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Postprint: Dilemmas, Causes, and Countermeasures of Library Copyright Infringement from the Perspective of Civil Code Rights Remedy

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Abstract

[Purpose/Significance] Systematically analyzing judicial decisions in library copyright infringement cases over the past 20 years, this study aims to provide practical countermeasures for libraries.

[Method/Process] Employing the case empirical analysis method, this research first summarizes from a macro perspective the specific manifestations of libraries' defeats in copyright infringement disputes, then conducts legal analysis on specific cases from a micro perspective to dissect the reasons for such defeats.

[Results/Conclusion] The results indicate that libraries' defeat rate, the rate of compensation claims supported by courts, and economic compensation amounts have all increased year by year. The primary reason lies in the operational model of online reading services for digital works, where libraries are often forced to bear joint liability due to the faults of database providers. In practice, libraries should protect their interests by actively preventing infringement, actively responding to litigation, and pursuing timely post-litigation recourse.

Full Text

The Dilemma, Causes, and Countermeasures of Library Copyright Infringement from the Perspective of Civil Code Rights Relief

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Abstract:

[Purpose/Significance] This study systematically analyzes judicial decisions in

library copyright infringement cases over the past 20 years to provide practical solutions for libraries. [Method/Process] Using case empirical analysis, this paper first summarizes the specific manifestations of libraries' disadvantages in copyright disputes from a macro perspective, then conducts legal analysis of specific cases from a micro perspective to examine the reasons for these failures. [Result/Conclusion] The results show that libraries' loss rates, court compensation support rates, and economic compensation amounts have all increased year by year. The primary reason is that in the operational model of digital works online reading services, libraries are often forced to bear joint liability due to database providers' faults. In practice, libraries should protect their interests through proactive infringement prevention, active litigation response, and timely post-litigation recovery.

Keywords: library; copyright; digital works; information network dissemination right; fair use

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Libraries are important indicators of national cultural development levels and vital venues for nourishing national spirit and cultivating cultural confidence. For many years, libraries have played crucial roles in inheriting civilization and serving society. With the rapid development of internet technology and artificial intelligence, traditional paper-based reading can no longer satisfy readers' needs. To adapt to the times and meet online reading demands, libraries have undergone digital and networked transformation in recent years. However, opportunities coexist with challenges: while internet technology brings convenience to library users, it also exposes libraries to increasingly severe litigation risks for copyright infringement.

The Civil Code of the People's Republic of China (hereinafter referred to as the "Civil Code") took effect on January 1, 2021, systematically consolidating previous civil laws and regulations and providing clearer remedies for protecting citizens' civil rights, including copyright.

1 Literature Review

The digital age has brought unprecedented development opportunities to libraries while simultaneously trapping them in copyright infringement litigation dilemmas. Empirical research on library copyright infringement cases over the past two decades can accurately identify problems and facilitate targeted solutions. Current academic research has conducted certain empirical studies on library copyright infringement, with some scholars analyzing past cases comprehensively, others examining specific cases legally, and some using typical foreign cases to provide comparative perspectives for solving similar problems in China. As a rights relief law, the Tort Liability Section of the Civil Code provides clearer remedies for protecting civil rights, including copyright. The promulgation of the Civil Code and accompanying legal publicity campaigns have stimulated cit-

izens' enthusiasm for protecting their rights through civil litigation. With the Civil Code's formal implementation and enhanced public awareness of rights protection, libraries face increasingly severe copyright infringement litigation risks.

This paper examines judicial decisions in library copyright infringement cases from courts at all levels as primary reference materials, conducting empirical analysis of the current status and causes of library copyright infringement litigation, and proposing practical legal solutions to prevent various services and workflow risks in light of the Civil Code's implementation.

Copyright infringement risks may exist in various services and workflow stages of libraries, such as risks encountered in reference consultation work, risks arising from link service provision, risks in establishing image databases, risks in MOOC services in university libraries, and risks in digital reading services. Previous research has analyzed the current status of library copyright infringement and corresponding improvement measures from different perspectives. Some scholars attribute library copyright litigation problems to a lack of copyright law awareness, while others cite limited digital resources, unclear scope of digital library rights, and reader misunderstandings. Some argue that institutional defects exist in the fair use rights allocation for public libraries.

Most scholars seek solutions from legal interpretation and theoretical foundations of fair use. Some empirical research suggests that legislation should appropriately broaden the scope of "fair use" while libraries should improve their own practices by establishing specialized agencies to reduce litigation risks. Given the increasingly severe copyright infringement litigation, libraries indeed need specialized agencies to respond. Some scholars have conducted empirical analysis of copyright disputes caused by mirror services, recommending active litigation response and negotiation with copyright holders as countermeasures. Others have analyzed typical German cases, arguing that legislation should legitimize electronic copying of library collections as fair use. However, as digitalization accelerates and e-books may replace traditional paper books as citizens' primary reading method, treating electronic copying as fair use would significantly harm authors' rights. Some scholars have used the U.S. Google Books case to reshape the flexibility of China's Copyright Law fair use provisions with transformative use as a core judgment element.

Existing research examines copyright infringement risks, causes, and countermeasures in different service stages from various angles. However, common problems exist: scholars rarely discuss the substantive content of judicial decisions in depth, and sample selection, statistics, and classification methods need improvement. Moreover, most scholars provide legislative suggestions from a theoretical perspective, focusing on expanding "fair use" scope. Such legislative proposals face resistance both theoretically and practically. Theoretically, "fair use" should be limited to specific circumstances stipulated by law, leaving courts little interpretive space. Practically, "fair use" interpretation and application will be strictly limited. Empirical analysis of judicial decisions since 2000 reveals

that libraries' "fair use" defenses are rarely supported by courts.

To more objectively reflect the current status and causes of library copyright infringement litigation, this paper examines 1,376 judicial decisions from Beida Fabao over the past 20 years, comprehensively considering case details, parties, and litigation procedures for classification, and conducting in-depth discussions on the reflected status and underlying causes. Simultaneously, this paper examines libraries' specific performance when facing copyright infringement lawsuits to provide targeted improvement measures.

2 Research Methods and Sample Selection

2.1 Research Methods

This paper employs empirical analysis methods, studying real cases where libraries were sued for copyright infringement over the past 20 years. Through statistical analysis, classification, and case examination, this research reflects the current status and causes of library copyright infringement litigation. As U.S. Supreme Court Justice Holmes stated, "The life of the law has not been logic; it has been experience." Judicial decisions are the most reliable materials reflecting practical problems. Studying library copyright infringement cases can identify difficulties libraries encounter in judicial activities and propose corresponding preventive measures.

2.2 Sample Selection

Using Beida Fabao's advanced search function, selecting "copyright infringement" as case type, "library" as party, and "until November 18, 2020" as time-frame, yielded 1,376 judicial decisions. Case counting is based not simply on the number of decisions but comprehensively considers factors including parties, case details, courts, and trial dates.

2.2.1 Excluding Irrelevant Cases Cases were excluded where the party name contained "library" but the entity was not actually a library. Among the 1,376 retrieved decisions, 59 involving "Beijing Shusheng Digital Library Software Technology Co., Ltd." and 14 involving "National Library Press" were excluded.

2.2.2 Merging Related Cases First, cases with identical parties, courts, litigation timing, and substantially similar facts were merged. For example, in 2017, Henan Provincial Library was involved in 633 decisions (621 withdrawal rulings and 12 jurisdictional objection rulings), all initiated by the same plaintiff against different works with consistent courts, judges, and trial times, and were merged into one case. Similarly, 226 decisions involving Mianyang Library as co-defendant, 105 involving Chongqing Library, 53 involving Xiamen Jianbo Library, 54 involving Hubei Provincial Library, and 8 involving Jiangle County Library were merged into single cases.

Second, cases involving multiple libraries were counted as one case. For instance, in *Encyclopedia of China Publishing House v. Beijing Century Superstar Information Technology Development Co., Ltd.*, both Shenzhen Library and Shenzhen University Town Library were involved with multiple similar decisions, and were merged into one case.

Finally, cases where the same plaintiff sued the same library with different co-defendants for the same work were merged due to substantially similar facts. For example, 17 lawsuits initiated by Zhang Haishan and 10 by Xie Qingfang, all with Guangdong Provincial Sun Yat-sen Library as co-defendant, were merged into single cases.

After excluding irrelevant decisions and merging related ones, the 1,376 decisions from Beida Fabao were consolidated into 97 cases involving 41 libraries total, with some libraries involved in copyright disputes almost annually. This paper uses these 97 cases involving over 1,000 decisions as the empirical research object.

2.2.3 Library Loss Rate In numerous lawsuits initiated by the same plaintiff against the same library, outcomes varied between wins, losses, and losses without compensation liability. When calculating loss rates, cases where libraries lost and bore compensation liability were counted as loss cases. For example, among 105 lawsuits against Chongqing Library with 89 losses, this was counted as one loss case with compensation amount being the sum of all 89 decisions.

2.2.4 Compensation Support Rate The compensation support rate refers to the ratio between the compensation amount courts ordered libraries to bear (solely or jointly) and the amount plaintiffs requested, calculated only based on library loss cases rather than all cases.

3 Empirical Analysis of Current Library Copyright Litigation in China

3.1 Increasingly Frequent Library Copyright Litigation

Overall trends show increasing numbers of libraries involved in copyright litigation, particularly noticeable in the past five years. Before 2014, only one or two libraries were sued annually for copyright infringement. Since 2014, both the number of libraries involved and cases have increased significantly, with some libraries being sued almost every year. Additionally, the number of judicial decisions has grown substantially, indicating increasingly severe copyright disputes

3.2 Increasingly Unfavorable Judgments for Libraries

First, the proportion of copyright disputes resolved through litigation has increased. In cases from 2001-2014, plaintiffs typically withdrew lawsuits volun-

tarily, with a few rulings indicating settlement as the reason. Since 2014, cases resolved through final court judgments have increased significantly. This reflects accelerated rule-of-law development and enhanced public legal awareness, stimulating citizens' enthusiasm for protecting rights through legal channels. With the Civil Code's implementation, library copyright litigation may continue rising.

Second, library loss cases have increased. Before 2014, libraries did not lose copyright infringement cases, with courts typically finding no infringement or plaintiffs withdrawing. Since 2014, library loss rates have risen noticeably.

Third, courts increasingly support plaintiffs' compensation requests. In most library loss cases, courts ordered libraries to bear compensation liability, either solely or jointly. Only a few loss cases resulted in libraries bearing only cessation of infringement without compensation liability. Among these loss cases, the proportion of compensation requests supported by courts has increased annually.

Finally, libraries face enormous economic pressure from losses. Since 2014, as library loss rates and court compensation support rates have risen, compensation amounts have also increased [Figure 1: see original paper]. In 2017, Ningde Jiaocheng District Library was ordered to pay 1.24 million yuan in two joint liability cases [Figure 2: see original paper]. In 2018, Mianyang Library was ordered to jointly compensate 2.27 million yuan with Beijing Century Superstar Information Technology Development Co., Ltd. for infringing Peking University Press's information network dissemination rights. In 2019, Xiamen Jianbo Library compensated 1.57 million yuan across three cases, with a single case reaching 439,000 yuan.

3.3 Content of Library Copyright Cases

3.3.1 Text Works Predominate Regarding work types, text works constitute the majority. Approximately two-thirds of all examined cases ended in plaintiff withdrawal, with withdrawal rulings lacking detailed case facts. Among cases resolved by court judgment, most involved text works, primarily books. Two cases involved WeChat public account articles where libraries published unauthorized content. Three cases involved film works where libraries made movies available on their websites. One case involved artistic works (actually 17 similar lawsuits merged into one case). Another case involved computer software where a library installed and used a "desktop system" without authorization.

3.3.2 Information Network Dissemination Rights Most Frequently Infringed The most frequently infringed right in library copyright cases is information network dissemination rights, primarily for text works. Most cases share a common feature: libraries were sued mainly due to faults by database providers supplying digital materials. With rapid digital technology development and the shift from paper to electronic reading, libraries must purchase

electronic resources from database providers to meet user demands. Although database providers typically guarantee their electronic works are free from rights defects, in practice they often lack or lose their rights foundation. In such cases, database providers supply reading services while libraries provide links—both essential for users to access the works. This constitutes typical joint tortious conduct with mutual intent, making libraries and database providers jointly liable.

A few cases involved infringements of attribution rights, compilation rights, reproduction rights, and distribution rights, mostly appearing in cases where libraries were sole defendants.

3.3.3 Libraries Usually Co-Defendants Library copyright cases fall into two categories: (1) libraries as sole defendants, and (2) libraries as co-defendants. In the first category, only a few cases involved economic compensation, with over 70% ending in plaintiff withdrawal and a minority resulting in courts ordering libraries to cease infringement. In the second category, many also ended in withdrawal. In adjudicated cases, libraries usually bore joint liability. In one case, although the plaintiff sued a library and an institution as co-defendants, the court ultimately ordered the library to bear sole liability. In seven cases, libraries bore no compensation liability [Figure 3: see original paper].

Article 10 of the Copyright Law explicitly protects seventeen rights. In practice, cases often involve multiple infringed rights.

3.3.4 Joint Liability in Most Cases Among 32 cases with libraries as sole defendants, plaintiffs withdrew in 20 cases. Of the remaining 12 cases, libraries bore compensation liability in 6, 2 involved enforcement of effective judgments indicating liability, and courts dismissed plaintiffs' claims in 4 cases [Figure 3: see original paper].

Among 65 cases with libraries as co-defendants, plaintiffs withdrew in 43 cases, courts ordered joint liability in 14 cases, ordered sole library liability in 1 case, and libraries bore no liability in 7 cases. Although only 14 cases involved joint liability, these encompassed over 1,000 decisions covering numerous text works with enormous joint compensation amounts. Chongqing Library lost 89 of 105 lawsuits with total compensation reaching 3.18 million yuan.

In cases where libraries were sole defendants and plaintiffs prevailed, the highest compensation was 45,000 yuan for information network dissemination right infringement. In co-defendant cases, several libraries faced huge joint liability. The greatest financial risk libraries face comes from information network dissemination right infringement, with compensation far exceeding other cases (maximum 8,000 yuan for other rights).

4 Causes of Library Copyright Litigation Issues in China

Empirical analysis of 1,376 decisions reveals libraries increasingly lose copyright litigation, with rising loss rates and compensation support rates, creating enormous economic pressure. As non-profit public institutions, libraries often lack subjective malice in infringement, yet cannot escape liability. Several factors merit consideration:

4.1 Libraries Passively Dragged into Litigation

First, the business model of digital works online reading services inherently contains infringement risks. Libraries' heavy financial burdens share a common feature: being sued as co-defendants due to database providers' faults. This relates closely to the current operational model. Typically, authors grant copyright to publishers, who commission database providers to digitize works and allow limited-term use. Database providers then sell online reading services to libraries with contractual terms [Figure 4: see original paper].

In this legal relationship chain [Figure 4: see original paper], any defect in legal acts between authors and publishers or between publishers and database providers inevitably creates infringement risk. For example, if the author-publisher legal act is invalid while subsequent contracts remain valid, libraries legally obtaining rights will still infringe because database providers and publishers have lost their rights foundation. Similarly, if an author-publisher contract expires January 1, 2021, the publisher-database provider contract expires February 1, 2021, and the database provider-library contract expires March 1, 2021, any failure to timely notify subsequent parties to cease use constitutes infringement.

Second, libraries and database providers often constitute joint infringement. Although libraries lack subjective intent or profit motives, they objectively provide users opportunities to read, copy, and redistribute works, making them liable. Article 1168 of the Civil Code states: "Where two or more persons jointly commit a tortious act causing damage, they shall bear joint liability." This continues Article 8 of the Tort Liability Law. Joint infringement refers to multiple persons infringing others' legitimate rights based on common fault. Theoretical approaches include subjective theory (requiring common fault and mutual intent), objective theory (allowing joint infringement without mutual intent), and compromise theory (requiring fault but not mutual intent). Judicial practice shows 分歧, with some courts adopting subjective theory and others objective theory. However, most cases find that database providers supply resources while libraries provide links—both essential for causing damage—thus constituting joint liability.

Third, "contract relativity" limitations. In high-compensation cases, the typical legal relationship involves: publishers granting non-exclusive network dissemination rights to database providers for limited terms; database providers supplying digital works to libraries; and libraries providing user links. Although both sets

of legal relationships are valid, contract relativity restricts their effect to the parties involved. Database providers' warranty of rights legitimacy cannot exempt libraries from infringement liability. When the first legal relationship terminates due to contract expiration, parties in the subsequent relationship naturally lose their authorization basis, objectively constituting infringement despite lacking subjective intent.

Finally, database providers' monopoly forces libraries to take risks. Analysis of co-defendant cases reveals litigation risk actually concentrates among a few database providers. For example, Beijing Century Superstar Information Technology Development Co., Ltd. has been jointly liable with multiple libraries including Shenzhen Library and Guangdong Provincial Sun Yat-sen Library. Libraries have limited choice, 只能从几家数据库提供商购买在线阅读服务. Additionally, libraries can only purchase digital works in bulk, making review costs high. Even with reasonable review, copyright infringement cannot be completely avoided.

4.2 “Fair Use” or Copyright Exceptions Difficult to Establish in Practice

First, copyright disputes are civil disputes where parties have equal litigation status according to civil law principles. Although libraries are public welfare, non-profit institutions, courts do not treat them differently in copyright cases. According to mainstream Chinese legal theory, tort law's legislative purpose is remedying damages, with judicial practice oriented toward protecting infringement victims. With the Civil Code's implementation and increasing emphasis on intellectual property protection, the Tort Liability Section will provide stronger protection for citizens' copyright, posing significant challenges to libraries.

Second, fair use constitutes limitations and exceptions to copyright as a right against the world. Interpretationally, fair use must be strictly limited to legally specified circumstances; otherwise, private rights would be nullified. In decades of Chinese judicial practice, courts have rarely accepted libraries' “fair use” defenses. In most cases, courts reject libraries' “fair use” or “copyright exception” arguments. In *Peking University Press Co., Ltd. v. Mianyang Library*, the court held that the library's public welfare nature did not constitute legitimate grounds for infringement. Similarly, in *Zhan Qizhi v. Shenzhen Library*, the court ruled that infringement and liability do not require intent or profit, and the library's public welfare nature was not legitimate justification.

4.3 Increasingly Professional Copyright Holder Litigation

With rapid socioeconomic development, accelerated rule of law, and the codification era, public awareness of rights protection has increased. Since 2014, plaintiffs have increasingly sought professional assistance from law firms and agencies. For example, Beijing Sanmianxiang Copyright Agency Co., Ltd. achieved 100% compensation support rates in some library infringement cases. In 46 lawsuits against Chongqing Library as co-defendant, courts supported plaintiffs' full com-

pensation requests. These 46 decisions show plaintiffs calculated infringement damages precisely with sufficient evidence, while defendant libraries appeared passive, with unsuccessful defenses and insufficient evidence, leading to unfavorable judgments.

4.4 Deficiencies in Libraries' Own Rights Protection

In contrast to increasingly professional copyright holder litigation, libraries demonstrate inadequate professionalism. First, some libraries lack copyright awareness, ignoring others' rights. For example, in Fei County Library case, the library published others' works on its WeChat public account without authorization. Second, libraries lack professionalism when facing litigation, even responding negatively. In the aforementioned case, the library did not seek professional assistance. In most cases, libraries do not seek professional help. In some cases, co-defendant libraries even failed to appear in court—a common occurrence. In Xie Qingfang copyright dispute, the library refused to appear without proper reason, resulting in default judgment. Such negative behavior increases loss risk and compensation amounts. Third, some libraries failed to take timely measures to prevent or reduce losses after discovering infringement, such as promptly deleting links and notifying database providers. Finally, whether libraries timely recover losses from database providers after losing cases requires examination. In most situations, libraries are passively dragged into disputes, and contracts with database providers or publishers typically contain relevant provisions allowing recovery after liability. However, no corresponding cases were found in the retrieved decisions.

4.5 Defective Compensation Calculation Methods

In all cases where libraries lost and bore compensation liability, courts typically calculated compensation based on word count according to the *Measures for Payment of Remuneration for Use of Written Works*, since actual losses or illegal profits were difficult to calculate. This method has two deficiencies:

First, word-count-based compensation is biased. Even if few users read a work, compensation is still calculated by word count, compromising fairness. Proving readership is costly for plaintiffs and risks evidence destruction for libraries or database providers. Word-count calculation is a 无奈之举.

Second, overlapping calculation is possible. In some cases, plaintiffs sued different defendants for the same work, potentially listing the same library or database provider as co-defendant in each lawsuit. If compensation is still calculated by word count, duplication may occur. For example, in Zhang Haishan's 17 lawsuits regarding his artistic work "Zhang Haishan Rui Xie Ti," Guangdong Provincial Sun Yat-sen Library was co-defendant in each.

5 Prevention of Copyright Disputes from the Perspective of Civil Code Implementation

The Civil Code aims to maximize people's interests, with core functions of guaranteeing civil rights and establishing complete protection mechanisms. Although copyright lacks systematic arrangement in the Civil Code, the General Principles and Tort Liability Section contain principled provisions providing powerful protection. The Tort Liability Section, focusing on civil rights relief, imposes higher protection requirements, meaning the law attaches greater importance to copyright protection while providing more effective and convenient remedies. Against this backdrop, libraries face enormous challenges while performing important social functions. The following points merit consideration for improving the legal risk environment:

First, based on Civil Code Article 123, further improve China's intellectual property legal system by introducing statutory licensing systems. The root problem lies in the overly complex legal relationship chain: author-publisher-database provider-library. Defects in any preceding relationship inevitably cause libraries to lose their rights foundation. Establishing direct legal relationships between authors and libraries is the optimal solution to avoid litigation. For published works, allowing libraries statutory licensed use after paying reasonable remuneration would enable them to provide reading services. Current online reading service costs and infringement compensation risks are severely misaligned, hindering libraries' social functions. Statutory licensing can effectively resolve this contradiction. Copyright laws in South Korea, Japan, and New Zealand contain special statutory licensing systems for libraries worth referencing, aiming to balance copyright, improve authorization efficiency, protect rights holders' interests, and address public demands.

Second, libraries should conduct legal risk assessments when contracting with database providers. Database providers supply tens or hundreds of thousands of e-books to libraries, theoretically requiring valid contracts with authors for each book. With such numerous copyright contracts, libraries cannot easily identify defects. Although database providers contractually warrant their e-books are free from rights defects, they cannot practically eliminate legal risks without substantial resources for legal assessment of each book's copyright. Therefore, libraries should first assess database providers as commercial entities, then assess contracts themselves. As mentioned, some database providers' unilateral faults are the main reason most libraries become co-defendants. Libraries should review providers when purchasing online reading services, improve negotiation capabilities, and conduct legal risk prevention. Contracts should explicitly stipulate that database providers warrant rights legitimacy and bear corresponding liability for defects.

Third, libraries should actively research copyright infringement risks in the digital age and improve their own practices for proper prevention. First, enhance legal awareness to avoid infringing others' rights. Second, conduct legal public-

ity to improve users' awareness and respect for copyright. Third, strictly regulate online reading services, promptly address problems, and notify database providers. In *Beijing Junxianlin Cultural Media Co., Ltd. v. Suzhou Library*, the defendant library's timely deletion of infringing works played a positive role in reducing losses or even avoiding liability.

Fourth, respond actively when litigation occurs. In some cases, libraries failed to respond positively or even missed court appearances, exacerbating their situation and potentially leading to more unfavorable judgments. When litigation cannot be avoided, libraries should seek professional assistance to protect their interests.

Fifth, promptly recover compensation from database providers after losing cases. In most situations, libraries are passively dragged into disputes. Although lacking fault, they cannot avoid litigation due to objective mutual intent with database providers. However, based on contracts with database providers, even without explicit risk allocation provisions, database providers have obligations to guarantee their products are free from rights defects under general contract principles. Therefore, even after losing, libraries can still recover from database providers.

References

- [1] Xinhua News Agency. Xi Jinping's Reply to National Library Senior Experts [EB/OL]. [2019-09-09]. http://www.xinhuanet.com/politics/leaders/2019-09/09/c_1124978597.htm.
- [2] Dou Yumeng. Research on Avoiding Infringement Risks in Reference Consultation Work—Taking Capital Library as an Example [J]. *New Century Library*, 2014(9): 33-36.
- [3] Su Mingqiang. Empirical Analysis of Legal Liability for Library Link Services [J]. *Library Construction*, 2013(3): 11-14, 19.
- [4] Zhang Li, Liu Xuezhong, Su Guizhang, et al. Research on Copyright Issues of Library Image Databases [J]. *Library Work and Research*, 2020(11): 51-56.
- [5] Ji Yukuan. Copyright Infringement Risks and Countermeasures for University Library MOOC Services [J]. *Journal of Academic Libraries*, 2018(04): 68-73.
- [6] Ji Yukuan. Research on Copyright Infringement Avoidance Strategies in Library Digital Reading Services [J]. *Library Work and Research*, 2020(10): 5-11.
- [7] Wang Ying, Wu Gang. Research on Libraries' Obligations and Responsibilities in Copyright Protection—Based on Case Analysis [J]. *Library Journal*, 2016(3): 21-25.

- [8] Yao Ming. Reflections from the Defendant's Stand: Research on Public Library Copyright Infringement Prevention in China—Based on Empirical Analysis of 1,856 Judicial Decisions [J]. *Library Construction*, 2021(2): 83-88, 97.
- [9] Wei Jingzhu, Dong Baolei. Research on Library Copyright Infringement Cases [J]. *Library Tribune*, 2015(11): 27-33.
- [10] Zhou Gangzhi, Wang Xingxing. Allocation of Fair Use Rights for Public Libraries in the Information Network Era—From the Perspective of Shenzhen Library Information Network Dissemination Right Infringement Case [J]. *Library Construction*. <https://kns.cnki.net/kcms/detail/23.1331.G2.20200717.1332.008.html>.
- [11] Wang Guo, Zhang Libin. Case Analysis and Legal Reflection on Library Copyright Infringement Cases in the Internet Era [J]. *Library and Information Service*, 2019(8): 29-37.
- [12] Qin Ke. Analysis of Copyright Infringement Liability Determination and Dispute Resolution Strategies for Library Mirror Services—Reflections Based on Legislation and Multiple Public Library Copyright Infringement Case Judicial Practices [J]. *University Library Work*, 2014(2): 23-28.
- [13] Xu Le. Comparative Study on Legal Issues of Libraries Providing Electronic Versions of Collection Works to Readers—Examining German Court Decisions on “Eugen Ulmer Publishing House v. Darmstadt University of Science and Technology Library” [J]. *Library*, 2016(11): 80-85.
- [14] Yao Hehui. Improving Fair Use System in the Internet Era from the U.S. Google Books Case [J]. *Library*, 2016(11): 86-91.
- [15] Xiamen Siming District People's Court Civil Judgment (2019) Min 0203 Min Chu No. 4568 [EB/OL]. [2021-02-22]. <https://www.pkulaw.com/pfnl/a6bdb3332ec0adc48c2d8a1d85265fad07af>.
- [16] Liaoning Provincial Higher People's Court Civil Judgment (2019) Liao Min Zhong No. 207 [EB/OL]. [2021-02-22]. <https://www.pkulaw.com/pfnl/a6bdb3332ec0adc44e36503c6e2a0bbf18d>.
- [17] Supreme People's Court Civil Judgment (2011) Min Shen No. 686 [EB/OL]. [2021-02-22]. <https://www.pkulaw.com/pfnl/a25051f3312b07f3a87d905aa1ccd415bb8d01eb11093bb1bdfb.html>.
- [18] Beijing No. 1 Intermediate People's Court Civil Judgment (2010) Yi Zhong Min Chu Zi No. 7619 [EB/OL]. [2021-02-22]. <https://www.pkulaw.com/pfnl/a25051f3312b07f39e85efb43c0ce4e>.
- [19] Wang Liming. Research on Difficult Issues in Tort Liability Law [M]. Beijing: China Legal Publishing House, 2012: 210.
- [20] Tong Rou. Principles of Civil Law [M]. Beijing: Law Press, 1986: 227.
- [21] Wang Liming. Research on Difficult Issues in Tort Liability Law [M]. Beijing: China Legal Publishing House, 2012: 207.
- [22] Beijing Internet Court Civil Judgment (2018) Jing 0491 Min Chu No. 1784 [EB/OL]. [2021-02-22]. <https://www.pkulaw.com/pfnl/a6bdb3332ec0adc45ae75c9f919b05a04bdd6d0801bcd38>.

- [23] Beijing Haidian District People's Court Civil Judgment (2019) Jing 0108 Min Chu No. 17122 [EB/OL]. [2021-02-22]. <https://www.pkulaw.com/pfnl/a6bdb3332ec0adc47ced57e68b64c45>
- [24] Wang Liming. System Innovation: Characteristics and Contributions of China's Civil Code [J]. *Comparative Law Review*, 2020(04): 1-13.
- [25] Shenzhen Intermediate People's Court Civil Judgment (2017) Yue 03 Min Zhong No. 15421 [EB/OL]. [2021-02-22]. <https://www.pkulaw.com/pfnl/a6bdb3332ec0adc47ced57e68b64c455f>
- [26] Liaoning Provincial Higher People's Court Civil Judgment (2019) Liao Min Zhong No. 207 [EB/OL]. [2021-02-22]. <https://www.pkulaw.com/pfnl/a6bdb3332ec0adc449e36503c6e2a0bbf18>
- [27] Guangzhou Intellectual Property Court Civil Judgment (2017) Yue 73 Min Zhong No. 586 [EB/OL]. [2021-02-22]. <https://www.pkulaw.com/pfnl/a25051f3312b07f3d8d4871bee1a7553db1>
- [28] Wang Liming. On the People-Oriented Nature of the Civil Code [J]. *Journal of Renmin University of China*, 2020(04): 2-10.
- [29] Yang Xudong. Examination and Reflection on Intellectual Property Not Being Independently Codified in the Civil Code—On the Connection Between Intellectual Property Law Systematization and the Civil Code [J]. *Journal of Chongqing Technology and Business University (Social Sciences Edition)*, 2020(06): 139-148.
- [30] Sun Kaiyuan. From Fair Use System to Statutory Licensing System—Legislative Ideas to Balance Data Providers' Copyright Abuse [J]. *Library Tribune*, 2015(11): 52-56.

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Keywords: library; copyright; digital works; information network dissemination right; fair use

Note: Figure translations are in progress. See original paper for figures.

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