

# Copyright (China): Overview

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This Note provides an overview of Chinese copyright law. It considers the legal framework governing copyright, the requirements for protection and works that are excluded from protection. This Note also addresses the ownership of copyright and the methods of licensing and protecting copyright, as well as the potential consequences of infringement.

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This Note is a comprehensive overview of the copyright protection regime in [China \(PRC\)](#). This Note may be used to:

- Find the sources of copyright law in China.
- Have a glance at the legal and commercial issues that arise around copyright law.
- Understand which works are and are not protected by copyright law.
- Understand how and when copyright arises under copyright law and who owns it.
- Understand how to exploit and enforce copyright in China.

For a warning letter to a suspected infringer in China to end their infringing activities, see [Standard Document, Cease and Desist Letter \(Copyright Infringement\): China](#). For enforcement of copyright against a landlord who owns a property from which other people are infringing copyright, see [Practice Note, Landlord Indirect and Administrative Liability for Trademark and Copyright Infringement: China](#). For the protection of service works and other intellectual rights that may arise in favour of employees in China, see [Practice Note, Protecting Employee Intellectual Property in China](#).

## Legal Framework

Copyright protection in China is primarily governed by the Copyright Law together with the implementation regulations, administrative rules and the judicial interpretations issued by the [Supreme People's Court](#) (SPC).

## Copyright Law

China's Copyright Law was first published in 1990 and subsequently amended in 2001 and 2010 respectively. On 11 November 2020, the [National People's Congress \(NPC\) Standing Committee](#) adopted the third amendment to the Copyright Law, that is, the [Copyright Law of the PRC 2020](#) (2020 Copyright Law), with effect from 1 June 2021. The third

amendment, nearly a decade in the making, represents the first comprehensive update to China's Copyright Law since 2001. The highlights of the amendments include:

- The adoption of a broader category of audio-visual works.
- The expansion of the scope of certain related rights and the further liberalisation of the types of copyrightable works.
- The availability of punitive damages and higher statutory damages for copyright infringement.
- A formal evidence burden shifting provision for damages.

For a quick glance of the key changes compared with the 2010 version, see [Legal Update, NPC Amends Copyright Law](#).

## SPC Judicial Guidance

The SPC issues directions and guidance to the Chinese judiciary on issues concerning the interpretation and application of statutory provisions. These include the following judicial interpretations concerning copyright:

- [Interpretation of the SPC on Certain Issues Concerning the Application of Law in the Trial of Civil Cases Involving Copyright Disputes 2020](#), with effect from 1 January 2021.
- [Provisions of the SPC on Certain Issues Related to the Application of Law in the Trial of Civil Cases Involving Disputes over Infringement of the Right of Dissemination through Information Networks 2020](#) (2020 Provisions on Information Network Dissemination, with effect from 1 January 2021).
- [Notice of the Supreme People's Court, the Supreme People's Procuratorate and the Ministry of Public Security to Print and Issue the Opinions on Issues Concerning Applicable Laws for Criminal Cases Involving Intellectual Property Right Infringement 2011](#).
- [Interpretation of the SPC and Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Handling Criminal Cases of Intellectual Property Infringement 2025](#) (2025 Interpretation of Criminal IP Infringement Cases).

The SPC also issued several guiding cases (for example, No. 48-49 and No. 80-81 in 2015 and 2017 respectively) concerning copyright law to guide the judicial practice (see [Legal Update, SPC issues 16th batch of guiding cases](#)). Guiding cases are not binding as legal precedents, but they are considered to have strong persuasive value, and judges in China should consider and refer to the guiding cases when adjudicating similar cases (see [Practice Note, Understanding Chinese Legislation: Guiding Cases](#)).

## National Copyright Administration

The [National Copyright Administration](#) (NCA) administers and enforces regulatory matters concerning copyright nationwide under the authority of the [2020 Copyright Law](#). The NCA's primary functions include:

- Enacting administrative policies and rules.
- Administering copyright registration as processed through the [Copyright Protection Centre of China](#) (CPCC).
- Administering statutory licences and state-owned copyright.
- Investigating copyright infringement.

## International Protection

Chinese copyright works are protected in foreign jurisdictions under international copyright treaties to which China is a party, including the:

- [Berne Convention for the Protection of Literary and Artistic Works](#) (Berne Convention).
- Universal Copyright Convention (世界版权公约) (UCC).
- [Agreement on Trade-Related Aspects of Intellectual Property Rights](#) (TRIPS).
- Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms (保护录制者、防止录制品被擅自复制日内瓦公约) (Geneva Convention).
- Beijing Treaty on Audio-visual Performances (see [Legal Update, WIPO adopts Beijing Treaty on Audio-visual Performances](#)).
- Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (马拉喀什条约) (Marrakesh Treaty).

While the extent of copyright protection provided by each country varies depending on its own national laws, these international treaties require the contracting countries to provide certain levels of minimum protection. These agreements also serve to ensure the application of the commonly acknowledged and fundamental principles of copyright law to non-citizen copyright owners.

Various revisions have been made to Chinese copyright law to implement these treaties. In addition, the implementation of the Berne Convention and bilateral copyright treaties in China is addressed by the *Provisions on the Implementation of the International Copyright Treaties 2020* (实施国际著作权条约的规定) (2020 International Copyright Treaties Implementation).

## Requirements for Copyright Protection

Works protected under Article 3 of the [2020 Copyright Law](#) are defined as intellectual achievements in the fields of literature, arts and science that possess originality and can be expressed in a certain form. Originality generally requires the work to be independently created by the author and possess some level of creativity.

Copyright arises automatically on the completed creation of a work that meets these requirements (*Article 2, 2020 Copyright Law* and *Article 6, [Regulations for the Implementation of Copyright Law 2013](#)* (2013 Copyright Law Implementing Regulations)).

Registration is not mandatory to claim legal ownership. However, voluntary registration provides prima facie evidence of copyright ownership. Article 12 of the 2020 Copyright Law specifically provides that authors and other copyright owners may register their pieces of work with registration agencies recognised by the competent copyright department of the state, that is, the CPCC.

For information on how to register copyright in China, see [Checklist: Registering Copyrighted Software or Works \(China\): Step-by-Step Guide](#).

## Works Protected by Copyright

Article 3 of the [2020 Copyright Law](#) specifies a non-exhaustive list of recognised types of works of authorship, with explanations provided under Article 4 of the [2013 Copyright Law Implementing Regulations](#) and related regulations. The protected works include:

- Written works (文字作品), defined as works expressed in the written form, such as novels, poems, proses and essays.
- Works of oral expression (口述作品), defined as works expressed in the form of spoken language, such as impromptu speeches, lectures and courtroom debates.
- Musical works (音乐作品), defined as works with or without lyrics that are capable of being sung or performed, such as songs and symphonies.
- Operatic and dramatic works (戏剧作品), defined as works intended for stage performances, such as dramas, operas and local dramas.
- Works of folk vocal art (曲艺作品), defined as works performed primarily in the form of recitation or singing, such as crosstalk, clapper ballad, drum ballad and storytelling.
- Choreographic works (舞蹈作品), defined as works that express ideas or feelings through such means as successive movements, gestures and facial expression.
- Acrobatic works (杂技艺术作品), defined as works expressed through body movements and skills such as acrobatics, magic performance and circus performance.

- Works of fine art (美术作品), defined as two-dimensional or three-dimensional works of formative art which impart aesthetic appeal through the composition of lines, colours or other means, such as paintings, calligraphic works and sculptures.
- Architectural works (建筑作品), defined as works expressed in the form of buildings or structures which impart aesthetic appeal.
- Photographic works (摄影作品), defined as artistic works created by recording images of objects on light-sensitive materials or other media with the aid of apparatus and instruments.
- Audio-visual works (视听作品). The amended 2020 Copyright Law modernises the category of "cinematographic works" and revamps it to the broader concept of "audio-visual works". While it remains to be seen how the courts will interpret this provision in practice, it is expected that this will facilitate the copyright protection for sports, gaming and music video programs, whether online or offline.
- Graphic works (图形作品), defined as engineering design drawings intended for construction purposes, product design drawings intended for manufacturing purposes, and maps and sketches that reflect geographic phenomena or demonstrate elements or structures of objects.
- Models (模型作品), defined as three-dimensional works made according to the shape and structure of objects to a certain scale for the purposes of display, experiment or observation.
- Computer software (计算机软件), defined as computer programs and the related documentation under Article 2 of the [Regulations for the Protection of Computer Software 2013](#) (2013 Computer Software Regulations).

The protection of software copyright is specifically governed by the 2013 Computer Software Regulations. Copyright in software is protectable regardless of whether the software is also eligible for patent protection.

- Other intellectual achievements that meet the characteristics of a piece of work.

This catch-all provision was amended from the original expression of "other works stipulated by laws and administrative regulations". The new provision no longer requires the intervention of the legislature or administrative authorities and expands the scope of protectable works to capture any other intellectual achievements that meet the characteristics of works. This codifies the existing practice of the courts to also grant copyright protection for categories of 'works' not explicitly listed in China's Copyright Law.

The following types of works that incorporate other works are also copyrightable subject matter:

- Derivative works (that is, works created by adaptation, translation, annotation or arrangement of pre-existing works).
- Compilation works (that is, works compiled from certain works of authorship or parts of works, or data or other materials that do not qualify as a work, where the choice or layout of the substance embodies originality).

*(Articles 13 and 15, 2020 Copyright Law.)*

While "works of applied art" (that is, original aesthetic design features of functional objects) is not statutorily defined, subject matter falling within the scope of this expression has been recognised as protectable subject matter that falls within the scope of "works of fine art". Specifically for non-Chinese copyright owners, protection for works of applied art is expressly recognised in the 2020 International Copyright Treaties Implementation, which implements the Berne Convention.

## Excluded Works

The following subject matters are expressly excluded from protection:

- Laws and regulations, resolutions, decisions and orders of state organs, other types of legislative, administrative or judicial documentation, and official translations of the same.
- Mere factual information. This was amended from the original expression of "news on current affairs". It means that current affairs news may be protected by copyright if it meets the statutory requirements for protection. For example, in-depth reporting such as discussion and analysis using simple factual information as material or background may constitute a news work that is protected under China's Copyright Law.
- Calendars, numerical tables, forms and formulae of general use.

(Article 5, [2020 Copyright Law](#) and Article 5, [2013 Copyright Law Implementing Regulations](#).)

## Copyright Ownership

Generally, a natural person who creates a work is its author. With respect to a work created under the sponsorship of, and according to the intention of, any legal person or any unincorporated organisation who bears the responsibility for the work, such legal person or unincorporated organisation is deemed the author of the work. In addition, any natural person, legal person or unincorporated organisation whose name is affixed to the work in question is deemed the author of the work and enjoys corresponding rights in the work, unless there is proof to the contrary. (Articles 11-12, [2020 Copyright Law](#).)

Exceptions to this rule include works made by a person in the course of their employment. Where copyrighted works are commissioned from a third party, the contractor will be the first owner of the copyright subject to any agreement to the contrary.

## Works of Joint Authorship

The copyright in a jointly created work is owned jointly by its authors. The exercise of the copyright of a jointly created work is subject to the following conditions:

- The copyright must be exercised by the joint authors through consultation; where consultation fails and there is no justifiable reason, no party may prevent other parties from exercising rights other than assignment, exclusive license or pledge, provided that the proceeds generated from the exploitation of the work must be distributed to all joint authors in a reasonable manner.

- Where the work is divisible into separate parts capable of independent exploitation, each author may individually enjoy copyright to the part created by that author, provided that the exercise of the copyright must not infringe the entire copyright in the jointly owned work.

(Article 14, [2020 Copyright Law](#).)

## Service Works

A work created by employees in the course of performing assigned tasks or duties during their employment is considered a service work.

The general rule is that the individual author owns the copyright in the work, but the employer enjoys a priority right to use the work within the scope of its business activities. The individual author requires the employer's consent to license a third party to use the work in the same way within two years of delivering the work to the employer.

With respect to a service work under any of the following circumstances, except for the right of attribution which remains with the author employee, the employer owns all other exclusive rights in the work:

- Service works such as engineering design drawings, product design drawings, maps or computer software created primarily with the materials and technical means of the employer who assumes responsibility for that creation.
- Service works created by the staff members of a newspaper or a periodical publisher, news agency, radio station or television station.
- Service works belonging to the employer by operation of statutory provisions or contractual agreements conferring copyright ownership on the employer.

(Article 18, [2020 Copyright Law](#).)

For information on the law surrounding works created by employees, including changes proposed to the laws governing service inventions, see [Practice Note, Protecting Employee Intellectual Property in China](#).

## Commissioned Works

Where a work is created on commission from a third party, the commissioned party owns the copyright in the work subject to any agreement to the contrary (Article 19, [2020 Copyright Law](#)).

## Exclusive Rights

A copyright provides its owner with exclusive rights (including rights of a personal or proprietary nature) in the copyrighted work. Article 10 of the [2020 Copyright Law](#) sets out a non-exhaustive list of personal and property rights available to copyright



owners, as well as a catch-all provision recognising that copyright protection extends to "other rights a copyright owner is entitled to enjoy".

## Personal Rights

Copyright of a personal nature generally exclusively belongs to the author and cannot be assigned, including the rights of:

- Publication, that is, the right to decide whether to publish a work.
- Authorship, that is, the right to be identified as the author and have a work indicate as such.
- Revision, that is, the right to revise, or authorise others to revise, a work.
- Integrity, that is, the right to protect a work against distortion or alteration.

## Property Rights

Copyright of a proprietary nature generally pertains to the right of exploitation and can be assigned in full or in part, including the rights of:

- Reproduction, defined as the right to reproduce single or multiple copies of a work by printing, photocopying, rubbing, audio recording, video recording, duplicating a sound or visual recording or a photographic work, digitalising or other means.
- Distribution, defined as the right to provide the public with the original piece or copies of a work by way of selling or giving away.
- Rental, defined as the right to allow others to temporarily exploit, for valuable consideration, the originals or reproductions of an audio-visual work or computer software (except where computer software is not the primary object for rental).
- Exhibition, defined as the right to publicly display the original piece or copies of a work of fine art or photographic work.
- Performance, defined as the right to publicly perform a work, or to broadcast or transmit to the public the performance of a work.
- Presentation, defined as the right to publicly present a work of fine art, a photographic work, an audio-visual work or other works through the use of technical equipment such as projectors or episcopes.
- Broadcasting, defined as the right to publicly disseminate or rebroadcast a work by wired or wireless means, and to disseminate a broadcasted work to the public through audio amplifier or other similar instruments that transmit

signs, sound or images, excluding the right of dissemination through an information network as set out below. Following the amendment in the [2020 Copyright Law](#), internet live broadcasting also falls within the coverage of the right of broadcasting.

- Dissemination via information networks, defined as the right to provide a work to the public by wired or wireless means so as to allow the public to access the work at any chosen time and location. The difference between the right of broadcasting and the right of information network dissemination is whether communication is interactive. The [Regulations on Protection of Right of Dissemination through Information Networks 2013](#) and the 2020 Provisions on Information Network Dissemination govern the protection of such rights.
- Cinematography, defined as the right to fix a work on a certain medium by way of producing an audio-visual work.
- Adaptation, which is defined as the right to modify a work for the purpose of creating an original new work.
- Translation, which is defined as the right to transform the language of a work into another language.
- Compilation, which is defined as the right to choose or arrange a work or parts thereof to form a new work.

## Statutory Exceptions to Exclusive rights

The [2020 Copyright Law](#) contains general limitations on the scope of exclusive rights in the following forms:

- Fair use limitations that allow non-owners to make certain use of a copyrighted work without the need for the copyright owner's authorisation.
- Statutory licence limitations that allow non-owners to make certain use of a copyrighted work without the need of the copyright owner's authorisation but require payment of a royalty.

## Fair Use

Article 24 of the [2020 Copyright Law](#) specifies various types of fair use limitations to exclusive rights, under which non-owners are allowed to use the copyrighted works without the copyright owner's authorisation or payment of a royalty, subject to the requirements of:

- Indicating the author's name and the work's title.
- Not affecting the normal use of the work.
- Not unreasonably damage the legitimate rights and interests of the copyright owner.

These types of fair use include the following circumstances:

- Private study, research or enjoyment of a published work.
- Proper citation of a published work for introducing, or commenting on, a particular work or for elaborating on a particular issue.
- Inevitable reappearance or citation of a published work in newspapers, periodicals, radio stations, television stations or other media for the purposes of reporting news.
- Publication or broadcasting of published articles on current political, economic or religious affairs through media such as newspapers, periodicals, radio stations, or television stations, except where the copyright owner has expressed dissent to the publication or broadcasting.
- Publication or broadcasting of public speeches in newspapers, periodicals, radio stations, television stations or other media, except where the author has expressed dissent to the publication or broadcasting.
- Translation, adaption, compilation, broadcasting or reproduction of a published work in limited quantities for the purposes of teaching or scientific research in schools, provided that no publication or distribution is involved.
- Use of a published work by state organs within a reasonable scope for the purpose of carrying out official duties.
- Reproduction of a work by libraries, archive centres, memorial halls, museums, art galleries, cultural centres or similar institutions for their own collection for the purpose of display or preservation of a copy of the work.
- Performance of a published work without fees charged from the public or paid to the performers and not for the purpose of making profits.
- Imitating, drawing, photographing or video recording a work of fine art located or displayed in an outdoor public area.
- Translation of a published work created by a Chinese citizen, legal entity or an unincorporated organisation, which is created in a national common language, into a language of the minority Chinese population for publication and distribution in China.
- Provision of a published work to people with reading disabilities in a barrier-free manner perceptible and accessible to them.

## Statutory Licences

Article 25 of the [2020 Copyright Law](#) imposes general statutory licences in the use of copyrighted works in official textbooks used in relation to compulsory or state planned education. Specifically, anyone who compiles or publishes such educational textbooks is allowed to use published works as part of the compilation to the extent that this use involves:

- Fragments of the work.

- Short written works.
- Musical works.
- Work of fine art.
- Photographic works.
- Graphic works.

However, this type of use requires payment of a royalty to the copyright owner, indication of the author's name and the work's title, as well as non-infringement of other rights the copyright owner may have under the 2020 Copyright Law.

The NCA and the [State Administration for Market Regulation](#) (SAMR) are responsible for publishing and administering the standard rates of royalty applicable to statutory licences (*Article 22, [2013 Copyright Law Implementing Regulations](#)*).

## Duration of Copyright

Duration of copyright varies depending on the nature of the work, the exclusive right and the owner:

- For the works of natural persons, the term of protection for property rights and the personal right of publication is the lifetime of the author plus 50 years after the author's death, expiring on 31 December of the 50th year after the death of the author or the last surviving author in the case of a joint-authored work.
- For audio-visual works, the works of legal persons or unincorporated organisations and service works where the copyright (excluding the right of authorship) vests in them:
  - the term of protection for the personal right of publication is 50 years, ending on 31 December of the 50th year after the completed creation of such a piece of work; and
  - the term of protection for property rights is 50 years, ending on 31 December of the 50th year after the first publication of the work; however, a piece of work that is not published within 50 years after the completed creation will no longer be protected by copyright.

(*Article 23, [2020 Copyright Law](#)*.)

The protection of personal rights of authorship, revision and integrity lasts in perpetuity (*Article 22, [2020 Copyright Law](#)*).

## Licences

A copyright owner may license to others, in part or in whole, the property rights it has pertaining to the exploitation of the work. Copyright licences require an agreement between the parties (*Article 26, [2020 Copyright Law](#)*). Where the licence

is exclusive, a written agreement is required, except for publication of works by the press (*Article 23, [2013 Copyright Law Implementing Regulations](#)*).

The following main elements should be included in a copyright licence agreement:

- Type of the right of exploitation to be licensed.
- Exclusive or non-exclusive nature of the right licensed.
- Applicable territory and term of the licence.
- Royalty rate and payment method.
- Liability for breach.
- Other terms the parties consider necessary.

*(Article 26, 2020 Copyright Law.)*

In the absence of any express agreement to the contrary, the statutory default position is that:

- The licence will be deemed as an exclusive licence (that is, the licensee is entitled to exclude all other persons, including the licensor, from exploiting the copyright) (*Article 24, 2013 Copyright Law Implementing Regulations*).
- The licensee must obtain the authorisation of the licensor to sub-license the copyright (*Article 24, 2013 Copyright Law Implementing Regulations*).
- The licensee is not permitted to exercise any right in the licensed work that is not expressly licensed by the copyright owner (*Article 29, 2020 Copyright Law*).
- The royalty will be determined by the standard rates published and administered by the NCA and other departments, such as the SAMR (*Article 30, 2020 Copyright Law*).

Copyright licence agreements may be voluntarily recorded with the CPCC.

## Assignments

A copyright owner may assign to others, in part or in whole, the property rights it has pertaining to the exploitation the work. A written agreement is required for copyright assignments (*Article 27, [2020 Copyright Law](#)*).

The following main elements should be included in a copyright assignment agreement:

- Title of the work.

- Type of the right of exploitation to be assigned and the applicable territory.
- Assignment fee.
- Date and method for payment of the assignment fee.
- Liability for breach.
- Other terms the parties consider necessary.

(Article 27, 2020 Copyright Law.)

Copyright assignment agreements may be voluntarily recorded with the CPCC.

## Infringement Acts and Remedies

The [2020 Copyright Law](#) recognises two categories of infringing acts depending on the level of severity and the associated liabilities:

- Infringement having implications for the interests of the copyright owner giving rise to civil liability only.
- Infringement having implications for the interests of the copyright owner and the broader public interests, giving rise not only to civil liability but also administrative and potential criminal liabilities.

The 2020 Copyright Law permits copyright owners and those with neighbouring rights to use technologies, devices or components to prevent or restrict access to copyrighted works, subject to certain exceptions for educational, research and law enforcement purposes and so on, and prohibits measures to circumvent or destroy technological protection measures (Articles 49-50).

## Infringement Against Civil Interests Only

A copyright owner may bring a civil action of copyright infringement against anyone who commits one or more of the following acts (unless otherwise allowed under the [2020 Copyright Law](#)):

- Publication of a work without the copyright owner's authorisation.
- Publication of a joint-authored work as a work created by one's own efforts without the authorisation of other co-authors.
- False claim as the author of a work created by others in order to seek unjustified personal fame or gain.

- Distortion and alteration of a work created by others.
- Plagiarism of a work created by others.
- Exploitation of a work by ways of exhibition, production of audio-visual works, or other means such as adaptation, translation or annotation without the copyright owner's authorisation.
- Exploitation of a work without paying the required remuneration to the copyright owner.
- Rental of the originals or reproductions of audio-visual works, computer software, audio or video recordings without the authorisation of the copyright owners, performers or producers.
- Use of the layout design of a published book or periodical without the publisher's authorisation.
- Broadcasting, transmitting to the public or recording the live performance of a performer without authorisation.

Those who have committed the above infringing actions will bear civil liability such as ceasing the infringement, eliminating the impacts, making an apology, or compensating for the losses, according to the specific situation. (*Article 52, 2020 Copyright Law.*) See [Civil remedies](#).

## Infringement Against Civil and Public Interests

Article 53 of the [2020 Copyright Law](#) also imposes civil liability on anyone who commits the following acts (unless otherwise allowed under Chinese laws and administrative regulations), allowing the copyright owner to bring a civil action:

- Reproduction, distribution, performance, projection, broadcasting, compilation or dissemination to the public via information networks a work without the copyright owner's authorisation.
- Publication of a book where the exclusive right of publication belongs to another.
- Reproduction or distribution of audio or video recordings of a performance, or dissemination of the performance to the public via information networks, without the performer's authorisation.
- Reproduction, distribution or dissemination to the public via information networks of audio or video recordings without the producer's authorisation.
- Broadcasting or reproduction or dissemination to the public via information networks of radio or television programmes without authorisation.
- Wilful circumvention or destruction of technical measures, intentional manufacture, import or provision of devices or components mainly used to circumvent or destroy technical measures, or deliberate provision of technical services for others to circumvent or destroy technical measures, without the authorisation of the copyright owners or holders of copyright-related rights.

- Wilful deletion or alteration of information concerning the management of rights on works, layout designs, performance, or audio or video recordings, radio or television programmes without the authorisation of the copyright owners or holders of copyright-related rights, or provision to the public with the foregoing items despite knowing or ought to know that the rights management information has been deleted or changed without authorisation.
- Production or sale of a counterfeit work.

Those who have committed the above infringing actions will bear civil liability according to Article 52 of the 2020 Copyright Law. Where these acts are also considered harmful to the public interest, the infringers may also bear administrative and even criminal liability (see [Administrative Liability and Investigation](#) and [Criminal Prosecution](#)).

## Direct Infringement

For a copyright owner to prevail in an infringement action, proof of the following is generally required:

- Ownership of a valid copyright in the work.
- Infringement (that is, unauthorised exploitation of the exclusive rights in the work).

To establish infringement, the copyright owner is generally required to show that the:

- Defendant had actual access or reasonable prospects of access to the copyrighted work.
- Defendant's work is substantially similar to the protected work.

Article 59 of the [2020 Copyright Law](#) imposes the burden of proof on defendants under the following circumstances:

- A publisher or producer of a reproduction must prove that the publication or production has been lawfully authorised.
- A distributor of a reproduction, or a lessor of a reproduction of an audio-visual work, computer software, an audio or visual recording must prove that the reproduction distributed or leased thereby is lawfully sourced.
- During litigation proceedings, if the defendant claims that it is not liable for infringement, the defendant must provide evidence that it has obtained a licence from the relevant rights holder or that its conduct falls under any of the circumstances stipulated in the 2020 Copyright Law where use without a licence from the rights holder is allowed.

## Joint Infringement

Liability may also be imposed on any person who participated, abetted or facilitated in the direct infringement, provided these acts involved intent or negligence contributing to infringement ([Articles 1168-1169, Civil Code of the PRC 2020](#) (2020 Civil Code), with effect from 1 January 2021).



## Statute of Limitations

The statute of limitations for civil infringement claims is three years from when the copyright owner became aware or should have become aware of the infringement (*Article 188, [2020 Civil Code](#)*).

## Civil Remedies

Remedies for copyright infringement include obtaining:

- A court order requiring the infringer to cease infringement.
- Monetary damages, which may take the form of either:
  - direct damages, covering the copyright owner's actual monetary loss or the infringer's illegal gains, or by reference to the licence fee of the copyright, plus reasonable expenses incurred in stopping infringement;  
(Willful and serious infringements are punishable with up to five times the determined amount of direct damages.)
  - statutory damages of up to RMB5 million, which the court has a discretion to award according to the circumstances of the case, if the level of direct damages cannot be quantified.
- Elimination of adverse effects.
- A public apology.
- A court order to destroy infringing copies, and materials, tools, equipment which are mainly used to manufacture the infringing copies.

(*Articles 52-54, [2020 Copyright Law](#)*.)

## Calculation of Damages

Article 54 of the [2020 Copyright Law](#) provides detailed methods and sequence on calculating the compensation amount for the copyright infringement:

- Compensation is generally calculated according to the actual losses suffered by the right holder or illegal gains obtained by the infringer.

- If the actual losses illegal gains are difficult to determine, the amount of may be assessed with reference to the licence fee.
- If the infringement is committed in bad faith and the circumstances are serious, the court can grant punitive damages by raising the amount of damages to one time to five times of the amount of the actual loss, illegal gains or the licence fee (whichever was used in the calculation) (see [Practice Note, Punitive Damages for Intellectual Property Infringement: China](#)).
- Where it is difficult to determine the actual loss, illegal gains or the licence fee, a people's court may impose statutory damages up to RMB5 million based on the circumstances of the infringement.
- The amount of damages should also cover the reasonable expenses incurred by the right holder for stopping the infringement.

### Evidence Burden Shifting for Damages

Article 54 of the [2020 Copyright Law](#) also contains a provision allowing for the shifting of the burden of proof from the copyright owner to the infringer relating to damages calculation:

- Where the accounting books and materials related to the infringing acts are mainly controlled by the infringer, the relevant people's court may, for the purpose of determining the amount of damages, order the infringer to submit the account books and materials related to the infringing acts, provided that the claimant has exhausted its effort to provide evidence.
- Where the infringer refuses to provide or provides false accounting books and materials, the court may calculate the amount of damages by reference to the claimant's claim and evidence.

### Preliminary Injunctions

Copyright owners or the holders of copyright-related rights may, before filing a lawsuit, apply to the competent people's court for an order of property preservation or for the court to order certain actions to be done or prohibited where they have evidence to show that both of the following conditions are met:

- Another party is committing or is about to commit an act that infringes upon their rights or hinders the realisation of the rights.
- The failure to promptly stop the act will cause irreparable damage to their legitimate rights and interests.

To stop infringing activities, copyright owners or the holders of copyright-related rights may also apply to a court for an order of evidence preservation under the circumstance where the evidence may be extinguished or difficult to obtain in the future before filing a lawsuit. (Articles 56-57, [2020 Copyright Law](#).)

## Administrative Liability and Investigation

The [2020 Copyright Law](#) authorises administrative investigation of the infringement acts that are considered harmful to the public interest under Article 53 (see [Infringement Against Civil and Public Interests](#)). In these cases, the copyright owner can file a complaint with the administrative bureaux organised under the NCA seeking administrative investigation of infringement, which can result in administrative penalties being imposed on the infringer, including:

- An administrative order requiring the infringer to cease infringement.
- A warning.
- Confiscation of illegal gains.
- Confiscation of or carrying out innocuous destruction of infringing copies and materials, tools, equipment which are mainly used to produce the infringing copies .
- A fine from one to five times the amount of illegal revenues (where the amount of illegal revenues exceeds RMB50,000); or a fine of up to RMB 250,000 if the amount is less than RMB50,000.

When investigating alleged infringement on copyrights and copyright-related rights, a competent copyright department may:

- Inquire relevant parties concerned.
- Investigate situations related to the alleged illegal activities.
- Conduct on-site inspection of the premises and items involved in the alleged illegal acts of the parties concerned.
- Consult and duplicate contracts, invoices, account books and other relevant materials related to the alleged illegal acts.
- Seal up or seize premises and items involved in the alleged illegal acts.

*(Article 55, 2020 Copyright Law.)*

## Criminal Prosecution

The [2020 Copyright Law](#) also specifies that infringers may bear criminal liability if the infringement acts set out in Article 53 constitute a crime (see [Infringement Against Civil and Public Interests](#)).

Article 217 of the [Criminal Law of the PRC 2023](#) (2023 Criminal Law, with effect from 1 March 2024) establishes the crime of copyright infringement and specifies that the following acts of infringement for the purpose of making profits may amount to a criminal offence where the scale of infringement reaches a certain level:

- Reproduction and distribution, or dissemination to the public through information networks of written works, musical works, works of art, audio-visual works, computer software or other works prescribed by laws and administrative regulations without the copyright owner's authorisation.
- Publication of a book where the exclusive right of publication belongs to another.
- Reproduction, distribution or dissemination to the public through information networks of audio or video recordings without the producer's authorisation.
- Reproduction or distribution of the audio-visual products containing recordings of the performer's performance, or dissemination to the public through information networks of the performer's performance without the performer's permission.
- Production or sale of a counterfeit work of fine art.
- Wilful circumvention or destroy of the technical measures adopted to protect the copyright or the copyright-related rights to the works or audio-visual products without the permission of the owner of the copyright or the holders of copyright-related rights.

The minimum threshold for criminal liability to apply under Article 217 of the 2023 Criminal Law is as follows:

- RMB30,000 in illegal gains.
- RMB50,000 in illegal revenues.
- RMB20,000 in illegal gains or RMB30,000 in illegal revenues, following prior administrative or criminal penalties for the crimes stipulated in Article 217 or Article 218 of the 2023 Criminal Law within two years.
- 500 copies for reproducing and distributing copyrighted works, sound recordings or video recordings.
- 500 pieces, 10,000 downloads, 100,000 clicks, or 1,000 registered members of a membership system through which dissemination took place, for disseminating the works, audio recordings, video recordings or performances to the public through information networks.
- Any two or more of the above thresholds satisfied by half.

(Article 13, [2025 Interpretation of Criminal IP Infringement Cases.](#))

In addition, the 2023 Criminal Law further establishes the crime of selling infringing copies and specifies that knowingly sells infringing copies as described under Article 217 of the 2023 Criminal Law for the purpose of profit may amount to a criminal offence where the amount of illegal gains is huge or there are other serious circumstances (*Article 218*).

Article 14 of the 2025 Interpretation of Criminal IP Infringement Cases further clarifies the terms under Article 218 of the 2023 Criminal Law as follows:

- "Illegal gains of a huge amount" refers to illegal gains of RMB 50,000 or more.
- The following are considered "other serious circumstances":
  - the sales amount is RMB 100,000 or more.
  - within two years, after having received criminal or administrative penalties for acts stipulated in Article 217 or Article 218, the defendant commits the offense again and either the illegal gains are RMB 30,000 or more, or the sales amount is RMB 50,000 or more.
  - selling others' works or audio-visual products with at least 1,000 infringing copies sold.
  - if infringing copies have not yet been sold, but their value or quantity is more than three times any of the thresholds above, or if the combined value or quantity of sold and unsold infringing copies exceeds three times any of the above thresholds, even if the sales amount or quantity of sold copies alone does not reach the thresholds.

The maximum criminal penalty for the crime of copyright infringement imposed by the 2023 Criminal Law is imprisonment for ten years (*Article 217, 2023 Criminal Law*), in addition to a fine determined as follows:

- The fine amount is generally determined at one to ten times the amount of illegal gains.
- Where the amount of illegal gains cannot be ascertained, the fine amount is generally determined at 50% to 100% of the illegal business turnover amount.
- Where neither the illegal gains amount nor the illegal business turnover amount can be ascertained:
  - for sentences of fixed-term imprisonment of three years or less, criminal detention, or fine only, the fine amount is generally determined to be between RMB30,000 and RMB1 million; or
  - for sentences of fixed-term imprisonment of more than three years, the fine amount is generally determined to be between RMB150,000 and RMB5 million.

(*Article 25, 2025 Interpretation of Criminal IP Infringement Cases.*)

The fine may also apply to the crime of selling infringing copies under Article 218 of the 2023 Criminal Law. Notably, the fine, which can be up to ten times the amount of the illegal gains, was increased significantly compared to five times in the previous judicial interpretations.