



Exploring Digital Music Copyright Protection for Independent Musicians

——A Case Study of the "The Coming One" Infringement Incident

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Abstract. With the rapid development of the internet, digital media has gradually become an indispensable part of people's daily lives, and digital music is a significant component of this. In recent years, digital music has developed rapidly. With economic growth, the proliferation of the internet, and the increase in smart devices, the digital music market has quickly risen. People can listen to and download music through various music platforms anytime and anywhere. Digital music has become the mainstream way of music consumption. However, as digital virtual music develops, more and more issues are gradually emerging, and the problem of digital music infringement is becoming increasingly serious. The development of digital music faces significant challenges. Based on this, this article will use case analysis to explore the responsibility distribution issues in the copyright infringement case of "The Coming One" and provide recommendations by drawing on relevant existing foreign laws.

Keywords: Digital music; copyright protection; copyright awareness; independent musicians.

1 Introduction

In today's society, an increasing number of music forms are being appreciated by the public, and with the rapid development of internet technology, digital music has gradually replaced traditional music. Over the past two decades, the spread and consumption of digital music have continually expanded, bringing the issue of music copyright to the forefront. Although a series of legal revisions and improvements have protected music copyrights, it is still far from sufficient for the current digital music market. This article will take the copyright infringement case of "The Coming One" as an example to explore the copyright responsibility issues encountered in the development of digital music and analyze how independent musicians can protect their rights.

The regulations on digital music copyrights and the determination of copyright ownership are prerequisites for the proper and regulated use of digital music. Therefore, relevant laws protecting digital music copyrights are essential. Although the existing copyright law in our country has clear copyright limitations, there is still no clear legal definition regarding digital music copyrights. With the development of streaming platforms, issues related to digital music copyrights have been increasingly emerging. However, due to the complexity and lack of clarity in the enforcement process, infringement acts are often not effectively addressed, indicating that many existing regulations are no longer fully applicable to contemporary society. Based on existing music copyright protection laws, this article will discuss music copyright authorization, the attribution of infringement responsibility, the definition of infringement, and the role of collective copyright management organizations. It aims to identify problems and propose solutions to ensure proper dissemination and usage of digital music, and to encourage the digital music industry to move towards a better model of growth and development. This article will compare the advanced practices of digital music copyright protection laws in foreign countries, analyze the gaps in our domestic copyright laws, and explore a more adaptable copyright protection model that aligns with the development of the times, thereby providing robust support for the growth of digital music.

2 Research Status

2.1 Domestic Status

In our country, the digital music industry started relatively slowly. After some initial growing pains, the digital music industry has shown a trend of stable growth in recent years. Various music and short video applications have rapidly developed, resulting in an increasing number of copyright issues. Consequently, copyright infringement has become a highly controversial topic, pushing digital music into the spotlight. China's existing "Copyright Law," "Tort Liability Law," and "Information Security Regulations" provide a certain degree of robust legal support for the protection of digital music. However, based on the current situation and actual case rulings, there are frequent difficulties in recognizing infringing acts and establishing causal relationships. This often results in handling outcomes that crudely balance interests by distributing the primary responsibilities among various parties in the digital music industry chain.

Chinese scholars have also discussed the aforementioned issues. Professor Qi Xiong has highlighted one of the current challenges facing digital music in China: the irregular distribution by digital music platforms and companies has already infringed upon the copyright of authors.[1] Additionally, due to the potential for works to be disseminated multiple times, defining legal relationships and distributing legal responsibilities has become a challenging issue. Professor Qi Xiong has offered the following recommendations regarding this issue: (1) Promote the improvement of the collective copyright management system. This should transition from statutory monopoly to limited openness and clearly distinguish between civil agency and illegal collective management. (2) Restore the balance between authorized licensing, industry self-regulation, and market preservation, ensuring that necessary market competition is maintained while avoiding confusion between market disorder and normal competition. I agree with Professor Qi Xiong's recommendations on the allocation of responsibilities in digital music, but defining which party holds copyright responsibility not only requires improving the law but also determining the responsibility allocation for each step in the digital music production process. This approach will provide a foundational reference in case of potential future copyright infringements.

The determination of full responsibility for digital music in China is based on the right to communication through information networks. Article 6 of the Civil Code requires both parties involved as rights and obligations subjects to adhere to the principle of fairness. However, determining whether a case is fair has become a challenge. Wenjie Liu has also noticed similar phenomena and further highlighted the issues that rights holders face when seeking to defend their rights under current regulations. In cases of digital music infringement, rights holders can only contact the infringing platform to address the infringer. This places rights holders in a relatively passive position. If the infringer refuses to acknowledge their wrongdoing and adopts a dismissive attitude, the rights holder is left with no choice but to file a lawsuit, which can lead to a protracted legal battle. Scholar Haoqi Ding has analyzed Article 1163 of the Civil Code in response to this issue. Starting from the perspective of "shared responsibility for losses," she examined numerous infringement cases and found that in judicial practice, there is no standard or ratio for sharing loss responsibility between the infringer and the infringed party. Therefore, the proportional distribution of responsibility remains indeterminate. She suggests that the state should interpret and categorize the concept of fair responsibility through laws and the analysis of relevant judicial cases, thereby reducing the uncertainty associated with "shared losses." [2]

Due to the relatively vague legal definitions of digital music copyright in China, monopolistic behaviors of digital music platforms have not been effectively addressed. Jiawei Xu analyzed the actions taken by major companies like Tencent and Xiami Music in February 2018 in response to legal accusations of digital music market monopolization. These companies began mutually licensing their exclusive copyrights with other platforms to evade legal penalties for monopolistic behavior. This practice has seriously threatened the healthy development of the digital music market, suppressed the creative enthusiasm of independent musicians, and hindered the circulation of digital music works. Despite this, the issue of using exclusive licenses is still allowed to a degree of 1%. [3] Therefore, Jiawei Xu concluded that this model, which only allows partial licensing of digital music, cannot solve the issue of digital music copyright monopolies. Instead, it leaves opportunities for digital music platforms to maintain monopolistic practices. However, Li Wang analyzed the current development of the Music Copyright Society of China (MCSC) and concluded that the mistrust between rights holders and users toward collective management organizations is due to inherent flaws in the current management system, rather than

the monopolistic model.[4] Considering the national conditions of China, Li Wang proposed that the concept of an extended collective management licensing system in China's Copyright Law aligns with the current digital music copyright market. This system leans more towards private authorization and self-regulation, complementing and co-developing with the social collective management system. Professor Qi Xiong believes that replacing centralized licensing with authorized licensing could resolve the issue where intermediary agencies in centralized licensing fail to meet their own needs. This approach represents a market behavior where market entities pursue a more optimal allocation model through contractual means.[5]

Many domestic scholars have based their research on various aspects of the digital music market upon the current state of China's music market, acknowledging that numerous pressing issues need resolution. Their research highlights current issues in the digital music market from different perspectives and provides unique insights, offering valuable theoretical foundations and case references for this paper. However, some issues have not been sufficiently discussed. Most domestic scholars focus their discussions on existing cases and phenomena without delving into the deeper exploration of corporate rights and individual rights. This is one reason why many discussions tend to remain at a superficial level.

2.2 Current Situation Abroad

Compared to China, the United States has a more comprehensive copyright law system. Legal protection for digital music copyright in the U.S. began with the Digital Millennium Copyright Act (DMCA) of 1998. This act aims to protect the copyright of digital content, stipulating digital rights management technologies and the legal use of digital music, thus providing legal safeguards for the rights of copyright holders in the digital age. The U.S. copyright protection system has undergone long-term development and improvement, establishing multiple copyright protection organizations, including the American Society of Composers, Authors, and Publishers (ASCAP); the Recording Industry Association of America (RIAA); and Broadcast Music, Inc. (BMI). Entering the 21st century, as the music industry transitioned into the era of streaming, new reforms in music copyright protection emerged in the United States. In 2018, U.S. President Donald Trump officially signed the Music Modernization Act, which established specialized agencies to handle music licensing and copyright, promoted collaboration between publishers and streaming service

platforms, and simplified the licensing process, allowing copyright holders to receive compensation more quickly from streaming plays. China could draw on this act to reconstruct its statutory licensing system, implement a comprehensive statutory licensing package, and simplify the previously complicated statutory licensing processes.[6] Another advantage of comprehensive licensing is that it only encompasses digital music performance rights, allowing legal licensing to be more compatible with the digital music industry by significantly saving time and negotiation costs. According to the U.S. Music Modernization Act, the Mechanical Licensing Collective (MLC) will be led by a board of directors composed of various departments and undefined representatives, with the specific operations handled by the music work copyright holders. Compared to the loopholes in China's statutory licensing, this approach provides certainty and consistency for copyright holders and streaming service providers.[7] The introduction of this act further strengthens the protection of digital music copyrights, providing robust support for the healthy development of the music industry. It also offers a valuable foundation of experience for addressing copyright protection issues in China's digital music sector.

3 Relevant Cases of Digital Music Infringement

People must take seriously the chain reactions triggered by improper use of copyrights. For instance, after an infringement occurs, due to the lack of clear laws on the allocation of copyright responsibilities, musicians and copyright holders achieve very minimal results in the process of defending their rights, and it requires a significant amount of cost, leading most copyright holders to abandon their efforts to protect their rights. The 16th E-Law Digital Music Forum released the "2021 China Musicians Report" (hereinafter referred to as the "Report"). According to this Report, the fundamental reason musicians abandon defending their rights in cases of infringement is the excessively low return on investment during the rights protection process, and the outcomes are often unsatisfactory[8]. At the beginning of 2018, Nanjing musician Li Zhi encountered a copyright infringement issue. During the national tour of Tencent Video's idol development show "The Coming One," the champion Mao Buyi performed Li Zhi's song "Memories of Zhengzhou" without obtaining Li Zhi's authorization. Just half a year later, on June 30, 2018, Qiu Hongkai performed Li Zhi's work "Castle in the Sky" on "The Coming One," again without authorization. Upon discovering this, Li Zhi chose to publicly criticize the actions and

demanded an exorbitant compensation of 3 million yuan (1 million for the infringement fees from the second season of "The Coming One," 1 million for the infringement fees from Mao Buyi's tour, and 1 million as compensation for other musicians), hoping to resolve the issue through legal means. However, after the incident, the event organizer Wajijiwa, who should have been responsible for the infringement, did not respond at all. Only Mao Buyi himself responded on Weibo, but he did not issue an apology statement. Subsequently, Wajijiwa admitted that they had not obtained the copyright in advance. The concert organizer, YSC Culture (Hangzhou Yishangchun Cultural and Creative Co., Ltd.), only issued a statement but did not provide an effective response. Regarding the infringement in the second season of "The Coming One," Li Zhi stated that he received an email from "Wenjing" on July 1, 2018, just two days after the show was aired. The email used the excuse that the "The Coming One" team had only just found Li Zhi's contact information and therefore could not obtain authorization in advance. The email also displayed a very arrogant attitude, almost forcibly demanding authorization for a series of Li Zhi's works. However, the court ultimately deemed the amount of compensation demanded by Li Zhi to be too high and ruled that the infringing party should compensate him with 200,000 yuan. During his pursuit of justice, Li Zhi requested that the infringing party publicly acknowledge the infringement, but the infringing party did not provide a direct response. Li Zhi's effort to protect his rights did not achieve a satisfactory resolution. This case illustrates that infringing incurs little cost, but defending one's rights requires a substantial amount of money and time. As a result, many musicians are forced to abandon their efforts to protect their rights due to the high costs involved. In digital music infringement cases, the "Copyright Law" does not specify how to compensate for the actual losses of the rights holder or the illegal profits gained by the infringer. There are significant disparities in legal compensation rulings across different levels and regions. In some instances, the same case has received different judgments, further discouraging copyright holders from defending their rights[9].

4 Solution

Due to the lack of explicit provisions in our country's "Copyright Law" regarding the distribution of responsibilities between the right holders and the infringers, many cases result in ambiguous and unfair outcomes. In the case of Li Zhi, the current

"Copyright Law" in our country fully exposed a series of problems arising from the absence of corresponding laws and regulations concerning infringements during the dissemination of digital music works on streaming platforms. The author believes that the United States "Music Modernization Act" (MMA) provides insights into resolving situations similar to the Li Zhi case.[10] To avoid the issue where streaming platforms might face legal liabilities due to the lack of compliant digital music service providers after digital music works are infringed during dissemination, the MMA first introduced the concept of "compulsory mechanical licensing." This means that the original mechanical reproduction rights are compulsorily licensed, requiring streaming platforms to pay fees to the copyright holders for each piece of work. Subsequently, the MMA changed this to a "blanket license," allowing streaming platforms to use a large number of works by paying a single fee. This also prevents creators from incurring enormous costs when defending their rights in case of subsequent infringements. To manage and distribute these royalties more effectively, the MMA established a nonprofit entity known as the "Mechanical Licensing Collective" (MLC). The MLC will collect royalties from digital music providers, identify the musical works and their owners, and make the payments, thereby effectively controlling the distribution of copyright responsibilities. The role of China's Music Copyright Society (MCSC) is similar to that of the MLC. Currently, most television stations in China have signed copyright agency agreements with the MCSC, under which they pay substantial annual fees for authorized usage. The MCSC then distributes these fees based on the specific usage of the works. However, as a non-governmental organization, the MCSC does not have enforcement power and, in cases of infringement, can only provide some authorization information without making any substantive rulings. The MCSC's authority does not cover unauthorized works, and it cannot provide assistance or references in cases of infringement involving unauthorized works. For example, many musicians who have not joined the MCSC or have not authorized the MCSC to represent their works, such as Li Zhi, are not covered under its jurisdiction. Since Li Zhi did not join the MCSC, it is difficult for his rights to be protected. Original copyright holders often have to forgo defending their rights due to the high costs involved when their work is infringed. The author believes that the country can draw inspiration from the MMA's "blanket license" provisions and enact laws to clarify issues of copyright ownership and infringement-related regulations. This could include stipulating that works produced by individuals are uniformly protected under the law, thereby shifting the

focus from protecting the works themselves to protecting the rights of the creators. Although the MCSC does not have enforcement power, it can assist in expanding awareness of copyright protection among musicians (including independent artists) and the general public through advocacy. Additionally, it can engage in more in-depth legal education for businesses and companies involved with digital music, thereby ensuring that the law more effectively protects the interests of original creators.

The MMA focuses on preventing infringement for creators, while the "fair remuneration mechanism" in the EU's Directive on Copyright in the Digital Single Market further covers methods for handling authorization processes and dealing with infringements. Zhou Heng mentioned that Articles 18 to 23 of the EU Directive on Copyright in the Digital Single Market specifically outline the "fair remuneration mechanism for authors and performers in development contracts for works".^[11] This mechanism is primarily aimed at addressing the issue of imbalanced interests in copyright licensing contracts, especially in the digital market, where asymmetry of information and unequal bargaining power often prevent authors and performers from receiving compensation commensurate with the value of their works. The "fair remuneration mechanism" consists of six articles and aims to ensure that authors and performers receive appropriate and proportionate remuneration when licensing or transferring exclusive rights for the exploitation of their works or other subject matter. "Appropriate and proportionate" here means that the remuneration should correspond to the actual or potential economic value of the licensed or transferred rights and consider the author's or performer's contribution to the work or other subject matter. In contrast, China's "Copyright Law" does not guide how right holders can defend their works from unreasonable commercial exploitation. One of the contentious points in the Li Zhi case is precisely this: almost all parties responsible for the infringement, including the producers of "The Coming One" and event organizers, did not provide corresponding remuneration to Li Zhi but instead used various excuses to shirk responsibility. Due to the lack of specific regulations on how to restrict the behavior of infringers after an infringement occurs, there have been cases where infringers act arrogantly. The second and third provisions of the "fair remuneration mechanism" address similar situations. The second provision introduces a transparency obligation, requiring both parties to disclose financial information related to the development of the work, thereby increasing transparency and allowing authors and performers to better understand their rights. The third provision establishes a contract adjustment

mechanism, permitting adjustments to the contract in certain circumstances to ensure that the remuneration for authors and performers aligns with the actual value of the work. Two days after the infringement occurred, on July 1, 2018, Li Zhi received an email from "Wen Jing," the content of which violated the transparency principle of the "fair remuneration mechanism." The attitude of the infringing party also indicated a refusal to negotiate or consider adjustments. The reason for the infringer's brazen confidence also stems from the absence of specific provisions in our country's laws that could immediately support Li Zhi in protecting his rights.

From the comparison between the aforementioned two European regulations concerning copyright use and our country's "Copyright Law," it is evident that there are still gaps in the latter. If our "Copyright Law" could be improved by incorporating the principles of these two mentioned provisions by our national conditions, specific deficiencies could be addressed, and the rights of independent musicians like Li Zhi could still be protected both before and after an infringement occurs. Furthermore, copyright protection is not only a matter of legal provisions but is also closely related to the responsibilities of creators and copyright holders.

5 Conclusion

This article provides a detailed discussion on the issue of digital music copyright, focusing on the case of Li Zhi's song being infringed upon by "The Coming One." It analyzes the main problems faced by digital music copyright, such as unclear copyright ownership, difficulty in holding infringers accountable, and uneven distribution of revenue. These issues not only affect the motivation of music creators but also hinder the healthy development of the digital music industry. To address these issues, this article analyzes the "fair remuneration mechanism" in the U.S. Music Modernization Act and the EU Digital Single Market Copyright Directive for digital music copyright protection in light of the loopholes in China's Copyright Law and considers the implications of these legal regulations for China's Copyright Law. The state should introduce relevant laws and regulations, strengthen legislation and law enforcement, and clarify the ownership of digital music copyrights and the legal responsibilities associated with infringement, thus providing strong legal protection for copyright. Additionally, music copyright is the core asset of musicians and forms the basis for collaboration with platforms. The state should collaborate with organizations like the Music Copyright Society and other entities concentrated in

copyright industries to vigorously promote the importance of copyright protection, ensuring that musicians are aware of protecting their rights. Musicians should clarify their copyright ownership and ensure their rights are not violated during collaborations. When their rights are infringed upon, musicians should be courageous in defending their rights and protecting their legitimate interests.

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