

# Focus on Copyright Issues in Book Publishing Practice: Analysis of Hot Cases

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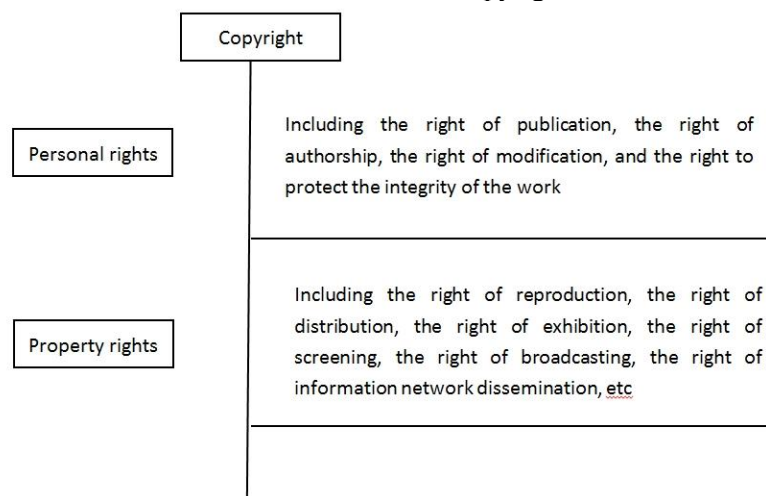
**Abstract:** Copyright issues have always been viewed a "stubborn disease" plaguing the book publishing industry, especially in the context of the current times where copyright is more subtle and delicate. Copyright holders' awareness of protecting their rights has awakened, making the issue of copyright particularly compelling. This work targeted at recent hot copyright cases in two aspects: the types of copyright infringement and how to avoid infringement. By means of case analysis, legal interpretation and viewpoint refinement, this paper systematically expounds various tips for "Identifying Pits" and "Avoiding Pits" on copyright in the process of book publishing. In clarifying the source of copyright, various methods to avoid copyright infringement need to be adopted to avoid the "deep pit" of copyright infringement. These measures are assured to be beneficial to the healthy and rapid development of the publishing industry.

**Keywords:** Copyright; hot cases; "Identifying Pits" and "Avoiding Pits" for book publishing copyright infringement

## 1. Introduction

China has made a lot of impressive progress in copyright-related laws, which have been rapidly improved the citizens' awareness of rights protection. In the process of book publishing, the legal risks of possible copyright infringement faced by publishers have also increased substantially. What's even more troubling is that the risks of this kind are no longer limited to conventional "content plagiarism", but has taken on a more insidious and novel character[1]. At present and for a period of time in the future, this is an urgent call to be highly valued by book publishing practitioners.

Copyright as shown in Figure 1. refers to the general term for the property rights and moral rights enjoyed by natural persons, legal persons, or other organizations over literary, artistic and scientific works, often called "copyright".



**Figure 1. Main Contents of Copyright**

## 2. Manifestations and Causes of Copyright Problems in Book Publishing Practice

In the present practice of book publishing, the copyright issues of are mainly manifested in three aspects, as shown in Table 1.

**Table 1. Main aspects of copyright infringement**

Manifestation	Exegesis
Violations failed to be prohibited	Unauthorized reproduction, dissemination, and adaptation of works have been trapped in a state of being repeatedly prohibited, seriously infringing on the rights and interests of copyright holders.
Content of the contract NOT clear	The copyright contract does not specify the ownership and scope of use of the copyright, which is liable for the two parties to dispute when distributing benefits in the later stage.
Digital publishing brings new challenges	The great development of digital technology has driven the dissemination of works better and faster, but it is also accompanied by the increasing difficulty of copyright protection, such as online piracy, unauthorized e-books, etc.

In the practice of book publishing, the interest of social media should be "mainly responsible" for various acts and phenomena of copyright infringement - the decentralization of content production and dissemination, where any user

may become the central node to be able to engage in the production and dissemination of content [2].

In addition, there are three other reasons, as shown in Table 2.

**Table 2. Three Causes of Copyright Infringement**

Cause	Exegesis
Lack of legal awareness	Some publishers and individuals do not have sufficient awareness of the Copyright Law and other laws and regulations, and are not fully aware of the serious legal consequences that may be caused by copyright infringement.
Blind pursuit of profits	Some publishers are reckless in pursuit of economic interests and do not hesitate to infringe on the copyrights of others.
Regulatory mechanism NOT perfect	The supervision and enforcement efforts of the relevant departments are not sufficient to deter copyright infringement.

### 3. Several Types of "Hidden" Infringement

Speaking of copyright infringement, the first thing that comes to mind for many old book owners is "content plagiarism", that is, copying or changing the text content of a work. Is the use of text content created by others considered as copyright infringement? This requires a case-by-case basis for determination: if we only quote someone else's point of view in our publication, and then publish relevant critical opinions on this basis, and use it as an argument to prove some of our own opinions. In this context, such kind of behavior does not constitute infringement, and only the source needs to be marked. In other cases, the unauthorized use of the written content created by the author without the permission of the relevant author is suspected of infringement. Examples may be the act of modifying, adjusting and/or abbreviating to disguise the fact of stealing someone else's work. Even if it is well concealed, a written work or audio or video obtained in this way is classified as copyright infringement [3].

In the process of book publishing, there may be a chance to completely eliminate plagiarism. Yet does this mean that the risk of copyright infringement is completely eliminated? The answer is No. For example, it is hard to prevent infringement by changing the form of the work. This form of infringement may be the reproduction of content between different carriers, such as e-books. Infringement may also occur to the changed form of the content, such as a live-action reading, etc. The "Sweet Wood and Bad Fire"(Gan Chai Lie Huo) that occurred in January 2019 is a typical example [4].

In addition to above-mentioned actions of plagiarism, there are three types of "hidden" copyright infringement that may be faced in the process of book publishing, as shown in Table 3.

Note that the three types of infringement in Table 3 may often occur at the same time. Some of the works even deal with the "principle of confusion"[5], which requires our great attention.

**Table 3. Three Types of "Hidden" Copyright Infringement**

Type	Peculiarity	Harm
Infringement of online	Being public on the Internet, it is quite easy	Once a book is published, it is

pictures and font libraries	for authors or editors to think that they do not have the corresponding copyright.	much likely to step in the copyright infringement turmoil.
Infringement of teaching and auxiliary books	Chances are a lot to fall into the infringement trap of "textbooks or famous works can be cited free of charge".	Books that have been published and distributed are at risk of recall.
Infringement of public books	Hidden under the mask of the public version are various deformed copyrights.	Claims by hidden copyright owners may bring a series of litigation troubles.

Combined with hot cases, analysis in detail are as follows:

### 3.1 Infringement of Online Pictures and Font Libraries

In 2021, the "Commentary on Current Affairs" of "Guangming Net" published a review article, titled Is it a trick to steal pictures and publish a book first and then let the author take the initiative to contact him?, basically: The series of books "Airport Ecological Disaster Prevention" published by Hefei University of Technology Press in 2019 was found by popular science bloggers to have a large number of citations without indicating the sources, being suspected of copyright infringement. The authors of the series have since admitted that they did use a lot of online images in the writing of the books. Due to the contact information of the authors of these images failed to be found, going nowhere to find them [3].

The fast-growing Internet makes it available for authors and editors to choose more and more pictures and fonts. Books are different from self-media, though. If these online pictures or fonts are used directly, they will face the same risk of infringement as the series of books "Airport Ecological Disaster Prevention".

These online pictures and fonts, once carefully studied, are actually sourced: the rights holders of these pictures and fonts may first "declare" their ownership of the corresponding pictures and fonts through book publishing, voluntary copyright registration, and then upload them to the Internet for the purposes of publicity, promotion and sharing. Then, these pictures and fonts would be reprinted and disseminated by various media and self-media, so that they may be seen in all corners of the Internet. This is so-called the "blooming everywhere" situation that may create such an illusion in many people's consciousness: these pictures and fonts belong to "public resources", and there is no copyright, and they may be used

with confidence in the process of book publishing.

When books are placed in the public eyes, the risk of infringement comes along. This is because the copyright owners of these images and fonts may search the Internet using the corresponding search technology, and spot the images and fonts being publicized, and hence demand a huge amount of compensation.

### 3.2 Infringement of the Content of Famous Works or Textbooks Used in Teaching and Auxiliary Books

Teaching and auxiliary books, especially Chinese, English, history and other language and writing books may be on the edge of the legal risk of copyright infringement. It is simply because for the purposes of "textbook guidance" and "exercise exercises", such books often need to cite some works or historical materials.

On April 17, 2024, a news report on the "Comprehensive Rights Protection" edition of China Intellectual Property News aroused widespread concern in the book publishing industry: the Beijing Intellectual Property Court determined that the two works of "Back to Yan'an" and "Ansai Waist Drum" used in "Middle School Miracle Classroom • Chinese: with accompanied teaching materials by People Education Press • Eighth Grade • Volume II" published by Hubei Education Publishing House Co., Ltd. do not constitute fair use. Alternatively, the copyright enjoyed by the China Character Copyright Society in respect of the above-mentioned works was infringed. Consequently, the party was ordered to stop infringement immediately and compensate the economic losses of the China Character Copyright Society [4].

Generally, Article 24, Paragraph 1 (2) of China's Copyright Law clearly stipulates the circumstances of "appropriate citation" of copyright. In this case, the actor may use his work without his authorization as long as it does not infringe other rights enjoyed by the

copyright owner in accordance with the Copyright Law.

So, under what circumstances does the "appropriate citation" qualify? Basically, there are four elements as required for proper citation: first, the object of the citation must be a published work; secondly, the purpose of citing the relevant work is to better introduce or comment on the work or explain the relevant issue; Furthermore, the name of the author and the title of the work shall be indicated when quoting; Finally, the citation must be "appropriate". Generally, the cited work may not constitute the main part or substance of the new work, and there can be no substantial substitution or competition between the two. At the same time, a large number of citations or full-text citations shall not be allowed, and an appropriate proportional relationship shall be maintained. Additionally, the act of citation may not affect the normal use of the cited work or damage the legitimate rights and interests of its right holders.

The act of "Back to Yan'an" and "Ansai Waist Drum" used in "Middle School Miracle Classroom • Chinese: with accompanied teaching materials by People Education Press • Eighth Grade • Volume II" was given two

reasons why the court ruled that it was infringing: the book quoted the above two works in full, and interpreted the original text sentence by sentence and paragraph by paragraph, forming a substantial substitution relationship; On the other hand, the book had a substantial competitive relationship with the two works it cited, which had a negative impact on the economic benefits of the right holder and harmed its legitimate rights and interests.

In addition to analyzing other people's works, it is extremely prone to copyright disputes, and the interpretation of teaching materials in teaching aids may also be judged as infringement. Many people believe that textbooks compiled and distributed to the public are copyrightless. This is a wrong view that may bring a lot of trouble. As a compilation work, a textbook is characterized by a relatively distinctive originality. The writer may select and arrange the content in accordance with the requirements of the syllabus, and part of it may contain original text, pictures, etc. [6].

Therefore, when interpreting the teaching materials, a supplementary book that is not taken seriously may also constitute infringement, as shown in Table 4.

**Table 4. Types of Copyright Infringement**

Type	Content
Content Infringement	The aiding books and textbooks are matched, where the texts, explanations, exercises, answers and other contents in the textbooks are absorbed and adopted, being in a position of infringing the copyright of the textbooks.
Infringement of genres	Aiding books with the copied text catalog, layout involvement and structure classification may the same be suspected of infringing the copyright of the textbook.

### 3.3 Infringement of Public Books

In accordance with the relevant provisions of the Copyright Law of the People's Republic of China, the publisher is permitted to use the public version of the book that has entered the public domain free of charge, without the consent of the author and his heirs, and without paying any royalties to him. Behind this "free" curtain, however, many infringement traps are hidden in public books. Vulnerability to infringement of compilation rights

Since January 1, 2017, Fu Lei's works were announced to have entered the public domain. Many publishers rushed to publish their related works, yet ignored Fu Min's right to compile the "Fu Lei's Family Letters". Taiwan Strait Publishing House failed to obtain Fu Min's

authorization before publishing Fu Lei's Family Letters, infringing Fu Min's compilation rights and falling into an infringement dispute [6].

The so-called "compilation right" refers to the right to select and arrange a work or certain parts of a work in a targeted manner, and to assemble them into a new work. It is plain that the compiler of the public edition of a book has the right to compile. If the book publisher ignores this right of the compiler, it is highly vulnerable to infringement [7].

Infringement on the copyright of the translated work

In 2024, John R.R. Tolkien's *The Lord of the Rings* and *The Hobbit* entered the public edition of China, and many domestic publishers published related works. Among

others, the Mudu Culture, a newly established small and micro enterprise, published a version of "The Lord of the Rings" that was suspected of infringement during crowdfunding on a certain platform - its opening poem was questioned by netizens as "stitched together from several other translated versions", and the illustrations were also suspected of copying movie stills, which caused a big storm on the Internet [8].

According to Article 13 of the Copyright Law of the People's Republic of China, the copyright of a work produced by adapting, translating, annotating or arranging an existing work shall be enjoyed by the person who adapted, translated, annotated or arranged, provided that the copyright of the original work shall not be infringed when exercising the copyright. In other words, when some famous foreign books enter the public domain, the corresponding translated versions are still protected by the Copyright Law.

In addition to the above-mentioned related hidden troubles, if the publisher improperly operates a public edition of a book co-authored by multiple persons, it is also very likely to get in corresponding infringements.

#### **4. Three Effective Measures to Circumvent Infringement**

To satisfy the reading needs of different users, books need to integrate basic expressions and derivative expressions. The basic expression can be understood as the original work, from which the derivative expression that is derived, such as commentary, abstract, etc. As a result, content production models can be diversified, scenario-based, and fragmented [8]. This not only enriches the content expression, but also provides the soil for new types of infringements.

In the process of book publishing, there are various hidden infringement traps. In practice, what can be done to help book publishers avoid lightning?

##### **4.1 Carefully Determine the Copyright Ownership of Pictures and Fonts**

Publishers should be cautious when taking images and fonts from the web. It is always a wise decision to determine the ownership of the copyright, contact the copyright owner, and obtain their authorization before using it. In failure to contact the corresponding

copyright owner, even if the pictures and fonts are more than attractive, they may not be adopted. Otherwise, it is tantamount to burying mines for your side.

Note that if the image is a photograph of a person, the book publisher needs to obtain the consent of both the portrait right holder and the copyright owner of the photograph in order to use the image [9]. That's because more than copyright, character pictures also have the right of reputation and portrait of the character. If an image is simply a reproduction of something, it is not copyrighted. For example, the content of the book needs to be accompanied by a photo of an ancient painting. The copyright of an ancient painting belongs to its creator, and the photographs taken are only simple copies of the ancient paintings, and no originality may usually be involved to generate copyright.

When it comes to font infringement, book publishers may make trade-offs based on specific circumstances. If a few words in the cover are infringing, corresponding compensation may be considered on the basis of negotiation. If a relatively large number of words are involved in the infringement, the corresponding font library may be purchased to neutralize the infringement dispute.

##### **4.2 Balance between Originality and Licensing**

How to avoid infringement disputes for books of teaching aids?

First of all, the compilation of teaching and auxiliary books shall pay special attention to originality, i.e. original content, so as to avoid the occurrence of copyright infringement disputes from the source. For example, textbooks or exercises and answers on the Internet are copyrighted, and it is an act of copyright infringement to move them untouched. In contrast, if writing your own exercises and get the answers won't have such a problem.

Second, in need of using someone else's work, the authorization of the other party must be obtained in advance. In the first place, it is the copyright authorization of the relevant teaching materials matched by the teaching aids, and the other is the copyright authorization of other works other than the content of the teaching materials.

In practice, when some publishers have to use

textbooks or other people's works, they may publish a manuscript inspiration at the end of the book, calling on the relevant copyright owners to take the initiative to contact them for remuneration. Nevertheless, this method does not avoid 100% infringement disputes. Once the other party wants to obtain higher compensation, the publisher may still be drawn into a series of copyright-related legal disputes.

A good way to effectively avoid copyright disputes is to use the content of the relevant textbooks, or the copyright owner of the relevant works used, is to sign an agreement with the China Character Copyright Association to receive and transfer remuneration. In this case, the book publisher may pay the relevant remuneration to the Chinese Character Copyright Society.

#### **4.3 Clarify the Subject of Copyright and Avoid Infringement of Public Books**

Article 23, Paragraph 1 of the Copyright Law of the People's Republic of China clearly stipulates that the term of protection of the author's rights shall be as follows: the life of the author and 50 years after his death, ending on December 31 of the 50th year after the author's death. In the case of collaborative works, by December 31 of the fiftieth year after the death of the last deceased author.”

This legal provision can be interpreted in two ways:

First of all, the term of protection for the original works of Chinese citizens ends 50 years after their death, and the right to publish public books and property rights after the expiration of the protection period shall not exist. Exceptionally, the author's moral rights are always protected by law, i.e. the right of authorship, the right of correction and the right to protect the integrity of the work. Therefore, if the book publisher publishes the public edition of the book without signature, or makes a large number of deletions and alterations to the work, then the heir of the copyright of the public edition of the book shall have the right to file a lawsuit with the people's court to demand that the publisher shall stop the infringement and give corresponding economic compensation.

For example, the various rewrites of the "Four Great Classics" that have emerged on the market must legally obtain the consent of the

original authors. Otherwise, they are suspected of copyright infringement, unless no copyright heir would claim to defend their rights.

Second, special attention should be paid to distinguishing between types of collaborative works. There are two main types of collaborative works: One is the joint creation of several people. There is no way to divide the creative part of each person, and this kind of work is a single collaborative work. The other type is the "integration" of the works created by several people individually, where the individual creation part can be divided.

The term "collaborative work" in Article 23, Paragraph 1 of the Copyright Law refers to an inseparable collaborative work, and the term of protection of its rights is December 31 of the fiftieth year after the death of the author who died lastly. For those collaborative works that can be divided, the term of protection may be calculated separately.

In addition to natural persons, China's Copyright Law also stipulates that legal persons or organizations may also become copyright owners. Unlike the term of protection for works of natural persons, the term of protection for works of legal persons or unincorporated organizations is given 50 years after the completion of the creation. Note that there is no specific limit on the term of protection of the author's rights such as the right of authorship, the right of modification, and the right to protect the integrity of the work.

Therefore, publishers shall avoid simply analyzing the ownership of the copyright of public books, with a particular focus on individuals only. There are many more legal entities or organizations to analyze the association, such as book publishers, translation teams, annotation teams, compilation teams, etc. Ultimately, all the copyright owners of the book shall be determined to clarify the term of protection of their copyright.

As a strong addition, book publishers also need to pay special attention to the copyright protection of the subtext of the book when publishing public edition books. The subtexts of public books can be divided into two categories: the included text, which mainly includes the author of the book, copyright information, title, subtitle, preface, illustrations, afterword, acknowledgments, and dedication

on the title page. Extended texts, mainly including book-related interviews, publicity, reviews, annotations, etc. Subtexts are often designed and developed for originality, and therefore often protected by the Copyright Act. When publishing a public edition of a book, book publishers need to be cautious about the use of relevant subtexts [10].

If the public edition of the book is a foreign work, especially a well-known foreign book,

there may be many translated versions in China, and the quality varies. In response to this situation, book publishers are expected to establish a copyright management and evaluation system for original translated works or cooperative translated works. In this copyright management evaluation system, book publishers are recommended to clarify four evaluation indicators, as shown in Table 5.

**Table 5. Copyright Management Evaluation System**

Index	Content
Whether the translator understands the original work correctly	In translating the original work, whether the translator can truly reproduce the original author's point of view, whether the language conception is in line with the original work, and whether it can accurately express the original author's point of view.
Whether the language and style are identical or similar to other versions of the translated work	If the language, style, etc. are identical or similar to other versions of the original translation, they need be treated with caution to avoid falling into infringement disputes after the publication of the work.
Whether it has innovative expression	Whether there is an innovative expression is a high-weight indicator to determine whether the content is infringing. Therefore, book publishers may require translators to have their own original content in terms of content expression, language style, and translation style.
Whether there are similar errors in other translation versions	In the process of translation, the translator may have similar errors in other versions, such as the same sentence is mistranslated, and/or there is a dispute about the same translated text. At this time, book publishers need to pay special attention to the possible infringement between their own translated works and other versions of translated works.

## 5. Conclusion

There are complex and hidden copyright traps in the process of book publishing, which may be triggered for the slightest mistake. Therefore, it is essential for book publishers to pay close attention to any text, pictures, audio, and other content in the work, and manage to find out all about its "past and present". Additionally, in the case of a publication being a teaching supplement book or a public edition book, the publishers need to take it very seriously to clarify the copyright. Similar behaviors like editing, use, adaptation, interpretation, dissemination shall strictly abide by copyright-related laws and regulations so as to completely avoid the traps of copyright infringement.

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