

Research Article

Comparative Study of Copyright Trade between China and UK

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Abstract: This study aims to promote the development of Chinese copyright trade by comparing copyright trade between China and UK and finding out on which aspects China lags behind UK. With the deepening of Chinese reform and opening up, China has improved its copyright system and accelerated the development of our copyright trade. However, there still is a big gap compared with UK and other developed countries. Based on the comparative study of copyright trade between UK and China, we draw a conclusion so as to promote the development of China's copyright trade. We mainly adopted comparative research method, statistical research method and Empirical research methods in this study. The results show there is a big gap between China and UK on legal system, management of intellectual property right and main information channels etc. China still has a long way to go.

Keywords: China-UK copyright trade, comparison

INTRODUCTION

Copyright trade is an economic behavior that the owners of the copyright authorize partial or all of his economic rights to the users through license or transfer. It is a kind of intangible property trade. In short, copyright trade is a trade that the owners can benefit from the works through copyright license or transfer. Comparing with tangible trade, which gains profit through purchase and sale of goods, copyright trade transfers the ownership of tangible goods to ownership of intangible property right-copyright. There copyright trade refers to trade of copyright among copyright owners, operators and users. Because copyright trade mainly concentrates on books, we mainly focus on the study of copyright trade between China and UK.

Scholars in Chinese theoretical circle tends to conduct their researches on China's copyright trade by generally undergoing a process from practical exploration to theoretical understanding, which, however, is closely connected with the reality abroad with less independent theoretical researches. Moreover most of them focus on legal domain. Tang (2004), in his study "A Comparative Study of Copyright and the public interest in the United Kingdom and China" studied the public interest in copyright law on a comparative basis, mainly between the United Kingdom (UK) and the People's Republic of China (China) in order to help the development of Chinese law in this respect. It intends to outline, first, how copyright legislation is developing in the UK and

China; and, second, how the concepts of copyright together with the public interest and the entire system are affected by international developments and Chinese culture-the special factors which exist regarding copyright in China.

This study aims to learn the experience of the copyright trade in UK and promote the development of Chinese copyright trade and improve the power and international competitiveness of its related industries by doing comparison.

MATERIALS AND METHODS

At present, China has a close cooperation with UK. Followed by the United States, UK is the second largest country doing book copyright trade with China. China imported a wide range of books from UK, especially some social science books such as world history, language, philosophy and so on. Compared to the introduction of copyright, China exports fewer copyright to UK. In 2001, China imported 635 kinds of book copyright from the United Kingdom whereas exported no book copyright to UK. In 2010, China imported 2429 kinds of book copyright from UK while exporting 178 kinds to UK. From chart one, we see a substantial growth of the amounts of China's book copyright export to UK from 2001 to 2010, but China's copyright trade with UK is always in deficit status. In recent years, China and UK has made great effort to promote the book copyright trade by various means. For example, China established publishing enterprise

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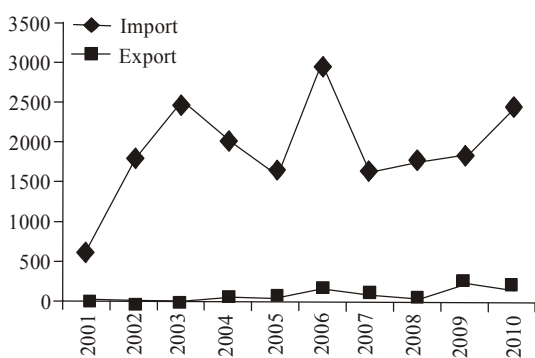


Fig. 1: Compile from the website of National Copyright Bureau of PRC: <http://www.ncac.gov.cn/>

branches in UK and signed strategic cooperation agreement to strengthen communication, China held Beijing International Book Fair and UK held London Book Fair regularly, especially the latest activities in London book fair held on April 16, 2012- "market focus" on China, further promote the Sino-UK copyright trade.

Figure 1 Statistics of 2001-2010 China's book copyright trade with UK (Unit: Kinds)

China's legal system in protecting intellectual property right: After thirty years since the founding of New China, Chinese laws of protecting copyright are almost a blank due to some historical reasons. Since 1990s, China's legislation of foreign copyright protection developed rapidly. In 1982, China enacted 'Trademark Law', which is the first Chinese intellectual property law and then are "patent law" in 1984 and 'copyright law' in 1990. In 1991, the State Council promulgated "Regulations for Implementation of Copyright of People's Republic of China" and "Regulations for protection of Computer Software" successively. In July of 1994, the eighth meeting of the eighth sessions of National People's Congress Standing Committee approved of "Decision on the Punishment of Infringing Copyright Crimes". In July of 1997, the fifth meeting of the eighth sessions of National People's Congress approved of the newly revised 'Criminal Law of the Peoples Republic of China' adding the crime of infringing copyright. The enacting and implementing of these laws and administrative regulations, not only built the foundation of Chinese copyright law system, but also marks the basic completeness of Chinese modern copyright law system construction. In February of 2010, the thirteenth meeting of the eleventh sessions of National People's Congress Standing Committee of People's Republic of China passed 'the Amendment to Copyright Law'; the State Copyright Bureau also announced 'Measures of Copyright Pledge Registration'. In addition, China made a great progress in enacting 'Regulation for protection of folklore

Copyright', 'Means of Voluntary Registration of Works', 'Guidance on Copyright Assets Evaluation' and other laws, regulations and policies, the revised work have also made positive progress. Meanwhile, the State Copyright Bureau also formulated the 'National Cultural System Reform and Development Program' for the 'Twelfth Five-Year Plan'.

In addition, China joined many international copyright conventions, bilateral and multilateral copyright agreement. China has become the member of "Berne Convention" on October 15, 1992 and the member of "World Copyright Convention" on July 30th, 1992. Subsequently China joined the "Album Convention" on April 30, 1993. So far, China has become one of the important new members. of international copyright protection system. According to the "national treatment" principle of protecting copyright stipulated in the three Convention, China has achieved mutual recognition and protection of copyright with the relevant member countries. But Chinese legal system is not perfect, The deficiencies are: the law is too general to enforce in practice and lack of maneuverability and the power of fighting copyright crime is not strong enough and it lags behind the development of modern science and technology and so on. Therefore, it is necessary to formulate policy, laws and regulations, fight against piracy effectively and strengthen the legal conception of protecting copyright trade.

UK's legal system of protecting intellectual property rights: UK is the first country of the world to enact laws protecting intellectual property rights, in 1709 it promulgated "Queen Anna Act", the world's first copyright law to fight piracy. On the one hand, UK strived for improving their own intellectual property rights system. On the other hand, it continued to promote the development of world intellectual property rights protection system. When the pass of world's first international copyright convention "Berne Convention for Protecting Literary and Artistic Works", UK has developed to a high level in protecting intellectual property rights. After 400 years of development, UK has formed a relatively complete and British-featured intellectual property law system. Glass and Xiaodong (2007) The British took part in many international conventions on protection of intellectual property, including "Paris Convention for the Protection of Industrial Property" in 1883, "Berne Convention for the Protection of Literary and Artistic Works" in 1886, "Rome Convention" in 1961, "the Patent Cooperation Treaty" in 1970 and "Trade Related Intellectual Property Rights Agreement" in 1994 etc. For those international conventions, UK implemented them through the corresponding domestic laws. In addition, UK took stronger measures to fight against intellectual property crimes. UK organization against intellectual

property crime issued "2007 Annual Report against the Crimes of Intellectual Property Rights, ensuring that intellectual property crime is no longer regarded as "soft crime" and take effective action against organized crime in the area. And it focused on fighting against IPR infringement by engaging on the work of 'Serious Organized Crime Agency (SOCA)'.

Management of intellectual property right in china:

State Copyright Bureau is the department guiding the work of copyright trade. According to the relevant documents jointly issued by the State Administration for Industry and Commerce and the State Copyright Bureau, setting up copyright agency domestically must get the approval of the State Copyright Bureau. In recent years State Copyright Bureau also did considerable work to support the copyright trade, including holding seminar, doing statistical analysis on copyright trade and guiding the work of relevant associations, etc. But due to its cross-industry characteristics, the State Copyright Bureau can't get the overall situation of all kinds of works' copyright trade within the scope of the copyright trade industry. Because it belongs to the same body with National News and Press Publishing Administration Office it basically grasps the information of book copyright trade, but it has no idea about the copyright trade of audiovisual materials, film, television program, software, works of applied art and so on. For its incomplete information of the overall copyright trade, its confines to guide book copyright trade.

In addition, China has established a number of copyright associations, such as China Copyright Association, the Publishers Association of China and Copyright Protection Committee, etc. There are almost 100 publishing association at various levels throughout China. These organizations make some contribution to promote the development of publishing industry, coordinate internal contradiction and advocate self-discipline of the industry. But most of Chinese publishing associations are composed of part of functions and staffs separated from government departments, which has a strong official, semi-official nature, It hasn't formed the management pattern that government manages indirectly and associations get involved directly. Our association is only an assistance for copyright agencies, involving few activities. It lacks of authority in the industry, so it is weak in the functions of macro coordination.

Management of intellectual property right in UK: It has been more than 150 years since UK government issued "Amendment Act on Patent Law" and established UK Patent Office (UKPO) in 1852. In April, 2007, UK Patent Office officially changed its name to UK Intellectual Property Right Bureau. As an official authority to manage intellectual property right,

UK Intellectual Property Right Bureau is not only responsible for application, examination and approval of patents, designs, trademarks and copyright and so on, but also is responsible for coordinating the relationship of government policy makers, law enforcement departments and enterprises, etc. It formed "intellectual property crime group", severely punishing the crime of intellectual property right. In addition, UK Intellectual Property Right Bureau plays an important role in encouraging innovation and promoting the transformation of technological achievements (Sherwood, 1997).

UK government did not set up an agency specializing in managing publishing industry. Various associations are responsible for the macro-control of publishing industry. Among various publishing associations, the most influential and representative national publishing association are UK Publishers Association and UK Booksellers Association. They assumed almost all macro control function. But there is a government sector in UK which is responsible for guiding publishing industry-"British Culture Council". It actively make various preferential policies, support and assist the two publishing associations to explore overseas market of books and journals. Moreover, UK Overseas Trade Bureau provides hundred thousands pounds of book export subsidies for some British publishing companies every year. UK governments have never levied any value added tax to books, periodicals and newspapers for more than 130 years, so that the books and other publications are always under zero-tax status. Other relevant organizations managing copyright trade include "UK Copyright Department of UK Patent Office", "UK Performance Right Association" and "UK Copyright Collective Management Organization". In addition, UK is the headquarter of IFPI.

Copyright agency is an important bridge and link to international copyright trade. Exporting copyright through copyright agent can help publishing enterprises reduce cost, save capital resources, reduce the cost of human resource, expand the channel of copyright export and improve the output efficiency.

China 's copyright agency: Copyright agency doesn't play a big role in Chinese copyright trade. China's presses have no conception of specialized operation, developing core business by their own. First of all, the power of China's copyright agency industry is weak. From the aspect of amounts, there are only 28 copyright agencies approved by National Copyright Administration, 23 of which were book copyright agencies. Comparing to more than 570 national presses, more than 200 Electronic Audio & Video Publishing House, more than 8000 journal press and other copyright lines, it can't be a part of the publishing industry chain.

Secondly, the power of copyright agencies is weak and the scale of them are very small. They don't have adequate customer resources. Among more than 20 copyright agencies, except some agencies active in foreign copyright trade like head office of Chinese copyright agencies, Shanghai, Guangxi Wanda and Beijing Copyright Agencies etc., many copyright agencies are narrow in scope and they can only provide some basic services like copyright legal consultancy, copyright fees collection and book agency. Some of the copyright agencies almost did not conduct any business. Immature and nonstandard copyright agencies will be a major obstacle keeping Chinese publish from going to the world.

UK copyright agencies: The biggest characteristics of information circulation of UK foreign copyright trade are: agents are the important communication bridge of copyright export and import. Active in the international book copyright market, agents are often conversant in copyright trade knowledge and international practice, strong in social communication and negotiation skills. Having engaged in foreign copyright agency, they often have their own information network. With the help of these agents, not only can we achieve copyright trade successfully, but also we can get bigger economic benefits. Copyright agents help publishers and the works of authors walk towards the world.

There are more than 200 copyright agencies in UK. Most famous writers or authors lived on writing have their own agents. Agents are responsible for their commercial affairs while authors can just concentrate on writing. Agents represent authors to negotiate with the press, making their authors books published and then draw some commission from their publish income. Commission generally accounts for 10~20% of the income of the authors. Some experienced agents mainly make use of their market information network to promote the works to international copyright markets besides looking for domestic market. They negotiated with foreign publishers to transfer copyright under certain conditions. In addition, the agents will actively market the other rights of using works to some medias like newspapers and magazines to maximize the value of the works. Most of the big presses have cooperative relations with the main language-spoken areas, or they hire specialized agents acting on their own to contact with presses of other areas and deal with the issues of copyright overseas sales.

China's main copyright trade patterns-copyright transfer: There are commonly three main patterns of copyright trade in international publishing industry. They are: copyright transfer, copyright license and collaborative publication with foreign countries. Most of the time China choose relatively simple patterns-copyright transfer and try collaborative publication with foreign countries.

Copyright transfer is a behavior that both parties sell all or part of their economic rights to the transferees to realize copyright trade through contracts. In China, copyright transfer is mainly applied in copyright export. The more we exercise, the greater benefits we get.

Copyright transfer, especially the one-time transfer of all copyright, the copyright terms for sale, the proceeds are less than other patterns (such as copyright license). This pattern is more beneficial for copyright importers but the exporters. Copyright export is very limited in Chinese copyright trade. And in this limited copyright export trade, China has no choice but choosing this pattern which would maximum the benefits of the transferee. Because it is not long before China began copyright trade and distribution network of international copyright is far from being formed. Li (2007) Most presses have just begun international copyright trade with little experience and inadequate knowledge of copyright, lacking operation ability of copyright trade and risk awareness and seeking quick success. Some presses are just satisfied with short-term profit. In such stage, press will choose copyright transfer to do foreign copyright trade.

UK's main copyright trade patterns-copyright license: Copyright license is a kind of copyright trade patterns that the copyright owners authorize one or a few of its copyright to others in use within a certain period of time and a certain range of areas. It permits the license holders use some kinds of right within the validity period through issuing licenses. Because copyright ownership is not transferred, the profit we get is few if we just use copyright once and the copyright owners should face many complicated copyright problems. However, copyright owners can obtain larger profits by issuing license repeatedly. So, this is a kind of flexible, risky and the difficult operational pattern, we can have higher earnings only by using it properly, It has been a long history since UK publishers engaged on foreign copyright trade. They have perfect international distribution network and strong marketing skills. Therefore, they usually adopt the pattern of copyright license to do copyright trade and obtain higher profits through licensing the use of their copyright many times.

CONCLUSION

Compared with UK, China lags behind UK in the legal system of copyright protection. China should quicken its step to construct intellectual property laws and regulations system and fight against piracy, forming a complete intellectual property laws and regulations system which meets international standards and in line with Chinese situation. Through safe legal system, we should further stimulate the scientific and technical innovation enthusiasm of Chinese enterprises and individuals and protect the legitimate rights of intellectual property owners; for the management of

intellectual property, we should improve the working ability and service consciousness of intellectual property management departments, improve the professional quality of personnel in intellectual property rights management department, increase autonomy of industry association on the copyright management, reduce government intervention, improve the policy environment, give policy support to the copyright trade enterprises to adapt the market economy ; from the two main sources of information, China should improve the copyright agency ; from the view of copyright trade patterns, China should seek suitable ways to promote copyright trade, like copyright license and cooperating with foreign presses.

The significance of this study is further promoting the research of international copyright trade by trying to do the comparison between UK and China, which former researches were focused on only one or two aspects of their copyright trade, respectively while this study try to do a comprehensive research on each aspect in this field although there are many deficits.

Generally speaking, China's current legal environment, policy environment, domestic and international economic environment is favorable for the development of copyright trade .China should seize the opportunity, meet the challenge and learn the good

experience of UK to explore their own way to develop copyright trade.

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