
MOOCS COPYRIGHT PROTECTION IN CHINA

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Abstract

The development of digital learning not only brings great convenience to the human life, but also promotes the reform of education. Education mode has been changed from face to face education activities to relying on the internet technology to carry out education. But the MOOCs has caused some problems in China, the most urgent need to solve is the copyright protection issue. This article is mainly discussing MOOCs copyright protection in China: the ownership of copyright, the rational use of copyright online, and the statutory license system of copyright in China.

The ownership of the MOOCs copyright

According to the Copyright Law of China, the work must be an intellectual achievement that can be replicated in some form of tangible form in the field of literature, art and science. That is to say, to become the Work recognized by Chinese law, there must be two characteristics: one is originality, and the other is reproducible. From the characteristics of MOOCs, we can know that MOOCs education is in accord with the definition of Work in Chinese law, and is protected by Chinese Copyright Law. Teachers' classroom teaching is protected by copyright, whether in the context of international Convent or in Chinese laws. In China, the third article of the Copyright Law (2010 Amendment) stipulates that *oral works* are protected by the Copyright Law. The Enforcement regulation of the Copyright Law promulgated by the State Council further expounded the oral works. Oral works refers to impromptu speech, lectures, court debates and other oral works.

As the object protected by law, if the creative process of the MOOCs is relatively simple and the creative subject is clearer, the ownership of the copyrights is simple and clear. The copyright should belong to its creator. If two or more individuals or units coproduce the works, these works are called *cooperative works* and the copyright should be shared with all partners.

However, in the actual process of creation, colleges or educational institutions are often provided with resources and facilities, such as facilities, equipments and other resources. Moreover, they hire professors or teachers with doctorates to teach, the copyright ownership of such works is more complex. For the hired professors or teachers, they think that the class is mainly the activity of the lecturer's speech, and the talents of the instructor are very high. They are the master of the course, so the copyright of the class should be the individual who teaches. Another point of view, institutions of higher learning or educational institutions feel injustice, because the curriculum is not only the narration of the instructors, but also the use of media,

Internet technology for recording, phonetic transcoding, subtitle and file uploading. The creation process of the class is more than a typical multi process team. As a result, we should not regard MOOCs as a single individual, but a common cooperative work.

In view of this phenomenon, the sixteenth article of Chinese Copyright Law stipulates the concept of *service work* and the ownership of copyright. In accordance with the provisions of Chinese law, a work created by a citizen when fulfilling the tasks assigned to him by a legal entity or organization shall be deemed to be a service work. The copyright of service work is different according to different situations. If there is no special provision or agreement, the copyright of the service work belongs to the author, and the unit has the priority to use it. However, if the law, the administrative regulations or the contract stipulates, the copyright must be attributed to the works of the legal person, or the works such as the engineering drawings, the product design drawings, the maps, the computer soft pieces and so on, which are responsible for the legal person's material and technical conditions. Copyright is owned by a legal person and the author has the right to authorship. Therefore, from the above legal provisions, MOOCs in China, its copyright ownership is also different under different circumstances, in some cases the copyright of the class is owned by the teachers, and in some cases the copyright of the class goes to the educational institutions directly.

The fair use of copyright in internet

In order to ensure the authority and interest of the course teaching, the course makers will inevitably use other people's works. Regardless of the maker or learners of MOOCs, the infringement may occur during the use. This is an important problem to be solved in the legal protection of MOOCs education in China. Therefore, in order to obtain the balance between the copyright owners and the public interests to acquire knowledge, the Chinese Copyright Law stipulates the "fair use" system and has also been further carried out in the communication of information network

The twenty-second article of Copyright Law of China stipulates that: "the use of a work under the following circumstances cannot be paid without the permission of the copyright owner, but the name of the author and the name of the work shall be specified, and the copyright owner shall not infringe on the other rights under this Law: (1)... (7) for school classroom teaching or scientific research, translation or a small amount of reproduction of published works for use by teaching or scientific researchers, but may not be published and issued." Although this system has given other people certain rights, the scope of restrictions is very harsh. First of all, it limits the purpose of use and can only be used for classroom teaching or scientific research in school. Secondly, the method and quantity are limited. It can only be translated or "small" copy. Again, it can only be used by teaching or scientific researchers, and cannot be published. Finally, we should specify the rights of the copyright owner, such as the author's name and work title. The sixth regulations of the State Council's administrative regulations on the protection of the right to the dissemination of information network also protect the spread of "fair use" on the Internet. The regulations stipulate that "for school classroom teaching or scientific research, a small

number of published works are provided to a small number of teaching and scientific researchers and cannot be paid without the permission of the copyright owner.”

The establishment of the fair use system in China’s Copyright Law has laid a good legal foundation and system guarantee for the rapid development of MOOCs in China. After all, the principle of free, sharing, and opening to the class education is free, and proper fair use can help to create more and better curriculum resources, which is more conducive to the opening and development of education.

Statutory license of copyright in China

China’s statutory license system is an important restriction system of copyright. It allows people to use other’s works in a specific way without the consent of the copyright owner, but should pay the necessary fee to the copyright owner. The twenty-third article of the Copyright Law of China stipulates that, “or the implementation of the nine-year compulsory education and the national education plan, the publication textbooks can be compiled without the permission of the author, without the permission of the copyright owner to assemble the published pieces of work or short text, musical works or single pieces in the textbook.” The works of fine arts and photographic works shall be paid in accordance with the provisions, and the names of the authors and the names of the works shall be specified, and the copyright owners shall not infringe on the other rights enjoyed by the copyright owner in accordance with this law. The eighth article of the regulations on the protection of the right to communication of information network also provides a clearer provision for the statutory licensing system “for the implementation of nine-year compulsory education or national education planning through the information network, without the permission of the copyright owner to use the fragments of their published works or short written works, musical works or single pieces.” The courseware for the production of art works and photographs is provided by the remote education institutions making the courseware or using the courseware according to law to the registered students through the information network, but the remuneration shall be paid to the copyright owner.

From the above two legal provisions, we can see that although China has formulated the statutory licensing system for copyright, it has imposed strict restrictions. First of all, only nine-years compulsory education or national education planning and education resources can be used in the two resources of MOC resources. Secondly, the scope of the work is strictly limited, it must be the fragments of the works or short written works, music works, or a single piece of art and photography. Thirdly, the subject and object of communication are also limited. It can only be spread through the production of courseware or distance education institutions in accordance with the law. The target audience can only be registered students. Finally, the cost is clarified. The *legal licensing system* in China is different from the *rational use system*. Although it is clear that a specific work can be used by others, the legal licensing system must pay remuneration to the copyright owner.

Conclusion

As the continuous development of the information network technology, the development of MOE teachers in China is also very fast. However, as the works are being disseminated online, the speed of dissemination is uncontrollable. Because the legal provisions of Chinese law, such as Copyright Law and the right to communication of information network, are clear about the ownership of copyrights under different circumstances, and through the *rational use system* and *permissions licensing system* in Chinese law, the law on the rights and interests of MOEs and its copyright of owners can be guaranteed. This not only helps to protect the legitimate rights and interests of the creator of the class, but also promotes the development of the course in China, and has realized the balance between the protection of the copyright owners and the social development.