



Country Report PR China

Annual report to the IFLA CLM committee

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Copyright

Legislative Proposal on the amendment of Copyright Act

During the Fourth Plenary Session of the 11th National Committee of the Chinese People's Political Consultative Conference (CPPCC) held in March 2011, Li Yuguang, a member of the national committee of CPPCC and Deputy Director of the National Copyright Administration, submitted with other 15 members of CPPCC a proposal on the amendment of Copyright Act. The proposal includes three suggestions, first, extending the protection period of photographic works. According to existing Copyright Act, the term of protection of the right of publication and other rights such as reproduction, distribution, lease, exhibition, performance, projection, broadcasting, information network dissemination, production, adaptation, translation, compilation in respect of the photographic work is fifty years, expiring on December 31 of the fiftieth year after the first publication of such a work, however, any such work that has not been published within fifty years after the completion of its creation shall no longer be protected by Copyright Law. Obviously, the term of protection of a photographic work is much shorter than the works of music, art, literature whose protection term is lifetime of the author and fifty years after his death, expiring on December 31 of the fiftieth year after his death; second, perfecting the statutory licensing system on the use of photographic work; and final, adding a new right to visual art work, namely, the right of pursuit, for purpose of protecting copyright of the visual art work in the auction market.

The third amendment to the Copyright Act started

On July 13, 2011, the General Administration of Press and Publication and the National Copyright Administration held a conference in Beijing and announced that a new round of amendment to the Copyright Act was commenced. Twenty experts in the intellectual property field were appointed in the meeting as members of drafting group. This is the third modification to the Copyright Act. China has promulgated its first Copyright Act in 1991 and amended it in 2001 and 2010 respectively. The revised draft will be completed at the end of 2011.

New and amended measures and regulations

1. On November 25, 2010, the National Copyright Administration promulgated a regulation titled "*The Measures on the Registration of Copyright Pledge*".
2. On November 25, 2010, the Supreme People's Court issued a judicial interpretation, "*Notice on Doing a Good Job in Hearing Copyright Dispute Cases Involving Internet Cafes*". The pertinent part on the tort liability of Internet cafe operators provided in the

explanation is as follow:

III. Where an Internet cafe operator provides film and television works to which others hold copyright through its Internet cafe without the permission of the copyright holders, infringing upon others' right of dissemination on information network or other rights, a judgment shall be made on cessation of infringement and compensation for losses according to the claims of the plaintiff. The compensation amount shall be reasonably and moderately determined in light of the characteristics and actualities of the business operations of Internet cafes. In addition to the market impact, popularity, show season and reasonable royalties of the involved film and television works, we shall give weight to such factors as the service charges and scale of an Internet cafe, the subjective fault, the nature and duration of infringement, the number of clicks or downloading of the infringed works, the local economic and cultural development status, etc. If laws and administrative regulations provide otherwise on the tort liability of Internet cafe operators, such provisions shall prevail.

3. On December 18, 2010, China Appraisal Society issued a normative document entitled "*Guidelines on the Evaluation of Copyright Asset*".
4. On March 19, 2011, the State Council promulgated two amended regulations relating to the administration of publishing market: *Regulation on the Administration of Publication* and *Regulation on the Administration of Audio and Video Products*. They reaffirmed the provisions on deposit of publication to the National Library. In the article 22 of the former and second paragraph of article 12 of the latter, they provide respectively that publishing units shall, in accordance with relevant state regulations, send free samples to the National Library, the National Depository Library and the publication administration department of the State Council.
5. On May 10, 2011, the Beijing Municipal Bureau of Copyright released a directive document named "*Guiding Opinion on Protection of the Right to Network Dissemination of Information*". The Opinion demands that the ISP who provides information storage to their service clients should remind their clients in a conspicuous place of the information-sharing platform that they are not allowed uploading unauthorized works to the platform and should perform the duty of reasonable care and take the necessary technical measures to effectively prevent the unauthorized uploading of the following works: (A) the film, television and other professionally produced long video works; (B) works containing marks of publication and copyright, and cataloging of the reprinted; (C) TV or other webcast programs such as sports events and theatrical performances; (D) works created by authors known to the general public or works with high popularity; and (E) other works that are in hot broadcasting or selling. The document also encourages the ISP to implement the real-name registration system of website.

Some other IPR regulations, such as *Measures on the Copyright Protection of Folk Literary and Artistic Works*, *Measures on Voluntary Registration of Works* and *Measures on Legal Payment for Textbook*, are also in the process of revision and formulation

Strategic plans for future

Strategic copyright plans

On April 20, 2011, the National Copyright Administration released the "*Twelfth-Five-Years Plan for Copyright Work*" which expounds five key tasks during the period of 2011 to 2015. First, strengthening the functions of copyright services and improving the public services and social system of participation; Second, encouraging the creation and use of copyright and promoting the healthy development of copyright-related industries; Third, perfecting the propaganda and training mechanisms so as to increase public awareness of copyright protection; Fourth, improving the legal and policy systems and strengthening copyright law enforcement and regulatory capabilities; Fifth, enhancing the international response system so as to safeguard effectively the fundamental interests of the country. In addition, the plan also puts forward that during the "Twelfth-Five-Year Plan" period, the average annual growth rate of registered amount of software and other works must reach 8% to 20%, namely, by the end of the "Twelfth Five", the number of registered computer software will come to 100,000~120,000 or so and other works achieve to 600,000~800,000 yearly; state and local governments, according to the plan, shall foster five to ten national copyright model cities, three to five national copyright trade bases, five to ten national copyright-related industry bases, three to five national research and teaching bases and a hundred of national copyright protection model units.

White Paper on 2010 China's IPR Protection Status released

On April 21, 2011, the State Intellectual Property Office, State Administration for Industry & Commerce and National Copyright Administration published jointly the "*White Paper on 2010 China's IPR Protection Status*". The paper said that the total number of registered copyright has reached 81,966 in 2010. Meanwhile, the amount of works registered voluntarily nationwide also added up to 375,649. In addition, the number of copyright contract and copyright pledge contract reached 502 and 77 respectively in 2010.

Promotion Plan for the Implementation of the National Intellectual Property Strategy in 2011 issued

On April 21, 2011, the Office of Inter-Ministerial Meeting on the Implementation of National Intellectual Property Strategy issued the *Promotion Plan for the Implementation of the National Intellectual Property Strategy in 2011*. The plan includes seven major aspects of works such as promoting the creation and use of intellectual property rights, strengthening intellectual property protection, expanding intellectual property services, strengthening intellectual property education and training and qualified personnel cultivation, promoting

intellectual property dissemination and cultural development, expanding foreign exchange and cooperation of intellectual property and enhancing the organization and coordination of the implementation of intellectual property strategy and other 176 specific measures in protecting intellectual property that will be implemented in 2011.

New yearbooks on copyright and library

New edition of China Copyright Yearbook and Library's Yearbook published

In April 2011, China Copyright Yearbook (volume 2010) was published. Commenced to publish from 2009 and compiled by the National Copyright Administration, this yearbook is an authoritative reference source that records comprehensively China's copyright matters. In volume 2010 it gives a comprehensive overview on annual development of copyright protection and copyright industry nationwide and other dynamic information, documents and statistical data involving copyright.

Additionally, two reference books on the development status of libraries in China of last year, *China Library Yearbook* (vol. 2011) and *Yearbook of the National Library of China* (first vol.) will be published in the latter half of 2011.

Prepared by Zhai Jianxiong
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