

# *Research on Network Novel Infringement*

Mingkai Wu<sup>1,a,\*</sup>

<sup>1</sup>Major Law, College of Marxism, Nanjing Forestry University, Nanjing, 210000, China

a. 2774370192@qq.com

\*corresponding author

**Abstract:** The rapid development of the Internet has brought great changes to our lives and has had a far-reaching impact on the law. In the context of the Internet, the network culture represented by network novels has gradually entered the historical stage and has become an important part of China's cultural system. However, with the continuous increase in the total number of online novels, copyright infringement cases of online fiction are also increasing. Especially in the present, China's legal system for the protection of copyright in network novels is still not perfect, and the infringement of copyright in network fictions continues to emerge. Clarifying the relevant legal relations of network novels is also an important premise to solve their dilemma. On the basis of explaining its concept, this paper analyzes the case, points out the existing problems based on practice, and finally puts forward constructive suggestions.

**Keywords:** network fiction copyright, infringement, plagiarism, Copyright Law protection

## 1. Introduction

Although the Internet is developing rapidly, its technology is still in the initial stages of development. Only by improving Internet-related technologies will the future development of online novels be more extensive. Researching the copyright infringement of online novels, using legal means to solve copyright infringement disputes, and protecting the legitimate rights and interests of rights holders are of great significance to standardize the rational use of copyright in online novels and promote the healthy growth of online novels. Compared with traditional copyright infringement, the copyright infringement of network novels has more concealment, complexity, and extensiveness. Therefore, when protecting the legitimate rights and interests of the copyright owners of network novels, they will face many different legal problems. As the protection of copyright under the network background is insufficient from the perspective of legislation and the attention of ordinary people, it is of great significance to explore the legal and social reasons behind the defects of copyright protection under the network background through the plight of copyright owners.

By collecting all kinds of literature on copyright protection of online novels at home and abroad, summarizing relevant literature, conducting research on the basis of historical and current research, analyzing the current difficulties and blocking points, and finding out the future development direction.

## 2. The development of network novels

Network novel is a new literary publishing model produced with the vigorous development of Internet technology in recent years. Network novels have broad sense and narrow sense. The broad sense can include all the novels published and spread on the network. However, network novels in the narrow sense mainly refer to the novel forms created by network writers and published online for the first time, and then spread. It is free in style and subject matter. The subject matter is mainly realistic, fantasy, time travel and historical aeration. The network novel itself is the author's collection of popular themes, combined with their own understanding of literary creation, its starting point is different from the classic epic people have seen in the past. Authors often write with little people, little citizens to describe ordinary people's opinions. The protagonist's experience and the core plot of the story are closer to the public, so that the majority of readers can be entertained and relaxed in the process of reading the work, and have a deep resonance.

## 3. Type of infringement

Copyright infringement refers to the act of using the works of others or exercising the exclusive rights of copyright owners without the consent of copyright owners and without legal basis. There is no difference in nature between the copyright of network novels and that of traditional paper books. In essence, both are "intellectual achievements with originality that can be expressed in a certain form." However, because the way of publication and transmission of network novels is completely different from that of traditional novels, the problem of copyright infringement encountered by network novels is also very different from that of traditional novels. A large number of novel works are uploaded to the network for digital transmission, which greatly improves the speed of the transmission of works, but also puts the works in a more dangerous environment of infringement.

### 3.1. Illegal reprinting

With the continuous rise of network novels and the development and popularization of Internet technology achievements, the form of creation and dissemination of network novels has undergone great changes. At present, the most common infringement mode is illegal reprinting.

Illegal reprinting content refers to the behavior of the infringer, who copies, intercepts, and edits the network works of others without authorization and then reprints and spreads them through the network media. In the past, copyright awareness in China was relatively weak, pirated books, pirated software, pirated websites can be seen everywhere, and often people copy their favorite text works to online communities. The emergence of major platforms provides free sharing and communication tools for netizens. As soon as the Internet emerged, it showed its most powerful charm: sharing and free. People from all over the country can discuss, study and entertain together, and many people want to show their presence on the Internet and are willing to share what they have bought with money for free, especially music, videos and literature. In the era of internet, this phenomenon of everyone sharing has a huge impact on the network environment. Over and over, netizens are accustomed to free uploading and free use of pirated resources, and they take the free resources for granted, without realizing that this is a kind of infringement[1].

Copyright owners are often powerless to defend their rights due to the limitation of rights protection consciousness, litigation costs and other aspects. Most authors lack the awareness of copyright protection, which shows that they are not active in registering their works, and their attitude is generally indifferent when their rights are infringed. China's written works copyright registration needs to apply to the copyright registration department of the China Copyright Protection Center. The process is more complicated as there are no detailed review materials

submission standards, so it is time-consuming and laborious. If sending to the copyright agency, they also need to pay high agency fees[2]. If the work does not attract readers, it is difficult for the author to make ends meet, so the incentive to choose copyright registration is not high. Coupled with the high cost of rights protection, there are even fewer authors who choose to defend their works when their works are infringed. The features of the Internet, such as functionality and low cost, have brought about the facilitation and decentralization of communication[3]. A large number of online fiction works that have been illegally copied, stolen chains, and stolen pictures without the authorization of the author have been spread only on various online novel platforms.

### 3.2. Plagiarism

Plagiarism can be understood as transferring the work of other authors to gain fame and wealth by adjusting grammar, sentences and word order, changing titles, names and symbols, and retaining the core premise of story plot.

In recent years, the case of Qiong Yao suing Yu Zheng for allegedly copying the TV drama "Gong Suo Liancheng" has aroused widespread debate on the Internet. Qin Jian, author of the novel "Jin XiuWeiyang," has been sued by several authors for allegedly copying more than 200 novels[4]. The phenomenon of plagiarism has discouraged many authors, and the phenomenon that many victims are already well-known people in society but still cannot protect their rights and interests through legal channels has also discouraged many authors who want to engage in the network writing industry[5].

## 4. Determination of infringement

There are two main criteria for judging plagiarism in Chinese law. The first is to judge whether the plagiarized work is protected by the Copyright Law according to law, that is, whether it has originality and replicability. Only replicable works independently created by the author can be protected by law. The second is to determine whether the works involved in the case belong to the statutory exceptions provided for in Article 22 of the Copyright Law.

In judicial practice, the court usually applies the "dichotomy of thought and expression" to distinguish the two, and holds that the more specific is expression, the more abstract is thought[6]. However, this standard is too vague to be applied to judge the infringement of the recessive non-words in the novel works.

In particular, it is difficult to judge plagiarism under the premise while the current judgment standards for plagiarism are not clear enough. Although there is a boundary between plagiarism and originality, the court needs to constantly explore the situation of each case, which is bound to consume a lot of experience of both parties and judges - and the results are also hard to convince the public due to the lack of the judgment system.

The legislation of China's copyright law is relatively late, so there is a certain lag. The lag of legislation leads to the interest game between copyright owners and netizens. For example, Internet service providers are not clearly defined in copyright law, tort liability law, relevant regulations and judicial interpretations, but are often judged by the judicial authorities in combination with the actual situation. In the face of the ever-changing online novel industry, huge number of infringements, novel infringement methods and hidden infringements, China's current laws and regulations are difficult to build a reliable path for rights protection for rights holders, which makes it more necessary to start from the legislative aspect and gradually improve the relevant legal system.

## 5. Measures and improvement suggestions

On the one hand, the revision of laws and regulations such as the Copyright Law should be accelerated, so that there can be laws to rely on when new problems arise in the copyright of network novels, and the case judgment standards can be consistent. At the same time, we will strengthen the power, authority and fairness of copyright judicial protection, and optimize the legal environment for creation and innovation.

On the other hand, through the analysis of the cases mentioned above, we can conclude that there are some problems in judicial practice that cannot accurately define the legal status of the elements such as the relationship between characters, roles and plots in the novel. On the basis of balancing the interests of copyright owners and public interests, we should fully draw on the mature experience of foreign copyright legislation and judicial practice, further improve the systems of fair use, statutory licensing, copyright registration, and improve the handling standards for the definition of works and the identification of network infringements[7].

We do not advocate "fighting violence with violence", but an important reason why online novel copyright infringement is repeated is that the infringer's illegal profits are much higher than the punitive damages. Therefore, China should strengthen its efforts to combat the phenomenon of online novel piracy and plagiarism. For example, if the infringement of the copyright of online works is true, the entire amount of illegal income of the infringer shall be confiscated and a high fine shall be imposed, and the repeated offenders shall be prohibited from publishing any articles on the Internet[8]. Only when the infringer's illegal liability is higher than the illegal profit will the infringing person give up the plagiarism by chance, concentrate on creation, and maintain the healthy and orderly development of the network novel market.

China has a large number of Internet users. It is absolutely impossible to guarantee that every Internet user has a high copyright consciousness. Many people have infringed the copyright of others' network novels without realizing it. It requires the government departments to do good publicity work, guide and stress the importance of copyright protection. It is also necessary to let network users and network operators know the legal responsibility to bear, so as to stop the copyright infringement of network novels from the source.

## 6. Conclusion

The conflict between the protection of authors' rights by traditional copyright law and the network industry requires finding a balance of interests. The protection of copyright is not only to protect the personal interests of copyright owners, but also to safeguard the interests of the public and the state, and even to safeguard the economic and social operations of the whole country. About the various problems existing in the current process of copyright protection in China, it is necessary for us to absorb the advanced systems and methods of copyright protection in foreign countries while constantly improve the copyright protection system with Chinese characteristics according to the national conditions. Besides this, the problems of copyright law in the network environment do not mean that the traditional copyright law is completely negated, but constantly promotes the development of law and technology, which also means that copyright law will eventually fit in with the network era, which not only protects the interests of copyright owners, but also promotes the production and dissemination of works. In addition, copyright protection in the network environment also depends on the participation and help of administrative and social forces, so that the copyright industry can form a virtuous circle in the network environment.

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