



The Copyright Management in China

China Audio-Video Copyright Association

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Outline

- Review of China Copyright Law
- Main provisions of the Rule on Copyright Collective Management
- CMSs in China
- Music Copyright Society of China (MCSC)
- China Audio-Video Copyright Association (CAVCA)
- CMS's acts against internet infringement
- Copyright owners' acts against internet infringement
- Problems in collective management in china and Solutions

Review of China Copyright Law

- Copyright Law
 - Implemented in 1991
 - Amended in 2001, providing the legal status of CMS
- Rules and Regulations made by National Copyright Association of China (NCAC)
- Rule on the Copyright Collective Management
 - Promulgated by the State Council in 2005

Main Provisions of the Rule

- Non-profitable society
- Ratified by NCAC
- Only one CMS for one category work
- CMS's management based on members' authorization
- Licensing to users and taking legal actions in the name of CMS
- All CMS's activities are under NCAC's supervision

CMSs in China

- Music Copyright Society of China (MCSC)
 - Established in 1992
- China Audio-Video Copyright Association (CAVCA)
 - Registered in Ministry of Civil Affairs of the P.R.C (MCAC) in 2008
- China Written Works Copyright Society (CWCS)
 - Registered in Ministry of Civil Affairs of the P.R.C (MCAC) in 2009
- Images Copyright Society of China (ICSC)
 - Registered in Ministry of Civil Affairs of the P.R.C (MCAC) in 2009
- China Film Copyright Association (CFCA)
 - Registered in Ministry of Civil Affairs of the P.R.C (MCAC) in 2009

Music Copyright Society of China (MCSC)

- The first CMS set up in China
- Managing rights of musical works: the right of public performance; the right of broadcasting; the right of reproduction
- Became a member of CISAC in 1994; reached reciprocal agreements with CMSs in more than 40 foreign countries and areas
- 《Provisional measures for Broadcasting station and television station broadcasting phonogram and paying royalties 》 has been promulgated and takes effect from Jan 1st,2010

Membership and Licensing Income of MCSC

- By the end of year 2008, MCSC had owned 5,434 members including 360 new members joined MCSC in 2008.
- In 2008, the total licensing income of MCSC reached more than 36.89million.



China Audio-Video Copyright Association (CAVCA)

- China Audio-Video Association (CAVA) began to prepare for the establishment of CAVCA in 1998
- CAVCA was ratified by NCAC on Dec. 31, 2005; applied to MCAC for the registration on Mar. 8, 2006, and registered in July, 2008
- CAVCA is established and based in Beijing
- CAVCA manages the rights of audio-visual works, sound recording and works created by a process analogous to cinematography (MTV)

Rights managed by CAVCA

- The right of reproduction
- The right of presentation
- The right of communication to the public through internet
- The right of rental
- The right of public performance and broadcasting (being making efforts to obtain through amending the current law in future)
- Other rights fit for collective management

Current Works by CAVCA

- Collecting royalties for MTV from Karaoke in China
- Collecting royalties of other uses of audio-visual works
- Actively promoting and lobbying the legislative body to amend the copyright and provide the rights of performance and broadcasting for producers of phonograms
- Exploring the new and high-efficient mode of cooperation in reproduction, communication to the public through internet and litigation
- Distribute to the prosperous of China's music industry

Collecting MTV Royalties from Karaoke

- Authorization from members: CAVCA has now 58 members and manages copyrights of more than 102 recording companies covering 80,000 songs.
- MCSC entrusted CAVCA to collect royalties from Karaoke for authors
- MCSC and CAVCA split the royalties according to the agreed proportion
- MCSC and CAVCA jointly report the rate to NCAC and NCAC publicly announced the rate according to the Rule.
- The rate is no more than RMB 12 per room per day and will be adjusted according to different situation in different provinces or districts.

CAVCA's development

- CAVCA 's business scope has covered 28 provinces (autonomous region、 municipality directly under central government) in China
- CAVCA has filed 800 lawsuits and applied for 160 administrative punishment against KTV infringers in 18 provinces (cities)
- The total licensing income of CAVCA from Karaoke reaches RMB 170 million, of which over RMB 100 million for the year 2009

CMSs' acts against copyright Infringement on the internet in china

- CAVCA's main business at present: collecting karaoke royalties
- Internet business: developing

CMSs' acts against copyright infringement on the internet in china

- MCSC prosecuting Baidu
- In the year 2008 ,MCSC bring a suit against Baidu net technology company for copyright infringement. The case involves 50 folks songs and claim amount exceeds RMB 1 million
- The result is not available yet

Right owners' acts against copyright infringement on the internet in china

- WARNER prosecuting BAIDU for infringement of recorder's copyright
Result: WARNER loses
- SONY BMG prosecuting SOHU for infringement of recorder's copyright
Result: SONY BMG loses
- Problems in two cases
 - Deep link
 - Safe harbor
 - Difficulties in identifying infringement subject and obtaining evidence
 - High defending costs comparing with lower infringement costs

Problems in collective management in china

- Imperfect design of collective management system
- Lack of acknowledges of whole society
- Inadequate theory research and practical talent
- The new question under digital environment

Solutions

- Consummating the related laws and regulations about copyright collective management gradually
- Enlarging construction investment in the copyright collective management
- Establishing relevant government department's coordinated mechanism, guarantying the establishment and rapid development of various kinds of CMSs
- Strengthening the understanding and supporting from judicial practice on collective management
- Strengthening international cooperation and learning the advanced experience from the overseas
- Reinforcing theory research in copyright collective management and developing of professional talent



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—The End—

Thanks!