



A Study on the Use and Controversies of Audiovisual Materials in Civil Litigation

—An Examination of the Zhang Mou Testamentary Inheritance Dispute Case

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Abstract. This article examines the inheritance dispute related to Mr. Zhang's will, focusing on the key issues surrounding audio-visual materials in civil litigation, including the determination of evidentiary effect, legality assessment, and identification of original carriers. By analyzing the use of audio-visual materials in the case's trial process, it highlights the challenges faced by current judicial rules in handling technical evidence. Drawing on pertinent civil litigation laws and principles of judicial discretion, it suggests enhancements to the rules governing the application of audio-visual evidence, particularly regarding exclusion criteria, authenticity evaluation, and procedural standards. The goal is to offer guidance for accurately assessing the evidentiary value of audio-visual materials in judicial practice, contributing to the improvement of civil litigation evidence systems and the achievement of judicial fairness in the digital age.

Keywords: Civil litigation; Audio-visual materials; Evidentiary effect; Legality; Original carrier

1 Introduction

The advancement of digital technology has transformed the civil litigation evidence system. Audiovisual materials, with their advantages of directness, dynamism, and scene reconstruction, have become essential evidence in resolving complex civil disputes and play a significant role in various types of litigation. With the development of science and technology, many novel and convenient audio-visual recording devices have emerged. Even mobile phones can now create audio-visual materials anytime and anywhere.^[1] However, challenges arise in judicial practice regarding the verification of authenticity and the legality of these materials. Disputes over issues such as "whether privately recorded audiovisual materials can be used as evidence" test judges' ability to exercise discretion in evidence evaluation. These disputes impact the rights and interests of the parties involved and highlight the tension between technological rationality and legal values within China's civil litigation framework governing audiovisual materials. This paper examines the case of Zhang's testamentary in-

heritance dispute heard by the Beijing Third Intermediate People's Court, where three video recordings of the will were central to the evidence presented. The challenges associated with determining the original carriers of these recordings highlight typical difficulties in using audiovisual materials. By analyzing the distinctions between "formal originality" and "substantive originality," this study identifies gaps in existing legal norms. It suggests improvement strategies in three areas—legislative refinement, judicial discretion, and technological assistance—to develop rules for audiovisual evidence that are appropriate for the digital age, aiming to create a balance between technological progress and judicial fairness.

2 Case Overview

This case concerns the inheritance of a demolition-resettlement apartment in Beijing's Chaoyang District, originally owned by the late Guo Moumou.^[2] Plaintiffs Zhang Mou1 and Zhang Mou2 claim inheritance against defendants Zhang Mou3 and Zhang Mou4. The apartment was acquired via demolition compensation in 2008, purchased in 2010 with contributions from the four children, and registered to Zhang Mou1 in 2018. A prior court judgment confirmed the right of Zhang 2's son to live in and use the property.

At first instance, the plaintiffs submitted a handwritten will and video, asserting Zhang Mou1 as the heir. The defendants challenged the will's validity and sought forensic authentication, which was rejected as the plaintiffs failed to produce the original will. The defendants then presented three wills drafted by Zhang Mou4. The court held these three wills invalid for failing statutory formal requirements. It found the plaintiffs' will, despite formal flaws, reflected Guo's true intent supported by the video, and ruled for the plaintiffs.

The defendants appealed unsuccessfully. They then applied for prosecutorial supervision; the Beijing Municipal People's Procuratorate filed a protest with the Beijing Higher People's Court, and the case is now under retrial.

3 Case Analysis of Core Issues

3.1 Unclear Legality Exclusion Criteria

The current law has some ambiguity in the definition, collection, preservation and identification standard of electronic data, which leaves room for interpretation and implementation in practice, and thus affects the certainty of identification opinions.^[3] The law only stipulates that audiovisual materials obtained by infringing upon others' lawful rights and interests or violating prohibitive legal provisions shall not be used as evidence for adjudication. However, it fails to elaborate on the scope and degree of "infringing upon others' lawful rights and interests" or the specific circumstances of "violating prohibitive legal provisions." This ambiguity leaves judges without clear standards when assessing the legality of privately recorded audiovisual materials, potentially leading to inconsistent rulings in similar cases. On one hand,

supporters argue that it is crucial to strike a balance between safeguarding individual rights and maintaining public interest. On the other hand, opponents emphasize the need for strict control over private recordings to prevent infringement on others' right to privacy.^[4]

3.2 Non-standardized Authenticity Assessment Procedures

The authenticity review rules for audiovisual materials and electronic data under Chinese law are grounded in the presumption that 'data integrity equates to evidentiary authenticity.' Their core design focuses solely on ensuring 'formal integrity'—verifying whether data remains in its original state and whether circulation processes comply with regulations—without conducting substantive verification of 'content authenticity.'^[5] The authenticity of audiovisual materials relies on judicial appraisal, yet there are no unified industry standards for appraisal. The scope of appraisal, testing methods, and requirements for issuing opinions remain undefined. Furthermore, the trial process lacks a multi-party cross-examination mechanism. When parties raise objections without providing counterevidence, judges struggle to make precise determinations, and the probative value of appraisal opinions is often assessed arbitrarily.

4 Recommendations for Improving the Use of Audiovisual Materials in Civil Litigation

4.1 Relaxing the Exclusion Criteria for Audiovisual Evidence

The current exclusionary rules regarding illegally obtained audiovisual evidence are not clearly defined. While laws state that evidence obtained by infringing on others' lawful rights or breaching legal prohibitions cannot be used in court, there is no explicit clarification on what constitutes "infringement upon others' lawful rights" or the specific conditions that would amount to a "violation of prohibitive legal provisions." For example, questions remain about whether recording conversations in a private residence constitutes infringement, or if audiovisual materials that involve minor procedural violations should be excluded. Although a 2015 interpretation by the Supreme People's Court introduced provisions related to serious violations of public order and good morals, it does not adequately define exclusion criteria. This ambiguity results in disputes and uncertainty in judicial practice concerning the evaluation of illegally obtained audiovisual materials, leading to the exclusion of many materials that could be important for establishing the facts of a case. In private lending disputes, for instance, lenders who record debt collection conversations privately—even in typical social settings—may have that evidence excluded due to potential privacy concerns, complicating the enforcement of their rights.

Due to the current limitations in evidence-gathering capabilities among parties and their legal representatives in China, it is important to relax the exclusion standards for audiovisual materials. If parties whose legitimate rights have been infringed are de-

nied judicial protection solely because the manner of obtaining audiovisual evidence is contested—rather than being clearly unlawful—this undermines judicial fairness and justice. Regarding exclusion criteria, it is essential to clearly define core concepts and establish specific application standards. On one hand, a unified judgment standard should be established for determining "serious infringement of others' legitimate rights and interests" to reduce subjective arbitrariness in adjudication. On the other hand, the connotation of "violating prohibitive legal provisions" should be refined to provide clearer and more specific content, thereby enhancing its guiding efficacy in judicial practice.^[6]

4.2 Refining Rules for Assessing the Authenticity of Audiovisual Evidence

Clarify the Criteria for Determining Original Media.

The original carrier refers to the device where audiovisual evidence was first recorded and stored, such as the mobile phone used to capture a video. If the original carrier is unavailable, a copy that demonstrates a lawful source of the audiovisual evidence, maintains its complete content, and closely relates to the case may be considered equivalent to the original carrier in terms of effectiveness, as long as it has undergone technical verification to confirm it has not been altered. For example, copies of audiovisual evidence stored using blockchain technology may be validated if reliable information about the blockchain evidence is provided.

A strong original carrier verification procedure should be implemented. The party submitting the audiovisual material must provide the original carrier or offer a reasonable explanation for its absence, which is subject to court verification. If the original carrier cannot be provided without justification, the authenticity of the audiovisual material should be thoroughly evaluated to avoid the use of potentially fabricated or altered evidence in the decision-making process. Additionally, when evaluating audiovisual materials, courts should consider contextual information such as the recording time, location, and environment to fully assess their authenticity and credibility.

Standardizing Appraisal Procedures and Criteria.

The establishment of appraisal institutions must strictly comply with the relevant registration and licensing regulations, and the primary initiators of the institutions must provide necessary qualification certification materials.^[7] Establish unified industry standards for audiovisual evidence appraisal, covering technical specifications for analyzing video images and audio signals. Appraisal institutions must not only detect editing or manipulation traces but also conduct comprehensive analysis of relevant information such as recording equipment and environmental conditions. Appraisal opinions from institutions violating standard operating procedures should not be accepted.

Introduction of a Multi-Party Cross-Examination Mechanism.

Technical difficulties naturally require corresponding technical experts to resolve. [8]During the cross-examination phase of the trial, several parties—such as litigants, experts, and expert witnesses—are required to take part. Each party must offer a thorough explanation of how audiovisual materials were acquired. Experts are expected to clarify their methodologies and the rationale behind their conclusions, while expert witnesses may clarify technical matters. If the case requires, the original materials should be provided to facilitate the identification of professional disputes, thereby offering precise and professional solutions. This prevents discrepancies in case information between the appraiser and the parties, which could compromise the quality of cross-examination. [9]

5 Conclusion

In the background of digital age, there is a tension between the dynamic development of science and technology and the stability of legislation and judiciary. [10]Audiovisual materials are increasingly employed in civil litigation. Establishing rules for the admissibility of such materials necessitates consideration of the technical aspects of digital evidence, as well as adherence to legal principles and standards of judicial fairness in civil procedures. The case of Zhang's Testamentary Inheritance Dispute exemplifies the current judicial challenges in identifying original evidence sources, evaluating legality, and verifying the authenticity of audiovisual evidence while also providing practical insights for refining relevant regulations.

To enhance the regulations surrounding audiovisual evidence in civil litigation, it is essential to base our approach on China's judicial practices and the realities of evidence collection. This includes relaxing the exclusionary rule, creating a multifaceted system for assessing authenticity, and improving procedural protections, such as burden of proof, expert evaluation, and cross-examination. These strategies aim to integrate technological insights with legal principles. At the same time, it is important to adapt to advancements in digital technology by integrating new tools like blockchain and artificial intelligence into evidence preservation and verification, thereby establishing an audiovisual evidence framework that is appropriate for the digital era.

Implementing these measures will allow for the full realization of the evidentiary value of audiovisual materials, enable accurate determination of case facts, balance the legitimate rights and interests of all parties, and facilitate the ongoing enhancement of the civil litigation evidence system, ultimately promoting both judicial fairness and procedural efficiency.

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