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Each month, the China Copyright Infringement Report delivers a comprehensive overview of China's current copyright-infringement cases, related laws and other copyright-related articles to our subscribers.

## CASE STUDIES

### Recent Chinese copyright-infringement lawsuits

#### File No. C0603002

**Case Name:** Sohu Internet Information Company v. Beijing Sofun Internet Information Company and Sofun Media Technology Company

**Plaintiff:** Sohu Internet Information Company (“Sohu”)

**Defendants:** Beijing Sofun Internet Information Company (“Sofun Internet”) and Sofun Media Technology Company (“Sofun Media”)

**Cause(s) of Action:** Copyright infringement

**Remedy Requested:** (i) Injunction; (ii) public apology via mass media for the duration of one month; (iii) pay damages for economic losses in the amount of RMB 498,000, and (iv) undertake payment for entire cost of proceedings

**Trial Court:** Beijing Haidian District People’s Court

**Disposition:** The Court ruled in favor of the plaintiff with regard to the charge of copyright infringement.

**Summary:** The plaintiff (Sohu) charged the defendants (Sofun Internet and Sofun Media) with infringing on its copyright by using content from the real estate section of plaintiff’s web site and printing them on a web site which was jointly managed by both defendants, absent permission. The Court ruled in favor of the plaintiff.

The Court rejected the defendants’ claim that the information about real estate and illustrations of properties on the plaintiff’s web site are not original works and the plaintiff, therefore, does not have the copyright. The Court held that under PRC General Civil Law (Articles 4, 117 and 134) the information about real estate on the plaintiff’s web site was collected and compiled by the plaintiff for commercial purposes and cannot be used for commercial purposes by another party. The Court further rejected the defendants’ claim that the illustrations it used are publicly available and were not plagiarized from the plaintiff’s web site. The Court accepted the evidence that the illustrations in question were designed by the plaintiff and came within the scope of the plaintiff’s copyright of their web site’s content.

The Court deemed that the evidence provided by the plaintiff to support the amount of damages claimed to be insufficient.

#### File No. C0603013

**Case Name:** Ms. Li Guirong v. National Defense Industry Publishing Company

**Plaintiff:** Li Guirong

**Defendants:** National Defense Industry Publishing Company (“NDI”)

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**Cause(s) of Action:** Copyright infringement

**Remedy Requested:** (i) Injunction; (ii) public apology; (iii) pay damages for economic losses in the amount of RMB 17,408 and legal costs in the amount of RMB 2,000.

**Trial Court:** Beijing Haidian District People's Court

**Disposition:** The Court ruled in favor of the plaintiff with regard to the charge of copyright infringement. The Court ordered the defendant to (i) stop the copyright infringement immediately, and (ii) to pay damages in the amount of RMB 6,000 for economic losses and RMB 600 toward the cost of proceedings.

The plaintiff was ordered to pay RMB 186 toward the cost of proceedings.

**Summary:** The plaintiff (Li Guirong) charged the defendant (NDI) with infringing on her copyright by plagiarizing content from her publication "Modern Salesmanship," and printing it in the defendant's publication "Sales Theory and Technique" without the plaintiff's permission. Based on the PRC Copyright Law (Articles 10, 46 and 48), the Court ruled in favor of the plaintiff and rejected the defendant's denial of responsibility based on the claim that they were unaware of any copyright infringement.

The Court deemed that the evidence provided by the plaintiff to support the amount of damages claimed to be insufficient.

**File No. C0603003**

**Case Name:** Beijing Xi Yang Yang Culture Development Company v. Anhui Xu Ri Compact Disc Company

**Plaintiff:** Beijing Xi Yang Yang Culture Development Company ("Xi Yang Yang")

**Defendants:** Anhui Xu Ri Compact Disc Company ("Xu Ri")

**Cause(s) of Action:** Copyright infringement

**Remedy Requested:** (i) Injunction; (ii) destroy or handover all infringing materials; (iii) pay damages for economic losses in the amount of RMB 150,000 and legal costs in the amount of RMB 15,800, and (iii) public apology in provincial newspaper.

**Trial Court:** Beijing Haidian District People's Court

**Disposition:** The Court ruled in favor of the plaintiff. The Court ordered the defendant to (i) Cease copying and distributing the offending CD, and (ii) pay damages for economic losses in the amount of RMB 60,000. The Court also ordered the defendant to pay for the total costs of proceedings.

**Summary:** The plaintiff (Xi Yang Yang) charged the defendant (Xu Ri) with infringing on its copyright by using 10 songs from two albums, both of which the plaintiff holds the copyright to, on a compilation album issued by the defendant, absent permission. The Court ruled in favor of the plaintiff. The Court was satisfied that, within the purview of PRC Copyright Law (Articles 41, 47 and 52), the plaintiff is the legal copyright owner of 10 of the 15 songs on the album issued by the defendant. The Court rejected the defendant's plea that they were granted legal permission by Wuhan Audio Visual Publishing Company to use these songs because the contract they provided as evidence of this permission was found to be altered.

The Court deemed that the evidence provided by the plaintiff to support the amount of damages claimed to be insufficient.

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**File No. C0603004**

**Case Name:** Mr. Cao Lixin and Mr. Chen Kuangrong v. Sohu Internet Information Company and Changsha Evening Newspaper

**Plaintiff:** Mr. Cao Lixin

**Defendants:** Sohu Internet Information Company (“Sohu”) and Changsha Evening Newspaper

**Cause(s) of Action:** Copyright infringement

**Remedy Requested:** (i) Injunction; (ii) public apology; (iii) pay damages for loss of revenue in the amount of RMB 498,000, and (iv) undertake payment for entire cost of proceedings.

**Trial Court:** Beijing Haidian District People’s Court

**Disposition:** The Court ruled in favor of the plaintiff. The court ordered Sohu to (i) cease using the article entitled “No. 5 Shenzhou to Blast off on Schedule – Experts Give Detailed Explanation of Astronaut Safety Issues,” and (ii) to pay economic damages in the amount of RMB 2,120. The Court ordered Changsha Evening Newspaper to (i) pay economic damages in the amount of RMB 1,520. The Court ordered Sohu to pay RMB 400 and Changsha Evening Newspaper to pay RMB 250 toward the cost of proceedings.

**Summary:** The plaintiff Cao Lixin charged the defendant (Sohu) with infringing on his copyright by using an article he co-wrote with plaintiff Chen Kuangrong for Changsha Evening Newspaper on defendant’s web site absent permission. Cao Lixin charged the defendant Changsha Evening Newspaper with infringement on his copyright by allowing Sohu and Stars Online Web site to use his article absent permission. The plaintiff Chen Kuanrong was not present at the proceedings. The Court ruled in favor of the plaintiffs.

The Court rejected the claim of Changsha Evening Newspaper that as Stars Online Web site provides an Internet platform for the content of their newspaper, and that this web site is the online version of their newspaper, they have the right to reuse the plaintiff’s article on it. The Court pointed out that the agreement between the plaintiffs and Changsha Evening Newspaper only covered publishing the article in paper print.

The Court explained that, unless otherwise stated by the copyright owner, it is not illegal to use an article that has already been published, as long as the author is compensated and the author’s name and the origin of the article is cited. Therefore, Changsha Evening Newspaper’s use of the plaintiff’s article without permission is legal. However, they should compensate the plaintiffs. The Court, therefore, ruled in favor of the plaintiff’s request for payment for use of the article.

The Court rejected Changsha Evening Newspaper’s claim that Stars Online Web site is responsible for compensating the author. In the agreement between Changsha Evening Newspaper and Stars Online Web site, the former is responsible for content and the latter is responsible for providing technical support. The Court stated that Stars Online Web site’s only obligation is to remove the plaintiff’s article from their web site until payment has been made.

The Court found that the plaintiff’s article had been published on Sohu’s web site one day prior to it being printed in Changsha Evening Newspaper. This action, therefore, does not come within the purview of the laws concerning use of articles that have already been published. The Court deemed that Sohu had no right to use the article without the author’s permission. Moreover, Sohu did not pay the author and could not provide sufficient evidence to support their claim that

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they had received permission to use the plaintiff's article from Changsha Evening Newspaper. The Court ruled in favor of the plaintiff's request for payment for use of the article.

When deciding on the amount of damages to be paid the Court took the size of the article, the seriousness of the violation committed by the defendant's and the legal costs of the plaintiff into consideration. Taking into account that both defendants had cited the author's name and origin of the article when they used it, the Court rejected the plaintiff's request for a public apology.

**File No. C0603009**

**Case Name:** Mr. He Limin v. Beijing Sina Information Services Company

**Plaintiff:** Mr. He Limin

**Defendants:** Beijing Sina Information Services Company ("Sina")

**Cause(s) of Action:** Copyright infringement

**Remedy Requested:** (i) Injunction; (ii) issue a public apology on Sina's web site for a period of six months; (iii) pay damages for economic losses in the amount of RMB 300,000; (iv) pay compensation for injured feelings in the amount of RMB 50,000 (v) pay compensation for legal costs in the amount of RMB 9,000, and (vi) undertake payment for entire cost of proceedings.

**Trial Court:** Beijing Haidian District People's Court

**Disposition:** The Court ruled in favor of the plaintiff with regard to the charge of copyright infringement. The Court ordered the defendant to: (i) pay damages for economic losses and legal costs in the amount of RMB 24,000; (ii) pay compensation for general damages in the amount of RMB 2,000; (iii) Issue a public apology on their web site for a period of 48 hours, and (iv) pay RMB 2,000 toward the costs of proceedings.

The Court ordered the plaintiff to pay RMB 5,855 toward the cost of proceedings.

**Summary:** The plaintiff (He Limin) charged the defendant (Sina) with infringing on his copyright by using content from a book he compiled on defendant's web site, stating that it was published by World Knowledge Publishing Company ("World Knowledge") and authored by Hua Min. He Limin claimed that World Knowledge has no right to publish his book, which was originally published and distributed in Hong Kong by Wen Hui Publishing Company (Wen Hui) and, as a result of this infringement, his plan to publish the book in Mainland China has been made impossible. The Court found that Wen Hui published the earliest version of the book in Hong Kong with the plaintiff as the author. As the defendant did not offer any evidence to the contrary, the Court, therefore, recognized the plaintiff as the author.

The Court rejected the defendant's claim that they received the right to use this book from World Knowledge because permission must be obtained from the author and not the publishing company in order to use a published work online. Therefore, the Court ordered the defendant to pay the plaintiff damages for economic losses and legal costs. Furthermore, as the defendant did not exhaustively investigate the true origin and author of the book and inaccurately cited the author's name thereby severing the plaintiff's connection to the book, the Court ordered compensation for general damages to be paid and a public apology be made to the plaintiff.

The Court rejected the plaintiff's claim that the defendant's action damaged his plans to publish his book in Mainland China. The book had already been published in Hong Kong by Wen Hui and in simplified characters\* by World Knowledge. The Court also found that the version of the

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plaintiff's book used by the defendant was almost identical to the original and, therefore, rejected the plaintiff's claim that his sole right to amend the work had been violated.

In calculating the amount of damages to be paid, the Court referred to Compensation Guidelines of the National Copyright Bureau and took into consideration the following factors: (i) The infringement was made online; (ii) The book had already been published by Wen Hui in Hong Kong; (iii) The plaintiff has sued World Knowledge for copyright infringement relating to the same book; (iv) the plaintiff did not take immediate action to stop the defendant from using his book when he first discovered the infringement; (v) Sina is one of the most popular web sites in China and the site's content has a very wide readership; (vi) Sina, as one of the largest web site operators in China, should be expected to act with more professionalism, and (viii) the amount paid in damages should be at least equal to the cost of using an author's works legally.

\*Simplified characters refer to the type of Chinese writing script used in Mainland China. Publications in Hong Kong and Taiwan use complex characters.

**File No. C0603011**

**Case Name:** Mr. Huang Hui v. Mr. Qi Zhanneng

**Plaintiff:** Mr. Huang Hui

**Defendants:** Mr. Qi Zhanneng

**Cause(s) of Action:** Copyright infringement

**Remedy Requested:** (i) Public apology; (ii) to be named as Co-Chief Editor of the infringed material, and (iii) pay compensation for general damages in the amount of RMB 20,000.

**Trial Court:** Beijing Haidian District People's Court

**Disposition:** The Court ruled in favor of the defendant. The Court ordered the plaintiff and defendant to evenly share the cost of proceedings.

**Summary:** The plaintiff (Huang Hui) charged the defendant (Qi Zhanneng) with infringing on his copyright by publishing a book, titled "One-Hundred Years of Global Real Estate," on which he collaborated to create, without crediting his contribution. The Court rejected the plaintiff's charge.

Based on three contracts signed between the plaintiff and the defendant, Tsinghua University and Wangtian Cun Broadcasting Company (of which the plaintiff was formerly and the defendant is currently the general manager) and The Property Sector Association of China and Wangtian Cun Broadcasting Company, the Court established that the legal copyright of the book is owned jointly by Tsinghua University and The Property Sector Association of China. The Court rejected the defendant's claim that Wangtian Cun Broadcasting Company has any copyright claims to the book. The Court also rejected the plaintiff's charge of copyright infringement. The Court cited PRC Copyright Law (Article 11) to explain that the copyright does not belong to those credited with contributing to the work.

The Court supported the plaintiff's right to be credited with contributing to the book's creation and was satisfied that this had already been carried out when he was named as Supervising Editor and Chief Planner in the book's second printing. However, as the plaintiff could not provide evidence to support his claim to be the Co-Chief Editor of the book, the Court rejected his charge that he be named thus.

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**File No. C0603060**

**Case Name:** Mr. Wang Xiaojun v. China Electric Publishing Company

**Plaintiff:** Mr. Wang Xiaojun

**Defendants:** China Electric Publishing Company (“CEP”)

**Cause(s) of Action:** Copyright infringement

**Remedy Requested:** (i) Injunction; (ii) public apology; (iii) pay damages for economic losses in the amount of RMB 100,000, and (iv) pay compensation for injured feelings in the amount of RMB 50,000.

**Trial Court:** Beijing No.1 Intermediate People’s Court

**Disposition:** The Court ruled against the plaintiff with regard to the charge of copyright infringement. The Court deemed that, although an infringement of copyright had occurred, the defendant was not liable. The defendant was ordered to stop the copyright infringement immediately.

The plaintiff was ordered to pay RMB 3,510 toward the cost of proceedings. The defendant was ordered to pay RMB 1,000 toward the cost of proceedings.

**Summary:** The plaintiff (Wang Xiaojun) charged the defendant (CEG) with infringing on his copyright by publishing a revised edition of “Imperial Flash Guest,” a book he wrote, absent permission and compensation, and under the name of another author. The Court rejected the plaintiff’s claims for damages.

During the process of the hearing, Yang Cong, co-founder of Weimei Science and Technology Studio (“Weimei”), for which “Imperial Flash Guest” was written, gave evidence. Yang Cong testified that he had commissioned the defendant to publish “Imperial Flash Guest” and its revised edition “Flash Tutorial.” He stated that he had received payment from CEG for both works. He also testified that he had instructed CEG to change the name of the author on the revised edition to his own name and that of Weimei co-founder Hua Jing, on the basis that “Wang Xiaojun” was a pseudonym.

The Court acknowledged Wang Xiaojun as the author and copyright holder of “Imperial Flash Guest.” The Court found that the content of the revised edition to be almost identical to “Imperial Flash Guest.” Therefore, the Court ordered the defendant to cease publishing and distributing the revised edition.

The Court referred to “Explanations of Legal Issues Involved in Hearing Copyright Infringement Cases” (issued by the Supreme People’s Court in 2002), which states that a publisher is responsible for using exhaustive measures in identifying the true creator of a work. Based on Yang Cong’s evidence, the Court deemed that the defendant had good reason to believe that Yang Cong and Hua Jing were in fact the authors of both editions. The Court, therefore, rejected the plaintiff’s claim for damages.

**File No. C0603047**

**Case Name:** Beijing Sanmian Xiang Copyright Representative Company v. Shaanxi Tiande Advertising and Decoration Company

**Plaintiff:** Beijing Sanmian Xiang Copyright Representative Company (“Sanmian”)

**Defendants:** Shaanxi Tiande Advertising and Decoration Company (“Tiande”)

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**Cause(s) of Action:** Copyright infringement

**Remedy Requested:** (i) Injunction; (ii) public apology, and (iii) pay damages for economic losses and legal costs in the amount of RMB 6,500

**Trial Court:** Beijing No.1 Intermediate People's Court

**Disposition:** The Court ruled in favor of the plaintiff with regard to the charge of copyright infringement. The Court ordered the defendant to (i) remove the article from their web site, and (ii) to pay damages for economic losses and legal costs in the amount of RMB 3,000. The defendant was also ordered to pay for the total cost of proceedings.

**Summary:** The plaintiff (Sanmian) charged the defendant (Tiande) with infringing on its copyright by using an article ("Where is Premium Baijiu\* Going?") on its web site absent permission and compensation. The Court ruled in favor of the plaintiff. The Court noted that Zhong Chaojun, the author of the article, signed a contract with the plaintiff giving them the copyright to this article. One year prior to the signing of this contract, the author had already published the article on China Sales and Broadcasting Net's web site without expressing that it could not be reused. Therefore, the defendant's use of the article was not illegal but they are legally obliged to compensate the copyright holder. In determining the amount of compensation to be paid, the Court took the type of article, the size of the article, the nature of the infringement and the costs incurred by the plaintiff in pursuing the case into consideration.

\*Baijiu is a type of Chinese liquor

**File No. C0603026**

**Case Name:** Ms. Zhang Xincan v. Beijing Sina Information Services Company

**Plaintiff:** Ms. Zhang Xincan

**Defendants:** Beijing Sina Information Services Company ("Sina")

**Cause(s) of Action:** Copyright infringement

**Remedy Requested:** (i) Injunction; (ii) public apology, and (iii) pay damages for economic losses and legal costs in the amount of RMB 100,000.

**Trial Court:** Beijing Haidian District People's Court

**Disposition:** The Court ruled in favor of the plaintiff with regard to the charge of copyright infringement. The Court ordered the defendant to (i) make a public apology on their web site for a period of 24 hours, and (ii) to pay damages in the amount of RMB 4,500 for economic losses and legal costs. The plaintiff was ordered to pay RMB 1,710 toward the cost of proceedings. The defendant was ordered to pay RMB 1,800 toward the cost of proceedings.

**Summary:** The plaintiff Zhang Xincan charged the defendant (Sina) with infringing on her copyright by publishing content from a book she wrote ("The Diary of a Red Girl") on the reading section of their web site, absent permission. The Court ruled in favor of the plaintiff.

The Court stated that by publishing the plaintiff's work on their web site, the defendant had infringed on her copyright. They rejected the defendant's claim that they were promoting the plaintiff's book because the amount of content used was beyond that necessary for a promotion. The defendant also claimed that they received permission from Beijing Jiafu Sui Book Company ("Jiafu Sui") to use "The Diary of a Red Girl." The Court established that Jiafu Sui had the publish rights to the book but pointed out that the right to use the book online belongs to the author. In order to publish the book online the author must give permission and receive payment.

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The Court made clear that according to PRC Copyright law the amount of damages awarded for copyright infringement should be based on the actual amount of economic loss suffered by the copyright holder or the amount of profit gained by the violator. As in this case neither of these figures can be reliably established the Court based its calculation on the degree of violation committed by the defendant and the word-size of the plaintiff's work. The Court rejected the plaintiff's claim of RMB 75,000, which was based on print-publishing infringements and not online infringements. The Court awarded RMB 3,000 for economic losses. The Court also rejected the plaintiff's claim for RMB 25,000 legal costs and awarded RMB 1,500.

In dealing with the plaintiff's charge that by altering the article the defendant violated her right to alter her work and her right to protect her work, the Court referred to PRC Copyright Law. The right to alter a work refers to any alterations to form whereas the right to protect a work pertains to any change to the meaning of a work. Sina published "The Diary of a Red Girl" almost word for word except they omitted the preface, foreword, notes and pictures. The Court, therefore, ruled that the plaintiff's right to alter her work had been violated but her right to protect her work had not. The Court ordered that Sina make a public apology in the same place that the infringed material appeared.

## MEDIA ARTICLES

Recent Chinese Copyright-related news articles

### File No. N0603023

**Title:** Yahoo Denies Piracy Accusations and Reiterates Commitment to Protection of Intellectual Property Rights

**Source:** Intellectual Property Rights Research Web Site

**Date:** March 10, 2006

The issue of illegal downloading of music files is presenting Yahoo China with similar legal problems as its rival Baidu. The music industry has accused Yahoo China of providing users with links to websites where music can be illegally downloaded through its music search engine. Yahoo denies that by doing this they are infringing the copyright of musicians. A Yahoo China spokesman answered these accusations by stating that they merely provide a list of web sites and that the creators of certain web sites and their users commit the violations. Yahoo China also emphasized that since their merger with Alibaba they have been taking steps to reduce Internet abuse of intellectual property rights by cooperating with the music industry.

In other news, it has been rumored that Baidu has entered into an agreement with record companies to exchange copyrights for advertising. A representative at Baidu claimed to be unaware of any such agreement.

### File No. N0603007

**Title:** Sino-American Memorandum of Understanding Strengthens Cooperation on Motion Picture Copyright Protection

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**Source:** Xinhua Website

**Date:** March 3, 2006

The Chinese Institute for Protection of Motion Picture Copyright and the American Film Institute signed a memorandum of understanding concerning the protection of motion picture copyright. Both organizations pledged to exchange information and increase cooperation in the area of copyright protection and anti-piracy measures. The Chinese Institute for Protection of Motion Picture Copyright was established in August 2005 to handle copyright issues for Chinese movies in domestic and foreign markets. Since its establishment, it has developed ties with the American Film Institute.

**File No. N0603006**

**Title:** More Than 10,000 Pirate DVDs Prevented From Leaving Country

**Source:** China Customs Web Site

**Date:** March 14, 2006

Hangzhou Customs have intercepted the postage of over 10,000 pirate DVDs since the start of the year as part of a crackdown on smugglers who use the postal system to export pirated products. The pirate DVDs seized were headed for addresses in over 10 foreign countries including the USA, the UK and Australia. They included both Chinese and foreign-produced movies, TV series and documentaries.

**File No. N0603029**

**Title:** Actress Sues Magazine and Hospital for Using her Image in Ad Campaign

**Source:** China Court Website

**Date:** March 3, 2006

Television actress Tong Lei is suing Modern Art magazine and Shanghai Wanhao Hospital for using her image without permission. Tong claims that Modern Art ran a two-page ad for Wanhao Hospital featuring an image of her in her most famous role – as a nurse on the TV series Liang Jian. Tong is also concerned that seeing her on an ad for a women’s medical treatment center will misguide her fans into thinking that she has suffered from one of the diseases that the center treats. She is claiming RMB100,000 in damages. The case is currently being heard in Beijing Haidian District Peoples Court.

**File No. N0603028**

**Title:** Filmmakers Sued Over Portrayal of Kung Fu Master

**Source:** China Court Web Site

**Date:** March 8, 2006

The grandson of kung fu master Huo Yuanjia, on behalf of the Huo family, is suing the China Film Corporation and Anle Film Company for bringing dishonor on the Huo family with their depiction of Huo Yuanjia’s life in the movie Fearless. Huo Yuanjia’s descendants claim that the movie portrays their famous ancestor, who is widely regarded as a national hero, as a blood-thirsty ruffian of loose morals. They say that because a large part of the plot is completely untrue and casts a negative light on Huo, the Huo family’s reputation has been unfairly damaged. They

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also claim that their identity as descendants of Huo Yuanjia has been cast into doubt because the movie gives the impression that his entire family was slaughtered. They stress that since its release in January of this year, the national and international success of this movie compounds the damage done to the Huo family name. Huo's grandson is asking Beijing Haidian District People's Court to pass an injunction ceasing the distribution of the film and to order the filmmakers to issue an apology. The case is currently being heard.

**File No. N0603017**

**Title:** Judgment Made in "Hua Shan" Calligraphy Case

**Source:** Xinhua Website

**Date:** March 12, 2006

The Intermediate People's Court of Weinan City in Shaanxi Province made a judgment in a calligraphy copyright case concerning the inscription of the word "Huashan" on the east gate of Huashan, one of China's most famous scenic areas. The Court ruled that the inscription was a copy of the handwriting of Ru Gui and not of Zhao Yangke, as was stated on the gate. The Court ordered that Zhao's name be replaced with that of Ru's under the inscription and that Zhao pay Ru RMB7,270 in damages.

In 2001, Zhao brought a case against the Huashan Tourism Company claiming the inscription was based on his handwriting. The case was settled outside of court and Zhao was compensated RMB6,000. This year, Ru brought a case against both Zhao and the Huashan Tourism Company, claiming the inscription was a copy of his style of calligraphy. The Court ordered a handwriting test and based on the result ruled in favor of Ru. Zhao intends to appeal.

**File No. N0603030**

**Title:** Actress Sues Web Site for Misuse of Personal Information

**Source:** China Court Web Site

**Date:** March 14, 2006

An aspiring actress is suing Beijing Shidai Weilang Information Science and Technology Company for misusing personal information and photographs she provided them with. The actress Fang claims that she gave the defendant photographs of herself along with personal information in the understanding that they would promote her acting career. She then discovered that the same information and photographs were being used on a pornographic website to promote her as a web mistress. Fang is claiming damages in the amount of RMB100,000. The case is currently being heard at Beijing Haidian District People's Court.

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**File No. N0603021**

**Title:** Guizhou Province's Campaign Against Pirated Educational Materials Begins with a Major Haul

**Source:** Guizhou Provincial Government, Campaign Against Pornography and Piracy Office

**Date:** March 15, 2006

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A campaign in Guizhou against pirated educational materials began with the seizure of over 10,000 pirated textbooks. When authorities in Huajie City raided a bookstore and seized the pirated textbooks, they found the textbooks packaged and labeled with receiver's addresses. Police say that most of the intended receivers were junior and middle schools in the Huajie area. The total haul is estimated at having a value of RMB700,000.

**NEW LAWS****New Chinese Copyright-related laws****File No. L0603002****Subject:** Music Video Copyright Issues**Source:** Intellectual Property Right Research Web Site**Date:** March 10, 2006

The People's Supreme Court published "The Peoples Supreme Court Explanatory Manuscript on Legal Issues Involved in Hearing Music Video Copyright Infringement Cases" to provide guidance to the judiciary in dealing with cases of music video copyright infringement. The manuscript was compiled after extensive research and soliciting opinions and suggestions from the country's courts, relevant government departments, music industry organizations, the legal profession and other experts. In drawing up the manuscript, The People's Supreme Court took into consideration the need to protect the rights and interests of artists, to safeguard competition and to ensure the smooth natural order of the music business.

**Article 1:** As music videos use film-producing methods and stand as original creations, they should be regarded as works as per PRC Copyright Law – Article 3(6). Video recordings of music performances do not fall into this category.

**Article 2:** The copyright of a music video belongs to its creator. Unauthorized copying, distribution or commercial screening of a music video can be dealt with by referring to PRC Copyright Law – Article 47(1).

**Article 3:** Copying, distributing, or commercial screening of a music video without the authorization of the musician is an infringement of the musician's copyright. For such instances, refer to PRC Copyright Law – Article 47(1).

**Article 4:** The producer of the music video and the copyright owner are both entitled to use the music video. In the case of the music video being copied, distributed or commercially screened by a third party, the copyright owner of the music can refer to the contract between him/her and the producer of the music video or can claim directly from the producer of the music video. In the latter case, the producer of the music video can then claim compensation from the third party.

**Article 5:** In deciding the amount of damages to award for infringement of music video copyright, refer to PRC Copyright Law – Article 48. The period of time that infringement occurred for, the scale and method of infringement that occurred, where the infringement occurred, the

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degree of popularity of the work of which copyright was infringed and the costs incurred by the copyright holder should be taken into account. Music industry organizations should also be consulted to determine the market value of the work in question.

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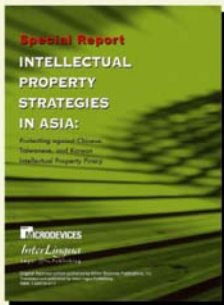
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