

Abstract

A Study on the Protection of Audiovisual Performers under the PRC Copyright Law and Recent International Trends

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The first Copyright Law of the People's Republic of China was enacted in 1990 and amended in 2001. The current copyright law which was amended in 2010. Under the copyright law(1990), performers have two moral rights, the right to claim performership and to protect the image inherent in his performance from distortion. And there are also two economic rights of performers in their unfixed performances, the right to authorize others to make live broadcasts and to authorize others to make sound recordings and video recordings. The amendment copyright law(2001) provides more protection for performers. The performers have the right of reproduction and distribution, the right to authorize others to communicate his performance to the public on information network, and to receive remuneration therefore. It is maintained in the current copyright law(2010).

'Beijing Treaty on Audiovisual Performances' which was signed in 2012 provides stronger protection for performers. This Treaty shall enter into force three months after 30 eligible parties have deposited their instruments of ratification or accession. Indonesia is the 30th country to sign the Beijing Treaty, so the Beijing Treaty will enter into force on April 28 this year. As the moral rights of audiovisual performers, there are the right to claim to be identified as the performer of his performances, and to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation are established. As the economic rights of performers in their unfixed performances, the performers have the right of broadcasting and communication to the public, and the right to make fixations of their unfixed

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performances. The performers shall enjoy the exclusive right of reproduction, distribution and making available of fixed performances. But on the right of rental and the right of broadcasting and communication to the public, the contracting parties have discretion. In Article 12, these exclusive rights of authorization provided for in Articles 7 to 11 of this Treaty shall be owned or exercised by or transferred to the producer of such audiovisual fixation.

The third amendment of the PRC Copyright Law was prepared since 2012 and the articles of audiovisual performers refer to the Treaty. It has modified the definition of 'performers' and added the right of rental in the amendment. About the Right of Broadcasting and Communication to the Public, China has declared that "The People's Republic of China shall not be bound by Article 11(1) and (2) of the Beijing Treaty on Audiovisual Performances." The articles about in-service performance and transfer of rights were added in the third amendment. Although the third amendment of the copyright law has not been adopted yet, it is expected that the new copyright law can provide stronger protection to audiovisual performers if passed as soon as possible.

Keywords

PRC Copyright Law, Audiovisual Performance, Audiovisual performers, Right of performers, Beijing Treaty on Audiovisual Performances