

Copyright Law of the People's Republic of China (2010 Amendment)

(Adopted at the Fifteenth Session of the Standing Committee of the Seventh National People's Congress on September 7, 1990 and amended for the first time in accordance with the Decision of the 24th Session of the Standing Committee of the Ninth National People's Congress Concerning Amendment to the Copyright Law of the People's Republic of China on October 27, 2001; and amended for the second time in accordance with the Decision of the 13th Session of the Standing Committee of the Eleventh National People's Congress Concerning Amendment to the Copyright Law of the People's Republic of China 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 purposes of protecting the copyright of authors in their literary, artistic and scientific works and rights related to copyright, of encouraging the creation and dissemination of works which would contribute to the construction of socialist spiritual and material civilization, and of promoting the development and flourishing of socialist culture and sciences.

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

Any work of a foreigner or stateless person which enjoys copyright under an agreement concluded between the country to which the author belongs or in which the author permanently resides and China, or under an international treaty to which both countries are parties, shall be protected by this Law.

Any work of a foreigner or stateless person published for the first time and within the territory of China shall enjoy copyright in accordance with this Law.

Any work of an author from a country not having concluded an agreement with China or entered into an international treaty jointly with China or of a stateless person, which is published for the first time in a country as a member of the international treaty into which China has entered or published in a member country and non- member country at the same time, shall be protected by this Law.

Article 3 “Works” mentioned in this Law shall include works of literature, art, natural science, social science, engineering technology and the like made in the following forms:

(1)written works;

(2)oral works;

(3)musical, dramatic, quyi, choreographic and acrobatic art works;

(4)works of fine art and architecture

(5)photographic works;

(6)cinematographic works and works created in a way similar to cinematography

(7) drawings of engineering designs and product designs, maps, sketches and other graphic works as well as model works;

(8) computer software;

(9) other works as provided in laws and administrative regulations.

Article 4 Copyright owners, in exercising their copyright, shall not violate the Constitution or laws or infringe upon the public interests. The publication and dissemination of works shall be subject to the administration and supervision of the State.

Article 5 This Law shall not be applicable to:

(1) laws, regulations, resolutions, decisions and orders of state organs; other documents of legislative, administrative or judicial nature; and their official translations;

(2) news on current affairs;

(3) calendars, numerical tables, forms of general use and formulas.

Article 6 Regulations for the protection of copyright in expressions of folklore shall be separately established by the State Council.

Article 7 The copyright administration department under the State Council shall be responsible for the nationwide administration of copyright. The copyright administration department of the people's government of each province, autonomous region or municipality directly under the Central Government shall be responsible for the administration of copyright within its own jurisdiction.

Article 8 Copyright owners and the obligees related to copyright may authorize a collective management organization of copyright to exercise the copyright or the rights related to copyright. The collective management organization of copyright may, after being authorized, claim rights in its own name for the copyright owners and the obligees related to copyright, and may, as a party concerned, participate in the litigation and arbitration activities involved with copyright or the rights related to copyright.

A collective management organization of copyright shall be a non-profit organization, and the method of its establishment, its rights and obligations, the collection and distribution of the royalty for copyright licensing, as well as the supervision and management over it shall be separately provided by the State Council.

Chapter II Copyright

Section 1 Copyright Owners and Their Rights

Article 9 “Copyright owners” shall include:

- (1) authors;
- (2) other citizens, legal entities and organizations enjoying copyright in accordance with this Law.

Article 10 “Copyright” shall include 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 and to have the author’s name mentioned in connection with the work;
- (3) the right of alteration, that is, the right to alter or authorize others to alter one’s work;
- (4) the right of integrity, that is, the right to protect one’s work against distortion and mutilation;
- (5) the right of reproduction, that is, the right to produce one or more copies of the work by means of printing, Xeroxing, rubbing, sound recording, video recording, duplicating, or re-shooting, etc.;
- (6) the right of distribution, that is, the right to provide the public with original copies or reproduced copies of works by means of selling or donating;
- (7) the right of lease, that is, the right to nongratuitously permit others to temporarily exploit a cinematographic work, a work created in a way similar to cinematography or computer software, unless the computer software is not the main object under the lease;
- (8) the right of exhibition, that is, the right to publicly display the original copies or reproduced copies of works of fine art and cinematographic works;
- (9) the right of performance, that is, the right to publicly perform works, and to publicly transmit the performance of works by various means;

(10)the right of projection, that is, the right to make, by such technical equipment as projector, episcopes, etc., the works of fine art, photographic works, cinematographic works and works created in a way similar to cinematography, etc. reappear publicly;

(11)the right of broadcasting, that is, the right to publicly broadcast or disseminate works by wireless means, to disseminate broadcast works to the public by wired dissemination or rebroadcast, and to disseminate broadcast works to the public by audio amplifier or other similar instruments for transmission of signs, sounds or images;

(12)the right of information network dissemination, that is, the right to provide the public with works by wired or wireless means, so as to make the public able to respectively obtain the works at the individually selected time and place;

(13)the right of production, that is, the right to fix works on the carrier by cinematography or in a way similar to cinematography;

(14)the right of adaptation, that is, the right to modify a work for the purpose of creating a new work of original creation;

(15)the right of translation, that is, the right to transform the language of a work into another language;

(16)the right of compilation, that is, the right to choose or edit some works or fragments of works so as to form a new work;

(17)other rights which shall be enjoyed by the copyright owners.

A copyright owner may permit others to exercise the rights provided in Items (5) through (17) of the preceding paragraph, and may receive remuneration as agreed upon in the contract or in accordance with the relevant provisions in this Law.

A copyright owner may wholly or partially transfer the rights provided in Items (5) through (17) of Paragraph 1 of this article , and may receive remuneration as agreed upon in the contract or in accordance with the relevant provisions in this Law.

Section 2 Ownership of Copyright

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

The author of a work is the citizen who has created the work.

Where a work is created according to the intention and under the supervision and responsibility of a legal entity or another organization, such legal entity or organization shall be the author of the work.

The citizen, legal entity or organization whose name is affixed to a work shall, without the contrary proof, be the author of the work.

Article 12 Where a work is created by adaptation, translation, annotation or arrangement of a pre-existing work, the copyright in the work thus created shall be enjoyed by the adapter, translator, annotator or arranger, provided that the copyright in the original work is not infringed upon.

Article 13 Where a work is created jointly by two or more co-authors, the copyright in the work shall be enjoyed jointly by those co-authors. Co-authorship may not be claimed by anyone who has not participated in the creation of the work.

If a work of joint authorship can be separated into independent parts and exploited separately, each co-author shall be entitled to independent copyright in the parts that he has created, provided that the exercise of such copyright does not infringe upon the copyright in the joint work as a whole.

Article 14 A work created by compilation shall refer to the work which is compiled of some works, fragments of works or the data or other materials not constituting a work, and the choice or layout of the contents of which embodies the original creation. The copyright of the compilation work shall be enjoyed by the compiler, provided that the exercise of such copyright does not infringe upon the copyright of the pre-existing works included in the compilation.

Article 15 The copyright of a cinematographic work or a work created in a way similar to cinematography shall be enjoyed by the producer, while any of the playwright, director, cameraman, words-writer, composer and other authors of the work shall enjoy the right of authorship, and shall be entitled to obtain remuneration as agreed upon in the contract between him and the producer.

The authors of the screenplay, musical works and other works that are included in a cinematographic work or a work created in a way similar to cinematography and can be exploited separately shall be entitled to exercise their copyright independently.

Article 16 A work created by a citizen when fulfilling the tasks assigned to him by a legal entity or another organization shall be deemed to be a service work. Unless otherwise provided in Paragraph 2 of this article, the copyright of such a work shall be enjoyed by the author, but the legal entity or organization shall have a priority right to exploit the work within the scope of its professional

activities. During the two years after the completion of the work, the author shall not, without the consent of the legal entity or organization, authorize a third party to exploit the work in the same way as the legal entity or organization does.

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

(1) drawings of engineering designs and product designs, maps, computer software and other service works, which are created mainly with the materials and technical resources of the legal entity or organization and under its responsibility;

(2) service works of which the copyright is, in accordance with the laws or administrative regulations or as agreed upon in the contract, enjoyed by the legal entity or organization.

Article 17 The ownership of 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 the contract, the copyright in such a work shall belong to the commissioned party.

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

Article 19 Where the copyright of a work belongs to a citizen, his rights in respect of the work as provided in Items (5) through (17) of Paragraph 1 of article 10 of this Law shall, after his death, during the term of protection provided in this Law, be transferred in accordance with the Inheritance Law.

Where the copyright of a work belongs to a legal entity or another organization, its rights in respect of the work as provided in Items (5) through (17) of Paragraph 1 of article 10 of this Law shall, after the change or the termination of the status of the legal entity or organization, during the term of protection provided in this Law, be enjoyed by the succeeding legal entity or organization which has taken over the rights and obligations of the previous legal entity or organization, or, in the absence of such succeeding legal entity or organization, by the State.

Section 3 Term of Protection

Article 20 The rights of authorship, alteration and integrity of an author shall be unlimited in time.

Article 21 In respect of a work of a citizen, the term of protection of the right of publication and of the rights provided in Items (5) through (17) of Paragraph 1 of 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, such term shall expire on December 31 of the fiftieth year after the death of the last surviving author.

The term of protection of the right of publication and of the rights provided in Items (5) through (17) of Paragraph 1 of article 10 of this Law where the copyright belongs to a legal entity or another organization, or in respect of a service work where the legal entity or organization enjoys the copyright (except the right of authorship), shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of such a work, however, any such work that has not been published within fifty years after the completion of its creation shall no longer be protected by this Law.

The term of protection of the right of publication and of the rights provided in Items (5) through (17) of Paragraph 1 of article 10 of this Law in respect of a cinematographic work or a work created in a way similar to cinematography shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of such a work, however, any such work that has not been published within fifty years after the completion of its creation shall no longer be protected by this Law.

Section 4 Limitations on Rights

Article 22 In the following cases, a work may be exploited without the 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 by virtue of this Law are not infringed upon:

- (1) use of a published work for the purposes of the user's own private study, research or self-entertainment;
- (2) appropriate quotation from a published work in one's own work for the purposes of introduction of, or comment on, a work, or demonstration of a point;
- (3) inevitable reappearance or citation of a published work in newspapers, periodicals, radio stations, television stations or other media for the purpose of reporting current events;

(4) reprinting by newspapers or periodicals or other media, or rebroadcasting by radio stations or television stations or other media, of the current event articles on the issues of politics, economy and religion, which have been published by other newspapers, periodicals, radio stations or television stations or other media, except where the author has declared that publication or broadcasting is not permitted;

(5) publication in newspapers or periodicals or other media, or broadcasting by radio stations or television stations or other media, of a speech delivered at a public assembly, except where the author has declared that publication or broadcasting is not permitted;

(6) translation or reproduction, in a small quantity of copies, of a published work for use by teachers or scientific researchers in classroom teaching or scientific research, provided that the translation or reproduction is not published or distributed;

(7) use of a published work by a State organ within the reasonable scope 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 or similar institution, for the purpose of the display or preservation of a copy of the work;

(9) free of charge performance of a published work, that is, with respect to the performance, neither fees are charged from the public nor the remuneration is paid to the performers;

(10) copying, drawing, photographing, or video recording of an artistic work located or on display in an outdoor public place;

(11) translation of a work published by a Chinese citizen, legal entity or organization, which is created in the Han language (Chinese), into a minority nationality language for publication and distribution within the country;

(12) translation of a published work into Braille and publication of the work so translated;

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

Article 23 Anyone who compiles or publishes textbooks for the purpose of implementing the nine-year compulsory education or State education planning may, without the permission from the copyright owner, except that the author

has declared in advance that the exploitation is not permitted, compile published fragments of works, short written works or musical works, a single work of fine art, or photographic works into the textbooks, however, he shall pay the remuneration as provided, mention the name of the author and the title of the work, and shall not infringe upon other rights which the copyright owner shall enjoy in accordance with this Law.

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

Chapter III Contracts of Copyright Licensing and Contracts of Copyright Transfer

Article 24 Anyone who exploits a work created by another shall conclude a contract of licensing with the copyright owner, unless it is provided in this Law that the exploitation need not be licensed.

A contract of licensing shall include the following main contents:

- (1) the variety 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 territorial scope and term of the license;
- (4) the amount of the remuneration and the method of its payment;
- (5) the breach liability;
- (6) any other contents that both parties consider necessary.

Article 25 Anyone who transfers any of the rights provided in Items (5) through (17) of Paragraph 1 of article 10 of this Law shall conclude a written contract with the transferee.

A contract of copyright transfer shall include the following main contents:

- (1) the name of the work;
- (2) the variety and territorial scope of the transferred right;
- (3) the transfer price;

(4)the date and method of the delivery of the transfer price;

(5)the breach liability;

(6)any other contents that both parties consider necessary.

Article 26 In case of pledge of copyright, the pledger and the pledgee shall go through registration of the pledge with the copyright administration under the State Council.

Article 27 The licensee or the transferee shall not, without the consent of the copyright owner, exercise any right that the copyright owner has not expressly licensed or transferred in the contract.

Article 28 The standards of remuneration for the exploitation of a work may be either agreed upon by the parties concerned or be made by the copyright administration department under the State Council in collaboration with other departments concerned. Where the parties concerned fail to reach a clear agreement, the remuneration shall be paid in accordance with the standards of remuneration made by the copyright administration department under the State Council in collaboration with other departments concerned.

Article 29 Publishers, performers, producers of sound recordings and video recordings, radio stations, television stations and other entities who or which exploit the works of others pursuant to this Law shall not infringe upon the author's rights of authorship, alteration or integrity, 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 publishes a book shall conclude a publishing contract with, and pay remuneration to, the copyright owner.

Article 31 With respect to a work delivered to a book publisher by the copyright owner for publication, the exclusive right to publish the work enjoyed by the book publisher as agreed upon in the contract 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 agreed upon in the contract. The book publisher shall publish the work in accordance with the quality requirements and within the term agreed upon in the contract.

The book publisher shall bear the civil liability provided in article 53 of this Law if he fails to publish the work within the term agreed upon in the contract.

The book publisher shall notify, and pay remuneration to, the copyright owner when the work is to be reprinted or republished. If the publisher refuses to reprint or republish the work when stocks of the book are 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 a periodical publisher for publication and has not received any notification of the said publisher's decision to publish the work, within fifteen days from the newspaper publisher or within thirty days from the periodical publisher, counted from the date of submission of the manuscript, the copyright owner may submit the manuscript of the same work to another newspaper or periodical publisher for publication, unless the two parties have agreed otherwise.

Except where the copyright owner has declared that reprinting or excerpting is not permitted, other newspaper or periodical publishers may, after the publication of the work by a newspaper or periodical, reprint the work or print an abstract of it or print it as reference material, but such other publishers shall pay remuneration to the copyright owner as provided in regulations.

Article 34 A book publisher may alter or abridge a work with the permission from the copyright owner.

A newspaper or periodical publisher may make editorial modifications and abridgments in a work, but shall not make modifications in the content of the work unless permission has been obtained from the author.

Article 35 When publishing works created by adaptation, translation, annotation, arrangement or compilation of pre-existing works, the publisher shall obtain permission from and pay remuneration to both the owners of the copyright in the works created by means of adaptation, translation, annotation, arrangement or compilation, and the owners of the copyright in the original work.

Article 36 A publisher shall be entitled to permit others to exploit the format design of a published book or periodical of his or prohibit others from doing so.

The term of protection of the right provided in the preceding paragraph shall be ten years, expiring on December 31 of the tenth year after the first publication of the book or periodical that uses such a format.

Section 2 Performance

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

A performer who for a performance exploits a work created by adaptation, translation, annotation or arrangement of a pre-existing 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 original work.

Article 38 A performer shall, in relation to his performance, enjoy the rights:

(1) to show his/her identity;

(2) to protect the character in his performance from distortion;

(3) to authorize others to make live broadcasts or to publicly transmit his live performance, and to receive remuneration for it;

(4) to authorize others to make sound recordings and video recordings, and to receive remuneration for it.

(5) to permit others to reproduce and distribute the sound recordings or video recordings which record his performance, and to receive remuneration for it;

(6) to permit others to disseminate his performance to the public through information network, and to receive remuneration for it.

Anyone who is permitted to exploit the works in the ways provided in Items (3) through (6) of the preceding paragraph shall also obtain permission from and pay remuneration to the copyright owner.

Article 39 The term of protection of the rights provided in Items (1) and (2) of Paragraph 1 of article 37 of this Law shall not be limited.

The term of protection of the rights provided in Items (3) through (6) of Paragraph 1 of article 37 of this Law shall be fifty years, expiring on December 31 of the fiftieth year after the performance is made.

Section 3 Sound Recording and Video Recording

Article 40 A producer of sound recordings or video recordings who, for the production of a sound recording or video recording, exploits a work created by

another, 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 pre-existing 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 copyright in the original work.

A producer of a sound recording who, for the production of a sound recording, exploits a musical work which has been lawfully recorded as a sound recording by another, does not need to obtain permission from, but shall, as provided in regulations, pay remuneration to the copyright owner; such work shall not be exploited where the copyright owner has declared that such exploitation is not permitted.

Article 41 When producing a sound recording or video recording, the producer shall conclude a contract with, and pay remuneration to, the performers.

Article 42 A producer of sound recordings or video recordings shall have the right to permit others to reproduce, distribute, lease and disseminate to the public through information network such sound recordings or video recordings and shall have the right to receive remuneration for it. The term of protection of such rights shall be fifty years, expiring on December 31 of the fiftieth year after the production of the recording is firstly completed.

A producer of sound recordings or video recordings who is permitted to reproduce, distribute, lease or disseminate to the public through information network a sound recording or video recording shall obtain permission from and also 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 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 does not need to obtain permission from, but shall pay remuneration to the copyright owner.

Article 44 A radio station or television station that broadcasts a published sound recording does not need to obtain permission from, but shall pay remuneration to the copyright owner, unless the parties concerned have agreed otherwise. The specific measures shall be provided by the State Council.

Article 45 A radio station or television station is entitled to prohibit the following acts which it has not permitted:

- (1) rebroadcasting the radio or television which it has broadcasted;
- (2) recording the radio or television which it has broadcasted in the audio or video carrier and to reproduce the audio or video carrier.

The term of protection of the rights provided in the preceding paragraph shall be fifty years, expiring on December 31 of the fiftieth year after the first broadcasting of the radio or television.

Article 46 A television station that broadcasts another's cinematographic work, work created in a way similar to cinematography or videographic work shall obtain permission from and pay remuneration to the producer. A television station that broadcasts another's videographic work shall also obtain permission from and pay remuneration to the copyright owner.

Chapter V Legal Liabilities and Law Enforcement Measures

Article 47 He who commits any of the following acts of infringement shall bear the civil liability for such remedies as ceasing the infringing act, eliminating the effects of the act, making a public apology or paying compensation for damages, depending on the circumstances:

- (1) publishing a work without the permission from the copyright owner;
- (2) publishing a work of joint authorship as a work created solely by oneself, without the permission from the other co-authors;
- (3) having his name mentioned in connection with a work created by another, in order to seek personal fame and gain, where he has not taken part in the creation of the work;
- (4) distorting a work created by another;
- (5) plagiarizing the works of others;
- (6) exploiting a work by means of exhibition, making cinematographic productions or a means similar to making cinematographic productions, or by means of adaptation, translation, annotation, etc. without the permission from the copyright owner, unless otherwise provided in this Law;
- (7) exploiting a work of another without paying the remuneration;

(8)without the permission from the copyright owner or obligee related to the copyright of a cinematographic work or a work created in a way similar to cinematography, computer software, sound recordings or video recordings, leasing his work or sound recordings or video recordings, except where otherwise provided in this Law;

(9)without the permission from a publisher, exploiting the format design of his published book or periodical;

(10)without the permission from the performer, broadcasting or publicly transmitting his live performance or recording his performance;

(11)committing other acts of infringement upon copyright and upon other rights related to copyright.

Article 48 He who commits any of the following acts of infringement shall bear the civil liability for such remedies as ceasing the infringements, eliminating the effects of the act, making a public apology or paying compensation for damages, depending on the circumstances; where he damages public interests at the same time, the copyright administration department may order him to cease the act of tort, may confiscate his illegal gains, confiscate and destroy the reproductions of infringement, and impose a fine on him; if the case is serious, the copyright administration department may also confiscate the materials, instruments and equipment, etc. mainly used to make the reproductions of infringement; where his act has constituted a crime, he shall be investigated for criminal liabilities in accordance with the law:

(1)without the permission from the copyright owner, reproducing, distributing, performing, projecting, broadcasting, compiling, disseminating to the public through information network his works, except where otherwise provided in this Law;

(2)publishing a book where the exclusive right of publication belongs to another;

(3)without the permission from a performer, reproducing, distributing the sound recordings or video recordings of his performance, or disseminating his performance to the public through information network, except where otherwise provided in this Law;

(4)without the permission from a producer of sound recordings and video recordings, reproducing, distributing, disseminating to the public through information network the sound recordings or video recordings produced by him, except where otherwise provided in this Law;

(5)without the permission, broadcasting or reproducing the radio or television, except where otherwise provided in this Law;

(6)without the permission from the copyright owner or obligee related to the copyright, intentionally avoiding or destroying the technical measures taken by the obligee on his works, sound recordings or video recordings, etc. to protect the copyright or the rights related to the copyright, except where otherwise provided in laws or administrative regulations;

(7)without the permission from the copyright owner or obligee related to the copyright, intentionally deleting or altering the electronic information on the management of the rights on the works, sound recordings or video recordings, except where otherwise provided in laws or administrative regulations;

(8)producing or selling a work where the signature of another is counterfeited.

Article 49 The infringer shall, when having infringed upon the copyright or the rights related to copyright, make a compensation on the basis of the obligee's actual losses; where the actual losses are difficult to be calculated, the compensation may be made on the basis of the infringer's illegal gains. The amount of compensation shall also include the reasonable expenses paid by the obligee for stopping the act of tort.

Where the obligee's actual losses or the infringer's illegal gains cannot be determined, the people's court shall, on the basis of the seriousness of the act of tort, adjudicate a compensation of 500,000 Yuan or less.

Article 50 Where a copyright owner or obligee related to copyright has evidence to prove that another is committing or is going to commit an act infringing upon his right, and that his lawful rights and interests will suffer the damage which is difficult to be remedied if he does not stop it in time, he may, before bringing a lawsuit, apply to the people's court for an order to cease the relevant acts or for property preservation.

The people's court shall handle the application in the preceding paragraph in accordance with article 93 through article 96 and article 99 of the Civil Procedure Law of the People's Republic of China.

Article 51 For the purpose of stopping the acts of tort, a copyright owner or an obligee related to copyright may, under circumstances that the evidence may be destroyed or lost or difficult to obtain later on, apply to the people's court for the evidence to be preserved.

The people's court must, after receiving the application, make an order within 48 hours; if the preservation is granted by an order, its implementation shall start immediately.

The people's court may order the applicant to provide a surety; if the applicant fails to do so, his application shall be rejected.

If the applicant fails to bring a lawsuit within 15 days after the people's court has adopted the preservation measures, the people's court shall cancel the property preservation.

Article 52 The people's court may, when trying the cases of infringing upon copyright or the rights related to copyright, confiscate the illegal gains, the reproductions of infringement and the properties used for committing illegal acts.

Article 53 Where a publisher or producer of reproductions is unable to prove the lawful authorization of his publication or production, or the distributor of the reproductions or the lessor of the reproductions of a cinematographic work or a work created in a way similar to cinematography, computer software, sound recordings or video recordings is unable to prove the lawful sources of his distribution or lease of the reproductions, he shall bear the legal liabilities.

Article 54 Where a party concerned does not implement his contractual obligations or his implementation of the contractual obligations does not conform to the stipulated requirements, he shall bear the civil liabilities in accordance with 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 laws.

Article 55 A dispute over copyright may be settled by mediation or be submitted for arbitration to a copyright arbitration institution under a written arbitration agreement concluded between the parties concerned, or under the arbitration clause in the copyright contract.

Any party may bring a lawsuit directly to the people's court in the absence of a written arbitration agreement or an arbitration clause in the copyright contract.

Article 56 Any party who objects to an administrative penalty may bring a lawsuit to the people's court within three months as of the date when it received the written decision on the penalty. If a party neither bring a lawsuit nor implements the decision within the above time limit, the copyright administration department concerned may apply to the people's court for enforcement.

Chapter VI Supplementary Provisions

Article 57 The term “author’s right” shall have the same meaning as “copyright” in this Law.

Article 58 The term “publication” mentioned in article 2 of this Law shall refer to reproduction and distribution of works.

Article 59 Regulations for the protection of computer software and of the right of information network dissemination shall be established 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 in this Law, of which the term of protection specified in this Law has not yet expired on the date of this Law’s entry into force, shall be protected in accordance with this Law.

Any infringements upon copyright and the rights related to copyright or breaches of contract committed prior to the entry into force of this Law shall be dealt with under the relevant regulations or policies in force at the time when the infringement was committed.

Article 61 This Law shall enter into force on June 1, 1991.