaintiff A for the performance and had the right to disseminate the performance to the public. The program involved in the case is a reality show of emotional nature, which possesses distinctive characteristics that do not allow for the disclosure of performer identities.

The first-instance court ruled the case as follows: (1) Defendant B shall immediately cease disseminating infringing videos related to plaintiff A via the internet; (2) Defendant B shall publish a formal apology to plaintiff A prominently on its official website, with the apology statement

remaining visible for at least seven days; (3) Defendant B shall compensate plaintiff A with RMB 10,150 (approximately USD 1,397). After the first instance judgment, no party appealed and the first instance judgment came into effect.

Typical Significance

It is generally recognized that performance refers to the performer's interpretation of the work according to his or her own understanding of the work, with his or her own voice, movement or expression, or with the help of musical instruments and other props to express the content of the work. In this case, although defendant B argues that the program in question is a 'reality show' with unique characteristics that make it impractical to disclose performer identities, plaintiff A was aware of this aspect. However, in the absence of a clear agreement between the parties on how performer identities should be disclosed, defendant B failed to indicate or explain plaintiff A's identity as a performer in any form within the program footage, thereby infringing upon plaintiff A's **right to attribution as a performer**.

Furthermore, the program involved in the case is a television show, and plaintiff A should have been aware during recording that it would be broadcast on television. Nevertheless, there is no evidence to prove that plaintiff A consented to the program being disseminated via the internet, hence defendant B's actions also **infringed upon plaintiff A's right of information network dissemination**.

(5) Dispute over Copyright Infringement between Chen Tianxin, Chen Sheng, Chen Jie and Beijing Share Culture Development Co., Ltd. (hereinafter referred to as Share Company), Tencent Penguin Pictures, and Heilongjiang Broadcasting Television

Case Number: (2020) Jing 0491 Minchu No. 2880

Facts

In the program produced and disseminated by the three defendants, actors read excerpts from a letter written by Chen to his daughter, accompanied by Chinese subtitles. The reading altered the title, some words, and the sequence of paragraphs in the letter. Before and after the reading, the host and guest interpreters provided introductions and comments on the letter in question. As heirs of Chen, the three plaintiffs filed a lawsuit against the three defendants, claiming infringement of the rights to modify, reproduce, perform, and disseminate the letter involved in the case via information networks. They requested an apology, the removal of the impact, compensation of RMB 50,000 (approximately USD 6,880) for damages for mental distress, RMB 50,000 (approximately USD 6,880) for economic losses, and related reasonable expenses amounting to RMB 12,636 (approximately USD 1,739).

The defendants argued that their use of the letter in the program constituted fair use and did not infringe upon the letter's copyright. In the first-instance judgment, the court ruled that the defendants' act of modifying the letter constituted infringement of the right to modify, ordered them to publish a statement to eliminate the impact, and awarded the plaintiffs RMB 50,000 (approximately USD 6,880) for economic losses and RMB 12,636 (approximately USD 1,739) for reasonable expenses. Following the first-instance judgment, none of the parties appealed and the judgment became effective.

Typical Significance

Cultural variety programs are often closely associated with literary and artistic works such as poetry and calligraphy. Therefore, while producers polish program content and pursue its effectiveness, they must also carefully consider the appropriateness of using existing works. **This case analyzes and determines common infringements and defenses regarding literary programs, dissecting the connotations and extensions of the right to modify, and exploring the legal boundaries of infringement and fair use.** The aim is to provide guidance for the healthy and regulated development of the industry.

Specifically, the three defendants engaged in the acts of modifying, reproducing, performing, and disseminating the relevant letter via the internet. In the program, the letter's lengthy sentences and paragraphs were deleted, and their order changed, constituting modification of the letter's text or content. The program fixed and reproduced parts of the letter in subtitle form, albeit with some changes, without creating new expression, thus constituting reproduction of the letter. During recording, actors read parts of the letter to a live audience, constituting performance of the letter. As the program included both performances and subtitles of the letter, it effectively disseminated the letter to the public, infringing upon the letter's right of information-network dissemination.

In addition, the defendants' acts do not constitute fair use. The program substantially reproduced essential content of the letter, and such use was not for the purpose of introduction, commentary, or explanation, thus not qualifying as appropriate citation. Moreover, the program altered the letter, which not only affects the economic interests of the three plaintiffs but also infringes upon the right to modify the letter. Therefore, these acts do not qualify as fair use and constitute infringement.

(6) Dispute over Infringement of Performers' Rights between Beijing Zhongde Cultural Communication Co., Ltd. and Zhejiang Media Group

Case Number: (2021) Jing 0491 Minchu No. 23192, (2021) Jing 0491 Minchu No. 21432

Facts

Plaintiff A, duly authorized by the original author, possesses lawful performance rights to the disputed song. Plaintiff A contends that defendant B, without authorization or payment of any copyright usage fees, illicitly used the aforementioned song performed by the original artist as background music in a profit-oriented variety show produced and broadcasted on a video platform, thereby gaining significant commercial benefits. Plaintiff A asserts that this action severely infringes upon their performance rights and seeks a court order for defendant B to compensate them for economic losses totaling RMB 20,000 (approximately USD 2,752).

Defendant B argues that plaintiff A did not legitimately acquire the performance rights to the disputed song and denies any infringement of plaintiff A's performance rights. The defendant further contends that the disputed variety show used only 15 seconds of the disputed song and, even if considered infringement, had minimal impact on plaintiff A.

In the first-instance judgment, the court ordered defendant B to compensate plaintiff A with RMB 800 (approximately USD 110) for economic losses. Both parties appealed the first-instance judgment, but the second-instance court dismissed appeals and upheld the original judgment. The second-instance judgment is now final and enforceable.

Typical Significance

In this case, the plaintiff has obtained the exclusive performer's rights to the song in question through authorization from the original composer, lyricist, and performer A, and has the right to disseminate the performance of the song to the public through information networks. The defendant, without the plaintiff's permission and without paying any usage fees, used a segment of the song performed by A in the variety show and played it on a certain video platform, allowing the general public to access the performer's rendition of the aforementioned song segment at a time and place of their own choosing, thereby infringing upon plaintiff A's performer's rights to the song. The defendant should thus bear the legal liability for compensating for the losses. **This case clarifies the rights of the singer in a musical work. When producing films and television programs that use music performed by others, authorization should be obtained in accordance with the law.**

The plaintiffs obtained exclusive authorization from songwriter and performer A of the disputed song, thereby acquiring sole performance rights to publicly disseminate A's performance of the song via information networks. Without the plaintiffs' consent and without paying any usage fees, the defendants used segments of the disputed song performed by A in a variety show program and broadcasted these segments on a video platform. This action enabled the general public to

access, at personally chosen times and places, the segments of the song performed by A, thereby infringing upon the performer rights held by plaintiff A regarding the disputed song. The defendants should bear legal liability for compensating for the losses incurred. **This case explicitly confirms the rights of performers who sing in musical works. When producing film and television programs that use others' performances of musical works, authorization must be obtained in accordance with the law.**

(7) Dispute over Infringement of the Right of Information Network Dissemination Between Beijing Modern Sky Culture Development Co., Ltd. and Hunan Broadcasting System

Case Number: (2022) Jing 0491 Minchu No. 20169

Facts

Plaintiff A, duly authorized, holds the copyright to the lyrics and music, performer rights, and sound recording rights of a popular song. Defendant B, without permission, invited third parties Wang and Yang to publicly perform the disputed song during the recording of a variety show, using Wang's recorded version as background music. In February 2022, defendant B broadcasted the disputed program via its satellite TV channel and provided online viewing services through its website and app to the public. Plaintiff A claims defendant B should compensate for economic losses of RMB 200,000 (approximately USD 27,520) and reasonable expenses of RMB 140 (approximately USD 19). In the first-instance judgment, defendant B was ordered to compensate plaintiff A RMB 100,000 (approximately USD 13,760) for economic losses and RMB 1,400 (approximately USD 193) for reasonable expenses. Neither party appealed the first-instance judgment, which has thus become effective.

Defendant B arranged for third parties to publicly perform the disputed work during the recording of their produced variety show, using the disputed recording as background music. The defendant broadcasted the disputed program through satellite TV channels and made the recorded program available for online viewing via their website and app. These actions infringed upon plaintiff A's rights, including reproduction, performance, broadcasting, information network dissemination, and sound recording rights concerning the disputed work. Accordingly, defendant B should bear corresponding liability for compensation.

In this case, plaintiff A submitted a contract authorizing another company to use the disputed musical work, which stipulates its use for live performances during variety show recordings and online streaming of program videos. This usage scenario closely parallels the accused infringing activities, thereby allowing the court to consider the licensing fees specified in the contract as a reference for determining plaintiff A's rights fees in this case.

Unauthorized use of another's song in a television program constitutes infringement of performance rights, reproduction rights, broadcasting rights, information network dissemination rights, among others. Consequently, defendant B must bear responsibilities including ceasing infringement, eliminating the effects, and compensating for losses. Regarding the amount of compensation for damages, it should be calculated based on the actual losses suffered by the rights holder or the illegal gains obtained by the infringer. If it is difficult to calculate the actual losses of the rights holder or the illegal gains of the infringer, compensation can be based on reference to the licensing fees for the rights.

In this case, it is clear that for the use of pre-existing musical works by others in variety shows: besides the use of the complete recorded version, authorization is also required for using accompaniments for the performances by program participants.

(8) If the infringer Infringes Multiple Copyright Rights of the Rights Holder Simultaneously, the Compensation Should be Appropriately Increased at the Court's Discretion

Facts

Plaintiff A owns the full copyright to the disputed musical work. Defendant B, without permission, used this musical work in their copyrighted variety show, featuring multiple celebrities in live performances recorded during the show's production. The show was subsequently broadcasted via B's operated online platform for public viewing, downloading, and sharing on third-party platforms. Plaintiff A alleges that defendant B's actions infringe upon their performance right, filming right, rights of information network dissemination and reproduction right in relation to the disputed musical work. Therefore, plaintiff A seeks a court order for defendant B to compensate economic losses totaling RMB 500,000 (approximately USD 68,800) and reasonable expenses of RMB 90,000 (approximately USD 1,775).

In the first-instance judgment, defendant B was ordered to compensate Plaintiff A with RMB 50,000 (approximately USD 7,200) for economic losses, RMB 10,000 (approximately USD 1,376) for litigation fees, and RMB 173.5 (approximately USD 24) for evidence-collection expenses. Following the first-instance judgment, defendant B appealed. In the second-instance judgment the appeal was dismissed and the original decision was upheld.

During the calculation of economic loss compensation, plaintiff A did not provide evidence demonstrating actual losses suffered or Defendant B's illegal profits. Instead, plaintiff A submitted a Copyright License Agreement signed with a third party to establish royalty fees. However, the terms of the license agreement regarding the program's use of the disputed musical work, methods, platforms, and duration significantly differed from the alleged infringement by

defendant B. Therefore, considering defendant B's severe infringement on Plaintiff A's performance right, filming right, and the rights of information-network dissemination regarding the disputed song, the court exercised discretion to increase the compensation amount to RMB 50,000 (approximately USD 6,880).

Typical significance

In this case, multiple participants in the variety show performed unauthorized music works live and subsequently disseminated recordings via online platforms. **While the court may consider the licensing rates between the plaintiff and third parties when calculating damages, it is contingent upon the comparability of the works involved, the manner of use, dissemination platforms, and the duration of licenses.** Simultaneously, **the unauthorized use of others' music for live performances in variety shows constitutes infringement of performance rights, filming rights, rights of information network dissemination, and reproduction rights.** Under statutory compensation, consideration will be given to the infringement of multiple copyrights rather than a single right, thereby potentially increasing the compensation amount at the court's discretion.

(9) Dispute over Trade Secret Infringement Between New Classics Media Group Co., Ltd. and Beijing Paihua Culture Media Co., Ltd.

Case Number: (2017) Jing 0105 Minchu No. 68514

Facts

New Classics Media Group Co., Ltd. (hereinafter 'New Classics'), the copyright owner of the film *Wu Kong*, had contracted Beijing Paihua Culture Media Co., Ltd. (hereinafter 'Paihua') for the film's audio post-production, with a signed agreement that included a confidentiality clause. Paihua breached this clause by subcontracting portions of the work to a third party, transferring the film materials to the third party through Baidu Cloud and labeling them as 'WKZ' – derived from the Pinyin initials of *Wu Kong*. This led to an unauthorized pre-release leak of the film online after the materials were compromised by hackers. New Classics filed a lawsuit demanding that Paihua cease the unfair competitive act of divulging the film's trade secrets, issue a public statement to mitigate the impact, and provide compensation for economic damages.

The People's Court of Chaoyang District in Beijing determined that Paihua's actions of sharing the film materials with a third party and uploading them to Baidu Cloud, resulting in the online leak, constituted a breach of trade secret confidentiality. The court ordered Paihua to compensate New Classics with an economic loss of RMB 3,000,000 (approximately USD 412,800), cover rights protection expenses RMB 300,000 (approximately USD 41,280), and issue a public statement to

rectify the repercussions. Following the first-instance ruling, both parties accepted the judgment without filing an appeal.

Typical Significance

This case is a quintessential example of protecting film materials as trade secrets during the movie production process. **The film materials are deemed trade secrets. With numerous entities and individuals engaged in the process, there is a binding duty of confidentiality for all participants throughout the entire film-production cycle. Breaching this duty can lead to appropriate legal consequences.** The ruling in this case advances the cause of standardizing and bringing the film-production process under legal norms, ensuring the rights of film-production participants are safeguarded, and contributing to the flourishing and advancement of the film industry.

(10) Voice Rights Dispute over Sun Honglei's Line Related to 'Hua Qiang Buys Melon'

Facts

The dispute originated when two gaming companies incorporated audio clips from the plaintiff's TV series into their online games without permission, leading to the plaintiff's lawsuit. The plaintiff argued that the defendants' design and development of the games containing the plaintiff's voice clip for profit-making purposes infringed upon his voice rights. Additionally, the game depicted a character resembling the plaintiff as a villain, which he claimed violated his personality rights. He sought a public apology and damages for both economic and emotional harm.

The Chengdu Internet Court ruled that an individual's voice and likeness are integral to their personality rights. The defendants' unauthorized use of Sun Honglei's voice in their game constituted a violation of these rights. However, the game's character design, while based on Sun Honglei's role in the TV series, did not significantly deviate from the original portrayal. Thus, it's more likely for the public to associate the game's villain with Sun Honglei's role in the TV series, instead of his real-life persona. Thus, the court found no infringement of general personality rights. The court ordered the gaming companies to issue a public apology and pay the plaintiff RMB 30,000 (approximately USD 4,128) for economic losses.

Following the initial ruling, the developer of the game appealed to the Chengdu Railway Transportation Intermediate Court. The appeal is currently underway.

Typical Significance

This case marks the first time that a natural person's film and television drama lines, in voice, have been recognized as an object of protection. It clearly stipulates that before using such sounds for profit, authorization and consent must be obtained from the natural person or the copyright holder of the film and television works who has granted permission. At the same time, the case clarifies the association between film and television characters and the actors themselves from the perspective of the rational cognition of the public.

Related Picture



Screenshot of the game The Watermelon Vendor's Battle Against the Melon Buyers involved in the case

2. Promotion and Distribution Stage

(1) Criminal Case of Copyright Infringement against Lu, Lu 2, and Wang

Case Number: (2023) E 0102 Zhixingchu No.13

Facts

The defendants utilized the AG Video Analysis Software to convert, download, and subsequently distribute movies, TV series, and other audiovisual content by sharing cloud-storage links on a pirated site. This action was a deliberate evasion of the technical protections implemented by copyright holders to safeguard their works, thereby reproducing and disseminating these works to the public. Furthermore, by integrating the pirated site with a shopping APP, the defendants lured users into making purchases, thereby earning commissions from the third-party platform. This evidence supports that the defendants' copyright infringement was driven by 'profit-making purposes.' The court could ascertain the presence of 'other serious circumstances' based on the volume of audiovisual works involved and the commission amounts received.

Typical Significance

This case sets a precedent in precisely identifying the nature of emerging online copyright violations and demonstrates the comprehensive protection of copyrights under criminal law. As the inaugural application of the Criminal Law Amendment (XI) in Hubei Province, **the case established that the defendants' conversion of audiovisual works on video websites was an intentional bypass of the copyright-holders' protective measures. The unauthorized downloading and distribution of these works on pirate platforms constitute acts of copying and public dissemination via information networks**, which are clear violations of copyright law. Moreover, the case addresses the concealed profiteering, underscoring the court's rigorous and thorough approach to combating online copyright infringement. By linking the pirate video platform with a shopping APP to attract users and earn commissions, the defendants were found to have 'other serious circumstances' due to the extensive number of audiovisual works and the substantial commission earnings. Consequently, the court imposed sentences of fixed-term imprisonment and fines on all three defendants, reflecting a deep and effective response to hidden online copyright infringement and advancing the rule of law within the digital realm.

(2) A Heihe Cultural Media Company vs. Certain Radio and Television Station and Certain Beijing Company for Infringement of Broadcasting Rights Dispute Case

Case Number: (2023) Heiminzhong No.153, (2021) Hei 11 Minchu No.78

Facts

In 2012, Heihe A Cultural Media Co., Ltd. (referred to as A Company) contracted a third party to produce the TV drama *Heihe Chronicles*, with an agreement that Mei Company would legally hold the copyright. On July 28, 2015, the National Radio and Television Administration granted the National TV Drama Distribution License for the series. In the summer of 2020, A Company noticed that an unnamed radio and television station (referred to as the TV Station) was airing *Heihe Chronicles* on a public channel, potentially impacting A Company's future distribution plans. The TV Station stopped the broadcasts on July 22, 2020. A Company then sued for copyright infringement and sought economic damages. The court determined that A Company held the exclusive rights to distribute, broadcast, and disseminate the series through information networks, as well as to produce derivative works and adaptations, and was entitled to enforce these rights. The TV Station had broadcast the drama without A Company's consent or any rational compensation, thereby infringing on A Company's rights and incurring civil liability for the infringement. Since A Company could not provide evidence of actual losses or the TV Station's illegal earnings from the broadcasts, the court, considering the nature of the infringement, the type of work, the timing and duration of the broadcasts, and the program's

reach, decided that the TV Station should compensate A Company with RMB 500,000 (approximately USD 68,800).

Typical Significance

The rapid growth of the film-video industry – **characterized by significant financial investment, the involvement of multiple stakeholders, and the ease and speed of copying and disseminating works – has made intellectual property protection and rights enforcement crucial for its continued development.** In this case, the court applied the law diligently, setting a reasonable compensation amount that reflected the unique aspects of the infringement and the TV drama itself. The court's firm stance against copyright infringement reinforces the legal framework supporting the film and television industry, underscoring the commitment to safeguarding creative rights and fostering a healthy media ecosystem.

(3) Dispute Over Information Network Communication Rights Between S Sports Culture Media (Beijing) Co., Ltd. vs. A Television Media (Beijing) Co., Ltd. and Heilongjiang Branch of China D Corporation

Case Number: (2023) Heimingzhong No.528, (2022) Hei 01 Minchu No.1969

Facts

S Sports Culture Media (Beijing) Co., Ltd. (referred to as S Sports) secured the information network dissemination rights for the public signal videos of the 2018-2020 AFC Champions League through authorization from the event's organizers. The accused IPTV (Interactive Network Television) platform, operated by A Television Media (Beijing) Co., Ltd. (referred to as A Media), played the videos that were alleged to infringe upon these rights upon users' demand via set-top boxes. The Heilongjiang Branch of China D Corporation (referred to as D Corp) was responsible for providing network transmission services for the IPTV platform. The videos in question were found to be identical to the official event broadcast signals. S Sports brought a lawsuit alleging that both D Corp and A Media, by making the event's broadcast signals available to the public, engaged in joint infringement and sought compensation for economic damages.

Typical Significance

With the widespread adoption of the Internet and big data, IPTV-related copyright infringement disputes are on the rise. This case provides clarity on the organizational structure and management of the IPTV platform and delineates the rights and obligations of telecommunications companies involved in IPTV services. By applying the criteria for infringement, **the court determined that the IPTV operators are liable for the infringement of information-network dissemination rights. It also established that telecommunications**

companies, which only provide network-transmission services, are not liable for joint infringement. This decision offers valuable guidance for adjudicating similar cases.

(4) Copyright Infringement Dispute between MGTV.com Corporation and Shanghai Kuanyu Digital Technology Co., Ltd.

Facts

Who's the Murderer, comprising nine productions with over a hundred episodes, is a celebrity detective reality show initially launched by Mango TV. Debuting in 2016, it quickly gained popularity and viewership, becoming widely recognized. MGTV.com Corporation. (referred to as MGTV) holds the copyrights to the series, while Shanghai Kuanyu Digital Technology Co., Ltd. (referred to as Kuanyu) operates the 'Bilibili' video platform. In 2020, the two companies had a dispute regarding copyright issues, resulting in Kuanyu's written promise to 'exert maximum effort to prevent similar infringements from happening again.' Yet in 2022, MGTV discovered and notarized evidence of 3,389 unauthorized videos of the series on the Bilibili platform, which had even created a dedicated section for *Who's the Murderer*. MGTV alleged that Kuanyu had infringed upon their information-network dissemination rights, attribution rights, and adaptation rights, and sought a court order for Kuanyu to cease the infringement, block uploads of infringing videos, and pay damages amounting to RMB 50 million (approximately USD 7 million).

The Intermediate People's Court of Changsha determined that MGTV retains the copyrights to the series in question. Approximately 3,300 of the notarized videos were found to be distributed without permission and did not qualify as fair use, constituting copyright infringement. There was no evidence to suggest that Kuanyu was directly infringing, conspiring in infringement, inciting infringement, or violating adaptation or attribution rights. However, Kuanyu, being aware or reasonably expected to be aware of the users' infringing actions, failed to take required actions – such as deletion, blocking, or disconnecting the network – thus assisting the infringement. The court ruled that Kuanyu must stop assisting infringement, block users from uploading infringing videos as per its prior commitment, and compensate for economic losses and reasonable costs of rights protection totaling RMB 10 million (approximately USD 1.4 million). Kuanyu's appeal was dismissed in the second-instance trial, affirming the original judgment.

Typical Significance

This case serves as a prime example of a personal media platform being held accountable for substantial damages due to aiding infringement. The court's decision took into account the number of copyrighted works, their popularity, production costs, licensing revenues, the volume of infringing videos, potential profits gained by the infringer, and any malicious intent –

appropriately increasing the compensation standard. **Furthermore, based on the platform's contractual obligation to prevent infringement, it was mandated to review and block users from uploading infringing content.** This ruling is instructive for the development of copyright-licensing systems and the clarification of platform responsibilities.

(5) Information Network Dissemination Right Infringement Dispute Between Guangzhou Kugou Computer Technology Co. Ltd. and Beijing iQIYI Technology Co. Ltd.

Case Number: (2021) Jing 73 Minzhong No.4222, (2021) Jing 0491 Minchu No.24602, (2021) Jing 73 Minzhong No.3811, (2021) Jing 0491 Minchu No.20113, (2021) Jing 73 Minzhong No.3810, (2021) Jing 0491 Minchu No.20112, (2021) Jing 73 Minzhong No.3809, (2021) Jing 0491 Minchu No.20111⁹¹

Facts

Plaintiff A, the holder of copyrights for a widely acclaimed traditional Chinese performing arts variety show, has brought a case against Defendant B, who developed and manages a platform that offered the public the streaming and download services of the claimed show through its 'Xiangsheng Collection' section. Plaintiff A alleges that the unauthorized upload of the show in a compilation format during its peak-viewership period, facilitated by a user who had received the platform's 'Radio Host Certification,' constituted a severe violation of their rights and resulted in substantial economic damages. As a result, Plaintiff A is seeking compensation from Defendant B for economic losses of RMB 90,000, legal fees of RMB 9,990, and notarization costs of RMB 100,000 (a total of approximately USD 13,760). The initial court ruling awarded Plaintiff A RMB 1,500 (approximately USD 206) in economic damages. Following this decision, Defendant B filed an appeal that was subsequently dismissed by the appellate court, which affirmed the original judgment.

The software in question displayed user information, and Defendant B submitted this user registration data to the court, confirming that the copyrighted material was uploaded by an online user and that B provided a storage service for the uploaded content. The court carefully examined the operational model of the online platform and concluded that – given the high popularity and attention the variety show received during its peak period – Defendant B, as the operator of an audio platform, should have been aware of the low likelihood of the user to obtain proper license. Despite this, B facilitated the uploading of popular compilations by categorizing

⁹¹ The plaintiff, iQIYI, has initiated four lawsuits in the Beijing Internet Court based on its exclusive information network dissemination rights for the fourth season of its Dakou Xiangsheng (monologue comic talk) variety show Guo De Gang Talkshow. The cases involve online streaming and downloading of infringing programs from different episodes on the Kugou Music APP. All four cases have entered the second instance, resulting in a total of eight judgment documents.

sections, which demonstrated a degree of negligence. Furthermore, the username of the uploader, 'XX Xiangsheng Collection,' and the content uploaded – a popular variety show closely associated with a renowned Xiangsheng artist during its peak period – raised red flags. Defendant B not only neglected to implement stringent copyright authorization checks, but also granted radio host certification to users. This indicated a failure to prevent the infringement and thus the defendant bore responsibility for aiding in the copyright violation.

Typical Significance

Certain platforms, driven by the goal of increasing user engagement, consciously disregard the necessity of obtaining authorization to use content from popular variety shows. They not only permit users to upload these popular programs, but also actively assist users in doing so. **This legal case has established that internet service providers who make it easier for users to upload such content are either aware of or should be aware of the violation of information network dissemination rights. Thus, they must accept liability for aiding in the infringement.** The purpose of this case is to motivate internet service providers to choose a more responsible and organized approach to their operations, thereby minimizing the potential for copyright infringement. The case also reflects the judiciary's commitment to safeguarding intellectual property rights and fostering a robust and healthy industry, especially in the context of evolving communication technologies.

(6) Information Network Dissemination Right Infringement Dispute Between Beijing iQIYI Technology Co. Ltd. and Shanghai Kuanyu Digital Technology Co., Ltd.

Case Number: (2023) Xiang 0105 Minchu No.1835

Facts

The plaintiffs, Beijing iQIYI Technology Co., Ltd. and Hunan iQIYI Culture and Technology Co., Ltd. (hereinafter collectively referred to as 'iQIYI Company'), have brought a lawsuit against Shanghai Kuanyu Digital Technology Co., Ltd. (hereinafter referred to as 'Bilibili Station') and Shanghai Hode Information Technology Co., Ltd. (hereinafter referred to as 'Hode Company') at the Kaifu District People's Court of Changsha City (hereinafter referred to as 'Kaifu Court'), alleging that during the broadcast of the popular work *The Knockout*, the defendants' permission for users to upload film and television clips and commentary short videos may have infringed upon the plaintiffs' copyright and constituted unfair competition.

The Kaifu Court has determined that the videos in dispute were created, edited, and uploaded by users on the Bilibili platform. iQIYI Company only asserted its claim against the two defendants regarding their platform liability. Also, there is no evidence to suggest there was an agreement

between the defendants and the users, or that the defendants assisted or encouraged the creation of the disputed videos. Therefore, this does not constitute an infringement of the right to protect the integrity and the right to adapt of the work. Furthermore, in line with the Copyright Law's provisions on the right to disseminate works through information networks, the court has concluded that 'accessing a work' encompasses not only providing the complete work to the public, but also providing any part of the work that contains original expression. As such, the actions of the short-video platform fall within the scope of the right to disseminate works through information networks.

Regarding the question of whether the commentary videos constitute fair use, the Kaifu Court has found that these videos merely showcase the artistic beauty of the protected work in terms of plot and content, and that the quantity of citations significantly exceeds the limits appropriate for commentary and introduction. Additionally, the 36 videos in question extensively utilize edited visuals and original audio from the protected work, with added elements such as commentary, subtitles, and dubbing serving as synonymous transformations of the plot, characters, or settings. These additions do not create a new literary or artistic value separate from the original work and instead act as a substantial substitute, thus not qualifying as fair use.

In assessing whether the platform facilitated the infringement, the Kaifu Court noted that iQIYI Company had sent notices of infringement, including through complaints and legal letters, prior to initiating the lawsuit. Moreover, iQIYI Company had issued a 'Warning Letter' prior to the initial broadcast of The Knockout. These actions were deemed to have provided 'effective notice.' However, since Bilibili Station failed to take the necessary measures in response, it was found to have facilitated the infringement.

Typical Significance

This case has established the standard for determining the extent of control over the right to disseminate works via information networks: offering a portion of a work, provided it contains original expression, is sufficient to be considered as making the work available to the public, and therefore comes under the purview of this right. **Furthermore, the case has affirmed that commentary videos that excessively excerpt copyrighted material for the purpose of commentary or introduction are not protected under fair use.** Additionally, the rights holder is not limited to sending cease-and-desist notices and legal letters to short-video platforms. They can also issue a preemptive warning prior to the broadcast of their work, which serves to prompt these platforms to implement preventive measures against potential infringements. This practice enhances the vigilance and responsibility of the short-video platforms in safeguarding the rights holder's interests.

(7) Information Network Dissemination Right Infringement Dispute Between Shanghai Ximalaya Technology Co., Ltd. and Youku Information Technology (Beijing) Co., Ltd.

Case Number: (2023) Hu 73 Minzhong No.287, (2022) Hu 0115 Minchu No.36410

Facts

Youku Information Technology (Beijing) Co., Ltd., known as Youku Company, possesses the rights to disseminate, license, and enforce the rights of the program *Round Table π* through information networks. In December 2020, Youku Company identified audio from this program on the Ximalaya APP, matching the audio content it holds rights to. Consequently, Youku Company accused Shanghai Ximalaya Technology Co., Ltd. (Ximalaya Company) and the APP's developer, Xida (Shanghai) Network Technology Co., Ltd. (Xida Company), of copyright infringement and sought compensation for economic losses and reasonable expenses to halt the infringement, amounting to RMB 640,000 (approximately USD 88,058), from the People's Court of Pudong New District in Shanghai, the court of first instance.

The first-instance court determined that Ximalaya Company had facilitated some of the infringing content, with the infringing audio album placed in a location that was clearly perceptible to the company. Furthermore, as Ximalaya Company offered a 'super high-quality sound' audio download service for VIP users from which it could profit, it was held to a higher standard of duty of care against copyright infringement by its network users. The court concluded that Ximalaya Company should have been aware of the infringements by its users and assessed the economic damages at RMB 120,000 (approximately USD 16,511). Dissatisfied with this ruling, Ximalaya Company appealed to the Shanghai Intellectual Property Court.

The Shanghai court found in the second instance that Ximalaya Company had not manually selected, edited, modified, or recommended the infringing audio. The presence of the audio in the homepage recommendation section was a result of the platform's automatic big-data algorithm, which is personalized and varies the recommended content for different users. This differs from manually selecting and uniformly recommending content to all users. The court ruled that the inclusion of the infringing audio in personalized recommendations does not imply that Ximalaya Company actively set it up. The court also noted that due to the personalized nature of algorithmic recommendations, the evidence provided by Youku Company was not sufficient to show that the infringing audio was in a location that the platform operator could easily perceive within the APP. Additionally, the second-instance court clarified that algorithmic recommendations are distinct from manual recommendations. The mere use of algorithmic-recommendation technology does not automatically enhance a network service provider's information-management capability on the content placed on their platform, nor does it obligate

them to proactively prevent infringement for all recommended content. The court also stated that the presence of infringing content in algorithmic recommendations does not necessarily mean that the service provider is aware of it. Providers should only increase their duty of care when using algorithmic-recommendation technology for content that poses a higher risk of copyright infringement. In this case, there was no evidence that Ximalaya Company had applied such technology to high-risk content. Ultimately, the Shanghai Intellectual Property Court decided that Ximalaya Company did not aid in the infringement. The court overturned the first-instance judgment and dismissed all Youku Company's original claims.

Typical Significance

The Shanghai court's ruling emphasizes that **if an internet information service provider uses only algorithmic recommendations for a video that is subject to a copyright claim – without any human involvement in the selection, editing, or curation process – the presence of the audio in question within personalized algorithmic recommendations should not be presumed as an intentional act of promotion by the provider.** Moreover, the ruling distinguishes between algorithmic and manual recommendations. The mere application of algorithmic-recommendation technology does not automatically suggest that the provider's capacity to manage information has improved. Additionally, the fact that algorithmic recommendations may include infringing content does not necessarily mean that the service provider has knowledge of such content's existence.

(8) Information Network Dissemination Right Infringement Dispute Between Shanghai Beauty Culture Communication Co. Ltd. Beijing iQIYI Technology Co. Ltd.

Case Number: (2021) Jing 73 Minzhong No.2496

Facts

The plaintiff is the lawful holder of the rights to disseminate several film works through information networks. The defendant operates and promotes a mobile application known as Accessible Film and Television in various APP marketplaces, offering free accessible-format versions of the aforementioned films to the public. The plaintiff alleges that the defendant, without authorization, has made these films available for online viewing, thereby infringing on the plaintiff's dissemination rights. As a result, the plaintiff has taken legal action in the People's Court of Jinshan District, Shanghai, seeking an order for the defendant to cease the infringement and to seek compensation for economic damages.

The Jinshan Court has determined that the protection of the legitimate rights and interests of persons with disabilities is of paramount importance, and it is unjust to demand an impractical

monitoring liability from providers of accessible audiovisual works. The court suggests that copyright holders should show reasonable leniency within the constraints of current technology and legal frameworks. Following mediation by the court, an agreement was reached between the plaintiff and defendant: the accessible audiovisual works on the Accessible Film and Television APP will not be taken down; individuals with visual impairments, hearing impairments, speech impairments, and those with multiple disabilities – as indicated by specific digits in the penultimate position of their national disability identification codes – are entitled to register for, access, and use the defendant's APP; the defendant is obligated to periodically verify member information to prevent unauthorized use of the APP by individuals not belonging to the aforementioned categories.

Typical Significance

This case has established the reasonable limits for making accessible versions of audiovisual works as defined by the Copyright Law. These limits ensure that the use is confined strictly to fulfilling the legitimate requirements of visually or otherwise impaired individuals, and is solely for their benefit. Moreover, the advancement of accessible audiovisual works must be performed on a foundation of respect and protection for intellectual property rights. It is also crucial to prioritize the protection of the legitimate rights and interests of persons with disabilities. The providers of such works should not be held to an unfeasible standard of scrutiny that they cannot meet. Accordingly, copyright holders are encouraged to show a degree of leniency that is appropriate given the current state of technology and the legal landscape.

(9) Unfair Competition Dispute Case Between Star Overseas Limited and Guangzhou Zhengkai Culture Communication Co., Ltd. and Others

Case Number: (2020) Yue 73 Minzhong No.2289, (2018) Yue 0106 Minchu No.19119

Facts

The Hong Kong film *King of Comedy* enjoys a high reputation and attracts significant public attention. In 2018, Guangzhou Zhengkai Culture Communication Co., Ltd. (hereinafter referred to as Zhengkai Company) and Li held public accounts on Weibo, WeChat to promote the alleged infringing TV drama *King of Comedy 2018* as the 'serial version #King of Comedy#'. In the media promotion, they even claimed for the content to be adapted from *King of Comedy*, and so on. The copyright owner of the Hong Kong film, Star Overseas Limited, sued at the court, claiming that Zhengkai Company and Li constituted unfair competition.

After hearing the case, the Guangzhou Intellectual Property Court held that – taking into account factors such as the box office revenue of the film during its release in Hong Kong cinemas, the

promotional efforts before and during the release, the number of views on the authorized video websites, the degree of continuous media coverage of the film, and the extent of public participation in the evaluation of the film – it can be fully proven that the name of the film in question has reached a level of ‘having a certain impact.’ Zhengkai Company and Mr. Li have been found to be engaging in activities that amount to imitation and misleading the public by adopting a prominent movie title and disseminating false promotional statements. Thereby, they have been held liable for unfair competition practices.

Typical Significance

In this instance, the Anti-Unfair Competition Law was invoked to safeguard the title of a Hong Kong-released film. The ruling provided clarity on the criteria and factors for assessing whether the titles of audiovisual works are influential under Article 6 of the Anti-Unfair Competition Law. This clarification is a positive step towards enhancing the safeguarding of cinematic works and fostering a favorable market environment. It is beneficial for healthy growth of the film industry.

(10) Criminal Case of Copyright Infringement against Ma, Ma 2, and Others

Case Number: (2020) Su 10 Xingchu No.11

Facts

Between June 2016 and February 2019, defendants Ma, Ma 2, Wen, and Lu, in pursuit of profit, schemed with cinema employees to unlawfully acquire original film discs and keys. They utilized high-definition equipment to illegally reproduce and copy films, including *The Wandering Earth* and *Crazy Alien*, and then peddled these pirated versions to operators of so-called ‘Movie Bars,’ thereby reaping illegal profits.

The Intermediate People’s Court of Yangzhou City, Jiangsu Province, following the hearing of the case, determined that defendants Ma, Ma 2, Wen, and Lu, driven by profit, copied and distributed others’ cinematic works without the consent of the copyright holders. They collectively engaged in the production and sale of counterfeit films. The scale of their illegal earnings was substantial, and the circumstances were particularly severe, amounting to the crime of copyright infringement. The court sentenced each of the four defendants to fixed-term imprisonment ranging from four to six years, and imposed fines from RMB 600,000 (approximately USD 82,555) to RMB 5,500,000 (approximately USD 756,752). Additionally, their illegal gains were confiscated. Upon the pronouncement of the verdict, no appeals or objections were lodged by any party, and thus the first-instance judgment has become legally effective.

Typical Significance

This case is a **typical example of the act of illegally recording and disseminating cinema movies, constituting the crime of copyright infringement**. The People's Court, in fulfilling its adjudicative duties over intellectual property rights, severely cracks down on illegal and criminal acts of infringement and piracy in the film sector. This has significant importance for strengthening the protection of cinema movie copyrights and promoting the healthy development of the film and television industry.

(11) Criminal Case of Copyright Infringement against Liang

Case Number: (2021) Hu 03 Xingchu No.101

Facts

Beginning in 2018, the defendant Liang directed Wang and others to develop and manage the YYeTs platform, which included websites and applications for Android, iOS, Windows, MacOSX, and TV devices. Liang also instructed Xie and others to illicitly download films and TV shows from foreign websites, translate them, and then upload the content to servers. This operation provided users with online streaming and download services through the YYeTs website and associated apps. The platform hosted a total of 32,824 unauthorized films and TV shows, attracted approximately 6.83 million members, and generated illegal turnover exceeding RMB 12,000,000 (approximately USD 1,651,096).

The Third Intermediate People's Court of Shanghai, after reviewing the case, determined that Liang, driven by profit, had reproduced and distributed copyrighted works without the consent of the rights holders. This constituted 'other particularly serious circumstances' under the law, and thus Liang was found guilty of copyright infringement. The court sentenced Liang to three years and six months of imprisonment and imposed a fine of RMB 1,500,000 (approximately USD 206,387). All illegal earnings were ordered to be confiscated. Following the announcement of the verdict, there were no appeals or objections from any party, and the first-instance judgment has thus become legally effective.

Typical significance

The case involved a vast array of film and television works with numerous rights holders. The court's ruling provided clear guidance on the legal application of 'without authorization' in the context of copyright infringement crimes, and established a methodology for determining the quantity of infringed film and television works. It pursued the criminal responsibility of the organizers and main participants according to the law, severely cracking down on the criminal acts that seriously infringed upon the copyright of films.

(12) Administrative Penalty Case of Infringer Zhang Illegal Recording of Theatrical Films in Nanjing City⁹²

Facts

In March 2023, following the transfer of clues from higher authorities, the Bureau of Culture and Tourism of Nanjing City officially launched an investigation into the case in accordance with the law. The investigation revealed that Zhang used a mobile phone to illegally record films on three occasions at a cinema in Gaochun District, Nanjing City, between February and March 2023. Additionally, Zhang purchased seven theatrical films and sold them for profit through an online store, resulting in illegal profits of RMB 14,312.16 (approximately USD 1,969).

On September 8, 2023, the Bureau of Culture and Tourism of Nanjing City imposed the following administrative penalties on Zhang: a warning, confiscation of the illegal profits amounting to RMB 14,312.16 (approximately USD 1,969), confiscation of the mobile phone used for illegal recording, and a fine of RMB 50,000 (approximately USD 6,880).

Typical Significance

The infringer in the case illegally recorded three highly popular films during the Spring Festival period and sold them online, resulting in over 200,000 views. This severely infringed upon the legitimate rights of the copyright holders and disrupted the copyright order of the film market. By taking various measures – such as issuing alert lists for copyright protection of key works and utilizing watermarking technology for piracy tracking – the copyright enforcement authorities have taken stringent actions against unauthorized filming in cinemas and illegal dissemination. These efforts have effectively upheld the copyright order within the film market.

(13) ‘2.06’ Case of Copyright Infringement of Theatrical Films⁹³

Facts

On January 24, 2023, following the receipt of clues regarding the illegal recording of the theatrical film *Boonie Bears: Guardian Code*, the Qingdao Municipal Bureau of Culture and Tourism swiftly coordinated with the Jiaozhou (a county-level city under the administration of Qingdao) Municipal Comprehensive Administrative Enforcement Bureau and the Jiaozhou Public Security Bureau to establish a joint task force to conduct an investigation. Utilizing methods such as in-theater testing, surveillance retrieval, and facial recognition, within 10 hours the task force had identified the individuals responsible for the illegal recording. Through remote inspection and

⁹² One of the Top Ten Cases of Combating Infringement and Piracy in Jiangsu Province in 2023

⁹³ One of the Top Ten Internet Culture Administrative Law Enforcement Cases in Qingdao City for the Year 2023

evidence collection, the task force successfully obtained evidence that the individuals had disseminated online a large number of audiovisual works, including *Boonie Bears: Guardian Code*, without the copyright holder's permission.

Investigation revealed that since 2019 the criminals had, in collusion with their relatives, employed various means to acquire illegal film sources, including recruiting personnel at low rates on social-media platforms to record films, and purchasing pirated films from relevant channels. These pirated films were then sold through nine stores registered on the Pinduoduo platform, resulting in over 3,000 pirated films being sold and illegal profits exceeding RMB 50,000 (approximately USD 6,880).

Based on these findings, the joint task force proceeded to arrest 18 individuals involved in the case across several provinces and cities, including Jiangsu and Guangxi. This case was jointly supervised by six departments, including the National Work Group for 'Combating Pornography and Illegal Publications,' the National Copyright Administration, and the Ministry of Public Security. It was also recognized by the Ministry of Public Security as the top case in the 2023 annual list of Top 10 Typical Cases of Strengthening Criminal Protection of Intellectual Property and Supporting Comprehensive Innovation.

Typical Significance

This case demonstrates the effectiveness of the joint efforts of administrative enforcement departments and public security authorities in combating infringement of copyright in film-video works. The vigorous investigation and handling of this case effectively cracked down on the arrogance of online infringers, dismantled the chain of piracy and dissemination of theater films, and standardized the order of film distribution and dissemination.

(14)'2.12' Series of Cases Involving the Illegal Recording of Theatrical Films During the Spring Festival Period⁹⁴

Facts

In February 2024, in accordance with the requirements of the Ministry of Public Security, the public security authorities of Zhejiang, Anhui, and Jiangsu provinces worked closely together – with strong support from copyright management departments – to crack the '2.12' series of cases involving the illegal recording of theatrical films during the Spring Festival period. This operation successfully dismantled multiple criminal networks involved in illegal recording in

⁹⁴ See the second case of the Top Ten Typical Cases of Strengthening Protection of Intellectual Property Rights with Criminal Punishment Published in April 2024.

cinemas and online sales of pirated films. A total of 26 suspects were arrested, over 230 infringing websites, apps, and online stores selling pirated films were shut down, and more than 800,000 pirated copies of films such as *YOLO*, *Pegasus 2*, *Boonie Bears: Time Twist*, *Article 20*, and *Jurassic Era* were seized.

Typical Significance

The timely conclusion of the series of cases further helps to curb the risk of film piracy and dissemination, creating a favorable environment for copyright protection and providing support for the healthy development of the cultural market.

(15) Administrative Penalty Case of a Beijing Trading Company Infringing on the Exclusive Rights of Registered Trademarks Related to Universal Studios

Facts

In July 2023, during a routine inspection of the Beijing Universal Resort, the Administration of Market Regulation of Tongzhou District, Beijing, took action against a trading company in Beijing for infringing on the exclusive rights of Universal Studios' registered trademarks. Upon investigation, it was found that the company knowingly utilized infringing products – such as robes, ties, and hairpins bearing the 'UNIVERSAL STUDIOS' trademark – for leasing purposes, despite being aware of their infringing nature. This conduct impacted the legitimate rights of the trademark owner and also infringed upon the lawful rights of consumers. In accordance with Item 2 of Article 60 of the Trademark Law of the People's Republic of China, the Administration of Market Regulation of Tongzhou District, Beijing confiscated all infringing goods and imposed a fine of RMB 30,000 (approximately USD 4,128) on said trading company.

Typical Significance

This case represents a typical example of trademark protection related to Universal Studios and constitutes the first instance in recent years where the Administration of Market Regulation of Tongzhou District, Beijing has identified leasing activities as constituting trademark infringement and imposed fines accordingly. **The Administration of Market Regulation of Tongzhou District, Beijing has made a groundbreaking legal determination regarding commercial-leasing activities, affirming that engaging in profit-driven leasing operations using goods that infringe on registered trademarks constitutes actions falling under Item 7 of Article 57 of the Trademark Law of the People's Republic of China, which pertains to 'causing other damage to the exclusive rights of registered trademarks of others.'** This case effectively cracks down on the infringement activities of unscrupulous businesses around the Beijing Universal Resort and effectively regulates the chaotic situation of leasing counterfeit authorized goods.

(16) Sichuan Faya Cultural Development Co., Ltd. and Junku (Shanghai) Information Technology Co., Ltd. infringing the copyrights of Universal Pictures and DreamWorks Animation

Facts

In April 2023, the Chengdu Copyright Bureau, acting on a report, investigated the Sichuan Faya Cultural Development Co., Ltd. for using infringing posters in its children's theater. The investigation revealed that the company had, without authorization, used the film poster of *Kung Fu Panda 4* in its WeChat public account and ticket sales links to promote its children's play *Panda Returns*, thereby infringing on the copyright of DreamWorks Animation. During the investigation, the company claimed that the involved poster had a 'legal source' and was downloaded from an image aggregation website called 'IGWORK.' However, upon verification by the rights holder, it was confirmed that no such authorization had been granted. The enforcement authorities – pursuant to Item 1 of Article 53 of the Copyright Law of the People's Republic of China – issued a warning and imposed a fine of RMB 10,000 (approximately USD 1,376) on the company. Additionally, during the rights holder's verification of the aforementioned 'legal source' website, it was discovered that 'IGWORK' stored a large number of infringing images and offered VIP paid download services. Consequently, the Chengdu Copyright Bureau referred this clue to the competent authorities.

In November 2023, the Shanghai Municipal Administration of Culture and Tourism investigated Junku (Shanghai) Information Technology Co., Ltd. for infringing on the copyrights of Universal Pictures and DreamWorks Animation. The implicated website, 'IGWORK,' provided downloadable infringing images through a VIP subscription model (non-VIP accounts were limited to downloading one image per day). The site aggregated various materials, including posters and character images from virtually all of the rights holders' film series, and promoted itself on social media platforms such as Douyin and Xiaohongshu, claiming to offer 'free, copyright-free high-definition images available for commercial use.' The scale and impact of the infringement were significant. In accordance with Item 1 of Article 53 of the Copyright Law of the People's Republic of China, the Shanghai Municipal Administration of Culture and Tourism issued a warning and imposed a fine of RMB 100,000 (approximately USD 13,760) on the company.

Typical Significance

This case represents an administrative penalty involving the unauthorized use of infringing posters in theaters and on the aggregation website that sourced the image materials. It highlights the strict review by enforcement authorities on claims of legal source, and the impactful crackdown on numerous aggregation websites hosting infringing content.

This case serves as a reminder to entities engaged in performance-related businesses that they should refrain from infringing upon well-known film-video works or images in posters or pictures during commercial promotional activities, such as promoting theatrical productions. If such materials are used, it is imperative to obtain prior authorization from the rights holders and carefully verify the authenticity of the authorization, failing which the defense of legal source cannot be upheld.

3. Development and Operation Stage

(1) Dispute over Confirmation of Non-Infringement between Zhejiang Shenghe Network Technology Co., Ltd and ChuanQiIP Co., Ltd

Case Number: (2021) Zhe 0192 Minchu No. 10369

Facts

The South Korean game *Legend of Mir* was launched in China in 2001. The rights holder, Legend IP Co., Ltd. (hereinafter referred to as Legend IP), upon learning that the movie *Blue Moon* was about to be exclusively released on a platform, believed that the movie infringed upon Legend of Mir's copyright and sent a letter to the platform requesting the cessation of the movie's distribution. The movie-production company, in response to the warning from Legend IP, sent a letter urging them to file a lawsuit, but Legend IP neither withdrew the warning nor filed a lawsuit. After the movie went online, Zhejiang Shenghe Network Technology Co., Ltd., as the copyright owner of the movie, filed a lawsuit with the Hangzhou Internet Court, claiming that the movie did not infringe upon the aforementioned game's copyright and requested a confirmation of non-infringement.

After hearing the case, the Hangzhou Internet Court determined that the overall visual presentation of the game and the movie differed significantly in terms of visual composition, smoothness, the experience of the scenes, and audio-visual effects. There were substantial differences in the selection, arrangement, and specific creative elements in the visual and auditory scenes. Therefore, the Hangzhou Internet Court ruled that there was no infringement. Legend IP was dissatisfied and filed an appeal. The Hangzhou Intermediate People's Court upheld the original judgment and dismissed Legend IP's appeal.

Typical Significance

The judgment of this case has clarified the comparative approach to determining whether the overall visual presentation of a game infringes upon a cinematographic work, indicating that if a subsequent work merely references and absorbs the themes and concepts of a prior work – but the specific expressions have diverged or differ from the prior work – then it does not constitute

infringement. The ruling in this case is conducive to guiding the prosperity of multi-format cultural and creative industries, and is beneficial for promoting the high-quality integrated development of the cultural industry.

Images of Blue Moon and Legend of Mir



The image on the left is the movie poster for Blue Moon, and image on the right is the game poster for 'Legend of Mir'

(2) Dispute over Unfair Competition between a Company in Beijing, a Company in Hunan and Hangzhou Q Company, a Company in Hangzhou

Case Number: (2023) Xiang 0105 Minchu No. 2875

Facts

The plaintiff is the copyright owner of the TV series *The Knockout*. The data submitted by the plaintiff from Kuyun, Yunhe, Dengta, Xigua, Baidu Index, Weibo topics, Douban, and Zhihu regarding viewership, play volume, market share, popularity, and discussion data indicate that *The Knockout* has gained high popularity and public discussion during its initial broadcast period.

The accused game *Shine of the King* has its copyright owner as the defendant Xuegao Company, and the publisher is the defendant Qunyou Company; the small program certification entity and the charging receiver are the Game Forever Company. The defendant Qimu Company published a multitude of promotional videos for the accused game on its Douyin account Little Cousin Talks about Legends. The videos promoted the accused game as the 'The Knockout version' of the Legends mobile game, claiming '1:1 restoration of the plot and gameplay of The Knockout,' and

extensively used elements and character images from the involved works, including character names, place names, etc. Moreover, the involved videos also stated that ‘the advertising material and promotional scenes appear after reaching a certain level or triggering the corresponding module.’

The People’s Court of Kaifu District, Changsha City believes that the TV series *The Knockout*, through the extensive use and promotion by the rights holder, has generated high popularity in terms of click-through rates, play volume, number of comments, and topic volume, and its title can serve to identify the origin of goods or services, which can be deemed as a ‘product name with certain influence’ as stipulated in Item 1 of Article 6 of the Anti-Unfair Competition Law. As the actual controlling entity of the Douyin account ‘Little Cousin Talks about Legends,’ the defendant Qimu Company, even though fully aware of the high market visibility of *The Knockout*, still used the title of *The Knockout* series on multiple infringing videos produced and released by it, labeling them as the ‘The Knockout version’ and incorporating multiple elements from *The Knockout* series, such as characters, props, and environments. Even if they are not similar goods or services, taking into account the subjective intent of the infringer during the peak broadcast period, the damage caused by the infringing behavior to the timeliness value of the involved TV series, and the visibility and influence of the involved TV series, the Qimu Company’s actions are legally deemed as unfair competition, which constitutes joint infringement. Therefore, the court ordered that the Game Forever Company and Qimu Company jointly compensate the plaintiff for economic losses and reasonable expenses, totaling RMB 180,000 (approximately USD 24,766).

Typical Significance

This case is a typical example of applying the Anti-Unfair Competition Law to provide cross-border protection for the title and audiovisual elements of a TV series. The judgment fully takes into consideration the popularity and influence of the TV series in question, as well as the occurrence of the accused infringement during its peak broadcast period and the significant damage to its timeliness value. At the same time, the judgment cracks down on the unauthorized use of popular elements from the TV series in the game, as well as on the act of capitalizing on the popularity of the TV series across different domains.

By promptly ceasing the infringement, the case creates a fair competitive market environment for the secondary development of excellent IPs, such as games, script killings, and micro-dramas. This case also serves as a vivid practice of the people’s court in providing effective judicial services and guarantees for the construction of the Malan Mountain Video Cultural and Creative Industrial Park.



www.lushenglawyers.com.cn

E-mail: marketing.cn@lushenglawyers.com

Scan QR code and Follow Us:



www.rouse.com

E-mail: chinamarketing@rouse.com

Scan QR code and Follow Us:



Service Official Account:

For Obtaining the Full Report and Related Information

