



中国版权保护中心
COPYRIGHT PROTECTION CENTER OF CHINA

Measures against Copyright Infringement on the Internet: The Case in China

Tang Zhaozhi
CPCC

Agenda

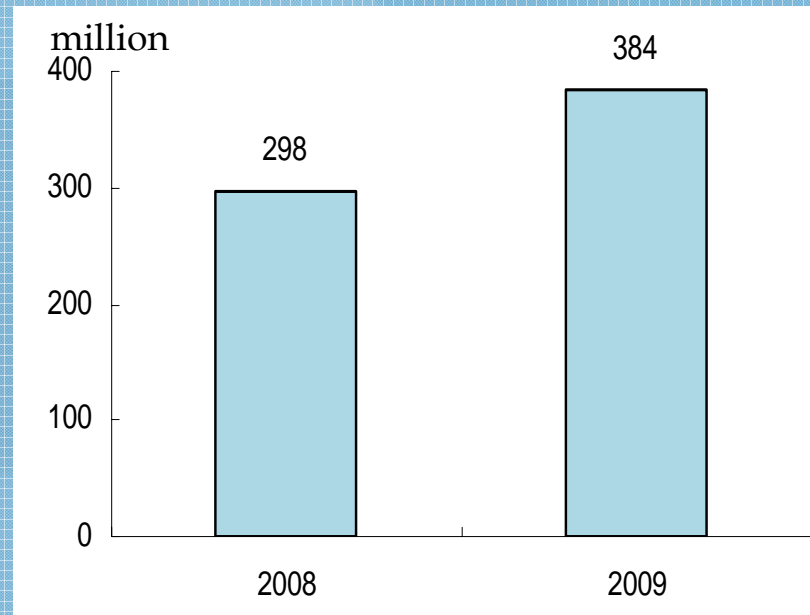
- A. Current status of internet development in China
- B. Analysis of main types of internet infringement in China
- C. Influential cases in China
- D. Laws and regulations related to Chinese internet copyright protection
- E. Measures against internet infringement in China

A. Current Status of Internet Development in China - Explosive Growth

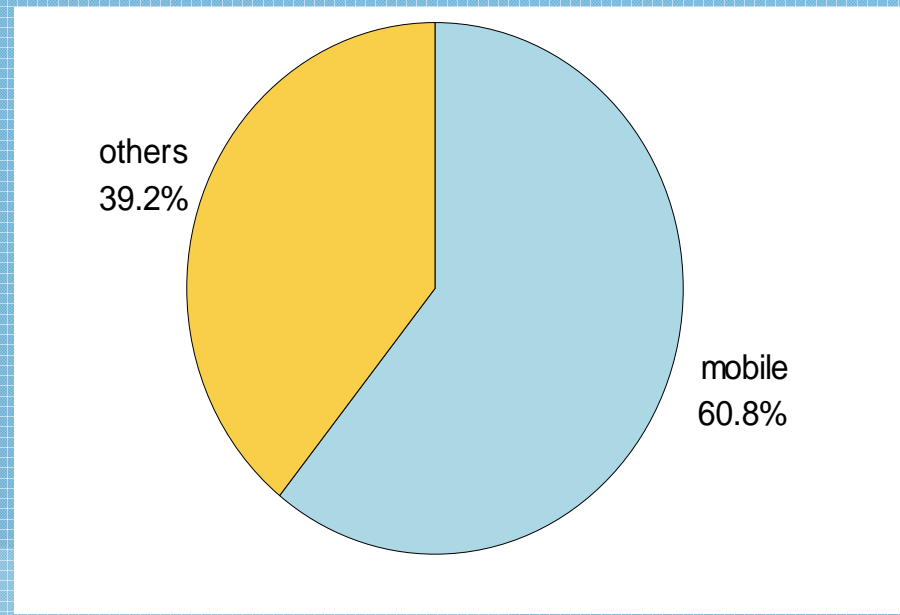
- The growth pace of the internet development is leap-like.
- Internet technical infrastructure has been getting even more sophisticated.
- The number of internet users increases swiftly.
- The usage of internet is getting widely accepted.

A. Current Status of Internet Development in China - Explosive Growth (Cont'd)

The population of Chinese "netizens" came to 384 million, which increased 86 million than that of 2008.

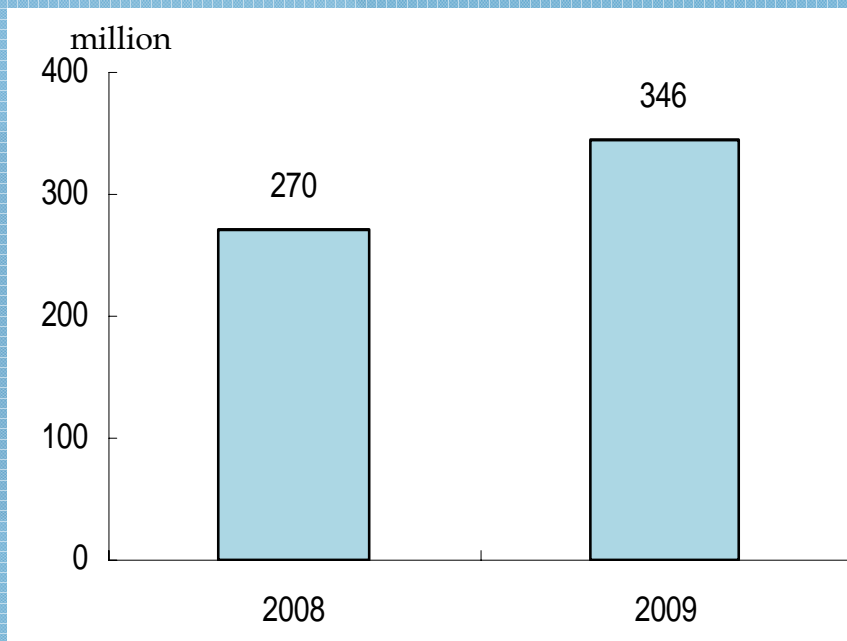


The number of internet users via mobile phone has grown rapidly, which is 233 million, accounting for 60.8% of the Chinese "netizens".

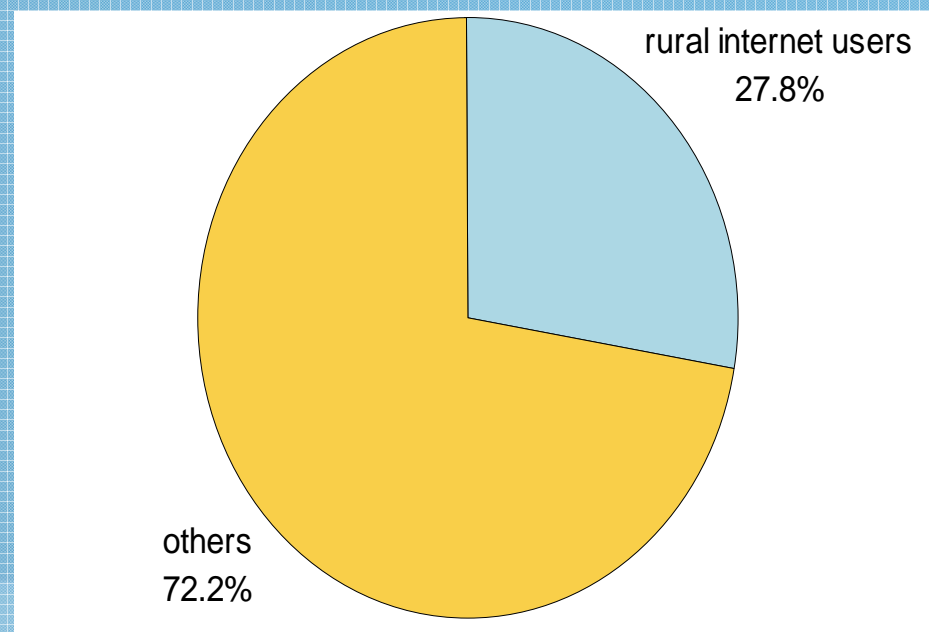


A. Current Status of Internet Development in China - Explosive Growth (Cont'd)

The number of broadband users has grown up to 346 million at the end of 2009, 76 million up from 2008.



The number of rural internet users has kept increasing to 106.81 million, 27.8% of the total number.



B. Main Types of Internet Infringing Acts in China

- Disseminating the right holder's works without getting authorization.
- Digital library.
- Disseminating movies and TV series in local area networks (LAN).
- Private service and illegal plug-ins.
- Other new types.

C. Case Study

- Video sharing website: “openv.com” case
- Book uploading website: “Nishangxiaoxuan” website copyright infringement case
- Software infringement on network: “Tomato Garden” case
- Copyright infringement regarding online game:
(1) “Ants” website case; (2) Tan Wenming case

C. Case Study- “openv.com” case

- A website named “Openv” contained large amount of unauthorized movies and TV serials.
- half of the unauthorized videos on the site gained more than 500 web hits for each.
- Some videos got hundreds of millions hits.
- The case has been transferred to Public Security Department.

C. Case Study- “Nishangxiaoxuan” website copyright infringement case

- “Nishangxiaoxuan” website was containing with more than 1000 works from 130 authors without the permission of the right holders.
- The website seriously harmed the authors’ copyright and resulted in an adverse effect.
- This case has also been transferred to Public Security Department.

C. Case Study- “Tomato Garden” case

- Dec.2006 – Aug. 2008 Windows XP operating system was reproduced as “Tomato Garden” version without permission from Microsoft, and issued on “Tomato Garden” website.
- The defendant company had received advertising fee of 2.98 million Yuan
- “Tomato Garden” system was estimated to have been downloaded for over 100 thousand times.
- The defendant company and the four defendants were consequently prosecuted for the criminal responsibility in the name of copyright infringement.

C. Case Study-“Ants” website case

- April 2009, illegal add-ons for “Aion” was produced and sold by the “Ants” website.
- The illegal add-on trading was through Taobao, QQ . The website gained a profit of more than 30 million Yuan.
- 11 criminal suspects were captured and 26 million Yuan was withheld temporarily. This case is now under further investigation.

C. Case Study- Tan Wenming case

- May 2004, Tan Wenming developed illegal cheating add-on for game “007 Legend 3”
- This add-on was uploaded to www.wg1818.com and www.wgdoor.com for downloading, without the permission from game producer
- Jan. 2005, after the server being shut down, Tan reopened the “Wgdoor” and other 2 websites on a rented server with illegal add-on uploaded.
- Tan has gained a profit of over 2.8 million Yuan by Sep. 2005
- He was found guilty and sentenced the fixed-term imprisonment of six years at last.

D. Laws and Regulations related to Chinese Internet Copyright Protection

- Laws:
 - *Copyright Law of the People's Republic of China*
 - The revised law recognizes and regulates copyright infringement behaviors on the internet.
 - *Article 10* provides that the copyright holders have right of information network dissemination.
 - *Article 41* requires that the licensee who reproduces, distributes, lends and disseminates sound or visual recording products through information networks, shall acquire the license of both the copyright owner and the performer and pay compensation.
 - *Article 47* regulates that infringers will bear civil, administrative, or criminal responsibilities, subject to different situations.

D. Laws and Regulations related to Chinese Internet Copyright Protection (Cont'd)

- Laws:
 - *Tort Liability Law of the People's Republic of China*
 - In this law, copyright is one of the major civil rights the law.
 - According to *Article 36*, any web user or service provider who infringes others' civil rights and benefits shall undertake the tort liability.
 - The law specifies the forms of liability for web user or service provider : once infringements by web users happened, the infringed party has the right to inform the web service provider to delete, shield, cut the links and other necessary measures; web service provider who has not take necessary measures after the information shall bear joint liability with the web user; web service provider who find users use the web service to infringe others' civil rights and benefits but has not taken any measures shall bear joint liability with the user.

D. Laws and Regulations related to Chinese Internet Copyright Protection (Cont'd)

- Laws:
 - *Criminal Law of the People's Republic of China*
 - *Article 217* and *218* describe certain acts of copyright piracy that may be subject to criminal procedures and penalties.
 - However, there are several conditions on applying the two articles: under *Article 217*, criminal procedures and penalties are available only "if the amount of illegal gains is relatively large, or if there are other serious circumstances" or "if the amount of illegal gains is huge or if there are other especially serious circumstances"; under *Article 218*, criminal procedures and penalties are available only "if the amount of illegal gains is huge".

D. Laws and Regulations related to Chinese Internet Copyright Protection (Cont'd)

- Regulations:
 - *Implementation Regulations of the Copyright Law of the People's Republic of China*
 - *Implementation Regulations of the Copyright Law* was announced on August 2nd, 2002.
 - *Article 36* and *Article 37* specify the amount of fines that administration departments may impose for any infringing act.

D. Laws and Regulations related to Chinese Internet Copyright Protection (Cont'd)

- Regulations:
 - *Regulations of Protection the Right of Communication of Information on Networks*
 - On July 1st 2006, *Regulations of Protection the Right of Communication of Information on Networks* entered into force.
 - *Article 18* and *19* specify the civil, administrative and criminal liabilities of infringing copyright acts.
 - *Article 25* cites the conditions in which the administration departments may impose administrative punishment to internet access providers.

D. Laws and Regulations related to Chinese Internet Copyright Protection (Cont'd)

- Judicial Interpretations:
 - *Judicial Interpretation to Apply Laws on Copyright Infringement Cases regarding Network*
 - It was issued in September 2000. The interpretation sets up more detailed and operational judicial standard for defining some legal concepts.
 - *Decision to Revise this Judicial Interpretation to Apply Laws on Copyright Infringement Cases regarding Network*
 - The revised version makes the judicial copyright protection mechanism on network more comprehensive.

D. Laws and Regulations related to Chinese Internet Copyright Protection (Cont'd)

- Judicial Interpretations:
 - *Interpretation on Several Issues of Concrete Application of Law in Handling Criminal Cases of Infringing Intellectual Rights (I) and (II)*
 - In 2004 and 2007, the Supreme Court of the PRC and Supreme Peoples Procuratorate jointly issued two Interpretation , which provide more detailed explanations and directions on how to deal with the criminal cases of infringing acts on the internet.

E. Measures against internet infringement in China

- **Internet Management Institutions**
 - **Industry standard and management:**
 - *Ministry of Industry and Information Technology of the PRC*
(<http://www.miit.gov.cn/>)
 - **Content management and supervision:**
 - (a) *Ministry of Culture of the PRC* (<http://www.ccnt.gov.cn/>)
 - (b) *The State Administration of Radio Film and Television*
(<http://www.sarft.gov.cn/>)
 - (c) *General Administration of Press of Publication of the PRC*
(<http://www.gapp.gov.cn/cms/html/21/index.html>)
 - (d) *The Ministry of Public Security of the PRC*
(<http://www.mps.gov.cn/n16/index.html>)
 - **Copyright management and enforcement:**
 - *National Copyright Administration of the PRC*
(<http://www.ncac.gov.cn/cms/html/205/index.html>)

E. Measures against internet infringement in China (Cont'd)

- Special Actions by *NCAC, Ministry of Public Security and Ministry of Industry and Information Technology of China.*

Year	Total case No.	Adopt temporary enforcement	Impose fine (RMB)	Confiscate servers and computers	Close websites	Bring to judiciary authority
2007	1001	832	870,750	174	339	31
2008	453	173	1,079,853	184	192	10
2009	558	556	1,337,500	163	375	25

E. Measures against internet infringement in China (Cont'd)

- The Chinese government has also established the awarding system to encourage the organizations and individuals that report or handle the important piracy cases.
- The Anti-Piracy Reporting Center is set up with a nationwide hot-line: 12390, for reporting piracy.

Conclusion

- The Chinese government has a firm attitude to crack down the internet infringements and it has further completed the copyright protection system and adopted forcible measures through the legislative and administrative means.
- CPCC is now launching several new projects, including *Online Games Copyright Protection Action Coalition Scheme*, *Third-Party Investigation and Evidence Collection Project*, and *Registration service for Information Network Dissemination Right Authorization*.

Thank You!