

Exploration of Copyright Collective Management Models in the Internet Era: Postprint

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Abstract

[Purpose/Significance] With the rapid development of the Internet, traditional collective management of copyright has faced tremendous challenges, making changes to the model inevitable. [Process/Method] For copyright collective management in the Internet era, this paper proposes an open model, and analyzes the model's definition, construction challenges, and countermeasures, with the aim of contributing to copyright protection. [Results/Conclusion] Copyright collective management needs to address issues concerning laws, regulations, and related policies, licensing, rights protection, dissemination efficiency, as well as the construction of management system platforms.

Full Text

Preamble

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Discussion on Collective Copyright Management Models in the Internet Era: A Case Study of Written Works

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Abstract

[**Purpose/Significance**] With the rapid development of the internet, traditional collective copyright management has faced tremendous disruption, making model transformation inevitable. [**Process/Method**] This paper proposes an open collective copyright management model for the internet era, analyzing its definition, implementation challenges, and countermeasures to contribute to copyright protection. [**Result/Conclusion**] Collective copyright management must address issues related to laws and regulations, licensing, rights enforcement, dissemination efficiency, and management system platform construction.

Keywords: Internet; Copyright; Collective Management

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1. Basic Models of Collective Copyright Management at Home and Abroad

Since the mid-19th century, numerous countries worldwide have established collective copyright management systems, leading to the formation of various organizations with differing structural, managerial, and operational models. While the core content of these systems remains largely similar across nations, their organizational structures exhibit significant variations. The two primary models are competitive and monopolistic. The competitive model permits multiple organizations to manage the same category or individual works, allowing rights holders to independently select their representatives. Countries such as the United States and Canada employ this approach. In contrast, the monopolistic model designates a single organization within a specific country or region to manage copyrights for each type of work, with this sole authority issuing blanket licenses and providing services to users. Spain and Brazil are among the nations adopting this model.

The nature of collective copyright management organizations constitutes another crucial factor influencing the development of copyright management in a given country or region. These organizations primarily fall into three categories: civil associations, official agencies, and semi-official bodies, with their status typically codified in relevant national laws and regulations. In common law countries, collective copyright management is legally regarded as commercial activity, with copyrights treated as movable property. Consequently, such organizations are generally regulated under company law and competition law, subject to antitrust constraints, with minimal government interference in their establishment, operation, and development.

1.2.1 Overview

China's legal framework provides relatively comprehensive definitions of collective copyright management and related organizations. The current *Regulations on Collective Administration of Copyright* define collective administration as activities undertaken by a collective management organization, authorized by rights holders, to centrally exercise relevant rights in its own name. These activities include: entering into copyright or related rights licensing agreements with users; collecting royalties from users; distributing royalties to rights holders; and conducting litigation or arbitration concerning copyright or related rights. The regulations further define collective copyright management organizations as

social groups legally established for the benefit of rights holders, authorized to collectively manage copyrights or related rights.

Article 8 of the *Copyright Law of the People's Republic of China* stipulates that copyright holders and owners of related rights may authorize collective management organizations to exercise their rights. Once authorized, these organizations may assert rights on behalf of copyright holders and related rights owners, and may act as parties in litigation or arbitration proceedings. The law also specifies that collective management organizations are non-profit entities, with their establishment methods, rights and obligations, royalty collection and distribution, and oversight mechanisms to be separately stipulated by the State Council.

1.2.2 China's Basic Model of Collective Copyright Management

Article 6 of the current *Regulations on Collective Administration of Copyright* explicitly states that, except for organizations established under these regulations, no other organizations or individuals may engage in collective copyright management activities. Article 7 further specifies the conditions for establishing such organizations: the initiating rights holders must number no fewer than 50; the organization's business scope must not overlap with that of any legally registered collective management organization; it must be able to represent the interests of relevant rights holders nationwide; and it must have drafted articles of association, royalty collection standards, and methods for transferring royalties to rights holders.

Article 44 stipulates that any organization or individual that establishes a collective copyright management organization or branch without authorization, or engages in collective copyright management activities without permission, shall be banned by the State Council's copyright administration department or the Ministry of Civil Affairs according to their respective duties, with any illegal income confiscated; criminal liability shall be pursued if the act constitutes a crime. These legal provisions establish the monopolistic nature of China's collective copyright management organizations, meaning that specific rights can only be managed by a single organization. The conduct of collective copyright management business is thus exclusive and unique, characterizing China's model as monopolistic.

1.2.3 The Nature of China's Collective Copyright Management Organizations

China's collective copyright management organizations are defined as non-profit civil organizations, with their establishment supervised by the State Council's copyright administration department under clearly defined legal conditions. According to Article 7 of the *Regulations on Collective Administration of Copyright*, Chinese citizens, legal persons, or other organizations that legally hold copyrights or related rights may initiate the establishment of collective man-

agement organizations. This suggests that these organizations should be civil associations. However, an examination of the approval, establishment, business operations, and current development of some domestic collective management organizations reveals traces of official involvement in their operations.

Under China' s current collective copyright management system, management organizations clearly possess monopolistic characteristics, with inflexible mechanisms and relatively low management efficiency. Issues such as abuse of management power in certain areas, inability to adjust service prices in a timely manner, and service discrimination frequently emerge in practical operations. These deficiencies become particularly problematic in the context of rapid internet development, significantly diminishing the role of collective management organizations in improving authorization efficiency, reducing distribution costs, curbing infringement, balancing stakeholder interests, and promoting the dissemination of written works. For instance, as a representative of new media, the internet has fundamentally transformed the traditional publishing landscape, as evidenced by the quiet rise and rapid development of self-publishing models in recent years. When authors wish to realize their rights for written works they have independently edited, published, distributed, and released online through collective management organizations, these organizations still require publication by state-approved press and publication units as a basic condition for accessing relevant services—requirements that fail to meet evolving needs. Technological advances also demonstrate this gap: sophisticated copyright protection technologies can further refine the authorization of written works, cloud computing can greatly enrich copyright management methods, and big data can facilitate the implementation of extended collective management. Clearly, outdated management models cannot adapt to rapid technological development, making management innovation imperative. This paper attempts to provide a brief description of an open collective copyright management model, hoping to contribute to the development of collective copyright management.

2. Preliminary Exploration of the Open Collective Copyright Management Model

The open collective copyright management model proposes introducing collective copyright management service agencies and agencies into the existing collective copyright management mechanism, forming a new integrated system comprising three management levels: the original collective copyright management organization, collective copyright management service agencies, and collective copyright management agencies. Under this model, the original collective copyright management organization would focus its efforts on standardization, management, supervision, innovation, development, and rule-making, while service agencies and agencies would concentrate on technology, applications, services, products, and markets, thereby introducing market mechanisms and competition. Since this proposal draws inspiration from CNNIC' s domain name registration management mechanism, the author will first briefly explain the open

collective copyright management model by introducing CNNIC's domain name registration management mechanism.

2.1 CNNIC Domain Name Registration Management Mechanism

The China Internet Network Information Center (CNNIC) is a national management and service organization established in 1997 that exercises the responsibilities of the national internet network information center, responsible for domain name registration management and root server operations in China. Representative domain name systems include the national top-level domain .CN and Chinese domain names, providing uninterrupted domain name registration, resolution, and WHOIS query services to global users.

CNNIC's official website outlines the basic domain name registration process. Taking CN domain names as an example, the process generally involves: selecting the domain name and registration period; querying domain name information; selecting a registration service agency; contacting the registration service agency to submit domain name registration information and application materials, and signing a registration agreement; verification of application materials and review of domain name information. If the domain name is to be activated, website filing and domain name resolution must be completed. The term "registration service agency" appears in several stages of this process, demonstrating its indispensable role in domain name registration. On CNNIC's official website, registration service agencies are defined as institutions that accept domain name registration applications and complete domain name registration in the domestic top-level domain service unit database system platform. These agencies undertake information collection, preliminary material review, progress inquiries, domain name resolution, and other tasks, forming an effective complement to CNNIC. The establishment of registration service agencies introduces market mechanisms and competition into domain name registration management, enabling products, prices, and services to adjust reasonably to meet end-user needs. The important position of registration service agencies in domain name registration management is thus evident. For ordinary enterprises to become registration service agencies, they must undergo examination, review, and approval by CNNIC, the Ministry of Industry and Information Technology, and other relevant departments, and must sign relevant cooperation agreements. Registration service agencies may authorize registration agencies to provide corresponding domain name service products. Thus, CNNIC, registration service agencies, and registration agencies constitute the integrated domain name registration management mechanism, with CNNIC focusing on management, standardization, development, and rule-making, while service agencies and agencies concentrate on service, product, and market development.

The formation of the domain name registration management mechanism follows not only its inherent nature and market laws but also relies on relevant laws and regulations as a strong foundation and guarantee. Laws and regulations such as the *Administrative Measures for China Internet Domain Names, Implemen-*

tation Rules for Domain Name Registration by China Internet Network Information Center, Measures for Resolution of Domain Name Disputes in China, and Procedural Rules for Domain Name Dispute Resolution by China Internet Network Information Center safeguard the development of domain name registration management. Meanwhile, government administrative departments, law enforcement and judicial authorities, and arbitration institutions also provide substantial support. For example, the *Administrative Measures for China Internet Domain Names* provides clear definitions for domain names, domain name registration management institutions, and domain name registration service agencies, and specifies the conditions for establishing management service agencies.

2.2 Lessons for Collective Copyright Management

Can collective copyright management adopt the domain name registration management approach? The following analysis uses the China Written Works Copyright Society (CWWCS) as an example.

Information from the CWWCS portal indicates that it was established in 2008 by 12 organizations including the China Writers Association and multiple copyright holders. It is a non-profit social organization engaged in copyright services, protection, and management, and serves as China's sole collective management organization for written works. Its business scope includes: registration and management of written works and information collection; protecting members' legitimate rights and interests and preventing infringement; signing usage contracts with users, issuing licenses, and collecting fees; distributing royalties to copyright holders; collecting and transferring usage fees for non-member works; signing mutual representation agreements with foreign counterpart organizations; and conducting research, policy recommendations, promotion, and training.

In practice, the website provides corresponding application windows for these services. Based on its business scope alone, the CWWCS undertakes all business activities throughout the copyright lifecycle of works. According to existing regulations, this establishes its monopolistic nature.

Discussions about collective copyright management models in the industry have been vigorous, with strong calls to break monopolies and introduce market mechanisms (or competitive mechanisms). For instance, Lu Haijun argues in "On Market-Oriented Collective Copyright Management" that copyright, as property rights, can only promote economic development through market transactions. Therefore, collective management organizations should be positioned as market economic entities, allowing the establishment of for-profit collective management organizations and using registration systems and corresponding agencies to resolve difficulties encountered by members of competitive collective management organizations.

Xiong Qi points out in "Large-Scale Digitization and Innovation in Collective

Copyright Management Systems” that China needs to relax regulations on the establishment requirements for collective management organizations, enabling competition among them and eliminating the “uniqueness” and “national” requirements in the *Regulations on Collective Administration of Copyright*, thereby facilitating the transformation of collective management organizations from administrative bodies to market intermediaries and allowing network service providers to create collective management organizations for digital works.

These perspectives suggest that positioning collective copyright management organizations as market economic entities and fostering competition among them has become a consensus in certain academic circles. The domain name registration management mechanism provides an excellent reference for reforming the collective copyright management system. First, after years of operation, the domain name registration management mechanism has maintained good performance. While some management and competition issues remain, it represents a relatively sound operational model for the current stage. This model is essentially a trust-agency model (trust and agency are two different approaches, both of which may exist in this paper). In the field of collective copyright management, many scholars have conducted detailed research on this approach, and trust-agency represents a relatively mature management method internationally. Second, domain names are products of internet development, relying on the internet for survival and development, and their registration management mechanism is closely related to internet and information technology. In recent years, with the rapid development of networks and technology, the internet has become an extremely important, even core, carrier for written works. The dissemination methods of works have undergone revolutionary changes, sparking extensive discussions about copyright. The emergence of concepts such as “Creative Commons licenses,” “safe harbor principles,” “extended collective management,” and “private autonomy” reflects the challenges facing traditional collective copyright management models. Both domain name management and copyright management depend similarly on the internet and related technologies for their mechanisms and practices, and their business development and future prospects are closely tied to the internet. Third, both domain names and written works, in a sense, constitute public resources within the public domain, requiring a certain degree of regulation and allocation. Therefore, at the current stage, both maintain a certain level of official background in their organization, management, and business processes.

2.3 Discussion of the Open Collective Copyright Management Model

The open collective copyright management model advocated in this paper references the management mechanism in domain name registration, adopting a trust-agency approach to introduce market competition mechanisms. The original collective copyright management organization can maintain its uniqueness, monopolistic nature, non-profit status, and official involvement in management, but must change the content and scope of its management work. It should

reduce or eliminate direct work surrounding the management of written works' copyrights, focusing instead on developing management rules, reviewing relevant information, information retrieval, database platform construction, model innovation, rationalization proposals, academic research, and supervision of other organizations and agencies. Meanwhile, collective copyright management service agencies and agencies should be introduced to undertake the reduced or eliminated work. For example, in the registration of written works, copyright holders can use channels provided by the CWWCS to locate collective copyright management service agencies and select appropriate ones based on their needs and judgment. Service agencies would collect relevant information and attributes of written works, conduct preliminary reviews, design service products, service agreements, and licensing agreements based on work characteristics, needs, and market conditions, then submit relevant materials to the collective copyright management organization for review. Upon approval, they would promptly notify copyright holders and ultimately sign service contracts with them.

In the usage of written works, service agencies that have obtained licenses from collective copyright management organizations would further subdivide relevant rights to generate secondary licenses, implement relevant services, set service prices, promote service products, sign agreements with end users, and collect service fees. Similarly, work users, like copyright holders, would select collective copyright management service agencies based on their needs and sign relevant service agreements. The work involved extends far beyond these examples; license issuance and management, protection of copyright holders' rights and interests, cross-regional business development, dispute resolution, and fee management and distribution are all indispensable core functions. These tasks differ significantly from domain name registration management but share considerable similarities overall.

2.4 Rationale for Selecting the Open Collective Copyright Management Model

Many scholars have discussed trust-agency approaches similar to the open collective copyright management model in their papers, and some foreign countries have applied slightly different versions to collective copyright management. For example, South Korea's Copyright Act stipulates two types of copyright management businesses: trust and agency or brokerage, with explicit provisions for service agencies' establishment conditions, supervision mechanisms, and business processes. Trust management in practice refers to collective management, which has a monopolistic nature, while trust services operate under a licensing system. The timing for changing collective copyright management models may have been premature in the past, but in today's globally connected internet environment, transformation is inevitable.

First, problems arising from the traditional model, particularly inflexible mechanisms, low efficiency, and unreasonable service pricing, have seriously affected

the development of collective copyright management. Second, internet development has changed the carriers, dissemination methods, and usage patterns of written works, consequently altering people's reading habits and methods. The popularity of e-books, e-readers, and various reading terminals in recent years confirms this reality, making it impossible to ignore the impact of network carriers on collective copyright management. Third, rapid IT development has resolved numerous issues that previously constrained reforms in collective copyright management. For example, cloud computing service platforms have transformed infrastructure, system platforms, and application systems into multi-tenant, multi-instance states, fundamentally changing problems such as high investment costs, complex management and maintenance, low equipment utilization, and inflexible architecture for service agencies and agencies. This lowers entry barriers, enabling enterprises to conveniently participate in collective copyright management.

2.5 Challenges and Countermeasures for Establishing the Open Collective Copyright Management Model

The open collective copyright management model offers advantages including rationalized market competition, personalized service methods, strengthened review and supervision systems, convenient entry and exit mechanisms, and richer service content. However, changing management models is not simple; it requires reanalysis and resolution of a series of related issues.

2.5.1 Legal and Regulatory Issues As described earlier regarding domain name registration management, relevant laws and regulations provide clear definitions for key terms. Combined with management regulations from higher-level authorities, the mechanism operates smoothly with clear responsibilities. Similarly, open collective copyright management requires strong support from laws and regulations: (1) clear definitions of collective copyright management organizations' nature, operation methods, establishment conditions, management functions, and supervisory bodies; (2) clear definitions of collective copyright management service agencies, agencies, and branches regarding their nature, establishment conditions, business activities, and scope; (3) clear requirements for service agencies and agencies regarding qualifications, service standards, management mechanisms, supervision mechanisms, evaluation mechanisms, and exit mechanisms; (4) clear principles for contract formulation, signing, types, disputes, special clauses, special agreements, and licensing agreements; (5) clear principles and content for service pricing systems, management pricing systems, and profit distribution systems.

2.5.2 Licensing Issues Licenses, also called electronic certificates, constitute important guarantees for protecting written works' copyrights on the internet and represent one method for applying licensing contracts and agreements online. Regardless of the collective copyright management model, licenses serve as the primary means for copyright holders to assert their rights and realize economic

benefits for internet-based written works. Licenses are therefore crucial for constructing the open collective copyright management model.

Licenses are closely related to various rights of copyright holders, licensing agreements, rights claims, rights distribution, rights control, and IT-related technologies. Consequently, their creation, generation, management, circulation, termination, and technological application all require policy regulation. For example, licenses should be divided into two types based on their issuer: those created and managed by collective copyright management organizations, and those created and managed by service agencies. Naturally, licenses themselves require numerous attribute specifications to clarify relevant circumstances.

The classified processing of licenses enables agencies to flexibly manage rights related to literary works, facilitating the transformation of property rights. This benefits service agencies' market-oriented operations, facilitates exchanges of interests between copyright holders and users, and protects rights not explicitly stipulated by laws or emerging from technological advances, thereby promoting cultural development. It should be noted that whether agencies should have the right to create licenses requires further market testing; their feasibility should not be arbitrarily determined.

2.5.3 Rights Enforcement Issues Protecting the rights of written works' copyright holders is a vital component of collective copyright management and one reason such organizations have survived and developed. However, with changes in written works' carriers, previous management models, systems, methods, and efficiencies have become completely unsuited to current needs. Infringement occurs frequently, relevant rights and interests lack protection, and creators' enthusiasm has been seriously affected. Collective copyright management service agencies and agencies can coordinate the requirements of multiple stakeholders based on actual conditions, employing not only legal means but also technology, conventions, property, and other methods. Service agencies and agencies have higher incentives to protect rights and interests because they may be comprehensive economic entities, not merely completing service or agency work for collective copyright management.

For example, most internet service providers have launched blogs, microblogs, and services for reprinting written works or publishing commentary, some of which contain certain creative elements. Rights issues surrounding these texts have emerged continuously. The current *Regulations on the Protection of the Right of Communication through Information Networks* borrow the foreign "safe harbor principle," clearly stipulating network providers' responsibilities, exemptions, and liability, but many issues remain unresolved in practice. The "safe harbor principle" does not fundamentally solve rights protection problems. If network service providers possessed the qualifications to operate as collective copyright management service agencies or agencies, they would directly face both parties in interest conflicts and develop more practical solutions based on market and demand conditions, thereby advancing overall business progress.

2.5.4 Dissemination Efficiency Issues As an emerging medium, the internet has made tremendous contributions to knowledge dissemination, promotion, and sharing. In any corner of the world with network coverage, people can read the latest written works. This significantly reduces repetitive intellectual labor, improves resource utilization efficiency, enriches social and cultural life, and promotes cultural industry development. The Bucharest Declaration states that “individuals and organizations should be able to benefit from access to information, knowledge, and ideas. Therefore, information in the public domain should be easily accessible...and knowledge is a key factor in changing our global society and local communities. Information should be provided for all (including persons with disabilities), particularly through creating relevant content to eliminate various inequalities.” Clearly, copyright law implementation has become an “obstacle” to written works’ dissemination and sharing, yet copyright holders’ rights and interests must be protected and creative intellectual labor encouraged. Therefore, system improvements are needed to achieve a “balanced” state.

The open collective copyright management model, like “opt-out mechanisms,” “safe harbor principles,” and “compensation systems,” faces an “efficiency” issue. The following points may help improve efficiency: (1) Collective copyright management organizations should conduct thorough business and market analysis, subdivide relevant rights, guide service agencies and agencies to provide services correctly, guide copyright holders to realize their rights reasonably, resolve rights transformation issues, and reduce negotiation costs among parties; (2) Introduce mature payment platforms or cooperate comprehensively with third-party payment platforms to ensure timely payment; (3) Build secure, stable, high-performance service system platforms to ensure swift copyright transactions; (4) Service agencies and agencies should leverage their proximity to markets to launch more service product combinations and reduce relevant fees through various means; (5) Establish multi-channel legal protection mechanisms to ensure efficient rights protection, while conducting promotion, marketing, and training at all stages.

2.5.5 Management System Platform Issues The collective copyright management system platform discussed in this paper refers to information system platforms built around collective copyright management work, comprising multiple functions including information management, system management, and license management. These platforms can be broadly divided into two categories: collective copyright management system platforms and service agency application platforms. In today’s rapidly developing internet environment, collective copyright management system platforms can no longer function merely as information management platforms that only complete information collection, organization, and fixed-format report generation. Modern information system platforms have become the main battlefield for collective copyright management work. In addition to basic functions such as data collection, organization, and report generation, they must also implement data analysis and intelligent

decision-making functions. They constitute the foundation for developing collective copyright management work—without platform support, collective copyright management development would be severely constrained.

The maturation of big data and cloud computing technologies has provided conceptual and technical support for further platform development. Big data technology resolves issues of format, integration, and analysis, while cloud computing technology resolves migration and hosting issues, providing opportunities for improving collective copyright management. For example, information system platforms built on cloud computing technology can easily achieve system migration and hosting, providing flexible platform construction methods for service agencies and agencies. Because data processes follow unified rules, this facilitates the joining and exiting of service agencies and agencies. For collective copyright management organizations, relying on the platform enables comprehensive understanding of the overall situation of collective copyright management work and the protection of copyright holders' rights and interests, allowing for in-depth analysis and research, rationalization proposals, and effective supervision of service agencies and agencies to prevent vicious competition.

3. Conclusion

The transformation of the collective copyright management system is urgent. Regardless of the approach adopted, the maturation and development of new carriers led by the internet cannot be ignored. The open collective copyright management model is merely one variant of the trust-agency model. Many issues in its practical implementation require further research and analysis, and it must be compared and analyzed with various current domestic and international systems and models.

References

- [1] Xiong Qi. Internet Industry-Driven Reform of Copyright Rules[J]. China Legal Science, 2013(6): 79-90.
- [2] Xu Diyu, Liu Hui. Research on Basic Issues of Collective Copyright Management[J]. Science Technology and Law, 2005(2): 48-49.
- [3] Lu Haijun. On Market-Oriented Collective Copyright Management[J]. Electronics Intellectual Property, 2007(3): 16-20.
- [4] Xiong Qi. Large-Scale Digitization and Innovation in Collective Copyright Management Systems[J]. Law and Business Research, 2014(2): 100-107.
- [5] Song Huixian. Government-Supported Social Management of Copyright: The "Korean Model" and Its Implications[J]. China Publishing Journal, 2007(2): 55-58.
- [6] Qing Yue. Collective Copyright Management in the Internet Era[J]. Internet Law Communication, 2009(6): 46-50.
- [7] Xie Qin, Duan Wei. On Copyright Protection and the Prosperity of Social Public Culture in the Internet Era[J]. China Publishing Journal, 2013(12): 6-10.

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

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