

Abstract

Civil liability for copyright infringement under China's revised copyright law

- Focusing on the punitive compensation system -

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On November 11, 2020, the third revision of the copyright law was finally determined. Although this amendment is partial revision, it has introduced the system of punitive damages up to five times, and adjusts the upper limit of legal compensation from RMB 500,000 to RMB 5 million yuan, so as to improve the civil remedies for copyright infringement. In addition, in order to strengthen the protection of copyright, it have been introduced the relevant technical protection measures and the provisions of right management information, reduces the burden of proof of the obligee, and strengthens the effectiveness of the damage compensation system. But there are still some problems. The most representative problem is the relationship between legal liability and punitive liability. As for copyright infringement, it should be determined according to the order of the actual loss of the obligee, the illegal income of the infringer and the normal royalty. However, due to the difficulty of the obligee in providing evidence and the excessive discretion of the judge, more than 98% of the copyright infringement cases in China are actually subject to legal compensation. Moreover, at present, legal compensation has the function of punitive compensation, so the relationship between the two systems is particularly important. Therefore, it is necessary to prepare the specific judgment standards of "intention" and "serious

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circumstances” as the applicable elements of the punitive damages system, and to determine the specific amount of compensation for filling in the level compensation as the calculation standard of punitive damages, we also need to reduce the burden of proof of the obligee or strengthen the burden of proof of the infringer and the relevant functions of the court. As a result of this amendment, the tort relief in China is more convenient than before, and it is expected to get more damages in the future. Therefore, it is necessary for our rights holders to actively respond to infringement in China.

Keywords

Chinese Copyright Law, Copyright Law Revision, Copyright Infringement, Civil liability, Legal Compensation, Punitive Damages