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## **Preface**

Since the 18th National Congress of the Communist Party of China, the Party Central Committee with Comrade Xi Jinping as its core has been systematically arranging and comprehensively advancing the work of cyber security and IT application, and has formed the scientific, systematic strategic thinking for building China's strength in cyberspace, with developing socialism with Chinese characteristics and realizing the great Chinese Dream of national rejuvenation as the highest strategic goal. With the putting forward of a new "two-step" strategy by the 19th CPC National Congress, China's Internet development and governance are seeing constant progress.

National strategies and industrial development have profound influence on the reform initiatives in the judicial field as well. On July 6, 2018, the Commission for Comprehensively Deepening the Reform under the Central Committee decided to set up the Beijing Internet Court on its third meeting. On September 9, 2018, the Beijing Internet Court hung out its nameplate and announced its establishment. It is an important initiative to implement General Secretary Xi Jinping's strategic thinking for building China's strength in cyberspace, to comprehensively advance the strategic deployment for law-based governance, to promote the rule of law in cyberspace governance, and to enhance China's voice in the international Internet governance.

Since its establishment a year ago, the Beijing Internet Court has always

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adhered to the guidance of Xi Jinping's Thought on Socialism with Chinese Characteristics for a New Era. Under the strong leadership of the Beijing Municipal Party Committee and the correct guidance of the Supreme People's Court and the Beijing High People's Court, the Beijing Internet Court always stays true to its founding mission and focuses on the goal of ensuring that "letting the people to feel fairness and justice in each judicial case". It keeps to the two-wheel drive of institutional innovation and technology application, explores rules for the new type of online litigation, hears various Internet cases in accordance with the law, promotes the rule of law in cyberspace governance vigorously, and polishes the brand of Chinese online litigation constantly.

## I. About the Beijing Internet Court

### **(1) Organization**

In accordance with the principle of "revoking one and establishing one", the Beijing Railway Transport Court was revoked while the Beijing Internet Court was established. Under the same standards for the primary-level people's courts in the urban areas of Beijing, the Beijing Internet Court was specially established with 8 internal departments, including the Case-filing Division (litigation service center), the 1st Comprehensive Division, the 2nd Comprehensive Division, the 3rd Comprehensive Division, the Enforcement Department, the Political Department (Party Affairs Committee), the Trial Management Office (Research Office), and the General Office (Judicial Police Brigade).

## (2) The trial staff

The Beijing Internet Court currently has 35 post judges, 105 judge assistants and court clerks, 19 judicial administrators and 24 judicial police officers. The average age of the post judges is 40. 75.7% of them hold a master's degree or above. They have been engaged in the trial work for more than 10 years averagely.

## (3) The cases

**Jurisdiction:** The Beijing Internet Court has jurisdiction over eleven types of specific Internet-related first-instance cases that should be accepted by the primary-level people's courts within the jurisdiction of Beijing.

### Cases Within Jurisdiction of Beijing Internet Court

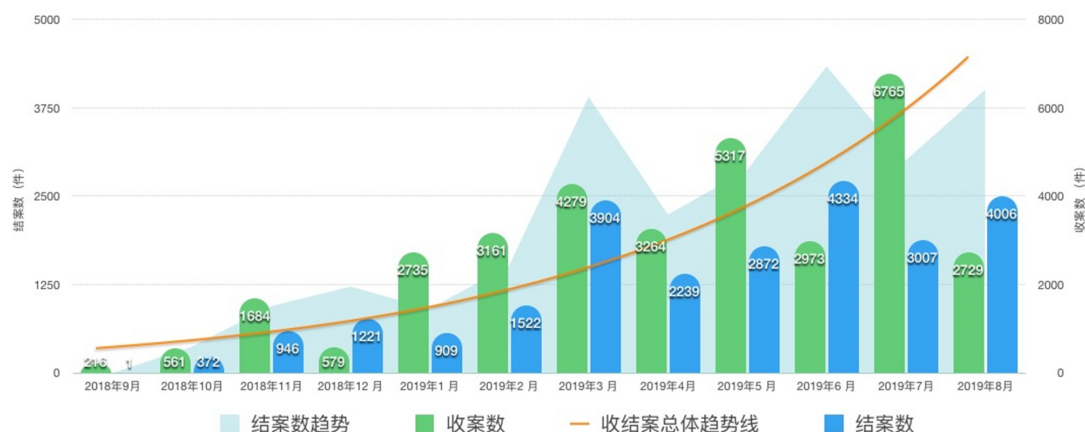


通过电子商务平台签订或者履行网络购物合同而产生的纠纷	Disputes arising from the conclusion or performance of online shopping contracts through e-commerce platforms
签订、履行行为均在互联网上完成的网络服务合同纠纷	Online service contract disputes where the conclusion and performance are completed on the Internet
签订、履行行为均在互联网上完成的金融借贷合同纠纷、小额借款合同纠纷	Disputes over financial loan contracts and small loan contracts where the conclusion and performance are completed on the Internet
在互联网上首次发表作品的著作权或者邻接权权属纠纷	Disputes over the ownership of copyright or neighboring rights of works published on the Internet for the first time

在互联网上侵害在线发表或者传播作品的著作权或者邻接权而产生的纠纷	Disputes arising from the infringement of copyright or neighboring rights on the Internet of works published or communicated online
互联网域名权属、侵权及合同纠纷	Disputes over Internet domain name ownership, infringement and contracts
在互联网上侵害他人人身权、财产权等民事权益而产生的纠纷	Disputes arising from the infringement of the personal rights, property rights or other civil rights of others on the Internet
通过电子商务平台购买的产品，因存在产品缺陷，侵害他人人身、财产权益而产生的产品责任纠纷	Product liability disputes arising from the infringement of the personal or property rights of others due to the defects of products purchased through an e-commerce platform
检察机关提起的互联网公益诉讼案件	Internet public interest litigations filed by the procuratorial organ
因行政机关作出互联网信息服务管理、互联网商品交易及有关服务管理等行政行为而产生的行政纠纷	Administrative disputes arising from administrative actions taken by administrative organs such as Internet information service management, Internet commodity trading and relevant service management
上级人民法院指定管辖的其他互联网民事、行政案件	Other Internet civil and administrative cases designated by the people's court at a higher level

**The cases accepted and closed:** From September 9, 2018 to August 31, 2019, the Beijing Internet Court accepted a total of 34,263 cases and closed 25,333 cases. Among them, 3,040 cases were accepted and 2,540 were closed in 2018; 31,223 were accepted and 22,793 were closed in 2019. The numbers have been growing rapidly.

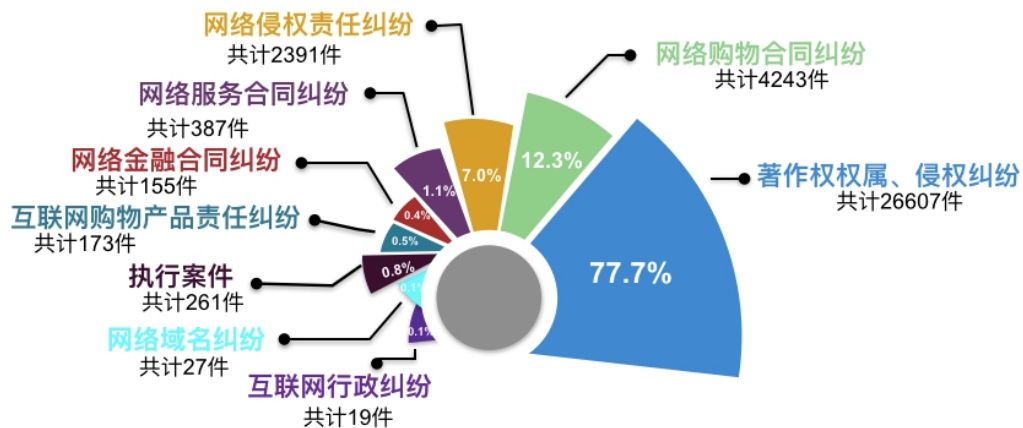
### Cases Accepted and Closed from September 9, 2018 to August 31, 2019



结案数（件）	Number of cases closed
收案数（件）	Number of cases accepted
结案数趋势	Trend of number of cases closed
收案数	Number of cases accepted
收结案总体趋势线	Overall trend of the numbers of cases closed and accepted
结案数	Number of cases closed
2018 年 9 月	September 2018
2018 年 10 月	October 2018
2018 年 11 月	November 2018
2018 年 12 月	December 2018
2019 年 1 月	January 2019
2019 年 2 月	February 2019
2019 年 3 月	March 2019
2019 年 4 月	April 2019
2019 年 5 月	May 2019
2019 年 6 月	June 2019
2019 年 7 月	July 2019
2019 年 8 月	August 2019

**Types of the cases:** From September 9, 2018 to August 31, 2019, the Beijing Internet Court accepted 26,607 copyright ownership and infringement disputes, accounting for 77.7%, 4,243 online shopping contract disputes, accounting for 12.3%, 2,391 online infringement liability disputes, accounting for 7.0%, 387 online service contract disputes, accounting for 1.1%, 173 online shopping product liability disputes, accounting for 0.5%, 155 online financial contract disputes, accounting for 0.4%, 261 administrative cases, accounting for 0.8%, and 46 other cases, accounting for 0.2%.

## Types of Cases Accepted



互联网行政纠纷共计 19 件	19 Internet administrative disputes
网络域名纠纷共计 27 件	27 network domain name disputes
执行案件共计 261 件	261 administrative cases
互联网购物产品责任纠纷共计 173 件	173 online shopping product liability disputes
网络金融合同纠纷共计 155 件	155 online financial contract disputes
网络服务合同纠纷共计 387 件	387 online service contract disputes
网络侵权责任纠纷共计 2391 件	2,391 online infringement liability disputes
网络购物合同纠纷共计 4243 件	4,243 online shopping contract disputes
著作权权属、侵权纠纷共计 26607 件	26,607 copyright ownership and infringement disputes

**Parties involved in the lawsuits:** In terms of the types of the parties involved, natural persons account for 79.2%, legal persons 19.7%, and the unincorporated organizations 1.1%. Among them, the cases where all the parties involved are located in Beijing account for 22.3%, while the cases where one or more parties involved are not located in Beijing account for 77.7%. The parties involved spread over 4 municipalities directly under the central government, 24 provinces and 5 autonomous regions in China, totaling nearly 200 cities. 10 cases involve the people of Hong Kong, Macao or Taiwan, and 26 involve foreigners.

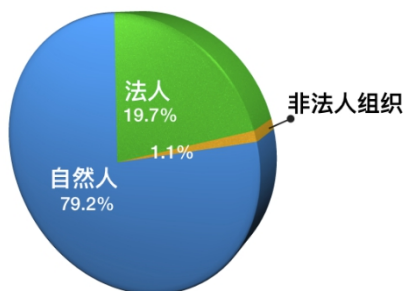
In terms of the ages of the parties involved, the parties aged 18 to 30 account for 34.6%, those aged 30 to 40 account for 45.2%, those aged 40 to 50



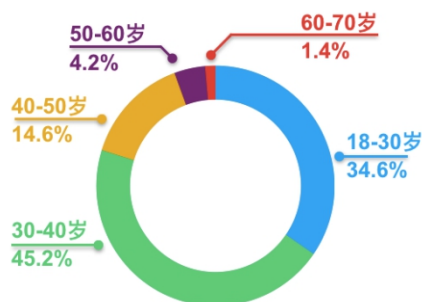
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account for 14.6%, those aged 50 to 60 account for 4.2%, and those aged 60 to 70 account for 1.4%. The parties aged 18 to 40 became the main participants in online trials. The oldest party involved was over 80 years old.

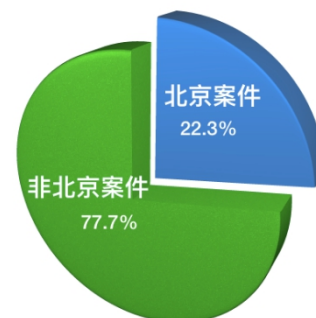
Distribution of the types  
of the parties involved



Distribution of the ages  
of the parties involved



Distribution of the  
locations of the parties  
involved



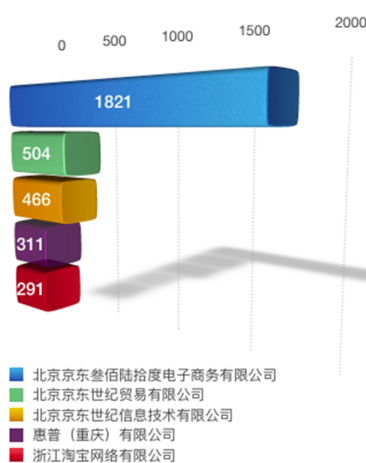
法人	Legal persons	30-40 岁	Aged 30 to 40	北京案件	Located in Beijing
非法人组织	Unincorporated organizations	40-50 岁	Aged 40 to 50	非北京案件	Not located in Beijing
自然人	Natural persons	50-60 岁	Aged 50 to 60		
		60-70 岁	Aged 60 to 70		
		18-30 岁	Aged 18 to 30		

Top 5 companies involved in different types of cases

Top 5 companies involved in online  
copyright ownership and infringement  
disputes

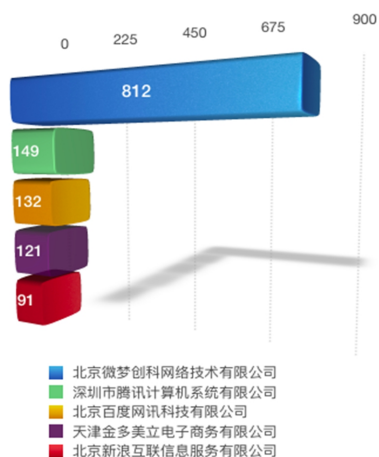


Top 5 companies involved in online  
shopping contract disputes

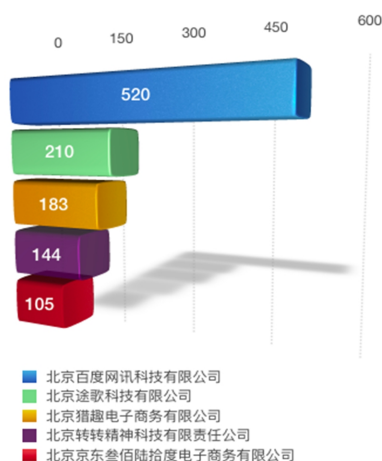


北京有图佳视影像网络科技有限公司	Beijing Best View Stock Network Technology Co., Ltd.	北京京东叁佰陆拾度电子商务有限公司	Beijing Jingdong 360 Du E-commerce Co., Ltd.
北京河图创意图片有限公司	Beijing East Photo Co., Ltd.	北京京东世纪贸易有限公司	Beijing Jingdong Century Trade Co., Ltd.
蓝牛仔影像（北京）有限公司	Blue Jean Images (Beijing) Co., Ltd.	北京京东世纪信息科技有限公司	Beijing Jingdong Century Information Technology Co., Ltd.
北京全景视觉网络科技股份有限公司	Beijing Panorama Media Co., Ltd.	惠普（重庆）有限公司	HP (Chongqing) Co., Ltd
《生命时报》社	Life Times News Agency	浙江淘宝网络有限公司	Zhejiang Taobao Network Co., Ltd.

Top 5 companies involved in online infringement liability disputes



Top 5 companies involved in online service contract disputes



北京微梦创科网络技术有限公司	Beijing Micro Dream Network Technology Co., Ltd.	北京百度网讯科技有限公司	Beijing Baidu Netcom Science and Technology Co., Ltd.
深圳市腾讯计算机系统有限公司	Shenzhen Tencent Computer Systems Co.,	北京途歌科技有限公司	Beijing Tuge Technology Co., Ltd.

	Ltd.		
北京百度网讯科技有限公司	Beijing Baidu Netcom Science and Technology Co., Ltd.	北京猎趣电子商务有限公司	Beijing Liequ E-commerce Co., Ltd.
天津金多美立电子商务有限公司	Tianjin JinduoMeili E-commerce Co., Ltd.	北京转转精神科技有限责任公司	Beijing Zhuanzhuan Spirit Technology Co., Ltd.
北京新浪互联信息服务有限公司	Beijing Sina Internet Information Service Co., Ltd.	北京京东叁佰陆拾度电子商务有限公司	Beijing Jingdong 360 Du E-commerce Co., Ltd.

**Quality and efficiency of the trials:** From September 9, 2018 to August 31, 2019, 98.3% of the first-instance cases handled by the Beijing Internet Court were concluded with the ruling accepted; 98.0% of the rulings were performed automatically; the first-instance simple procedure was applied in 95.2% of the cases; the court hearing lasted 37 minutes averagely; the handling of each case lasted 40 days averagely.

**In general, the cases manifested the following characteristics:** Firstly, the numbers of both accepted and closed cases were high, showing the initial success of Internet technology in facilitating litigation and improving trial efficiency; secondly, the cases concerning intellectual property account for a large proportion of the total number of cases, directly reflecting Beijing's self-defined roles of a technology innovation center and a cultural center; thirdly, there were many cases of new types, reflecting the prosperity of new technologies, new business models, new operation patterns, and new content of the Internet, and the urgent need for their normalization.

## **II. Improving the one-stop diversified dispute resolution mechanism with the innovative development of the online "Fengqiao Experience" as the guide**

The Beijing Internet Court has actively promoted the development of a one-stop diversified online dispute resolution mechanism and a one-stop online litigation service

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center. By the integration of internal and external forces, it has brought multiple mediation forces into play and established a diversified mediation system with Internet characteristics, placing the diversified dispute resolution mechanism on the forefront. From September 9, 2018 to August 31, 2019, a total of 29,728 mediation cases were conducted and 100% of them were handled online; 23,262 mediation cases were concluded and 5,572 of them were successfully settled, with a success rate of 23.9%.

**(1) Integrating technology to create an online "E-mediation platform"**

The Beijing Internet Court has established an "E-mediation platform" that is connected in real time to the "Classification-Mediation-Judgment" Platform and the case-filing and trial system of the Beijing courts. The online mediation platform has realized such functions as online transfer of case-related documents, online service of legal documents, online confirmation of mediation results, and online creation of mediation documents to boost the online flow of all-process mediation data. With the help of the platform, mediators are freed from the former bound of "face-to-face" mediation in the court. Now they can complete a whole screen-to-screen mediation with the parties involved through a computer or mobile phone anywhere convenient.

**(2) Gathering various forces to build a "four-in-one" mediation organization system**

To enhance the role of industry mediation organizations, the Beijing Internet Court has brought 16 industry mediation organizations into play, such as the Internet Society of China Mediation Center, the Beijing Saizhi Intellectual Property Mediation Center, and the Beijing Municipal Bureau of Copyright Mediation Center, to make full use of their professional mediation advantages. The Beijing Internet Court motivated the corporates' vitality in mediation and recruited the vigorous forces of the people's mediation committees from 13

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Internet platforms, including Alibaba, Sina, Jingdong and 360, tapping into the platforms' mediation potential. The court also integrated professional mediation resources and “四位一体”调解组织体系



attracted 52 professional lawyers with IT application skills and legal knowledge to join in the work of diversified mediation. A "four-in-one", diversified, professional, new system of mediation organizations with the Internet characteristics integrating the industry mediation organizations, the people's mediation organizations, the Internet platform mediation organizations and the lawyer mediation organizations has been formed, and the mediation forces keep growing.

### **"Four-In-One" Mediation Organization System**

人民调解	People's mediation
行业调解	Industry mediation
律师调解	Lawyer mediation
平台调解	Platform mediation

### **(3) Optimizing staff deployment to create a "1+N+TOP" litigation and mediation linking team**

The Beijing Internet Court optimized staff deployment and established a "1 judge + N judge assistants, clerks and mediators + TOP (Technology, ODR, Purchase of services)" litigation and mediation linking team to realize a work pattern that features coordination of various staff members, seamless linking of online and offline operations, and efficient,

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normalized case flow. From September 9, 2018 to August 31, 2019, the Beijing Internet Court settled 5,572 cases by diversified dispute resolution. Those cases accounted for 22.0% of the total concluded ones.

#### **(4) Optimizing its mechanism and carrying out a special source-seeking action of diversified mediation**

Centering on diversified mediation, the Beijing Internet Court carried out a source-seeking action. In view of the mutual prosecutions between large Internet companies, it serves as a mediator to promote the once-for-all package resolution of disputes and to provide effective solutions to potential disputes. In this way, it has settled more than 300 disputes concerning Sina and Qihoo. Regarding the influx of a large number of cases concerning the infringement of the online communication rights of pictures, films and television series into the Beijing Internet Court, the court pushed the diversified mediation forces one more step forward by appointing professional mediation organizations for the cases of the same type so as to strengthen volume mediation.

### **III. Building the "two-line" smart litigation service system to continuously enhance the people's sense of fulfilment**

In accordance with the requirements of "being systematic, information-intensive, normalized and socialized", and centering on the overall goals of serving the people's litigation, serving trial and execution, and serving social governance, the Beijing Internet Court has innovated the litigation service philosophy, and keeps exploring the "two-line" smart litigation service system of advancing both online and offline to provide the people with "benefit-for-all, efficient, intensive and customized" litigation services.

#### **(1) Polishing the "24-hour service" brand and constantly optimizing the online whole-process litigation service**

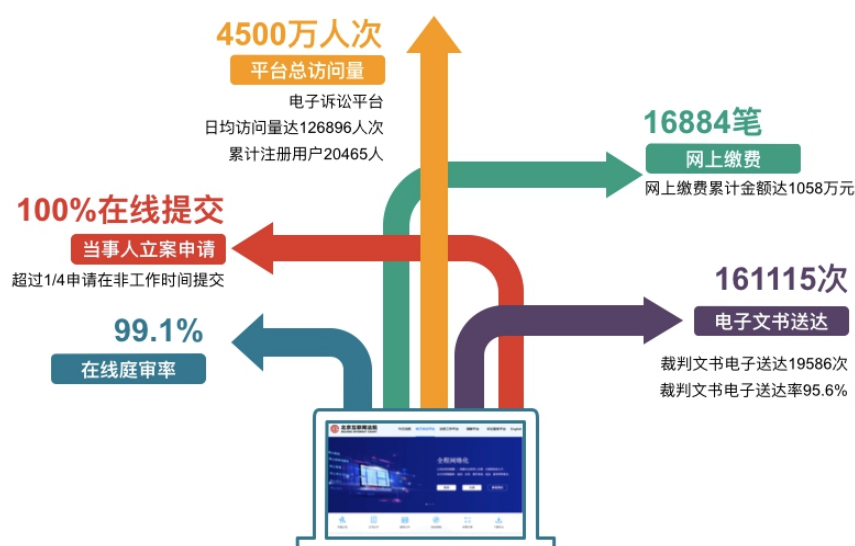
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Keeping to the concept of building an "open and inclusive, neutral and sharing, innovative and upgraded, and safe and controllable" platform, the Beijing Internet Court has built by itself a "multi-function, whole-process and integrated "E-litigation platform to realize the online service of the whole litigation process, from case filing, mediation, payment, court hearing, the service of legal documents, the application for execution, document filing to case review. It has achieved the one-stop service of "one-click submission, one-chain handling, one-line connection, and one-network fulfilment".

As of August 31, 2019, the total number of visitors to the platform exceeded 45 million; the average number of daily visits reached 126,896; the number of registered users totaled 20,465; 100% of the applications for case filing were submitted online, of which more than a quarter were submitted during non-working hours; the number of payments made online reached 16,884, worth 10.58 million yuan in total; 99.1% of the court hearings were carried out online; 161,115 legal documents were served online, including 19,586 judgment papers, which accounted for 95.6% of the total judgment papers served; 92.2% of the cases handled online from beginning to end were concluded; online files were generated with the case flow for each case; the files of every appellate case were transferred online. Our E-litigation platform won the 2018 Special Program Award for government websites. In the 2019 event of collecting cases of smart innovations in the national political and legal circles organized by the *Legal Daily* news agency, our E-litigation platform was selected into the top ten innovation cases of smart court.

Online "24-hour Service "Whole-process Litigation Service





99.1%在线庭审率	99.1% of the court hearings were carried out online.
100%在线提交当事人立案申请 超过 1/4 申请在非工作时间提交	100% of the applications for case filing were submitted online, of which more than a quarter were submitted during non-working hours.
4500 万人次平台总访问量 电子诉讼平台 日均访问量达 126896 人次 累计注册用户 20465 人	The total number of visitors to the E-litigation platform exceeded 45 million; the average number of daily visits reached 126,896; the number of registered users totaled 20,465.
16884 笔网上缴费 网上缴费累计金额达 1058 万元	The number of payments made online reached 16,884, worth 10.58 million yuan in total.
161115 次电子文书送达 裁判文书电子送达 19586 次 裁判文书电子送达率 95.6%	161,115 legal documents were served online, including 19,586 judgment papers, which accounted for 95.6% of the total judgment papers served.

## (2) Expanding the scope of litigation services and constantly improving the three-dimensional litigation service system

The Beijing Internet Court set up a "Litigation Service Platform" at the PC end of the official website to integrate the originally separate litigation services, such as open trial, litigation tools, and judicial expertise. It set up an "all-in-one" comprehensive online and offline intelligent litigation service center consisting of litigation service hall, 12368 hotline,

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E-litigation platform, mobile micro-court, WeChat account, intelligent Q&A with AI virtual judges, and Taobao's Weitao account, transforming separate and singular litigation services to systematic and diversified litigation services. As of August 31, 2019, 8,625 consultation phone calls were received by 12368 and other hotlines, 531 work orders were distributed, 16,501 technical consultation phone calls were received, and the E-litigation platform received 11,974 messages from the parties involved in various cases.

### **(3) Digging into the depth of litigation services and constantly upgrading the smart litigation services**

**Firstly, the Beijing Internet Court developed the first AI virtual judge and put it into use.** Based on the extraction from more than 120 common questions and the replies of more than 20,000 words, the virtual judge identifies the key words of the questions raised by the parties involved in various cases and gives corresponding replies. It provides immersive experience for the parties, manifests the friendliness and lifelikeness of online services, makes the smart litigation guide more humanlike, and allows users to feel the judicial friendliness the moment they log on the website. As of August 31, 2019, the AI virtual judge had given a total of 662 replies to the parties.

**Secondly, the court launched the "Mobile Micro-Court" Mini Program.** It has more than 20 functions, including online case filing, case inquiry, online service of legal documents, online mediation, and online trial, allowing the parties involved to enjoy flexible, self-help, one-stop smart litigation services anytime anywhere. It is a real embodiment of "justice at the fingertip and fairness on the palm". Over 21,000 person-times had visited the mobile micro-court, with a daily average of 208, covering more than 30 provinces and cities.

**Thirdly, the Beijing Internet Court opened a content account on Taobao's Weitao.** Given the E-commerce platform enjoys massive users and page views, the content account

places litigation service information precisely before those in need and spreads judicial knowledge to the public to allow the people to truly experience convenient and thoughtful online smart litigation services, and to "make litigation easy for everyone".

**Fourthly, the Beijing Internet Court provides the service of automatic generation of legal documents.** With the help of artificial intelligence and big data technologies, the court provides the service of automatic generation of indictments, mediation applications, etc., and offers litigation risk warnings to effectively reduce the parties' litigation costs. As of August 31, 2019, 78,977 legal documents, such as indictments and litigation risk warnings, had been generated automatically or semi-automatically by the system.

The online litigation mode is showing increasingly evident advantages in convenient litigation, energy conservation and environmental protection. From September 9, 2018 to August 2019, the Beijing Internet Court, by means of online case filing, online payment, online court hearing, online evidence exchange and online mediation, reduced a travel mileage of 29.87 million kilometers for the parties involved, which helped reduce 161 ton of carbon emissions, and saved the papers of 90-storey height or 35 trees. The average cost was reduced by 800 yuan or so and 16 travel hours were saved per person per case.

平均每案节省在途时间 16 个小时	Saving 16 travel hours per case on average
共减少 161 吨碳排放量	Reducing 161 ton of carbon emissions



共减少出行里程 2987 万公里	Reducing 29.87 million kilometers of travel mileage
平均每案节省 800 元	Saving 800 yuan or so per case on average

#### **IV. Actively exploring the litigation system reform and establishing normalized online litigation procedures**

The Beijing Internet Court makes use of the new Internet technologies to actively promote the re-building of the trial process and the re-shaping of the litigation rules based on the requirement for the online operation of the whole litigation process.

##### **(1) Normalizing the procedures for the online service of legal documents and establishing a diversified online service system**

**Firstly, the court has expanded the applicable scenarios for the confirmation of the service address and has advanced the application of the "consent to be served" rule.** It made full use of the service address confirmation system and reached a package service agreement with 20 large Internet companies. According to the agreement, the letters of address confirmation regularly submitted by any one of the companies can be applied to the service of legal documents in all the cases filed in the Internet court involving the company. The service efficiency concerning cases of the same type and regular parties has been significantly improved.

**Secondly, the court has enriched the means of service and enhanced the actual effect of online service.** The court conducts in-depth cooperation and online connection with large Internet companies, and established an online assisted investigation system to boost the efficiency of serving investigation requests to the bodies within the platform. As of August 31, 2019, our court had issued a total of 368 online requests for assisted investigation and received 360 feedbacks and 289 pieces of effective information, with an effectiveness rate of 78.5%. The court opened an Alitalk account. Those Alitalk accounts confirmed active can be

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used as the service address. It has significantly improved the effectiveness of the legal document service for online shopping cases. The court cooperated with three major telecom operators and established a three-month active account inquiry system. 64 inquiries had been made about mobile phone accounts. It has improved the actual effect of SMS service.

**Thirdly, the court has confirmed the effectiveness of online service by publication and keeps exploring new ways of publication fit for the Internet trial mode.**

The floating webpage on the official website is just an exploration of the online service by publication. It is convenient to release a public notice and receive feedback; the preparation time for the release is compressed to less than 30 minutes; and the parties involved do not need to pay for the notice. The efficiency of serving by publication is greatly improved.

**(2) Improving the rules for online court hearing and shaping a normalized online litigation environment**

**Firstly, the court formulated the *Beijing Internet Court Online Lawsuit Guide* to facilitate the parties involved to participate in online litigation.** The rules for identity authentication are laid down to ensure the consistency of the "parties, cases and accounts" and the safety and good order of the online litigation entry. The FAQs on online litigation, including registration, logon, uploading documents, contacting judges and other procedural questions, are summarized and presented to the parties through the E-litigation platform, the smart litigation service section of the mobile micro-court and the offline litigation service center so as to guide the parties to convenient litigation.

**Secondly, the court normalized the court hearing disciplines and formed the rules for online court hearing.** The *Beijing Internet Court's Court Hearing Rules* was formulated to normalize the setting, disciplines and other aspects of online court hearing, especially the new issues regarding the dress etiquette, court environment, participants,

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court security, and technical support during the remote court hearing on the Internet. The rules for watching and using court hearing videos were laid down to prevent the improper use of these online videos. In cooperation with the Beijing Lawyers Association, the court promotes the development of normalized court hearing environment and lawyer practices for online litigation to help professional lawyers have a good knowledge of online litigation in a short time.

**Thirdly, the court opened different types of ports and strengthened the technical support for court hearing.** Special ports for witnesses, assisting experts and others were opened to facilitate the participation of various kinds of people in online litigation and to ensure normalized court hearings. The "Watch Court Hearing" section on the E-litigation platform and in the mobile micro-court is a powerful supplement to the existing ways of open trials, and it makes it easy for the public to attend the trials. As of August 31, 2019, nearly 20 million person-times of all walks of life had attended the online trials through various platforms, which achieve "justice is brought in the sun" with the help of technical means.

### **(3) Formulating standards for electronic evidence and normalizing the evidence determination process for the whole chain**

**Firstly, the court has established a blockchain platform of credible electronic evidence to address the pain spot of preserving electronic evidence. A scientific blockchain will ensure that the judicial blockchain has a high starting point.** The judicial blockchain "Balance Chain" has been established under the leadership of the Beijing Internet Court in cooperation with the National Information Security Development Research Center, Baidu, Trustdo Technology and other leading blockchain institutions in China. **The court keeps strict control of the blockchain and strengthens the systematic management of the blockchain.** The *Detailed Regulations on Joining in Balance Chain*

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*and Related Management*, the *Testing Practices for Joining in Balance Chain* and other regulations were formulated to normalize the qualification requirements for joining in the "Balance Chain", the rules for preserving electronic data, the management mechanism of the platforms joining in, the use of electronic data, the supervision, review and exit of the institutions on the chain, and to ensure the security of the data linked to the "Balance Chain" and the effective protection of the privacy of the parties involved in various cases. **The in-depth use of the blockchain helps improve the actual effectiveness of the blockchain.** The application of the "Balance Chain" solved such issues as the information security of electronic data, joint verification and authentication, realized the "whole-process recording, all-chain creditability, and all-node witness" of electronic data, and enabled the "one-stop" solving of the preservation, obtainment and determination of electronic evidence. It has greatly enhanced the creditability and probative force of electronic evidence, significantly improved the efficiency of online trials, greatly reduced the parties' cost in safeguarding their rights, and boosted the development of the credit system. So far, the "Balance Chain" has completed the connection to 18 cross-chain nodes and the data joint with 25 application nodes of 9 categories, such as copyright and Internet finance; 6.96 million items of electronic data have been input into the chain; the number of cross-chain data items of preserved evidence has exceeded ten million.

**Secondly, our court has formulated the norms for the whole-process examination of electronic evidence and eliminated the barriers hindering the verification of electronic evidence.** Regarding such issues as the generation, storage and submission of electronic evidence, our court has formulated the norms for the whole-process examination of electronic evidence. We will examine the qualifications of the third-party evidence-preserving platforms to help verify the effectiveness of electronic evidence. Before

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the test, measures are taken to make sure the computer (server) is clean and the time is correct so as to rule out the possibilities that such factors as the operator's improper intervention and false environment may lead to false evidence and to ensure the creditability of the approaches taken for the generation and storage of electronic evidence. In the case where the adprints.cn sued the eastday.com for infringing its copyright, our court determined that the plaintiff's evidence of timestamp was not credible as the plaintiff missed the critical step of examining the authenticity of the Internet connection when preserving the evidence. The handling of this case is a vigorous exploration for the improvement of the rules for verifying the evidence of timestamp. The blockchain ecology is expanded to promote the establishment of the blockchain standards and to generalize the use of blockchain in evidence preservation. During the trials, our court verified 1,301 items of cross-chain evidence involving 303 cases. Among them, 14 cases were closed by judgment, and no party involved raised any objection to the authenticity of the evidence.

**Thirdly, our court has refined the rules for evidence determination and overcome the difficulties in electronic evidence determination.** In combination with the characteristics of the new types of evidence collection in the Internet era, our court normalized the standards for determining the authenticity, relevance and validity of the evidence stored by such new technical means as electronic notarization, blockchain, credible timestamp, and cloud evidence. According to the actual characteristics of electronic evidence, some standards are formulated for the online verification of the originals of such electronic evidence as pictures, videos, and audios. In combination with the storage subject, the storage and publicity methods, the period of electronic data and other aspects of the Internet-related cases, our court formulated the guidelines and interpretation about the burden of proof for the electronic evidence of the same-type cases to help find out the facts



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of each case. According to the types, characteristics and distribution of the cases handled by the Internet court, assisting experts and technical investigators are brought in to provide professional opinions for judges' reference regarding specialized and technical issues.

## **V. Producing quality achievements in the trial of Internet cases to promote law-based Internet governance**

### **(1) Releasing the benefits of the reform and technical advantages to produce quality and efficient trials of the same-type cases**

Firstly, our court has optimized the trial structure, separating complicated cases from simple ones, those taking much time from those that can be completed **shortly**. We have deepened the working mechanism of "diversified mediation + quick ruling", stepped up the *Regulations on the Procedures of the Separation of Complicated Cases from Simple Ones and the Litigation and Mediation Linking System*, and organized 11 "1+N+TOP" new judge teams of "diversified mediation + quick ruling" to resolve the Internet-related same-type disputes with simple legal relationship and involving a small amount of money by mediation instead of litigation. From April 1, 2019 when the "quick ruling" judge team was organized to August 31, 2019, 12,751 cases were closed under the "diversified mediation + quick ruling" mechanism; 77% of the cases handled by the court were concluded by 31% of the judges; an average of 182 cases were concluded every month by the quick ruling judge team. The proportions of the online service of legal documents, online hearings and platform correlation have increased significantly. The approach of dispute mediation before litigation has seen initial success.

#### Diversified Mediation + Quick Ruling

Selecting the best staff to form a "1+N+TOP" mediation and litigation team



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31%法官	Judges 31%
77%案件	Cases 77%

**Secondly, our court makes use of the Internet technologies to accelerate the trial of same-type cases and improve the trial efficiency.** A legal knowledge map and a function of pushing same-type cases intelligently were developed to provide judges with the guidance of accurate normalized procedures. Based on the different elements of cases, our court has developed an intelligent judgment document generation system for five types of cases. As of August 31, 2019, a total of 127,687 documents had been generated automatically, including 4,597 verdicts, rulings and mediation papers. 50.3% of the judgment documents were generated automatically; 166,706 court summons, notices of appearance and other standard documents were generated automatically, accounting 100% of the total. The work pattern of standard and normalized handling of same-type cases has basically taken shape.

**(2) Handling the Internet-related intellectual property cases by law and enhancing the protection of intellectual property**

From September 9, 2018 to August 31, 2019, our court accepted 26,634 Internet-related intellectual property cases and concluded 20,147, including 26,607 Internet-related copyright ownership and infringement disputes, accounting for 99.9%, and 27 domain name disputes, accounting for 0.1%. As for the ruling of copyright cases, the creative works involved fall into such categories as photography, literary works, movies and movie-like works, music, stage play, folk art, dance, acrobatics, fine arts and architecture; the infringing carriers include websites, own media, APP, online shopping platforms, real

things, etc. In terms of the amount of award per work, the category of movies and movie-like works had the highest number, being 580,000 yuan per work. And the highest award for a single case falls into the category of movie-like works, too, being 1.5 million yuan.



著作权判决状况	Ruling of copyright cases
侵权载体类型	Types of infringing carriers
网站 占比 66%	Website: 66%
自媒体 占比 19%	Own media: 19%
APP 13%	APP: 13%
实物 1%	Real things: 1%
购物平台 1%	Shopping platform: 1%
作品类型	Types of creative works
摄影作品 占比 37%	Photography: 37%
文字作品 占比 29%	Literary works: 29%
电影及类电作品 占比 21%	Movies and movie-like works: 21%
美术、建筑作品 8%	Fine arts and architecture: 8%
音乐及其他作品 5%	Music and others: 5%
判赔额	Award
电影及类电作品: 最高 58.0 万元/部	Movies and movie-like works: 580,000 yuan, the highest award per work
单案最高 150.0 万元	1.5 million yuan, the highest award for a single case
美术、建筑作品: 最高 12.5 万元/件	Fine arts and agricultural works: 125,000 yuan, the highest award per work
单案最高 50.0 万元	500,000 yuan, the highest award for a single case
摄影作品: 最高 2.5 万元/幅	Photographic works: 25,000 yuan, the highest award per work
单案最高 7.5 万万元	75,000 yuan, the highest award for a single case
音乐及其他作品: 最高 1.2 万元/部	Music and others: 12,000 yuan, the highest award per

	work
单案最高 5.2 万元	52,000 yuan, the highest award for a single case
文字作品: 最高 0.6 万元/千字	Literary works: 6,000 yuan, the highest award per thousand words
单案最高 8.0 万元	80,000 yuan, the highest award for a single case

On the whole, the intellectual property cases have the following characteristics: Firstly, these cases are large in number, accounting for nearly 80% of the total cases accepted; secondly, a large proportion of these cases are same-type cases; thirdly, new copyright protection issues brought about by new technologies and new business models keep emerging. Our court keeps strictly following the principles of intellectual property protection, keeps studying new types of issues and making accurate judgment, and keeps fairly handling various types of intellectual property cases in accordance with the law.

**Firstly, our court keeps to the principle of balanced interests and inspires the creation of quality original content.** We try to balance the interests of copyright owners and the public to a reasonable level, accurately understand the connotation and extension of the works, and encourage the creation of quality original content with positive beliefs to meet the diversified cultural needs. On the one hand, we have brought the new types of communication content that reflects original expression in the Internet environment into the scope of copyright protection. For example, in the copyright cases concerning "Douyin short video", "WeChat red packets' talk bubbles", "WeChat emojis", and "time-lapse photography", etc., the short videos, web designs, talk emojis, and photography videos involved are all embodiments of the creators' personalized expressions in material selection, theme and content. Therefore, our court affirmed their status of creative works. Such verdicts have conveyed the value of promoting and encouraging the production and communication of innovative works, and reflected the quick response and open attitude of the judicial circles toward the transformation of technologies and business models in the Internet era. The "Douyin short video" copyright case was selected into the Top Ten Intellectual Property

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Cases of Chinese Courts in 2018 and the Top Ten Cases of Media Law in China in 2018. On the other hand, we firmly deny the behavior of infringing on the copyright of creative works in the name of rational use in the Internet environment. For example, in the "Graph Movie" copyright case, our court found that the defendant made an album with the pictures captured from a TV series and offered the album to users in the name of introduction, which caused practical replacement of the TV series involved and constituted an infringement. As the first case of infringement in China committed by making the pictures of movies and TV series into an album, it clarified the boundaries of commercial development and rational use of movies and TV series. In the "shared membership mode" copyright and unfair competition case, the defendant used Youku's video resources for its own profit-making business by purchasing the VIP membership of Youku in the name of "shared economy", which was ruled as unfair competition by our court.

**Secondly, we encourage the application of new technologies and actively explore the rules for the protection of new objects.** Our court actively explores the rules for the protection of the new objects brought about by such new technologies as artificial intelligence, big data and cloud computing to encourage the application of new technologies and the sharing of their achievements, and to provide strong protection for the explorers' innovative achievements. For example, in the first copyright case concerning the software-generated content in China, our court gave the first judicial response on the issue of whether the content generated by computer software constitutes a creative work and how to protect it. It is determined that the content does not constitute a creative work. However, as the software user has made payment and exploration and the software-generated content embodies their devotion, and for the sake of promoting cultural communication and scientific development, the software user should be granted with certain rights and interests,

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and those who want to use the software-generated content have to obtain the software user's permission and make some payment.

**Thirdly, we will ensure the rules for applicable evidence are correct and rationally determine the liabilities of network service providers.** We will rationally distinguish the relationship between technology neutrality and infringement, and pay attention to balancing the interests among network service providers, copyright owners and network users. By the reasonable allocation of burden of proof and the full use of evidence rules, we will ensure that the identity and liabilities of the network service provider are correctly determined and that the legitimate rights and interests of all parties are protected. For example, in the "Douyin short video" copyright case, the defendant provided such evidence as user agreement and uploader's specific identity and contact information for the defense of it being the information storage space provider only. Our court determined that the alleged infringing short video was uploaded by a person not involved in the case and the defendant was only a service provider of the information storage space who didn't commit infringement since it had fulfilled the "notice-delete" obligation. But in the "DouYu Live Platform" copyright case, an online anchor broadcast a musical work without authorization. Based on the agreement between the anchor and the live webcast platform that said the intellectual property rights, ownership and the related interests of the anchor's all live shows are owned by the live webcast platform company, our court determined that the live webcast platform should bear the obligations matching the rights it enjoys and be liable for the alleged copyright infringement.

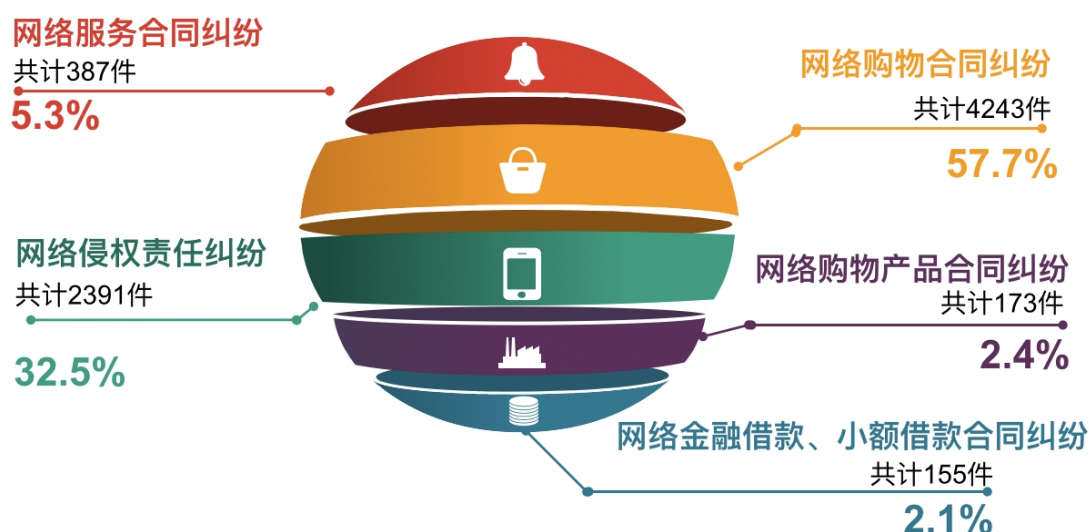
**(3) We will handle the Internet-related civil and commercial cases by law and protect the legitimate rights and interests of various subjects in the cyberspace.**

From September 9, 2018 to August 31, 2019, our court accepted 7,349 Internet-related

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civil and commercial cases and concluded 5,013. Among the cases accepted, 4,243 cases are online shopping contract disputes, accounting for 57.7% of all civil and commercial cases; 2,391 cases are online infringement disputes, accounting for 32.5%; 387 cases are online service contract disputes, accounting for 5.3%; and 155 cases are online financial contract disputes, accounting for 2.1%.

## Distribution of the Types of Civil and Commercial Cases



网络侵权责任纠纷共计 2391 件	2,391 online infringement disputes
网络服务合同纠纷共计 387 件	387 online service contract disputes
网络购物合同纠纷共计 4243 件	4,243 online shopping contract disputes
网络购物产品合同纠纷共计 173 件	173 online shopping product contract disputes
网络金融借款、小额借款合同纠纷共计 155 件	155 online loan and small-amount loan contract disputes

The Internet-related civil and commercial cases handled by our court reflect the following characteristics: Firstly, the rapid development of various Internet platforms has led to the constant increase of platform-related liability cases; secondly, the increasing new types of rights-related cases involving the Internet, such as the infringement of personal information and privacy, have raised new challenges for the judicial trial; thirdly, the diversified infringing and infringed subjects of the Internet-related personality right infringement cases reflect the openness and activeness of the Internet. Our court keeps protecting the legitimate rights and interests of all kinds of subjects, thoroughly studies the Internet-related new issues, and fairly handles all kinds of Internet-related civil and commercial cases.

**Firstly, we will protect the personal rights of citizens and create a clear and orderly cyberspace.** From September 9, 2018 to August 31, 2019, our court accepted 2,391 online infringement cases and concluded 1,422 cases. Among the concluded cases,



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the plaintiffs' occupations include actors, corporate executives, college teachers, journalists, professionals, police officers, students, and religious people; the infringed rights and interests include the rights of portrait, reputation, name, privacy and personal information, and other personal rights. Among them, 759 cases involving the infringement of public figures' reputation and portrait rights were concluded, and 44 cases involving corporate's reputation right were concluded.

Through the trial of the "typical case of deliberate dishonesty" involving the infringement upon reputation right, our court established the rules for the correlation between the degree of care and the identity of the person forwarding the post, distinguished the bystanders of an incident from the insiders and the people involved, and formulated corresponding standards for the duty of care. Through the trial of the case of infringement upon the reputation right involving a "celebrated weight-losing product online", our court clearly protected the own media's legitimate rights of supervision and giving comments on products and services. Through the trial of the privacy case involving the "online auction of Ding Cong's letters", our court confirmed that the public auction of other people's letters online infringes personal privacy. Through the trial of the case of VCG.com infringing on the right of portrait, our court confirmed that one should not infringe on others' right of portrait when exercising the copyright in the fields unrelated to the public's right to know.

**Secondly, we will subdivide various types of scenarios and clearly define the platform's liabilities.** We will give a reasonable definition of the platform's liabilities in combination with the service mode, technical characteristics, development stages, and other aspects of different types of platforms, such as E-commerce platform, social platform, OTA platform, cloud service platform, and information storage platform, and in full consideration of the specific scenario of the case. For example, in the series of cases involving "web

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celebs falling off a tall building during webcast”, our court made it clear that the platform has the obligation of ensuring the safety of its users under certain circumstances. But some platforms are ruled liable and some not. It depends on such specific circumstances as whether the platform makes profit from it, whether the platform clearly knows about the danger, and whether the platform's behaviors have causality with the fall. In the case of "Baidu Baike" infringing upon the right of reputation, the judgment held that as "Baidu Baike" has gradually grown into one of the information acquisition channels trusted by the public and has certain public-interest attributes, the platform should make full use of Internet technologies to improve the system's logical judgment and computing capability, and should also enhance human review to prevent the risk of infringement. In the series of cases involving the Qunar.com, our court determined that the E-commerce platform operator should take remarkable measures to distinguish the self-operated business from the business carried out by the operators within the platform, otherwise it should bear the obligations of the operator. In the service contract case involving the Didi platform, our court determined that the platform should consider the actual conditions when exercising the discretionary power according to the user rules and should not restrict the driver's right of operation at will.

**Thirdly, with a clear judicial attitude, we will firmly stop the Internet chaos and dishonest litigations. Great attention is paid to the online black and grey industries.** Through the trial of the first service contract case of "providing false page views" in China, our court unveiled for the first time the dark secret behind "false page views", clearly denied the validity of such contracts, threw a blow to such illegal activities, confiscated illegal gains, curbed the unhealthy trend of "bad money driving out good", and upheld the Internet environment of fair competition. **Professional claimants' behavior of improperly**

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**safeguarding legal rights is curbed by law.** Regarding the phenomenon that a large number of professional claimants try to set Beijing as the lawsuit location by providing a false place of receipt in the cases of online shopping contracts, our court carried out a special action of source-seeking governance. The cases involving a false place of receipt were transferred according to law; the claimants providing false statements were punished according to law; as for the claimants found not up to the status of consumer and their behaviors not up to the standard of consuming behaviors, the requests for multiplied compensation were denied according to law. The classified strategies have shown early success in their role of guidance. The professional claimant's willingness to reduce the expected claims and actively seek reconciliation has increased significantly.

## **VI. Telling the story of China's Internet justice well to continuously promote its international influence**

### **(1) Carrying out in-depth and solid research to consolidate the theoretical basis of quality trials**

**Firstly, we have established connection with various regulatory agencies to promote policy understanding and data connection.** We have established connection with nearly ten industry regulators to learn about regulatory policies and approaches and make data connected. We have established cooperation with the Beijing Municipal Intellectual Property Office and the Administrative Committee of Zhongguancun Science Park to promote the protection of Internet-related intellectual property; we have established connection with the Beijing Communication Administration and realized the inquiry of mobile phone users and the confirmation of three-month active phone numbers by cooperating with the three large mobile operators; we have established connection with the Beijing Market Supervision Administration and realized the data connection for

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the inquiry of large corporates' administrative punishment information.

**Secondly, we have established connection with various Internet companies and industry associations to learn about the industries' development and technological applications.** We have established connection with a dozen industry associations and autonomous organizations, such as the Internet Society of China, the All-China Federation of Industry and Commerce, and the Premium Brand Protection Committee of China Association of Enterprises with Foreign Investment, and visited dozens of Internet companies, such as Baidu, Alibaba, Tencent, Huawei, Headlines Today and Sogou to learn about the new business types, new technologies, and new modes in the Internet field, to investigate the new patterns and new features of Internet disputes, and to deliver the “service packages” of Internet justice. We have also enhanced the studies in artificial intelligence, blockchain, and new media operation.

**Thirdly, we have established connection with various universities and research institutes to build up strength for the cultivation of quality research achievements.** We have set up the Internet Law Talent Training Center and established a co-building mechanism with the Beijing Municipal Party Committee School and ten colleges and universities, and a cooperation mechanism in talent training and research. We have established the Internet Technology Judicial Application Center and employed the technical experts of the supreme court, the Ministry of Public Security, various universities, and Internet companies as members of the think tank. We have organized and attended various academic forums and seminars, and have become an important force in the field of Internet law research. Since the establishment of the Beijing Internet Court, the external seminars attended and the external lectures given upon invitation by our judges total 72, involving 160 person-times. As a typical example of the smart court development, our court participated in

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some high-end forums, such as the "Digital China" exhibition, the China Internet Conference, and the "Big Data Expo", to discuss such cutting-edge issues as smart justice, data protection, and blockchain technology application. Beijing Municipal Public Security Bureau and our court jointly published the *White Paper on the Law-based Governance of Cyberspace* to jointly promote the cyberspace governance by law. We attended some seminars organized by various government institutions and research institutes, such as the State Intellectual Property Office, the State Copyright Bureau, the Administrative Committee of Zhongguancun Science Park, the Beijing Municipal Intellectual Property Office, Peking University, Renmin University of China, Tsinghua University, Beijing Normal University, and the Chinese Academy of Social Sciences. In these seminars we demonstrated vivid judicial practices. We set up three judge conferences specialized in the fields of civil and commercial law, intellectual property law, and comprehensive law respectively, and hosted some seminars on the cutting-edge Internet law issues, such as "Difficulties in Online Platform Liabilities", "Legal Issues Related to Electronic Platform Rules", "Legal Challenges of and Judicial Responses to Artificial Intelligence", and "Difficulties in Privacy and Personal Information Protection in the Age of Internet". Beijing Internet Court has gradually become an important force not to be ignored in the research of Internet law, the application of new Internet technologies and the governance of Internet industry rules.

## **(2) Embracing the mode of online trial to spread the positive voices of Internet justice**

**Firstly, we have given lively open classes on the law-based Internet governance with typical case as the carriers.** Making full use of the Internet court's characteristics of online hearing and online attending by the public, and taking major cases as good opportunities, we promote the Internet trial and spread positive beliefs of the Internet through

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open justice. More than 300,000 person-times attended the online hearing of the first case handled by our court concerning the "Douyin short video" copyright infringement; 1.85 million person-times attended the online hearing of the liability dispute concerning "a web celeb falling off a building" while giving a live show through a webcast platform; 2.56 million person-times attended the online hearing of the "producing false page views" case; 15 million person-times watched the online hearing of the reputation right dispute known as "a textbook-like case of deliberate dishonesty"; the "papitube short video" copyright case, the "DouYu live platform" copyright case, and the "VCG.com" portrait right case appeared on Weibo's Top Search list, resulting in a buzz volume of over 100 million. Copyright protection in the age of Internet has become a hot topic in the whole country. Our court's typical cases and reform achievements were reported by some important media outlets and TV programs, such as *People's Daily*, Xinhua News Agency, *Guangming Daily*, Sword of Chang'an — WeChat account of the Political and Judiciary Commission under the Central Committee of the Communist Party of China, *China Daily*, *People's Court Daily*, *Legal Daily*, *Beijing Daily*, *Legal Report*, and *The Rule of Law*. The Sword of Chang'an — WeChat Account of the Political and Judiciary Commission under the Central Committee of the Communist Party of China — spoke highly of the "producing false page views" service contract case, saying "Every word in the judgment manifests a sense of responsibility". The judgment of the reputation right dispute known as "a textbook-like case of deliberate dishonesty" is acclaimed by the media as "a textbook-like judgment".

**Secondly, we make use of the communication means applicable to the Internet to create works of judicial content that the public love to see and hear.** According to the communication patterns on the Internet, we have built an all-round, multi-angle, three-dimensional publicity matrix. On April 26, "World Intellectual Property Day", we

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launched, together with Beijing Winter Olympics Organizing Committee and Beijing High People's Court, the Event of Sports Stars and Intellectual Property. The event received more than 1.5 million views on Weibo and WeChat; the related Weibo topics received 2.07 million views; the event videos received 380,000 views. We produced a number of films and animated works to introduce our court's litigation services, mediation services, execution guide, and energy-saving data, etc., promoting the Internet trial in three dimensions. We created some new forms of press conference to display the image of our Internet court in the ways applicable to the Internet. We held a number of press conferences on such themes as "The Establishment of Beijing Internet Court", "Experiencing Online Trial and Attending Honest Litigation", "Balance Chain", "Typical Issues of E-shopping's Food Safety Found in Our Cases", and "Online Smart Litigation Service Center" and "Internet Technology Judicial Application Center". We also carried out a number of live webcasts open to the whole Web, receiving nearly 1.5 million views. We produced an English film to introduce our court, and China's Internet justice was highly rated by the World Bank in its business environment survey. We opened an English website for our court to introduce post judges and the latest news of our trial work and translated the judgments of typical cases, showing the world the new achievements made by China's Internet justice.

**Thirdly, we make use of large media platforms to improve the overall influence of our court.** With the help of high-level media outlets, we have carried out quality publicity. The trial mode and reform experience of our court were reported by CCTV's *Law Online*; the Two Sessions Special Program of CCTV's *Legal Report* produced a special episode where the famous host Sa Beining and his avatar "Little Sa" came into our court; the *Age of Big Data*, a feature film of CCTV's Documentary channel gave a report on our court's development in smart court; when our AI virtual judge was launched online, 12 domestic and

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foreign media outlets reported it in English; the film crew of *Why China Can*, a feature film of CCTV's foreign language channel, had come to our court to show the whole world that Chinese justice is intelligent, efficient, energetic and transparent.

### **(3) Making use of the online litigation experiencing zone to boost the reputation of China's Internet justice**

**Firstly, we integrated the latest technologies to demonstrate a three-dimensional, immersive online litigation mode.** To help the public and all kinds of visitors understand the mode of Internet trial, our court created and opened the first "Online Litigation Experiencing Zone". Visitors will have an intuitive understanding of the whole process of online litigation and an immersive experience of the deep integration of technology and justice, by observing and experiencing such technological applications as face recognition, blockchain evidence preserving platform, mobile phone screen popup message, self-service casefiling machine, intelligent document generating system, VR court hearing observation glasses, intelligent voice simultaneous interpretation system, online mediation room, online court, AI virtual judge, interactive animation of online execution, litigation risk assessment terminal, and visual data analysis system, etc. Up to now, 981 person-times in 31 groups of the public have experienced online litigation through online appointment.

**Secondly, we take the opportunity of receiving visitors to show the world a good image of China's Internet justice.** As of the end of August, our court had received 554 visits made by a total of 10,120 person-times, including 542 person-time foreign guests in 35 groups. The visitors presented the following characteristics: **Firstly, they were widely distributed**, covering 23 countries and regions on three continents, including all provinces of China, the United States, the UK, France, Canada, Japan and Panama. **Secondly, the visitors had high status.** Chinese visitors included some officials from the Central



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Committee's ministries and commissions, and those of the supreme court; foreign guests included such second-level state leaders as the deputy prime minister of Luxembourg and the president of the Supreme Court of the Republic of Panama; there were also some people of great international influence, such as the president of the Hague International Court of Justice, the president of the International Arbitration Commission, and the president of The Law Society of Hong Kong. **Thirdly, the visitors came from all walks of life,** covering many fields, such as law, science and technology, culture and education. There were government officials, international associations, judges and prosecutors from all over China and around the world, as well as the trainees of international seminars and foreign students. The achievements of our court have been acclaimed by all parties. Many foreign guests said that the results of China's information application are shocking and China's achievements in the field of Internet justice are among the world's best. They hoped to strengthen international exchange and cooperation with our court and transplant Chinese courts' experience in information application to their own countries. The judges of our court have received sincere invitations for exchange from many countries. So far, our court has received the invitations from the 2019 annual meetings of the World Bank in Washington D.C., and the 2019 and 2020 annual meetings of the International Association for the Protection of Intellectual Property in London and Hangzhou respectively. We will introduce China's Internet trial to the whole world. The Beijing Internet Court has gradually become a shining business card of the achievements of China's modern judicial development.

#### Visiting Countries Received



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**Case 8 Online Taxi Platform Failed to Manage According to Rules, Ordered to Assume Liability for Breach of Contract**

— On the dispute over an online service contract between the plaintiff Yang and the defendant Didi Chuxing Technology Co., Ltd.

**Case 9 Online Public Auction of Other People's Family Letters Infringes on Personal Privacy**

— On the dispute over the right of privacy between the plaintiff Ding and the defendants Zhao and Beijing Guchengbao Books Co., Ltd.

**Case 10 Right Holder's Exercise of Copyright Shall Not Infringe upon Other People's Right of Portrait**

— On the dispute over the right of portrait between the plaintiff Qin and the defendants Visual China Group Co., Ltd. and HanhuaYimei (Tianjin) Image Technology Co., Ltd.

Case 1:

**A Short Video's Originality Is Independent of Its Length**

— On the dispute over the right of communication through information network for a movie-like work between the plaintiff Beijing Microlive Vision Technology Co., Ltd. and the defendants Baidu Online Network Technology (Beijing) Co., Ltd., etc.

**[Significance of the Case]**

A short video that reflects the producer's personalized expression and brings spiritual enjoyment to the audience is original and can be defined as a creative work. This case represents a bold recognition of new creative modes and behaviors in the context of Internet. It conveys the value of promoting and encouraging the production and dissemination of creative works of positive beliefs, helps meet the diversified cultural needs of the people, and reflects the quick response and open attitude of the judiciary toward the changes in technology and business model in the age of Internet. The case has been selected into the "Top Ten Intellectual Property Cases of Chinese Courts" and "Top Ten Media Law Cases in

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China" in 2018. The judicial opinions sent with the judicial documents of the case won the first prize of all the Excellent Judicial Opinions Given by Beijing Courts.

### **[Case Replay]**

The plaintiff is the operator of the Douyin platform, and the defendants are the operators of the Huopai platform. To commemorate the 10th anniversary of the Wenchuan Earthquake, the VIP user "Black Face V" of the Douyin platform produced with the given materials a 13-second short video "I Want to Tell You" and published it on the Douyin platform in response to the call of the Party Media Platform and people.cn. Some other users of the Douyin platform shared the alleged short video tagged with the watermarks of "Douyin" and "ID: 145651081". The alleged short video was spread on the Huopai mobile app as well but the watermarks were left behind. The plaintiff sent a "notification" to the defendants by e-mail. But it cannot prove that the above-mentioned e-mail was successfully sent or a reply was received. Later the plaintiff sent a paper notification to the defendants who deleted the alleged short video then. The plaintiff claimed that the "I Want to Tell You" short video should be protected by the Copyright Law as a creative work and that the defendants' behavior of spreading the short video and removing the watermarks had infringed upon the plaintiff's right of communication through information network, thus requesting the court to order the defendants to stop the infringement, eliminate the ill impacts, and pay RMB 1.05 million for the damages.

### **[Judging Principle]**

#### **1. A Short Video's Originality Is Independent of Its Length**

Considering the given theme and materials, the creation space of the short video is rather limited, with great difficulties. Although the alleged short video is created based on existing materials and lasts only 13 seconds, its arrangement, selection and presentation to

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the audience are different from the short videos of other users, reflecting the personalized expression of the producer. The alleged short video conveys a reassurance of rebirth and a force to go forward. The spiritual enjoyment it brings to the audience is also an embodiment of its originality. Therefore, the court finds that the alleged short video meets the requirements for a movie-like work created in a way similar to movie production.

## **2. The legal property of the technological application of short video watermarking**

The user ID watermark indicates who produced the short video, and thus should be determined as right management information; while the platform's watermark indicates who spread the short video, which has become a standard practice of the short video industry. Therefore, a more significant property of the short video watermark is indicating the identity instead of being a "technical measure" in the sense of Copyright Law. Since the watermarks were not removed by the two defendants, they didn't commit infringement.

## **3. The application of the "notification-delete" rule**

When a right holder finds an infringement act, they should send a notification to the infringing party to safeguard their legal rights in the most economical and direct way and with an honest and sincere attitude. As the plaintiff did not send such a notification according to the way of contact published by the defendants, the early notifications sent did not constitute valid notifications. As the network service providers that provide information storage space, the defendants do not have subjective faults in Huopai mobile app users' provision of the "I Want to Tell You" short video. They haven't committed infringement since they have fulfilled the "notification-delete" obligation after receiving the effective notification sent by the plaintiff later.

## **[Verdict]**

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The plaintiff's all claims were dismissed.

None of the parties involved lodged an appeal after the first-instance verdict was pronounced. It means the verdict has taken effect legally.

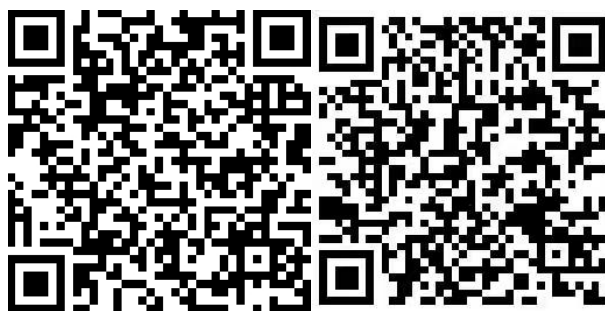
**[Judge Team]**

Presiding Judge: Zhang Wen

Judges: Lu Zhengxin, Zhu Ge

Judge Assistant: Lu Ning

Court Clerks: Liu Hanyi, Huang Liwang



QR code of the Judgment

QR code of the "I want to tell you" short video

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Case 2:

**The Pages of Application Should be Protected by Copyright Law and, As Influential Decorations, by Anti-Unfair Competition Law Too**

**— On the dispute over the right of communication through information network and unfair competition between the plaintiffs Tencent Technology (Shenzhen) Co., Ltd. and Shenzhen Tencent Computer System Co., Ltd. and the defendant Beijing Qingshu Network Technology Co., Ltd.**

**[Significance of the Case]**

The page design of software that constitutes original expression can be protected by law as a work of art. If such page design constitutes "decoration of certain influence", it is also protected by the Anti-Unfair Competition Law. The verdict of this case shows a clear attitude of opposing plagiarism and the free-riding behavior that may mislead consumers, so as to protect originals, encourage innovation and meet the diversified needs of users. It has reflected an open attitude of protecting the new objects in the Internet field.

**[Case Replay]**

The first plaintiff holds the copyright of the "WeChat" application and the "WeChat red packet's talk bubbles and opening pages". It authorized the second plaintiff to operate the application and use the works of art in it. The defendant is the copyright owner and operator of the "ChuiNiu" application. The two plaintiffs claim that the talk bubbles and opening pages of three electronic red packets in the "ChuiNiu" application are substantially similar to the works of art they released before, and thus the defendant's behavior has infringed upon the two plaintiffs' right of communication through information network. They also claim that the involved pages of "WeChat red packet" and the overall page of "WeChat" are decorations of

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certain influence, and the "ChuiNiu" application copied the overall design, which can easily cause the confusion of the related public who may mistake the fake for the real. The two plaintiffs request the court to order the defendant to stop the behavior of copyright infringement and unfair competition, eliminate the ill impacts, and pay the plaintiffs RMB 4.5 million as compensation for their economic losses and reasonable expenses.

### **[Judging Principle]**

#### **1. Is the "WeChat red packet's talk bubbles and opening pages" original?**

The matching and proportion arrangement of colors and lines, the arrangement of patterns and texts, and some other aspects of the "WeChat red packet's talk bubbles and opening pages" reflect the creators' selection, judgment and choice, and show a certain degree of beauty and originality, which makes them original works of fine art. The pages of the "ChuiNiu" application operated by the defendant are substantially similar to the above-mentioned works of fine art, infringing on the right of communication through information network enjoyed by the two plaintiffs.

#### **2. Can the pages of an application be protected by both Copyright Law and Anti-Unfair Competition Law?**

The Copyright Law protects the exclusive rights generated in the creation and dissemination of creative works, while the Anti-Unfair Competition Law protects the competitive interests generated in the operation. The interests protected by the two laws do not coincide, so they can be applied at the same time. The involved pages of the plaintiffs' "WeChat red packet" represent the overall image of the related service. The texts, patterns, colors and their arrangement have the function of decorating and should be considered as decorations. The extensive use of the above-mentioned pages has already made them indicators of the source of the service and "decorations of certain influence". They should be



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protected by the Anti-Unfair Competition Law as well as the Copyright Law. The defendant copied the involved page designs of the plaintiffs and applied the designs to its software with slight modifications, and has improperly used other people's achievements to gain competitive advantages. It may cause the confusion of the related public who may mistake the fake for the real. It has also damaged the normal market competition order and should be considered as unfair competition.

**[Verdict]**

The defendant shall stop the infringement act and pay the two plaintiffs RMB 500,000 as compensation for their economic losses and RMB 94,896 for their reasonable expenses.

None of the parties involved lodged an appeal after the first-instance verdict was pronounced. It means the verdict has taken effect legally.

**[Judge Team]**

Presiding Judge: Jiang Ying

Judges: Lu Zhengxin, Zhu Ge

Judge Assistant: Lu Ning

Court Clerk: Li Minglei



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Case 3:

**Malicious Use of Other People's Video Resources for One's Own Business Interests  
Constitutes Unfair Competition**

— On the dispute over the right of communication through information network for a movie and unfair competition between the plaintiff Youku Information Technology (Beijing) Co., Ltd. and the defendant Beijing Manlan Technology Co., Ltd.

**[Significance of the Case]**

Sharing should be mutually beneficial and win-win instead of profiting by other people's toil. The malicious use of other people's video resources for one's own business interests against the principle of good faith and established commercial ethics constitutes unfair competition. Although the judiciary should promote the development of new business models and operation patterns through judgment, it is necessary to resolutely contain the behavior of improperly disrupting the order of business operation in the name of "sharing", so as to maintain a good business environment of the Internet.

**[Case Replay]**

The plaintiff is the operator of the Youku website. Its users can watch, by means of purchasing the VIP membership, the most popular and exclusively provided films and television programs, including the *Wolf Warriors 2* and other films that the plaintiff enjoys the exclusive right of disseminating through information network. The defendant is the operator of the "ManManKan" APP and purchased 13 VIP memberships of Youku. It obtained the authorized film resources on the Youku website by logging in to the membership accounts and offered them to its own APP users with a requirement for payment. The plaintiff claims that the defendant has infringed upon its right of communication through information network and that the defendant's behavior constitutes unfair competition, thus requesting the court to

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order the defendant to stop the infringement and pay the plaintiff RMB 2 million as compensation for its economic losses and reasonable expenses. The defendant argues that what it provides is the "shared membership" business model that doesn't affect the income and business value of the plaintiff's platform and doesn't constitute infringement.

**[Judging Principle]**

**1. Has the defendant's behavior infringed upon the plaintiff's right of communication through information network?**

In this case, it was the plaintiff instead of the defendant who directly placed the creative works on the servers open to the public, while the defendant only implemented the behavior of providing the links of the creative works. Such a behavior should not be considered as direct infringement upon the plaintiff's right of communication through information network. Also, the defendant's behavior should not be considered as contributory infringement either, since no direct infringement has been committed.

**2. Does the defendant's behavior constitute unfair competition?**

Both the plaintiff and the defendant are video service operators on the Internet. The so-called "shared membership" service claimed by the defendant is realized by obtaining the authorized video resources by purchasing the VIP membership of the plaintiff's website and offering them to its own APP's member users with a requirement for payment, although the defendant has a full knowledge of the video platform's business practice and profit model on the Internet. Such a service has exceeded the permission of the VIP membership, and shows the obvious characteristics of "free riding" and "stealing other people's achievements", with obvious subjective maliciousness. Sharing should be based on mutual benefits and win-win results for all parties, and be bound by the requirement of not damaging other people's legitimate rights and interests. The so-called "shared membership" profit model claimed by the defendant is based on obtaining the plaintiff's legitimate commercial resources, taking advantage of the plaintiff's competitive advantages and damaging the

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plaintiff's legitimate rights and interests. It does not conform to the principle of good faith or the business ethics of the Internet industry, and should be considered as unfair competition.

**[Verdict]**

The defendant shall pay the plaintiff RMB 2 million as compensation for its economic losses and reasonable expenses.

**[Judge Team]**

Presiding Judge: Lu Zhengxin

Judges: Gong Ping, Wang Heng

Judge Assistant: Lu Xuqing

Court Clerk: Sun Yue



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Case 4:

## **When Online Anchor Plays Unauthorized Musical Work, Webcast Platform May**

### **Assume Infringement Liability**

— On the dispute over the right of communication through information network for a musical work between the plaintiff Music Copyright Society of China and the defendant Wuhan DouYu Network Technology Co., Ltd.

#### **[Significance of the Case]**

Generally speaking, the webcast platform is a network service provider, required to perform the "notification-delete" obligation regarding the behavior of copyright infringement on the platform. However, if the anchor and the webcast platform have reached an agreement that the platform owns the intellectual property rights of the anchor's webcast products, the platform should assume the matching obligations of the rights it enjoys and assume the infringement liability for the alleged infringing behavior. The verdict of this case has confirmed that the principle of equal rights and obligations should be followed when determining whether a webcast platform should assume the liability for copyright infringement. While enjoying the intellectual property rights, the webcast platform bears a greater duty of care and review for the legality of the webcast content.

#### **[Case Replay]**

An online anchor delivered an online webcast on the webcast platform operated by the defendant and played the song *Lover's Heart* (running time: 1 minute and 10 seconds) during the webcast. After the webcast, the anchor made the process of the webcast into a video and saved it on the DouYu webcast platform for the audience to watch and share. The online anchor and the defendant had reached a *Webcast Agreement* that the defendant owns the

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intellectual property rights of all the products generated during the webcast. The plaintiff, authorized by the songwriters of the song *Lover's Heart*, can exercise the copyright of the song. The plaintiff claims that the defendant has infringed upon its right of communication through information network for the song and requests the court to order the defendant to pay the plaintiff RMB 30,000 as compensation for the use of the song's copyright and the attorney fee, and RMB 12,600 for the notarial fee and other reasonable expenses.

### **[Judging Principle]**

Although the anchor is the producer and uploader of the video, according to the *Webcast Agreement*, the platform enjoys the intellectual property rights of the video involved instead of the anchor, and the income from the audience's rewards during the webcast shall be divided by the defendant and the anchor in proportion. The defendant is not only the network service provider but also the right holder of the audio and video products on the platform, and it enjoys the profits brought by these products. In this case, although it has timely deleted the video involved after learning that the video contains infringing content, it can't be exempted from the corresponding liabilities. According to the principle of equal rights and obligations, the webcast platform shall assume corresponding liabilities for the legal consequences generated from the products of the webcast.

### **[Verdict]**

The defendant shall pay the plaintiff RMB 2,000 as compensation for its economic losses and RMB 3,200 for its reasonable expenses.

After the judgment of the first instance, the defendant lodged an appeal. The Beijing Intellectual Property Court made a second-instance judgment of dismissing the appeal and upholding the former judgment.

### **[Judge Team]**

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Judge: Li Jingwei

Judge Assistant: Zhu Yue

Court Clerk: Wang Yueping



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Case 5:

**Improper Use of "Illustrated Movie Introduction" Constitutes Infringement**

**— On the dispute over the right of communication through information network for a movie-like work between the plaintiff Youku Information Technology (Beijing) Co., Ltd. and the defendant Shenzhen Shushu Technology Co., Ltd.**

**[Significance of the Case]**

This is the first case of infringement concerning the "illustrated movie introduction" in China. It clearly confirmed that the act of making the screenshots of other people's movie-like work into a collection of pictures with a substantial presentation of the work's main pictures and specific scenarios is not proper use as it has gone beyond the necessary limits for introduction and comment and shows an objective effect of replacing the original work. The judgment of this case defined the boundary for the rational use of movie and television works, and determined the improper use of a creative work through a new

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technology under the pretext of innovation as an act of infringement. The judgment will help stimulate innovation and promote the sound development of the movie and television industry.

### **[Case Replay]**

The plaintiff enjoys the right of communication through information network for the television drama *Eternal Love*. The defendant is the operator of the "Graph Movie" APP and the "Graph Movie" website. The website is an online program dedicated to the image-text illustration of movies with a slogan of "Enjoy a good movie in 10 minutes" on its home page. The website provided a collection of pictures of the first episode of *Eternal Love*. The collection contains a total of 382 pictures all captured from the above episode. The content of the pictures covers the main pictures of the above episode, with texts added below by the producer of the picture collection. When users watch a collection of pictures through the "Graph Movie" software, they may choose the automatic play at the speed of 5 seconds, 8 seconds, or some other speed for each picture. They may also choose manual play by clicking the next picture themselves.

The plaintiff claims that the collection of pictures involved covers basically the main pictures and all scenarios of the television series involved and has infringed upon the plaintiff's right of communication through information network, thus requesting the court to order the defendant to pay the plaintiff RMB 500,000 as compensation for its economic losses and reasonable expenses. The defendant argues that the collection of pictures involved is a collection of screenshots rather than a video and its act is the proper use of the work rather than infringement.

### **[Judging Principle]**

**1. Can the act of making the screenshots of a movie-like work into a collection of pictures be defined as an act of using the work?**

The provision of creative works to the public as stipulated in the legal article concerning



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the right of communication through information network should not be narrowly understood as the provision of a complete work, since what the Copyright Law protects is the expression of originality. As long as a part of original expression from the work is used, it falls into the control scope of the right of communication through information network for creative works. In this case, the picture collection involved contains 382 pictures captured from the episode involved. These pictures are not the creation elements for the free use of the public, but the content of original expression from the original episode involved. Therefore, the act of providing the picture collection involved constitutes the act of providing a creative work.

**2. Does the act of making "illustrated movie introduction" constitute proper use?**

The determination of rational citation doesn't depend on the proportion of the citation but the rational necessity of the introduction, comment or description. The main function of the picture collection involved is not providing the public with introductory and promoting information with the suspense of the plot left behind but offering the content that covers the main scenarios and critical pictures of the episode involved. It will have a substantial impact on the market value of the original work and become a replacement in a way. It has damaged the normal use of the creative work and exceeded the necessary limits for proper citation. Such an act constitutes infringement.

**[Verdict]**

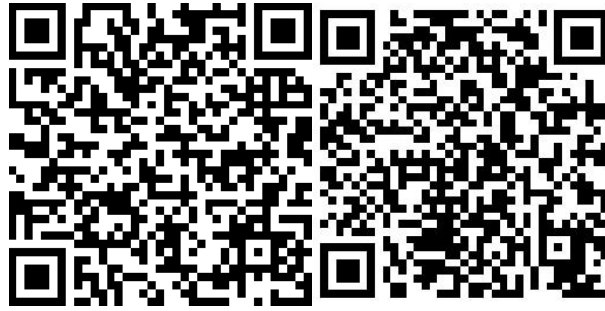
The defendant shall pay the plaintiff RMB 30,000 as compensation for its economic losses.

**[Judge Team]**

Presiding Judge: Jiang Ying

Judges: Lu Zhengxin, Yan Jun

Court Clerk: Wang Yueping



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Case 6:

### **Contract Made to "Produce False Page Views" Is Invalid**

**— On the dispute over an online service contract between the plaintiff Chang and the defendant Xu**

#### **[Significance of the Case]**

This is the first case concerning a transaction of "producing false page views" in China. A contract made for the purpose of "producing false page views" violates public order and good custom, damages the public interests, and should be considered invalid. Neither party is allowed to profit from the contract made to "produce false page views". The court shall confiscate the profits obtained by the two parties of the transaction in the performance of the contract. Both parties involved lost the case but recognized the judgment. The case received good social effects. The Sword of Chang'an — the official WeChat Account of the Political and Judiciary Commission under the Central Committee of the Communist Party of China—commented that "Every word in the judgment manifests a sense of responsibility."

#### **[Case Replay]**

The plaintiff and the defendant reached an agreement on the transaction of "producing false page views" on September 15, 2017: Code: [http://mac.iguzi.cn/az\\_gz6.js](http://mac.iguzi.cn/az_gz6.js); means of payments: weekly payment; unit price: RMB 0.9 / thousand UVs; settlement shall be made according to the statistics of the third-party back end CNZZ specified by the defendant. During the performance of the contract, settlement was made three times between the two parties and a total of RMB 16,130 of service fee was paid. For the last time, the page views produced were counted to be 27,948,476 UVs, and the settlement amount should be RMB 30,743 according to the contract. The plaintiff urged the defendant to settle the payment, but the defendant believed that the number of the page views was not true and only agreed to

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pay RMB 16,293. The plaintiff filed a lawsuit with the court requesting the court to order the defendant to pay a service fee of RMB 30,743 and interest. The defendant argues that as the service of "producing false page views" provided by the plaintiff violates a prohibition of the law, the contract is invalid and the plaintiff has no right to demand the payment of consideration.

### **[Judging Principle]**

#### **1. Is the contract made to "produce false page views" valid?**

The act of "producing false page views" is realized by making fraudulent clicks. For the purpose of obtaining improper interests, the act ignores the fair competition environment of market and the interests of network users, goes beyond the bottom line of business ethics, and violates public order and good custom. On the one hand, this act will impair the value of the honest labor of the competitors in the same industry, undermine the proper market competition order, and infringe upon the interests of non-specific market competitors; on the other hand, this act will deceive network users and mislead them to choosing the network products not in line with their expectations. In the long run, it will cause the adverse consequences of "bad money drives out good" on the network market, and ultimately impair the welfare of many network users. It is an act of infringing the interests of many non-specific network users. Therefore, the contract made between the two parties for the purpose of "producing false page views" violates public order and good custom, damages the public interests, and should be considered absolutely invalid.

#### **2. Legal consequences of the invalidation of the contract made to "produce false page views"**

The consequences of the invalidation of the contract are that the contract shall be invalid from the beginning, and neither party shall obtain the expected contractual benefits based on the act of meeting of minds. False page views have already been generated. If the two parties were ordered to return the profits to each other, it would be tantamount to

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condoning them to benefit from the illegal act and violate the basic legal principle that no one can benefit from illegal acts. Therefore, the court prepared a separate letter of decision ordering to confiscate the profits obtained by the two parties in the performance of the contract.

**[Verdict]**

The plaintiff's all claims were dismissed.

The illegal profits of the plaintiff and the defendant shall be confiscated.

Neither party involved lodged an appeal after the first-instance verdict was pronounced.

It means the verdict has taken effect legally.

**[Judge Team]**

Presiding Judge: Zhang Wen

Judges: She Guiqing, Yan Jun

Judge Assistant: Yang Guang

Court Clerk: Wang Yueping



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Case 7:

### **Duty of Care May Vary with Identity When Speech Is Given**

**— On the dispute over the right of reputation between the plaintiff Huang and the defendants Yue and Beijing Micro Dream Network Technology Co., Ltd.**

#### **[Significance of the Case]**

In the age of own media, citizens should bear a certain degree of duty of care when giving a speech in public cyberspace to avoid infringing on other people's right of reputation. A speaker with greater influence and a more special identity will cause more serious damage with their inappropriate speeches and should bear a higher degree of duty of care. The judgment of this case clarified the rational boundary for the freedom of speech on the Internet, and balanced the relationship between the freedom of speech and the protection of reputation, acclaimed by the media as a "textbook-like judgment".

#### **[Case Replay]**

The plaintiff had a series of disputes with an outsider surnamed Zhao and others due to a traffic accident and was listed as a defaulter for failing to fulfill the legal obligations determined by the judgment. On November 22, 2017, Zhao published a real-name post on Sina's Weibo: "Sorry for the waiting! Here is a textbook-like case of deliberate dishonesty! #Huang of Tangshan#", as well as the video involved. The video was then forwarded by multiple KOLs on Weibo and some media outlets followed up to report it. Soon it became a national public concern. In this process, the person surnamed Yue, as a KOL on Weibo and practicing lawyer, forwarded the video involved and published a post on Weibo after checking the list of defaulters and related public information. On November 28, 2017, Yue

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offered to provide legal consultancy service for Zhao. On December 6, 2017, Yue accepted Zhao's entrustment and began to act as an attorney of the series of disputes between the plaintiff and Zhao and others caused by the traffic accident involved. And Yue published a continuous series of posts on Weibo regarding this series of disputes. The content of the posts was the progress of the lawsuits and the interpretation of relevant laws and regulations. The plaintiff made the following claims: the involved video published by Zhao contains false content; Yue, as a KOL on Weibo and well-known lawyer, forwarded the video involved and published a series of posts on Weibo, which has infringed upon the plaintiff's right of reputation and privacy; the Micro Dream company failing to perform the obligation of review has committed joint infringement. Thus, the plaintiff requests the court to order Yue to stop the infringement, apologize, and pay a total of RMB 400,000 as compensation for the plaintiff's mental impairment, economic losses and other expenses. The plaintiff also requests the Micro Dream company to stop the infringement, apologize and bear joint liability.

### **[Judging Principle]**

Freedom of speech is a basic right enjoyed by citizens, but citizens must not harm the legitimate rights of others when exercising this right. The convenience of the Internet and the extensiveness of Internet dissemination make the dissemination of infringing information on the Internet faster and the damages greater. When the Internet users give a speech on a platform of own media, they should pay more attention to avoiding infringing upon the legitimate rights and interests of others. Otherwise, they should bear the infringement liability. To determine whether a speech given by a person on a platform of own media has infringed upon someone else's right of reputation, it is necessary to examine whether the person in question is subjectively at fault. The definition of the degree of duty of care the person is to

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bear shall be based on such factors as the occupation and influence of the person, and how the speech is published and disseminated.

Cyberspace has the characteristics of massive information, information sharing and rapid, convenient dissemination. It is neither realistic nor consistent with the law of Internet dissemination to require the Internet users to verify and investigate the objectivity and authenticity of the speech forwarded. Only when the forwarder knows or should know that there is inaccuracy, insult or slander in the speech forwarded should they be considered at subjective fault and possibly bear the infringement liability.

In this case, the identity of Yue has changed from a bystander of the case to an insider and a person involved. Before Yue's identity was changed, the video forwarded by Yue after a check doesn't contain insulting content or anything inconsistent with common sense. Yue has fulfilled a high degree of duty of care and made no improper acts. After Yue's identity was changed, Yue should bear a higher degree of duty of care for the new speeches given and also reexamine the involved video forwarded before to justify the act of forwarding it since Yue had been allowed to learn about the case and been enabled to tell if the act of forwarding the involved video would commit infringement. The posts published by Yue on Weibo after the identity change have a reasonable factual basis, contain no insult or slander against the plaintiff, and thus haven't infringed upon the plaintiff's right of reputation. The involved video forwarded by Yue before contains no false content within the scope of Yue's knowledge. Therefore, Yue is not obligated to delete the video even after the identity change.

**[Verdict]**

All the plaintiff's claims were dismissed.

**[Judge Team]**

Presiding Judge: Liu Shuhan



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Judges: Zhu Ge, Zhang Lianyong

Judge Assistant: Lu Ning

Court Clerk: Huang Liwang



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Case 8:

## **Online Taxi Platform Failed to Manage According to Rules, Ordered to Assume**

### **Liability for Breach of Contract**

— On the dispute over an online service contract between the plaintiff Yang and the defendant Didi Chuxing Technology Co., Ltd.

#### **[Significance of the Case]**

The online taxi platform can identify the driver's violations according to the platform rules and take reasonable restrictions. Its efficient handling of passenger's complaints for the purpose of ensuring safety should be recognized. However, when the driver makes an appeal, the platform shall conduct a review. If the appeal is true, the restrictions shall be cancelled in time to effectively protect the legitimate rights and interests of the driver. The judgment of this case clarified that the operators of the online taxi platform shall, during the management of the platform, pay attention to balance the interests of the numerous non-specific passengers and those of the drivers to promote the sound and sustainable development of the online taxi business model.

#### **[Case Replay]**

The plaintiff is a driver registered on the APP operated by the defendant the Didi platform. On November 5, 2018, the plaintiff picked up a drunken passenger through the APP. As the passenger remained drunk after arriving at the destination, the plaintiff called the police and the passenger left voluntarily after the police arrived. The plaintiff made no improper acts in the process. Later the passenger filed a complaint to the platform. Based on the passenger's complaint and the platform's experience, the defendant defined the incident

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as a safety incident. On the night of November 6, the "Night Service Card" function became unavailable for the plaintiff who couldn't take orders at night then. After that, the plaintiff filed multiple appeals and submitted the police record and the screenshot of the order involved, but the defendant took no action. On November 8, the defendant restored the plaintiff's status of using the "Night Service Card", but set a one-month observation period for the plaintiff's account without telling the plaintiff. Thus, the plaintiff still couldn't take orders at night. During the month, the defendant made no further investigation of the plaintiff's complaint. On December 13, the plaintiff's "Night Service Card" was resumed. The plaintiff claims that the defendant didn't promptly review the passenger's malicious complaint but restricted the plaintiff's "Night Service Card" function, resulting in a loss of RMB 16,000 in revenue, which should be compensated by the defendant.

The defendant argues that suspending the plaintiff's "Night Service Card" function and setting the observation period is a measure taken by the platform when exercising its right of autonomous management and for the sake of ensuring passengers' safety, and that the plaintiff's revenue has not been reduced due to the defendant's act of management.

### **[Judging Principle]**

The plaintiff and the defendant are bound by an online service contract. The *Platform User Rules* formulated by the defendant is part of the service contract, and has the force of law when it is not against the mandatory provisions of the law. The two parties shall exercise their rights and perform their obligations in accordance with the rules. The defendant has the right to make a unilateral judgment on the driver's violations based on the obligation of safety guarantee and take necessary measures.

In this case, the defendant made a preliminary judgment on the plaintiff's violation according to the passenger's complaint and restricted the defendant's use of the "Night Service Card". It conforms to the platform rules and the requirement for ensuring the safety

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of the numerous non-specific passengers. However, after the plaintiff filed a complaint, the defendant did not verify the facts of the violation in accordance with the platform rules. The restriction imposed on the plaintiff's account when the plaintiff is not at fault lacks sufficient grounds. The defendant failed to abide by the rules when exercising the right of platform management, has breached the contract and shall assume the liability of compensating the plaintiff's losses. The amount of compensation can be calculated using the daily revenue difference before and after the restriction of the "Night Service Card" function as the standard.

**[Verdict]**

The defendant shall pay the plaintiff RMB 4,000 as compensation.

**[Judge Team]**

Presiding Judge: He Cheng

Judges: Yuan Jianhua, Cui Lu

Judge Assistant: Sun Juhong

Court Clerk: Li Fei



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Case 9:

**Online Public Auction of Other People's Family Letters Infringes on Personal Privacy**

— On the dispute over the right of privacy between the plaintiff Ding and the defendants Zhao and Beijing Guchengbao Books Co., Ltd.

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### **[Significance of the Case]**

The unauthorized public display of other people's letters and manuscripts with expressions of their own thoughts on the trading platform constitutes the infringement upon personal privacy. Where the trading platform knows the infringement and fails to review and stop it, the platform shall bear joint liability with the infringer. The judgment of this case involves the definition of the protection scope of "celebrity privacy", emphasizing that the privacy of celebrities can be reasonably limited, but it doesn't mean that celebrities' private lives can be fully exposed. The private information unrelated to the public interests should be fully protected.

### **[Case Replay]**

The plaintiff is the only son of the late famous cartoonists Ding Cong and Shen Jun. In September 2016, the plaintiff discovered that a large number of private letters between the couple of Ding Cong and Shen Jun and their family and friends, as well as Ding Cong's manuscripts, were being auctioned on the Kongfz.com operated by the Guchengbao Books company, and the letters involve much privacy of the family life. Among them, 18 letters and manuscripts were auctioned by a person surnamed Zhao. The plaintiff claims that Zhao disclosed Ding Cong's letters and manuscripts without authorization and the Guchengbao Books company did not review Zhao's act of selling, which constitutes the infringement upon Ding Cong and Shen Jun's privacy as well as the plaintiff's right of privacy. Thus, the plaintiff requests the court to order the two defendants to stop the infringement, delete the auction information of the letters and manuscripts, and publicly apologize. The plaintiff also requests Zhao to pay the plaintiff a total of RMB 90,000 as compensation for the plaintiff's mental impairment and the attorney fee. The Guchengbao Books company is requested to bear the

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joint liability and Zhao is requested to return the letters and manuscripts involved. Zhao argues that the letters and manuscripts involved were purchased with a reasonable compensation; the auction was held with no intention of infringement; and the celebrities' right of privacy should be partially conceded to the public interests; thus, no infringement has been committed. The Guchengbao Books company argues that as a network service provider, it only needs to fulfill the "notification-delete" obligation and bears no obligation of voluntary review, and thus should not be jointly liable.

### **[Judging Principle]**

Letters and manuscripts may carry the real right, the right of privacy and copyright at the same time. Family letters often involve family life and personal feelings, with obvious privacy, and there are great possibilities that personal privacy is involved. The determination of the right of privacy should also give due consideration to the reasonable subjective factors of the party involved. It is necessary to respect the scope of private space outlined by the party involved while the universally recognized value standards are complied. The public property of celebrities doesn't mean that their private lives can be fully exposed. The private information unrelated to the public interests should be fully protected.

Some of the letters involved contain the intimate communication between Ding Cong and his family members and fall into the category of personal privacy; some other letters are written by others to Ding Cong, involving public affairs but no privacy of Ding Cong, Shen Jun or the plaintiff. The manuscripts involved have not been published before. Their content involves the expressions of Ding Cong's thoughts in the then historical period, and still belongs to Ding Cong's privacy. Zhao's sale of Ding Cong's family letters and manuscripts is entirely based on the profit-making purpose and has nothing to do with the public interests. As the letters and manuscripts involved have been delivered to the buyers, and the claim of

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restitution of a chose in possession is not in the same nexus of legal relationships with the right of privacy, the plaintiff's request for returning the letters is not supported by the court. The Guchengbao Books company shall fulfill the reasonable duty of review for the content with a property of privacy sold on its platform, such as letters and manuscripts. The company charged both parties of the transactions a certain percentage of the transaction prices as commissions, and organized a special auction event for Ding Cong's letters. It should be determined that the company failed to fulfill the corresponding duty of review despite a clear knowledge of the fact that the letters and manuscripts involved may contain privacy. Therefore, the Guchengbao Books company shall be jointly liable for Zhao's infringement.

**[Verdict]**

The two defendants shall apologize to the plaintiff; Zhao shall pay a total of RMB 30,000 to the plaintiff as compensation for the plaintiff's mental impairment and reasonable expenses, and the Guchengbao Books company shall assume joint liability.

**[Judge Team]**

Presiding Judge: Zhao Changxin

Judges: Yan Jun, Guo Sheng

Judge Assistant: Yang Guang

Court Clerk: Zhang Lili



QR code of the Judgment





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Case 10:

**Right Holder's Exercise of Copyright Shall Not Infringe upon Other People's Right of  
Portrait**

**— On the dispute over the right of portrait between the plaintiff Qin and the defendants Visual China Group Co., Ltd. and HanhuaYimei (Tianjin) Image Technology Co., Ltd.**

**[Significance of the Case]**

The sale of pictures containing the portraits of other people without permission constitutes an infringement upon the right of portrait of other people. The public figures' right of portrait can be restricted to a certain level in order to meet the public's right to know, but it does not mean that their right of portrait is completely deprived. Public figures enjoy the same right of protecting their portraits from illegal infringement as the common people do.

**[Case Replay]**

The plaintiff Qin is an actor. The HanhuaYimei company is the operator of the “VCG.com” website. The company openly sold the photos marked with the plaintiff's name at the price of hundreds of yuan or more than a thousand yuan in RMB on its website. 200 of the photos present a full portrait. 150 of the photos present a profile or a face partly blocked. The plaintiff claims that the act of the two defendants has infringed upon the plaintiff's right of portrait and requests the court to order the two defendants to delete the infringing pages and links, openly apologize and pay the plaintiff a total of RMB 500,000 as compensation for the plaintiff's economic losses, emotional distress and reasonable expenses.

**[Judging Principle]**

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The HanhuaYimei company should obtain the plaintiff's permission first before openly displaying and selling the photos involved on the “VCG.com” website it operates, since these photos contain the portrait of the plaintiff. As a public figure, the plaintiff draws the attention of the public and the media inevitably, and the plaintiff's right of portrait is also restricted by the public's right to know. However, in the areas not related to the public's right to know, the plaintiff's right of portrait shall be protected too, the same as that of common people. Except the use of public figures' portraits for such public interests as news reporting, the photos containing the plaintiff's portraits must not be sold for profit without permission. Although some of the photos contain a face partly blocked, it still can be told that the person in the photo is the plaintiff. The defendants sold the plaintiff's photos for profit without the permission of the plaintiff. It is clearly an act of using the plaintiff's portrait to obtain illegal interests and thus constitutes an infringement upon the plaintiff's right of portrait. The defendants shall assume the corresponding infringement liability according to law. The Visual China Group is not the operator of the “VCG.com” website and shall not be liable for the infringement.

**[Verdict]**

The HanhuaYimei company shall openly apologize to the plaintiff and pay the plaintiff RMB 200,000 as compensation for the plaintiff's economic losses, RMB 1,800 for the plaintiff's reasonable expenses, and RMB 10,000 for the plaintiff's emotional distress.

**[Judge Team]**

Presiding Judge: Zhang Lianyong

Judges: Chen Guanghui, Cui Lu

Judge Assistant: Liu Wankun, Zhao Qi

Court Clerk: Wang Boyao



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