

Order of the President of the People's Republic of China
No. 26

The Decision of the Standing Committee of the National People's Congress on Amending the Copyright Law of the People's Republic of China, adopted at the 13th Meeting of the Standing Committee of the Eleventh National People's Congress on February 26, 2010, is hereby promulgated and shall go into effect as of April 1, 2010.

Hu Jintao
President of the People's Republic of China

February 26, 2010

Decision of the Standing Committee of the National People's Congress on
Amending the Copyright Law of the People's Republic of China

(adopted at the 13th Meeting of the Standing Committee of the Eleventh National People's Congress on February 26, 2010)

At its 13th meeting, the Standing Committee of the Eleventh National People's Congress decided to make the following amendments to the Copyright Law of the People's Republic of China:

1. Article 4 is amended to read, "Copyright holders shall not violate the Constitution or laws or jeopardize public interests when exercising their copyright. The State shall supervise and administrate the publication and dissemination of works in accordance with the law."

2. One Article is added as Article 26, which reads, "Where a copyright is pledged, both the pledger and pledgee shall undergo the formalities for registration with the copyright administration department under the State Council."

This Decision shall go into effect as of April 1, 2010.

The Copyright Law of the People's Republic of China shall be re-promulgated after being amended in accordance with this Decision and the order of the articles readjusted accordingly

Copyright Law of the People's Republic of China

(Adopted at the 15th Meeting of the Standing Committee of the Seventh National People's Congress on September 7, 1990; amended for the first time according to the Decision on Amending the Copyright Law of the People's Republic of China at the 24th Meeting of the Standing Committee of the Ninth National People's Congress on October 27, 2001; and amended for the second time according to the Decision on Amending the Copyright Law of the People's Republic of China at the 13th Meeting of the Standing Committee of the Eleventh National People's Congress on February 26, 2010)

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Chapter I

General Provisions

Article 1 This Law is enacted, in accordance with the Constitution, for the purpose of protecting the copyright of authors in their literary, artistic and scientific works and the rights and interests related to copyright, encouraging the creation and dissemination of works conducive to the building of a socialist society that is advanced ethically and materially, and promoting the progress and flourishing of socialist culture and sciences.

Article 2 Chinese citizens, legal entities or other organizations shall, in accordance with this Law, enjoy the copyright in their works, whether published or not.

The copyright enjoyed by foreigners or stateless persons in any of their works under an agreement concluded between China and the country to which they belong or in which they have their habitual residences, or under an international treaty to which both countries are parties, shall be protected by this Law.

Foreigners and stateless persons whose works are first published in the territory of China shall enjoy the copyright in accordance with this Law.

Any work of an author of a country that has not concluded any agreement with China or that is not a party to any international treaty to which China is a party and any work of a stateless person, which is first published in a member country of an international treaty to which China is a party, or simultaneously published in a member country of the treaty and in a non-member country, shall be protected by this Law.

Article 3 For purposes of this Law, the term “works” includes, among other things, works of literature, art, natural sciences, social sciences, engineering and technology, which are created in any of the following forms:

- (1) written works;
- (2) oral works;
- (3) musical, dramatic, *quyi*, choreographic and acrobatic works;
- (4) works of the fine arts and architecture;
- (5) photographic works;
- (6) cinematographic works and works created by a process analogous to cinematography;
- (7) graphic works such as drawings of engineering designs and product designs, maps and sketches, and model works;
- (8) computer software; and
- (9) other works as provided for in laws and administrative regulations.

Article 4 Copyright holders shall not violate the Constitution or laws or jeopardize public interests when exercising their copyright. The State shall supervise and administrate the publication and dissemination of works in accordance with the law.

Article 5 This Law shall not be applicable to:

- (1) laws and regulations, resolutions, decisions and orders of State organs, other documents of a legislative, administrative or judicial nature and their official translations;
- (2) news on current affairs; and
- (3) calendars, numerical tables and forms of general use, and formulas.

Article 6 Measures for the protection of copyright in works of folk literature and art shall be formulated separately by the State Council.

Article 7 The administrative department for copyright under the State Council shall be responsible for the administration of copyright nationwide. The administrative departments for copyright under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the administration of copyright in their respective administrative regions.

Article 8 Copyright owners or owners of the rights related to the copyright may authorize collective copyright administration organizations to exercise their copyright or rights related to the copyright. Upon authorization, a collective copyright administration organization may exercise the copyright or the rights related to the copyright in its own name for the copyright owner or the owner of the rights related to the copyright and participate as a party in legal or arbitration proceedings concerning the copyright or the rights related to the copyright.

Collective copyright administration organizations are non-profit organizations, and regulations concerning the way of their establishment, their rights and obligations, their collection and distribution of copyright licensing fees, and their supervision and administration shall be formulated separately by the State Council.

Chapter II

Copyright

Section 1

Copyright Owners and Their Rights

Article 9 Copyright owners include:

- (1) authors; and
- (2) other citizens, legal entities and other organizations enjoying the copyright in

accordance with this Law.

Article 10 Copyright includes the following personal rights and property rights:

- (1) the right of publication, that is, the right to decide whether to make a work available to the public;
- (2) the right of authorship, that is, the right to claim authorship in respect of, and to have the author's name mentioned in connection with, a work;
- (3) the right of revision, that is, the right to revise or authorize others to revise a work;
- (4) the right of integrity, that is, the right to protect a work against distortion and mutilation;
- (5) the right of reproduction, that is, the right to produce one or more copies of a work by printing, photocopying, lithographing, making a sound recording or video recording, duplicating a recording, or duplicating a photographic work, or by other means;
- (6) the right of distribution, that is, the right to provide the original copy or reproductions of a work to the public by selling or donating;
- (7) the right of rental, that is, the right to authorize others to use temporarily a cinematographic work or a work created by a process analogous to cinematography, or computer software, except where the software itself is not the essential object of the rental;
- (8) the right of exhibition, that is, the right to publicly display the original copy or reproductions of a work of the fine arts or of a photographic work;
- (9) the right of performance, that is, the right to publicly perform a work, and to publicly communicate the performance of a work by any means or process;
- (10) the right of presentation, that is, the right to publicly present a work of the fine arts, a photographic work, a cinematographic work, a work created by a process analogous to cinematography, or other works, by projector, slide projector or any other technology or instrument;
- (11) the right of broadcasting, that is, the right to broadcast a work or disseminate it to the public by any wireless means, to communicate the broadcast of a work to the public by

- wire or by rebroadcasting, and to publicly communicate the broadcast of a work by loudspeaker or any other analogous instrument transmitting signs, sounds or images;
- (12) the right of communication through information network, that is, the right to make a work available to the public by wire or by wireless means, so that people may have access to the work from a place and at a time individually chosen by them;
- (13) the right of cinematography, that is, the right to fix an adaptation of a work in a medium by cinematography or a process analogous to cinematography;
- (14) the right of adaptation, that is, the right to change a work into a new one with originality;
- (15) the right of translation, that is, the right to change the language in which the work is written into another language;
- (16) the right of compilation, that is, the right to compile by selection or arrangement preexisting works or passages therefrom into a new work; and
- (17) other rights to be enjoyed by copyright owners.

Copyright owners may authorize others' exercising of the rights provided for in Subparagraph (5) through Subparagraph (17) of the preceding paragraph and receive remuneration in accordance with the terms of contracts or the relevant provisions in this Law.

Copyright owners may transfer, wholly or in part, the rights provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in this Article and receive fees in accordance with the terms of contracts or the relevant provisions in this Law.

Section 2

Ownership of Copyright

Article 11 Except where otherwise provided for in this Law, the copyright in a work shall belong to its author.

The author of a work is the citizen who creates the work.

Where a work is created under the auspices and according to the intention of a legal entity or other organization, which bears responsibility for the work, the said legal entity or organization shall be deemed to be the author of the work.

The citizen, legal entity or other organization whose name is mentioned in connection with a work shall, in the absence of proof to the contrary, be deemed to be the author of the work.

Article 12 Where a work is created by adaptation, translation, annotation or arrangement of a preexisting work, the copyright in the work thus created shall be enjoyed by the adapter, translator, annotator or arranger, provided that the exercise of such copyright does not prejudice the copyright in the preexisting work.

Article 13 Where a work is created jointly by two or more authors, the copyright in the work shall be enjoyed jointly by the co-authors. No co-authorship may be claimed by anyone who has not participated in the creation of the work.

Where a work of joint authorship can be separated into parts and exploited separately, each co-author may be entitled to independent copyright in the part that he creates, provided that the exercise of such copyright does not prejudice the copyright in the joint work as a whole.

Article 14 A collection of preexisting works or passages therefrom, or of data or other material which does not constitute a work, if manifesting the originality of a work by reason of the selection or arrangement of its contents, is a compilation. The copyright in such compilation shall be enjoyed by the compiler, provided that the exercise of such copyright does not prejudice the copyright in the preexisting works.

Article 15 The copyright in a cinematographic work or in a work created by a process analogous to cinematography shall be enjoyed by the producer of the work, while its scriptwriter, director, cameraman, lyricist, composer and other authors shall enjoy the right of authorship therein and shall be entitled to receive remuneration in accordance with the terms of the contracts concluded between them and the producer.

The authors of the script, the musical works and the other works which are included in a cinematographic work or in a work created by a process analogous to cinematography and which can be exploited separately shall be entitled to exercise their copyright independently.

Article 16 A work created by a citizen in the fulfillment of tasks assigned to him by a legal entity or other organization is a work created in the course of employment. Subject to the provisions of the second paragraph of this Article, the copyright in such work shall be enjoyed by the author; however, the legal entity or other organization shall have priority to exploit the work within the scope of its professional activities. Within two years after the completion of the work, the author may not, without the consent of the legal entity or other organization, authorize the exploitation of the work by a third party in the same manner as the legal entity or other organization exploits the work.

In any of the following cases, the author of a work created in the course of employment shall enjoy the right of authorship, while the legal entity or other organization shall enjoy the other rights included in the copyright and may reward the author:

- (1) drawings of engineering designs and product designs, maps, computer software and other works which are created in the course of employment mainly with the material and technical resources of the legal entity or other organization and for which the legal entity or other organization bears responsibility;
- (2) works created in the course of employment the copyright in which is, in accordance with laws, administrative regulations or contracts, enjoyed by the legal entity or other

organization.

Article 17 The ownership of the copyright in a commissioned work shall be agreed upon in a contract between the commissioning and the commissioned parties. In the absence of such a contract or of an explicit agreement in such a contract, the copyright in the work shall belong to the commissioned party.

Article 18 The transfer of ownership of the original copy of a work of the fine arts or other works shall not be deemed to include the transfer of the copyright in such work or works; however, the right to exhibit the original copy of the work of the fine arts shall be enjoyed by the owner of the original copy.

Article 19 Where the copyright in a work belongs to a citizen, the rights as provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10 of this Law in respect of the work shall, after his death and during the term of protection provided for in this Law, be transferred in accordance with the provisions of the Law of Succession.

Where the copyright in a work belongs to a legal entity or other organization, the rights provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10 of this Law shall, after the change or the termination of the status of the legal entity or other organization and during the term of protection provided for in this Law, be enjoyed by the succeeding legal entity or other organization which takes over the former's rights and obligations, or, in the absence of such succeeding entity or organization, by the State.

Section 3

Term of Protection for the Rights

Article 20 No time limit shall be set on the term of protection for an author's rights of authorship and revision and his right to protect the integrity of his work.

Article 21 In respect of a work of a citizen, the term of protection for the right of publication and the rights as provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10 of this Law shall be the lifetime of the author and fifty years after his death, expiring on December 31 of the fiftieth year after his death. In the case of a work of joint authorship, the term shall expire on December 31 of the fiftieth year after the death of the last surviving author.

In respect of a work of a legal entity or other organization or a work which is created in the course of employment and the copyright (except the right of authorship) in which is enjoyed by a legal entity or other organization, the term of protection for the right of publication and the rights as provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10 of this Law shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of such work; however, such work shall no longer be protected under this Law if it is not published within fifty years after the completion of its creation.

In respect of a cinematographic work, a work created by a process analogous to cinematography or a photographic work, the term of protection for the right of publication and the rights as provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10 of this Law shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of such work; however, such work shall no longer be protected under this Law if it is not published within fifty years after the completion of its creation.

Section 4

Limitations on Rights

Article 22 In the following cases, a work may be used without permission from, and without payment of remuneration to, the copyright owner, provided that the name of the

author and the title of the work are mentioned and the other rights enjoyed by the copyright owner in accordance with this Law are not prejudiced:

- (1) use of another person's published work for purposes of the user's own personal study, research or appreciation;
- (2) appropriate quotation from another person's published work in one's own work for the purpose of introducing or commenting a certain work, or explaining a certain point;
- (3) unavoidable inclusion or quotation of a published work in the media, such as in a newspaper, periodical and radio and television program, for the purpose of reporting current events;
- (4) publishing or rebroadcasting by the media, such as a newspaper, periodical, radio station and television station, of an article published by another newspaper or periodical, or broadcast by another radio station or television station, etc. on current political, economic or religious topics, except where the author declares that such publishing or rebroadcasting is not permitted;
- (5) publishing or broadcasting by the media, such as a newspaper, periodical, radio station and television station of a speech delivered at a public gathering, except where the author declares that such publishing or broadcasting is not permitted;
- (6) translation, or reproduction in a small quantity of copies of a published work by teachers or scientific researchers for use in classroom teaching or scientific research, provided that the translation or the reproductions are not published for distribution;
- (7) use of a published work by a State organ to a justifiable extent for the purpose of fulfilling its official duties;
- (8) reproduction of a work in its collections by a library, archive, memorial hall, museum, art gallery, etc. for the purpose of display, or preservation of a copy, of the work;
- (9) gratuitous live performance of a published work, for which no fees are charged to the public, nor payments are made to the performers;
- (10) copying, drawing, photographing or video-recording of a work of art put up or displayed in an outdoor public place;
- (11) translation of a published work of a Chinese citizen, legal entity or other organization

from Han language into minority nationality languages for publication and distribution in the country; and

(12) transliteration of a published work into braille for publication.

The provisions of the preceding paragraph shall be applicable also to the rights of publishers, performers, producers of sound recordings and video recordings, radio stations and television stations.

Article 23 Except where the author declares in advance that use of his work is not permitted, passages from a work, a short written work, musical work, a single work of the fine arts or photographic work which has been published may, without permission from the copyright owner, be compiled in textbooks for the purpose of compiling and publishing textbooks for the nine-year compulsory education and for national education planning, provided that remuneration is paid, the name of the author and the title of the work are mentioned, and the other rights enjoyed by the copyright owner in accordance with this Law are not prejudiced.

The provisions of the preceding paragraph shall be applicable also to the rights of publishers, performers, producers of sound recordings and video recordings, radio stations and television stations.

Chapter III

Copyright Licensing and Transfer Contracts

Article 24 Anyone who exploits another person's work shall conclude a copyright licensing contract with the copyright owner, except where no permission need be obtained under this Law.

A licensing contract shall include the following main points:

- (1) the category of the right to exploit the work covered by the license;
- (2) the exclusive or non-exclusive nature of the right to exploit the work covered by the license;
- (3) the territory and the term covered by the license;
- (4) the rates of remuneration and the means of payment;
- (5) the liabilities in the case of breach of the contract; and
- (6) other matters which the parties consider it necessary to agree upon.

Article 25 Anyone who transfers any of the rights provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10 of this Law shall conclude a written contract.

A copyright transfer contract shall include the following main points:

- (1) the title of the work;
- (2) the category of the right to be transferred and the territory covered by the transfer;
- (3) the rates of the transfer fee;
- (4) the date and the means of payment of the transfer fee;
- (5) the liabilities in the case of breach of the contract; and
- (6) other matters that the parties consider it necessary to agree upon.

Article 26 Where a copyright is pledged, both the pledger and pledgee shall undergo the formalities for registration with the copyright administration department under the State Council.

Article 27 The other party may not, without permission from the copyright owner, exercise any right that is not explicitly licensed or transferred by the copyright owner in the contract.

Article 28 The rates of remuneration for the exploitation of a work may be agreed upon

by the parties and may also be paid in accordance with the rates fixed by the administrative department for copyright under the State Council in conjunction with the other departments concerned. In the absence of an explicit agreement in the contract, the remuneration shall be paid in accordance with the rates fixed by the said department under the State Council in conjunction with the other departments concerned.

Article 29 No publishers, performers, producers of sound recordings and video recordings, radio stations, television stations, etc. that exploit another person's work in accordance with the relevant provisions of this Law may infringe upon the authors' rights of authorship, revision or protection of the integrity of the works, or their right to remuneration.

Chapter IV

Publication, Performance, Sound Recording, Video Recording and Broadcasting

Section 1

Publication of Books, Newspapers and Periodicals

Article 30 A book publisher who intends to publish a book shall conclude a publishing contract with, and pay remuneration to, the copyright owner.

Article 31 The exclusive right enjoyed by the book publisher in accordance with the agreement in the contract to publish a work that the copyright owner delivered to him for publishing shall be protected by law, and the work may not be published by others.

Article 32 The copyright owner shall deliver the work within the term specified in the contract. The book publisher shall publish the work in compliance with the quality requirements and within the term as specified in the contract.

The book publisher who fails to publish the work within the term specified in the contract shall bear civil liabilities provided for in Article 53 of this Law.

When the book publisher reprints or republishes the work, it shall notify the copyright owner of the matter and pay remuneration to him. If the publisher refuses to reprint or republish the work when the stock of the book is exhausted, the copyright owner shall have the right to terminate the contract.

Article 33 Where a copyright owner has submitted the manuscript of his work to a newspaper or periodical publisher for publication and has not received, within 15 days from the newspaper or within 30 days from the periodical publisher, counted from the date of submission of the manuscript, any notification of the said newspaper's or publisher's decision to publish the work, the copyright owner may submit the manuscript of the same work to another newspaper or periodical publisher for publishing, unless the parties have agreed otherwise.

Except where the copyright owner declares that no reprinting or excerpting of his work is permitted, a newspaper or periodical publisher may, after the work is published by another newspaper or periodical publisher, reprint the work or print an abstract of it or print it as reference material, provided that remuneration is paid to the copyright owner in accordance with relevant regulations.

Article 34 A book publisher may, with the permission of the author, revise or abridge the work.

A newspaper or periodical publisher may make editorial modifications and abridgments in the language of a work. Any revision in the contents of the work shall be subject to permission by the author.

Article 35 When publishing a work created by adaptation, translation, annotation,

arrangement or compilation of a preexisting work, the publisher shall obtain permission from, and pay remuneration to, both the owner of the copyright in the work created by adaptation, translation, annotation, arrangement or compilation and the owner of the copyright in the preexisting work.

Article 36 A publisher shall have the right to permit another person to exploit, or prohibit such person from exploiting, the typographical design of the book or the periodical which he publishes.

The term of protection for the right specified in the preceding paragraph shall be ten years, expiring on December 31 of the tenth year after the first publication of the book or the periodical in which the typographical design is used.

Section 2

Performance

Article 37 A performer (an individual performer or a performing group) who exploits, for a performance, a work created by another person shall obtain permission from, and pay remuneration to, the copyright owner. Where a performance is organized by a person, the organizer shall obtain permission from, and pay remuneration to, the copyright owner.

Anyone who exploits, for a performance, a work created by adaptation, translation, annotation or arrangement of a preexisting work shall obtain permission from, and pay remuneration to, both the owner of the copyright in the work created by adaptation, translation, annotation or arrangement and the owner of the copyright in the preexisting work.

Article 38 A performer shall, in respect of his performance, enjoy the following rights:

(1) to claim performership;

- (2) to protect the image inherent in his performance from distortion;
- (3) to authorize others' live broadcasting or communicating to the public of his performance, and receive remuneration therefrom;
- (4) to authorize others' making of sound recordings and video recordings of his performance, and receive remuneration therefrom;
- (5) to authorize others' reproduction and distribution of the sound recordings and video recordings of his performance, and receive remuneration therefrom; and
- (6) to authorize others' making of his performance available to the public through information network, and receive remuneration therefrom.

A person who is authorized exploitation of a work in the manner provided for in Subparagraph (3) through Subparagraph (6) of the preceding paragraph shall, in addition, obtain permission from, and pay remuneration to, the copyright owner.

Article 39 No time limit shall be set on the term of protection for the rights provided for in Subparagraphs (1) and (2) of the first paragraph in Article 37 of this Law.

The term of protection for the rights provided for in Subparagraph (3) through Subparagraph (6) of the first paragraph in Article 37 of this Law shall be fifty years, expiring on December 31 of the fiftieth year after the performance takes place.

Section 3

Sound Recording and Video Recording

Article 40 A producer of sound recordings or video recordings who exploits, for making a sound recording or video recording, a work created by another person shall obtain permission from, and pay remuneration to, the copyright owner.

A producer of sound recordings or video recordings who exploits a work created by adaptation, translation, annotation or arrangement of a preexisting work shall obtain

permission from, and pay remuneration to, both the owner of the copyright in the work created by adaptation, translation, annotation or arrangement and the owner of the copyright in the preexisting work.

A producer of sound recordings who exploits, for making a sound recording, a musical work of which a lawful sound recording has been made, may do without permission from the copyright owner, but shall, in accordance with regulations, pay remuneration to the copyright owner; no such work may be exploited where the copyright owner declares that exploitation is not permitted.

Article 41 When making a sound recording or video recording of a performance, the producer shall conclude a contract with, and pay remuneration to, the performer.

Article 42 The producer of a sound recording or video recording shall enjoy the right to authorize others' reproducing, distributing or renting the sound recording or video recording or making it available to the public through information network and to receive remuneration therefrom. The term of protection for such right shall be fifty years, expiring on December 31 of the fiftieth year after the first completion of the recording.

Anyone who is authorized reproducing or distributing a sound recording or video recording or making it available to the public through information network shall, in addition, obtain permission from, and pay remuneration to, both the copyright owner and the performer.

Section 4

Broadcasting by a Radio Station or Television Station

Article 43 A radio station or television station that broadcasts an unpublished work created by another person shall obtain permission from, and pay remuneration to, the copyright owner.

A radio station or television station that broadcasts a published work created by another person may do without permission from, but shall pay remuneration to, the copyright owner.

Article 44 A radio station or television station that broadcasts a published sound recording may do without permission from, but shall pay remuneration to, the copyright owner, unless the parties have agreed otherwise. Specific measures in this regard shall be formulated by the State Council.

Article 45 A radio station or television station shall have the right to prohibit the following acts performed without its permission:

- (1) broadcasting its programs; and
- (2) making a sound recording or video recording of its programs and reproducing such recording.

The term of protection for the right specified in the preceding paragraph shall be fifty years, expiring on December 31 of the fiftieth year after the first broadcasting of a program.

Article 46 A television station that intends to broadcast a cinematographic work or a work created by a process analogous to cinematography, or a video recording produced by another person, shall obtain permission from, and pay remuneration to, the producer; in the case of a video recording, the television station shall, in addition, obtain permission from, and pay remuneration to, the copyright owner.

Chapter V

Legal Liabilities and Enforcement Measures

Article 47 Anyone who commits any of the following acts of infringement shall, depending on the circumstances, bear civil liabilities such as ceasing the infringement, eliminating the bad effects of the act, making an apology or paying compensation for damages:

- (1) publishing a work without permission of the copyright owner;
- (2) publishing a work of joint authorship as a work created solely by oneself, without permission of the other co-authors;
- (3) having one's name mentioned in another person's work in the creation of which one has taken no part, in order to seek personal fame and gain;
- (4) distorting or mutilating a work created by another person;
- (5) plagiarizing a work created by another person;
- (6) exploiting a work for exhibition or film-making or in a manner analogous to film-making, or for adaptation, translation, annotation, or for other purposes, without permission of the copyright owner, except where otherwise provided for in this Law;
- (7) exploiting a work created by another person without paying remuneration as one should;
- (8) renting a cinematographic work or a work created by a process analogous to cinematography, computer software, or products of sound recording or video recording, without permission of the copyright owner or the owner of the rights related to the copyright, except where otherwise provided for in this Law;
- (9) exploiting the typographical design of a published book or periodical, without permission of the publisher;
- (10) live broadcasting, communicating to the public, or recording a performance, without permission of the performer; or
- (11) committing other acts infringing upon the copyright and the rights related to the copyright.

Article 48 Anyone who commits any of the following acts of infringement shall, depending on the circumstances, bear civil liabilities such as ceasing the infringement,

eliminating the bad effects of the act, making an apology or paying compensation for damages; where public rights and interests are impaired, the administrative department for copyright may order the person to discontinue the infringement, confiscate his unlawful gains, confiscate or destroy the copies produced through infringement, and may also impose a fine; where the circumstances are serious, the said department may, in addition, confiscate the material, tools and instruments mainly used to produce copies through infringement; and where a crime is constituted, criminal liabilities shall be investigated in accordance with law:

- (1) reproducing, distributing, performing, presenting, broadcasting, compiling a work or making it available to the public through information network, without permission of the copyright owner, except where otherwise provided for in this Law;
- (2) publishing a book the exclusive right of publication in which is enjoyed by another person;
- (3) reproducing or distributing a sound recording or video recording of a performance, or making a performance available to the public through information network, without permission of the performer, except where otherwise provided for in this Law;
- (4) reproducing or distributing a product of sound recording or video recording or making it available to the public through information network, without permission of the producer, except where otherwise provided for in this Law;
- (5) rebroadcasting a radio or television program or reproducing such a program without permission, except where otherwise provided for in this Law;
- (6) intentionally circumventing or sabotaging the technological measures adopted by a copyright owner or an owner of the rights related to the copyright to protect the copyright or the rights related to the copyright in the work or the products sound recording or video recording, without permission of the owner, except where otherwise provided for in laws or administrative regulations;
- (7) intentionally removing or altering any electronic rights management information attached to a copy of a work, a product of sound recording or video recording, etc. without permission of the copyright owner or the owner of the rights related to the

copyright, except where otherwise provided for in this Law; or
(8) producing or selling a work the authorship of which is counterfeited.

Article 49 Anyone who infringes upon the copyright or a right related to the copyright shall pay compensation for the actual losses suffered by the right owner, or where the actual losses are difficult to calculate, pay compensation to the amount of the unlawful gains of the infringer. The compensation shall include the reasonable expenses that the right owner has paid for putting a stop to the infringement.

Where the actual losses of the right owner or the unlawful gains of the infringer cannot be determined, the People's Court shall, in light of the circumstances of the infringement, decide on a compensation amounting to not more than 500,000 RMB *yuan*.

Article 50 Where a copyright owner or an owner of a right related to the copyright who can present evidence to prove that another person is committing, or is about to commit, an infringement upon his right, which, unless prevented promptly, is likely to cause irreparable harm to his legitimate rights and interests, he may, before taking legal proceedings, apply to a People's Court for measures to order discontinuation of the infringement and to preserve property.

When dealing with the application specified in the preceding paragraph, the People's Court shall apply the provisions in Article 93 through Article 96 and Article 99 of the Civil Procedure Law of the People's Republic of China.

Article 51 In order to prevent infringement, a copyright owner or an owner of a right related to the copyright may, before taking legal proceedings, apply to a People's Court for preserving evidence, where the evidence is likely to be missing or is difficult to obtain later.

After accepting the application, the People's Court shall make a ruling within 48 hours.

Where it rules to adopt preservation measures, it shall have the measures enforced immediately.

The People's Court may order the applicant to provide a guarantee, and shall reject the application where the applicant fails to do so.

Where the applicant fails to take legal proceedings within 15 days from the date the People's Court adopts the preservation measure, the People's Court shall terminate the measure.

Article 52 When trying a case where the copyright or a right related to it is infringed upon, the People's Court may rule to confiscate the unlawful gains, the products of infringement and money and things of value used for illegal activities.

Article 53 A publisher or a producer of reproductions who fails to prove that he is legally authorized publishing or producing of the reproductions, or a distributor of reproductions or a renter of reproductions of a cinematographic work or a work created by a process analogous to cinematography, computer software, sound recording or video recording who fails to prove the legal source of the reproductions that he distributes or rents, shall bear legal liabilities.

Article 54 Any party who fails to perform his contractual obligations, or performs them at variance with the agreed conditions in the contract, shall bear civil liabilities in accordance with the relevant provisions of the General Principles of the Civil Law of the People's Republic of China, the Contract Law of the People's Republic of China and other related laws.

Article 55 Any dispute over copyright may be settled through mediation, it may also be submitted to an arbitration body for arbitration under a written arbitration agreement between the parties or under the arbitration clause in the copyright contract.

Any party may take legal proceedings directly in a People's Court where there is neither a written arbitration agreement between the parties nor an arbitration clause in the contract.

Article 56 Any party that is not satisfied with an administrative penalty, may taking legal proceedings in a People's Court within three months from the date he receives the written decision on the penalty. Where the party neither takes legal proceedings nor implements the decision at the expiration of the time limit, the administrative department for copyright may apply to the People's Court for enforcement.

Chapter VI

Supplementary Provisions

Article 57 The term *zhuzuoquan* (*copyright*) as used in this Law means *banquan* commonly used in the country.

Article 58 The term *publish* as used in Article 2 of this Law means reproducing and distributing of a work.

Article 59 Measures for the protection of computer software and of the right of communication through information network shall be formulated separately by the State Council.

Article 60 The rights of copyright owners, publishers, performers, producers of sound recordings and video recordings, radio stations and television stations, as provided for in this Law, shall, if the term of their protection specified in this Law has not yet expired on the date this Law goes into effect, be protected in accordance with this Law.

Any act of tort or breach of contract committed prior to the date this Law goes into effect shall be dealt with in accordance with the relevant regulations or policies in force at the

time when such act was committed.

Article 61 This Law shall go into effect on June 1, 1991.