

Implementing Regulations of the Copyright Law of the People's Republic of China (Revised in 2013)

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(Promulgated by Order the State Council No.359 on August 2, 2002, first revised on January 8, 2011 under the Decision of the State Council on Revising and Repealing Certain Administrative Regulations, and second revised on January 30, 2013 under the Decision of the State Council on Revising the Implementing Regulations of the Copyright Law of the People's Republic of China)

Article 1 These Regulations are formulated in accordance with the Copyright Law of the People's Republic of China (hereinafter referred to as the "Copyright Law").

Article 2 For the purposes of the Copyright Law, "work(s)" shall refer to original intellectual creations in the literary, artistic and scientific domain, insofar as they are capable of being reproduced in a certain tangible form.

Article 3 For the purposes of the Copyright Law, "creation" shall refer to intellectual activities from which literary, artistic and scientific works are directly derived.

The provision of organization support, consultation opinions, material conditions or other supporting services for others in their creative activities shall not be deemed as acts of creation.

Article 4 For the purposes of the Copyright Law and these Regulations, "work(s)" shall have the following meaning:

1. Written works refer to works expressed in written form, such as novels, poems, essays and theses;
2. Oral works refer to works which are created in spoken words, such as impromptu speeches, lectures and court debates;
3. Musical works refer to such works as songs and symphonic works, with or without lyrics, which can be sung or performed;
4. Dramatic works refer to such works as dramas, operas and local art forms which are used for stage performance;
5. "Quyi" works refer to such works as "xiangsheng" (cross talk), "kuaishu"(clapper talk), "dagu" (ballad

singing with drum accompaniment) and "pingshu" (story-telling based on classical novels), which are all used mainly for being performed in a way involving recitation, singing or both;

6. Choreographic works refer to works which express ideas and emotions through successive body movements, gestures and facial movements and expressions;

7. Works of acrobatic art refer to acrobatic, magic and circus works, which are, or can be, expressed in body movements and artistry;

8. Works of fine art refer to two-dimensional or three-dimensional works created in lines, colors or other media which, when being viewed, impart aesthetic effect, such as works of painting, calligraphy and sculpture;

9. Architectural works refer to aesthetic works, which are, and can be, expressed in architectural or constructional form;

10. Photographic works refer to artistic works created by recording images of existing things of people on light-sensitive materials or other media with the aid of devices;

11. Cinematographic works and works created by virtue of analogous methods of film production refer to works which are recorded on some medium consisting of a series of images, with or without accompanying sounds, and which can be projected with the aid of suitable devices or communicated by other means;

12. Graphic works refer to drawings of engineering designs and product designs for the purpose of actual construction or manufacture, and maps and sketches showing geographic phenomena and demonstrating the fundamentals or structure of a thing or an object; and

13. Model works refer to three-dimensional works made according to the shape and structure, and in a certain scale, of an object for the purpose of exhibition, experimentation, observation or measurement.

Article 5 For the purposes of the Copyright Law and these Regulations, the following terms shall have the following meaning:

1. News on current events refers to the mere facts or happenings reported by the mass media, such as newspapers, periodicals and radio and television stations;

2. Sound recordings refer to the recordation of any sounds of performance and other sounds;

3. Video recordings refer to the recordation of a series of related images, with or without accompanying sounds, other than cinematographic works or works created by virtue of analogous methods of film production;

4. Producer of a sound recording refers to the first person who makes the sound recordings;

5. Producer of a video recording refers to the first person who makes the video recordings; and

6. Performer refers to an actor, performing organization or any other person who performs literary and artistic works.

Article 6 Copyright shall be generated on the date when the creation of a works is completed.

Article 7 Copyright in the works of foreigners or stateless persons first published in the territory of China as provided for in Paragraph 3, Article 2 of the Copyright Law shall be under the protection beginning on the date of publication.

Article 8 Where works of foreigners or stateless persons first published outside the territory of China and published in the territory of China within 30 days, the works shall be deemed to have been simultaneously published in the territory of China.

Article 9 Where a joint work cannot be used separately, the copyright shall be jointly enjoyed by, and exercised through consultation between or among, the co-authors. Where they fail to reach an agreement and have no justified reasons for the failure, no party may hinder any of the other parties from exercising all the rights, except the right of assignment. However, the income generated therefrom shall be fairly distributed between or among the co-authors.

Article 10 Where the copyright owner has authorized others to make cinematographic works and works created by virtue of analogous methods of film production, it is deemed that he has permitted them to make necessary alteration of his works, insofar as such alteration does not distort or mutilate the original works.

Article 11 The "assigned tasks" as provided in Paragraph 1, Article 16 of the Copyright Law, which relates to works created in the course of employment, shall refer to duties which citizens should perform in the legal entity or organization.

The "material and technical resources" used for the creation of works in the course of employment as provided in Paragraph 2, Article 16 of the Copyright Law refer to fund, equipment or reference material which the legal entity or organization has provided the citizens to accomplish the creation.

Article 12 During the two years after the completion of a works created in the course of employment, the author, with the consent of the legal entity or organization, authorizes a third party to exploit the works in the same way as the legal entity and receives remuneration, the remuneration shall be distributed between the author and the entity or organization at an agreed ratio.

The time limit of two years after the completion of the creation of a work shall be calculated from the date on which the author thereof delivers the works to the entity.

Article 13 In the case of a work of an unknown author, the copyright, except the right of authorship, shall be exercised by the owner of the original of the work. Where the author has been identified, the copyright shall be exercised by the author or his heir in title.

Article 14 In the case where one of the co-authors of a joint work dies without heir in title or other bequest beneficiary of the rights owned by him as provided in Item 5-17, Paragraph 1, Article 10 of the Copyright Law, the rights shall be exercised by the other co-authors.

Article 15 The right of authorship, the right of revision and the right of integrity shall, after the death of the author, be protected by the heir in title and other bequest beneficiary.

In the absence of an heir in title or other bequest beneficiary, the right of authorship, the right of revision and the right of integrity shall be protected by the copyright administrative departments

Article 16 The exploitation of works the copyright of which is owned by the State shall be administered by the copyright administrative department under the State Council.

Article 17 In the case of posthumous works, the right of publication may be exercised by the author's heir in title or other bequest beneficiary within a period of 50 years after the death of the author, unless the author had expressly stated otherwise. In the absence of an heir in title or other bequest beneficiary, the said right shall be exercised by the owner of the original of the works.

Article 18 In the case of a work of an unknown author, the term of protection in relation to the rights provided for in Item 5-17, Paragraph 1, Article 10 of the Copyright Law, shall be 50 years ending on December 31 of the fiftieth year after the first publication of the work. Article 21 of the Copyright Law shall be applicable after the author of the works has been identified.

Article 19 Any person who exploits a work created by another person shall indicate the name of the author and title of the work, except otherwise agreed between interested parties or otherwise impossible to do so due to the special characteristic of the way the work is exploited.

Article 20 A published work as mentioned in the Copyright Law refers to a work which has been made available to the public by the copyright owner himself or by authorization.

Article 21 Where any person exploits, according to the relevant provisions of the Copyright Law, a published work that may be exploited without the authorization of the copyright owner, he shall not affect the normal exploitation of the work, nor unreasonably prejudice the legitimate interests of the copyright owner.

Article 22 The standard of remuneration for exploitation of works under Article 23, Paragraph 2 of Article 33, and Paragraph 3 of Article 40, of the Copyright Law shall be formulated and published by the copyright administrative department under the State Council in conjunction with the competent price administrative department under the State Council.

Article 23 Licensing contracts shall be concluded with copyright owners when exploiting works of other persons. Where the right licensed is an exclusive licensing right, the contracts shall be made in writing, except in cases where works are to be published by newspapers and periodicals.

Article 24 The content of the exclusive licensing right provided for in Article 24 of the Copyright Law shall be agreed in contract. Where no such contractual agreement is made or the agreement is not clear, it shall be deemed that the licensee has the right to exclude any other person, including the copyright owner, to exploit the works in the same way. Except otherwise agreed, a licensee who licenses a third party to exercise the same right must be authorized by the copyright owner.

Article 25 Any person, who concludes an exclusive licensing contract or assignment contract with a copyright owner, may submit, for filing, the contractual documents to the copyright administrative department.

Article 26 Rights and interests related to copyright, as mentioned in the Copyright Law and these Regulations, mean the right enjoyed by publishers in the layout design of their publications, the right enjoyed by performers in their performances, the right enjoyed by producers of audio and video recordings in their products and the right enjoyed by radio and television stations in their broadcasts.

Article 27 Publishers, performers, producers of audio and video recordings and radio and television stations, in the course of exercising their rights, shall not prejudice the rights of the copyright owners of the works being used and of the original works.

Article 28 Where it is agreed in a book publishing contract that the publisher enjoys the exclusive publishing right, but the contents of the right is not clearly defined, it shall be deemed that the publisher enjoys the exclusive right to publish in the same language of the original edition or revised edition of the book within the term of validity of the contract and in the geographic area agreed under the contract.

Article 29 The state of being out of print in relation to a works mentioned in Article 32 of the Copyright Law shall be established where two orders sent by the author to the publisher, are not fulfilled within six months

Article 30 To declare that the reprinting of his works in whole or in part is not permitted under Paragraph 2, Article 33 of the Copyright Law, the copyright owner shall make a statement to that effect at the same time when the works is first published in a newspaper or a periodical.

Article 31 To declare that the producing of sound recording products of his works is not permitted under Paragraph 3, Article 40 of the Copyright Law, the copyright owner shall make a statement to this effect at the same time when the sound-recording products of the works are legitimately produced.

Article 32 Any person who exploits a works of another person under Article 23, Paragraph 2 of Article 33, and Paragraph 3 of Article 40, of the Copyright Law shall pay remuneration to the copyright owner within two months from the date of exploitation of the works.

Article 33 Performance by foreign or stateless performers in the territory of China shall be protected by the Copyright Law.

The right enjoyed by foreign or stateless performers in their performance pursuant to the international treaties to which China has acceded shall be protected by the Copyright Law.

Article 34 Audio and video recordings produced and distributed in the territory of China by foreign or stateless producers shall be protected by the Copyright Law.

The right enjoyed by foreign or stateless producers in their audio and video recordings produced and distributed in the territory of China shall be protected by the Copyright Law.

Article 35 The right enjoyed by foreign radio and television organizations in their broadcasts pursuant to the international treaties to which China has acceded shall be protected by the Copyright Law.

Article 36 In respect of any infringement of copyright, with injury to the social and public interests and an illegal business turnover of not less than CNY50,000, as provided in Article 48 of the Copyright Law, the copyright administrative departments may impose a fine equal to an amount not less than 100% and not more than 500% of the amount of illegal business turnover. Where the illegal business turnover is less than CNY50,000 or there is no illegal business turnover, it may impose a fine of no more than CNY 250,000 on basis of the severity of circumstance.

Article 37 The copyright administrative departments under the local governments shall be responsible for investigating and handling infringements of copyright, with injury to the social and public interests, as enumerated in Article 48 of the Copyright Law.

The copyright administrative department under the State Council may investigate and handle copyright infringements that are of nationwide influence.

Article 38 These Regulations shall come into force on September 15, 2002. The Implementing Regulations of the Copyright Law of the People's Republic of China approved by the State Council on May 24, 1991 and promulgated by the National Copyright Administration on May 30, 1991 shall be simultaneously abolished.