

July 4, 2014
2014年7月4日

Legislative Affairs Office of the State Council
People's Republic of China
Beijing Mail Box 2067 (Postal Code: 100035)
E-Mail: zzqf@chinalaw.gov.cn

中华人民共和国
国务院法制办公室
北京市2067信箱（邮政编码：100035）
电子邮件：zzqf@chinalaw.gov.cn

Subject: AIPLA's Comments on People's Republic of China Copyright Law (Revision)

主题：美国知识产权法协会对《中华人民共和国著作权法（修订草案送审稿）》的意见

The American Intellectual Property Law Association ("AIPLA"), located in Arlington, Virginia, close by the United States Patent and Trademark Office ("USPTO"), is the largest association of intellectual property ("IP") practitioners in the United States. We have approximately 14,000 members from law firms, government agencies, the judiciary, and academia, including many foreign members from China and other countries.

美国知识产权法协会（AIPLA），位于弗吉尼亚州阿灵顿，相距美国专利和商标局（USPTO）不远，是美国规模最大的知识产权从业者协会，拥有会员大约14,000多名，会员来自律师事务所、政府机构、司法机构和学术机构，其中许多会员为来自中国及其他国家的外国成员。

We commend the Legislative Affairs Office of the State Council on providing the public with the opportunity to comment on the recently-released People's Republic of China Copyright Law (Revision). AIPLA appreciates the opportunity to provide the attached comments on the People's Republic of China Copyright Law (Revision) for your consideration, and we hope this is a transparent and productive exchange of views on improving the Copyright Law of China to the benefit of all legitimate rights holders, domestic and foreign alike.

我们十分赞赏国务院法制办公室给予公众就最近发布的《中华人民共和国著作权法（修订草案送审稿）》发表意见的机会。AIPLA很高兴有机会提交其对《中华人民共和国著作权法（修订草案送审稿）》的意见（随附）供贵办公室审议。为国内外所有合法著作权持有人利益，我们希望这是有关改进中华人民共和国著作权法的透明及建设性地交换意见。

AIPLA's Comments on
People's Republic of China Copyright Law (Revision)

AIPLA对

《中华人民共和国著作权法（修订草案送审稿）》的意见

July 4, 2014

2014年7月4日

Page 2

If the Legislative Affairs Office of the State Council has any questions, requires further information, or wants to discuss AIPLA's comments, or other copyright law issues, please let us know.

国务院法制办公室如有任何疑问，需要进一步信息或与AIPLA讨论我们的意见或其他著作权法事务，敬请告知我们。

Sincerely,



Wayne Sobon

President

American Intellectual Property Law Association

美国知识产权法协会主席

Attachment: AIPLA's Comments on People's Republic of China Copyright Law (Revision)

附件：AIPLA对《中华人民共和国著作权法（修订草案送审稿）》的意见

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
Chapter 1: General Provisions				
<p>Article 1 This Law is enacted, in accordance with the Constitution, for the purpose of protecting the copyright of authors in their literary, artistic and scientific works and the rights and interests related to copyright, encouraging the creation and dissemination of works conducive to the building of a socialist society that is advanced ethically and materially, and promoting the progress and flourishing of socialist culture and sciences.</p>	<p>Article 1 This Law is enacted in accordance with the Constitution for the purpose of protecting the copyright of authors in their literary, artistic and scientific works and related rights of disseminators, of encouraging the creation and dissemination of works conducive to the building of an advanced socialist culture and ideology and to socialist material development, and of promoting the development and prosperity of socialist culture, sciences and economy.</p>	<p>第一条 为保护文学、艺术和科学作品作者的著作权，以及传播者的相关权，鼓励有益于社会主义精神文明、物质文明建设的作品的创作和传播，促进社会主义文化、科学和经济的发展与繁荣，根据宪法制定本法。</p>	<p>AIPLA endorses the use of copyright law to encourage the creation, dissemination, and use of works for the development and progress of society.</p>	<p>AIPLA（美国知识产权法律协会）认同通过著作权法鼓励作品的创新、传播和使用，并以此促进社会发展进步。</p>
<p>Article 2 Chinese citizens, legal entities or other organizations shall, in accordance with this Law, enjoy the copyright in their works, whether published or not. The copyright enjoyed by foreigners or stateless persons in any of their works under an agreement concluded between China and the country to which they belong or in which they have their habitual residences, or under an international treaty to which both countries are parties, shall be protected by this Law. Foreigners and stateless persons whose works are first published in the territory of China shall enjoy the copyright in accordance with this Law. Any work of an author of a country that has not concluded any agreement with China or that is not a party to any international treaty to which China is a party and any work of a stateless person, which is first published in a member country of an international treaty to which China is a party, or simultaneously published in a member country of the treaty and in a non-member country, shall be protected by this Law.</p>	<p>Article 2 Works of Chinese natural persons, legal persons or other organizations, whether published or not, shall be protected by this Law. The works of foreigners or stateless persons shall, in accordance with the agreement concluded between China and the country to which they belong or in which they have their habitual residence, or under an international treaty to which both countries are parties, be protected by this Law. Any works of an author whose country has not concluded any agreement with China or acceded to any international treaty to which China is a party and any works of a stateless person, which is first published in a member country of an international treaty to which China is a party, or published in a member country of the treaty and a non-member country concurrently, shall be protected by this Law.</p>	<p>第二条 中国自然人、法人或者其他组织的作品，不论是否发表，受本法保护。外国人、无国籍人的作品，根据其所属国或者经常居住地国同中国签订的协议或者共同参加的国际条约，受本法保护。未与中国签订协议或者共同参加国际条约的国家的作者和无国籍人的作品，首次在中国参加的国际条约的成员国出版的，或者在成员国和非成员国同时出版的，受本法保护。</p>	<p>[No comment]</p>	
	<p>Article 3 Layout designs, performance, sound recordings or radio or television programs made by Chinese natural persons, legal persons or other organizations shall be protected by this Law. Any layout designs, performance, sound recordings or radio or television programs made by foreigners or stateless persons shall, in accordance with an agreement concluded between China and the country to which they belong or in which they have habitual residence, or under an international treaty to which both countries are parties, be protected by this Law. Any performance made or sound recordings produced and distributed by a foreigner whose country has not concluded any agreement with China or acceded to any international treaty to which China is a party or by a stateless person within the territory of China shall be protected by this Law.</p>	<p>第三条 自然人、法人或者其他组织的版式设计、表演、录音制品和广播电视节目，受本法保护。外国人、无国籍人的版式设计、表演、录音制品和广播电视节目，根据其所属国或者经常居住地国同中国签订的协议或者共同参加的国际条约，受本法保护。未与中国签订协议或者共同参加国际条约的国家的外国人和无国籍人，其在中国境内的表演或者在中国境内制作、发行的录音制品，受本法保护。</p>	<p>[No comment]</p>	

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	Article 4 The works of applied art made, and the rights enjoyed pursuant to Article 14 herein, by foreigners or stateless persons shall be protected by this Law if the countries to which they belong or in which they have habitual residence afford Chinese right owners corresponding protection.	第四条 外国人、无国籍人的实用艺术作品以及根据本法第十四条享有的权利，其所属国或者经常居住地国对中国权利人给予保护的，受本法保护。	This provision appears consistent with China's treaty obligations.	本条款与中国的条约义务相一致。
Article 3 For purposes of this Law, the term “works” includes, among other things, works of literature, art, natural sciences, social sciences, engineering and technology, which are created in any of the following forms: (1) written works;	Article 5 For the purpose of this Law, “works” refer to intellectual expressions in the domain of literature, art or science that possess originality and can be fixed in some way. Works include the following types: (1) Written works, referring to novels, poems, prose, thesis and other works that are presented in written form;	第五条 本法所称的作品，是指文学、艺术和科学领域内具有独创性并能以某种形式固定的智力表达。 作品包括以下种类： （一）文字作品，是指小说、诗词、散文、论文等以文字形式表现的作品；	AIPLA endorses defining works protected by the copyright law as works that are original and fixed in a tangible medium of expression.	AIPLA认同将受到著作权法保护的作品定义为具有独创性并能固定为有形的表达形式的作品。
(2) oral works; (3) musical, dramatic, quyi, choreographic and acrobatic works;	(2) Oral works, referring to impromptu speeches, lectures and other works that are presented in oral form; (3) Musical works, referring to songs, music and other works, with or without lyrics, that can be sung or played; (4) Dramatic works, referring to traditional operas, modern dramas, operas, dance dramas and other works that are intended for being performed on the stage;	（二）口述作品，是指即兴的演说、授课等以口头语言形式表现的作品； （三）音乐作品，是指歌曲、乐曲等能够演唱或者演奏的带词或者不带词的作品； （四）戏剧作品，是指戏曲、话剧、歌剧、舞剧等供舞台演出的作品；	AIPLA recommends deletion of the word “impromptu” because a speech should be protected by copyright whether it is from prepared text or stated extemporaneously.	AIPLA建议删除“即兴”字样，因为演说无论是有准备的文本还是无准备的陈述都应受到版权保护。
	(5) Quyi works, referring to comic dialogues, short plays, quick tempos, quick-twitlers, guqu, changqu, pingshu, story-telling, tanci and other works that are performed mainly in the form of talking and singing;	（五）曲艺作品，是指相声小品、快板快书、鼓曲唱曲、评书评话、弹词等以说唱为主要形式表演的作品；	[No comment]	
(4) works of the fine arts and architecture;	(6) Choreographic works, referring to works expressing thoughts and feelings through consecutive actions, poses, expressions, etc.; (7) Acrobatic works, referring to acrobatics, magic, circus show, comic performance and other works that are presented through continuous body movements and actions; (8) Works of fine art, referring to drawings, calligraphies, sculptures and other plane or three-dimensional works of plastic arts with aesthetic significance that are formed by lines, colors or other means;	（六）舞蹈作品，是指通过连续的动作、姿势、表情等表现思想情感的作品； （七）杂技艺术作品，是指杂技、魔术、马戏、滑稽等通过连续的形体和动作表现的作品； （八）美术作品，是指绘画、书法、雕塑等以线条、色彩或者其他方式构成的有审美意义的平面或者立体的造型艺术作品；	[No comment]	

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
(5) photographic works;	(9) Works of applied art, referring to toys, furniture, decorations and other plane or stereoscopic works of plastic art that have practical functions and are of aesthetic significance; (10) Architectural works, referring to works with aesthetic significance that is presented in the form of a building or structure, including floor plan, design drawing, sketches and models serving as basis for the construction thereof; (11) Photographic works, referring to artistic works created by recording objective images of objects on photosensitive materials or other media with the aid of devices;	(九) 实用艺术作品，是指玩具、家具、饰品等具有实用功能并有审美意义的平面或者立体的造型艺术作品； (十) 建筑作品，是指以建筑物或者构筑物形式表现的有审美意义的作品，包括作为其施工基础的平面图、设计图、草图和模型； (十一) 摄影作品，是指借助器械在感光材料或者其他介质上记录客观物体形象的艺术作品；	The exclusion from architectural works of standard features, functional features, features required by site constraints, etc., is appropriate and consistent with international standards and AIPLA recommends that the Chinese law be modified to include these types of exclusions.	将标准特征、功能特征及受场地约束的特征从建筑作品中排除是适当的并与国际标准相一致的，因此AIPLA建议中国法律应该增加对这些除外款项的规定。
(6) cinematographic works and works created by a process analogous to cinematography;	(12) Audio & video works, referring to works that are composed of a series of continuous frames with or without accompanying sound, and that can be perceived with the aid of technical devices, including films, TV series and works created by means similar to film production; (13) Graphic works, referring to drawings of engineering designs or product designs created for construction or production, or maps, sketches or other works reflecting geographic phenomena, or illustrating principles of things or structures;	(十二) 视听作品，是指由一系列有伴音或者无伴音的连续画面组成，并且能够借助技术设备被感知的作品，包括电影、电视剧以及类似制作电影的方法创作的作品； (十三) 图形作品，是指为施工、生产绘制的工程设计图、产品设计图，以及反映地理现象、说明事物原理或者结构的地图、示意图等作品；	[No comment]	
(8) computer software; and	(14) Stereoscopic works, referring to three-dimensional works created for the manufacturing of products, demonstration of geography or topography or explanation of the principals or structures of matters; (15) Computer program, referring to the instructions that are manifested by source or object programs and that are run by computers or other information processing devices; the source program and the object program in a computer program shall be an identical works; and	(十四) 立体作品，是指为生产产品、展示地理地形、说明事物原理或者结构而创作的三维作品； (十五) 计算机程序，是指以源程序或者目标程序表现的、用于电子计算机或者其他信息处理装置运行的指令，计算机程序的源程序和目标程序为统一作品；	Though it may be a matter of translation, AIPLA believes that the protection should be to computer programs in the plural for consistency with the other categories of protectable works.	尽管可能是翻译的问题，AIPLA认为计算机程序应该使用复数形式才可得到保护，以便与其他类别可保护作品一致。
(9) other works as provided for in laws and administrative regulations.	(16) Other literary, artistic and scientific works. The copyright in a work shall automatically arise since the date of completion of the works, without going through any procedures.	(十六) 其他文学、艺术和科学作品。 著作权自作品创作之日起自动产生，无续履行任何手续。	AIPLA agrees that copyright protection should arise when fixation of the work in a tangible medium is completed, and that no procedures or formulas should be necessary for copyright protection to arise.	AIPLA赞同一旦作品成为有形表达形式，版权保护即形成，并且不需要履行任何手续。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	<p>Article 6 For the purpose of this Law, "related rights" refer to the rights that publishers have in the layout designs of the books or periodicals that they publish, the rights that performers have in their performance, the rights that recording producers have in the sound recordings that they produce, or the rights that radio stations or television stations have in the radio or television programs that they broadcast or telecast. Related rights shall automatically arise from the date when a book or periodical using layout designs is first published, a performance takes place, a sound recording is first finished production, or a radio or television program is first broadcasted or telecasted, without going through any procedures.</p>	<p>第六条 本法所称的相关权，指出版者对其出版的图书或者期刊的版式设计享有的权利，表演者对其表演享有的权利，录音制作者对其制作的录音制品享有的权利，广播电台、电视台对其播放的广播电视节目享有的权利。相关权自使用版式设计的图书或者期刊首次出版、表演发生、录音制品首次制作完成和广播电视节目首次播放之日起自动产生，无须履行任何手续。</p>	[No comment]	
<p>Copyright holders shall not violate the Constitution or laws or jeopardize public interests when exercising their copyright. the State shall supervise and administrate the publication and dissemination of works in accordance with the law.</p>	<p>Article 7 Copyright owners, in exercising their copyright, and owners of related rights, in exercising their related rights, shall not violate the Constitution or laws or prejudice the public interests. The State will supervise and administer the dissemination of works according to law.</p>	<p>第七条 著作权人行使著作权、相关权人行使相关权，不得违反宪法和法律，不得损害公共利益。国家对作品的传播依法进行监督管理。</p>	<p>The provision regarding State supervision and administration of the dissemination of works is unclear. AIPLA suggests that this provision be clarified, particularly relative to the exclusive rights of the copyright owner.</p>	<p>关于国家对作品传播的监督管理的规定不清楚。AIPLA建议阐明本条款，尤其是关于著作权人专属权的规定。</p>
	<p>Article 8 Copyright owners and owners of related rights may register their copyright or related rights with the special registration agency established by the copyright administration department under the State Council. The registration documents shall be the preliminary certificates of authenticity of registered particulars. Relevant fees shall be paid for registration of copyright or related rights at the rates set by the financial administration department and the price administration department under the State Council. Administrative measures for registration of copyright and related rights shall be prescribed separately by the copyright administration department under the State Council.</p>	<p>第八条 著作权人和相关权人可以向国务院著作权行政管理部门设立的专门登记机构进行著作权或者相关权登记。登记文书是登记事项属实的初步证明。登记应当缴纳费用，收费标准由国务院财政、价格管理部门确定。著作权和相关权登记管理办法由国务院著作权行政管理部门另行规定。</p>	<p>This provision appears consistent with international norms for voluntary registration.</p>	<p>本条款与自愿登记的国际规范相一致。</p>
<p>Article 5 This Law shall not be applicable to: (1) laws and regulations, resolutions, decisions and orders of State organs, other documents of a legislative, administrative or judicial nature and their official translations; (2) news on current affairs; and (3) calendars, numerical tables and forms of general use, and formulas</p>	<p>Article 9 The protection of copyright only covers expressions, and does not extend to ideas, processes, principles, mathematical concepts, operational methods or the like. This Law shall not be applicable to: (1) Laws; regulations; resolutions, decisions and orders of State organs; other documents of legislative, administrative and judicial nature; and their official translations;</p>	<p>第九条 著作权保护延及表达，不延及思想、过程、原理、数学概念、操作方法等。本法不适用于： (一) 法律、法规，国家机关的决议、决定、命令和其他具有立法、行政、司法性质的文件，及其官方正式译文</p>	<p>This Article appears consistent with international norms that copyright should protect original expression and not protect ideas.</p>	<p>本款与版权应保护独创性表述而不保护概念的规定国际规范相一致。</p>
<p>(2) news on current affairs; and (3) calendars, numerical tables and forms of general use, and formulas</p>	<p>(2) Mere factual information reported by newspapers, periodicals, radio stations, television stations, the Internet and other media; or (3) Calendars, numerical tables of general use, forms of general use and formulas.</p>	<p>(二) 通过报纸、期刊、广播电台、电视台、网络等媒体报道的单纯事实消息； (三) 历法、通用数表、通用表格和公式。</p>	<p>Though not an edit from the prior text, AIPLA seeks clarification about what is a "form of general use" because it must have been authored by someone previously and is deserving of copyright protection unless it has become part of the public domain for other reasons.</p>	<p>尽管不是基于先前文本的编辑，AIPLA寻求对“通用表格”定义的说明，因为该通用表格一定是有人之前创作出的，应该得到版权保护，除非它已经由于其他原因变成了公有领域。</p>

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
Article 6 Measures for the protection of copyright in works of folk literature and art shall be formulated separately by the State Council.	Article 10 Measures for protection of expressions of folk literature and art shall be formulated separately by the State Council.	第十条 民间文学艺术表达的保护办法由国务院另行规定。	[No comment]	
Article 7 The administrative department for copyright under the State Council shall be responsible for the administration of copyright nationwide. The administrative departments for copyright under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall be responsible for the administration of copyright in their respective administrative regions.	Article 11 The copyright administration department under the State Council shall be responsible for administration of copyright and related rights throughout the county. The copyright administration departments under local people's governments shall be responsible for administration of copyright and related rights in their respective administrative regions.	第十一条 国务院著作权行政管理部门主管全国的著作权和相关权管理工作；地方人民政府著作权行政管理部门主管本行政区域的著作权和相关权管理工作	[No comment]	
Chapter 2: Copyright, Section 1: Copyright Owners and their Rights				
Article 9 Copyright owners include: (1) authors; and (2) other citizens, legal entities and other organizations enjoying the copyright in accordance with this Law.	Article 12 "Copyright owners" shall include: (1) Authors; and (2) Other natural persons, legal persons and other organizations enjoying copyright in accordance with this Law.	第十二条 著作权人包括： (一) 作者； (二) 其他依照本法享有著作权的自然人、法人或者其他组织。	[No comment]	
Article 10 Copyright includes the following personal rights and property rights: (1) the right of publication, that is, the right to decide whether to make a work available to the public; (2) the right of authorship, that is, the right to claim authorship in respect of, and to have the author's name mentioned in connection with, a work;	Article 13 Copyright shall include personal rights and property rights. The personal rights in copyright shall include: (1) The right of publication, that is, the right to decide whether to make a work available to the public; (2) The right of authorship, that is, the right to decide whether to claim authorship and the ways to claim authorship; and	第十三条 著作权包括人身权和财产权。 (一) 发表权，即决定作品是否公之于众的权利； (二) 署名权，即决定是否表明作者身份以及如何表明作者身份的权利；	AIPLA notes that these provisions appear to conform to the requirements of the Berne Convention.	AIPLA指出这些条款符合伯恩公约的要求。
(3) the right of revision, that is, the right to revise or authorize others to revise a work; (4) the right of integrity, that is, the right to protect a work against distortion and mutilation;	(3) The right of integrity, that is, the right to authorize another person to alter the works and the right to protect the works against distortion and mutilation.	(三) 保护作品完整权，即允许他人修改作品以及禁止歪曲、篡改作品的权利。 著作权中的财产权包括：	[No comment]	
(5) the right of reproduction, that is, the right to produce one or more copies of a work by printing, photocopying, lithographing, making a sound recording or video recording, duplicating a recording, or duplicating a photographic work, or by other means;	The property rights in copyright shall include: (1) The right of reproduction, that is, the right to print, photocopy, record, reproduce, digitize or otherwise fix a work on a visible carrier;	著作权中的财产权包括： (一) 复制权，即以印刷、复印、录制、翻拍以及数字化等方式将作品固定在有形载体上的权利；	[No comment]	
(6) the right of distribution, that is, the right to provide the original copy or reproductions of a work to the public by selling or donating; (7) the right of rental, that is, the right to authorize others to use temporarily a cinematographic work or a work created by a process analogous to cinematography, or computer software, except where the software itself is not the essential object of the rental;	(2) The right of distribution, that is, the right to provide the original or copies of a work to the public by means of sale, donation or other means of ownership transfer; (3) The rental right, that is, the right to give others a fee-based license to temporarily use the original or copies of the audio & video works, computer programs or sound recordings containing the works, except where the computer programs are not the essential subject matter of the rental;	(二) 发行权，即以出售、赠与或者其他转让所有权的方式向公众提供作品的原件或者复制件的权利； (三) 出租权，即有偿许可他人临时使用视听作品、计算机程序或者包含作品的录音制品的原件或者复制件的权利，计算机程序不是出租的主要标的的除外	[No comment]	

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
<p>(8) the right of exhibition, that is, the right to publicly display the original copy or reproductions of a work of the fine arts or of a photographic work;</p> <p>(9) the right of performance, that is, the right to publicly perform a work, and to publicly communicate the performance of a work by any means or process;</p> <p>(10) the right of presentation, that is, the right to publicly present a work of the fine arts, a photographic work, a cinematographic work, a work created by a process analogous to cinematography, or other works, by projector, slide projector or any other technology or instrument;</p>	<p>(4) The right of exhibition, that is, the right to publicly display the original or copies of a work of fine art or a photographic work;</p> <p>(5) The right of performance, that is, the right to publicly perform one's works by singing, playing instruments, dancing, recitation, etc., and the right to disseminate one's works or the performance thereof to the public by using technical devices;</p>	<p>(四) 展览权, 即公开陈列美术作品、摄影作品的原件或者复制件的权利;</p> <p>(五) 表演权, 即以演唱、演奏、舞蹈、朗诵等方式公开表演作品, 以及通过技术设备向公众传播作品或者作品的表演的权利;</p>	[No comment]	
<p>(11) the right of broadcasting, that is, the right to broadcast a work or disseminate it to the public by any wireless means, to communicate the broadcast of a work to the public by wire or by rebroadcasting, and to publicly communicate the broadcast of a work by loudspeaker or any other analogous instrument transmitting signs, sounds or images;</p> <p>(12) the right of communication through information network, that is, the right to make a work available to the public by wire or by wireless means, so that people may have access to the work from a place and at a time individually chosen by them;</p>	<p>(6) The right of broadcasting and telecasting, that is, the right to broadcast and telecast or re-broadcast a work to the public in a wireless or wired way, and the right to disseminate the telecasting or broadcasting of the work to the public by using technical devices;</p> <p>(7) The right of dissemination through information networks, that is, the right to provide one's works to the public in a wireless or wired way, to make the works available to the public at such time and place as chosen by the public at their discretion;</p>	<p>(六) 播放权, 即以无线或者有线方式公开播放作品或者转播该作品的播放, 以及通过技术设备向公众传播该作品的播放的权利;</p> <p>(七) 信息网络传播权, 即以无线或者有线方式向公众提供作品, 使公众可以在其个人选定的时间和地点获得作品的权利;</p>	[No comment]	
<p>(14) the right of adaptation, that is, the right to change a work into a new one with originality;</p>	<p>(8) The right of adaptation, that is, the right to change a work into a new work of a different style and type, or the right to produce literary, musical or dramatic works into audio & video works, and the right to make additions and abridgements, alter the sequence of instructions and sentences or otherwise change a computer program;</p>	<p>(八) 改编权, 即将作品改变成其他体裁和种类的新作品, 或者将文字、音乐、戏剧等作品制作成视听作品, 以及对计算机程序进行增补、删节, 改变指令、语句顺序或者其他变动的权利;</p>	<p>AIPLA recommends developing further that the exclusive right extends to derivation in addition to adaptation. If original copyrightable elements of a work are used to make a new work, whether or not the new work would be considered an adaptation, AIPLA recommends that it be subject to the exclusive right of derivation in the original owner.</p>	<p>AIPLA建议除了保护改编权, 专属性还应延伸到演绎作品。如果要将一个作品中原始的可获得著作权的元素应用到一个新作品中, 无论新作品是否被认作改编作品, AIPLA都建议该作品从属于原始著作权人拥有的演绎作品专属性。</p>
<p>(13) the right of cinematography, that is, the right to fix an adaptation of a work in a medium by cinematography or a process analogous to cinematography;</p> <p>(16) the right of compilation, that is, the right to compile by selection or arrangement preexisting works or passages therefrom into a new work; and</p>			[No comment]	
<p>(15) the right of translation, that is, the right to change the language in which the work is written into another language;</p> <p>(17) other rights to be enjoyed by copyright owners.</p>	<p>(9) The right of translation, that is, the right to translate a work from one language into another language; and</p> <p>(10) Other rights that a copyright owner is entitled to. Measures for protection of the right of dissemination through information networks shall be formulated separately by the State Council.</p>	<p>(九) 翻译权, 即将作品从一种语言文字转换成另一种语言文字的权利;</p> <p>(十) 应当由著作权人享有的其他权利。信息网络传播权的保护办法由国务院另行规定。</p>	<p>AIPLA recommends that the exclusive rights in copyright be enumerated and specified in the law and not be open-ended. Specifically, AIPLA recommends that the reference to "other rights" be stricken, to provide greater clarity and predictability.</p>	<p>AIPLA建议版权专属性应在法律中一一枚举而不是作开放性规定, 具体地, 提及“其他权利”字样的应该被删除, 以便该条款具有更高清晰度和可预测性。</p>

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
Copyright owners may authorize others' exercising of the rights provided for in Subparagraph (5) through Subparagraph (17) of the preceding paragraph and receive remuneration in accordance with the terms of contracts or the relevant provisions in this Law. Copyright owners may transfer, wholly or in part, the rights provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in this Article and receive fees in accordance with the terms of contracts or the relevant provisions in this Law.				
	Article 14 The author of a work of fine art, a photographic work, a written work or a musical work or his successors or legatees shall have the right to share the profits from the portion of the appreciated value obtained by auction of the original or manuscript of the work by the owner thereof after the first transfer thereof. The said right shall be exclusively enjoyed by an author or his successor or legatee. The measures for the protection of the right shall be formulated separately by the State Council.	第十四条 美术、摄影作品的原件或者文字、音乐作品的手稿首次转让后，作者或者其继承人、受赠人对原件或者手稿的所有人通过拍卖方式转售该原件或者手稿所获得的增值部分，享有分享收益的权利，该权利专属于作者或者其继承人、受赠人。其保护办法由国务院另行规定。	AIPLA notes that this provision is inconsistent with international norms of copyright protection. Specifically, exhaustion and the first sale doctrine limit the copyright owner's rights. Once a work has been sold, the copyright owner's right to royalties from resale of a work is subject to exhaustion and the first sale doctrine. AIPLA recommends that this provision be limited in this manner.	AIPLA指出本条款违背了国际版权保护规范。具体地，权利耗尽原则及首次销售原则限定著作人的权利。一旦一个作品被售出，该著作人通过转售而获取授权费的权利便受制于权利耗尽原则及首次销售原则。AIPLA建议本条款受此限制。
Section 2: Ownership of Copyright				
Article 11 Except where otherwise provided for in this Law, the copyright in a work shall belong to its author. The author of a work is the citizen who creates the work.	Article 15 Except otherwise provided for in this Law, the copyright in a work shall belong to its author. The author of a work is the natural person who has created the work.	第十五条 著作权属于作者，本法另有规定的除外。 创作作品的自然人是作者。	[No comment]	
Where a work is created under the auspices and according to the intention of a legal entity or other organization, which bears responsibility for the work, the said legal entity or organization shall be deemed to be the author of the work. The citizen, legal entity or other organization whose name is mentioned in connection with a work shall, in the absence of proof to the contrary, be deemed to be the author of the work.	Where a work is sponsored or invested in by a legal person or other organization, created according to the will of the legal person or organization, published in the name of the legal person, organization or its representative, and is under the responsibility of the legal person or organization, the legal person or organization shall be deemed to be the author of the work.	由法人或者其他组织主持或者投资，代表法人或者其他组织意志创作，以法人、其他组织或者其代表人名义发表，并由法人或者其他组织承担责任的作品，法人或者其他组织视为作者。	AIPLA notes that this provision is consistent with international norms of copyright protection.	AIPLA指出本条款与国际版权保护规范相一致。
	The natural person, legal person or other organization whose name is indicated on a work shall, in the absence of proof to the contrary, be presumed to be the author of the work.	如无相反证明，在作品上署名的自然人、法人或者其他组织推定为作者。	AIPLA recommends that the law be clarified to state that this presumption is not dispositive and may be refuted by competent evidence.	AIPLA建议法律中应清楚规定此推论不是决定性的，是可以被具有法律效力的证据驳回的。
Article 12 Where a work is created by adaptation, translation, annotation or arrangement of a preexisting work, the copyright in the work thus created shall be enjoyed by the adapter, translator, annotator or arranger, provided that the exercise of such copyright does not prejudice the copyright in the preexisting work.	Article 16 Any new work that is created by adaptation, translation, annotation, collation or otherwise use of a pre-existing work shall be deemed to be a derivative work, and the copyright therein shall be enjoyed by the derivative author. Anyone who uses a derivative work shall obtain permission from and pay remuneration to the copyright owner of the derivative work and the copyright owner of the original work.	第十六条 以改编、翻译、注释、整理等方式利用已有作品而产生的新作品为演绎作品，其著作权由演绎者享有。 使用演绎作品应当取得演绎作品的著作权人和原作品的著作权人许可。	AIPLA recommends that this provision be clarified to provide that the copyright in a derivative work protects only the original expression added or that is different from the underlying work. The rights owned in the underlying copyright should not be prejudiced by the creation or use of the derivative work.	AIPLA建议本条款应该说明演绎作品版权仅保护其中增加的原表达或者与原作品不同的部分。原作品享有的版权不应因其演绎作品的创作和使用而受到损害。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
Article 13 Where a work is created jointly by two or more authors, the copyright in the work shall be enjoyed jointly by the co-authors. No co-authorship may be claimed by anyone who has not participated in the creation of the work.	Article 17 Where a work is created jointly by two or more authors, the copyright in the work shall be jointly enjoyed by those co-authors. Anyone who has not participated in the creation of the work may not claim the co-authorship.	第十七条 两人以上合作创作的作品，其著作权由合作作者共同享有。没有参加创作的人，不能成为合作作者。	[No comment]	
Where a work of joint authorship can be separated into parts and exploited separately, each co-author may be entitled to independent copyright in the part that he creates, provided that the exercise of such copyright does not prejudice the copyright in the joint work as a whole.	If any work of joint authorship can be separated into parts and used separately, each co-author shall be entitled to the independent copyright in the part that he has created, provided that the exercise of such copyright shall not affect the normal use of the work of joint authorship.	合作作品可以分割使用的，作者对各自创作的部分单独享有著作权，但行使著作权时不得妨碍合作作品的正常使用。	AIPLA recommends that this provision be stricken because it is inconsistent with the norms for treatment of joint works internationally.	AIPLA建议删除本条款，因为本条款违背了处理国际合作作品的惯例。
	If any work of joint authorship cannot be separated into parts or used separately, the copyright in the work shall be enjoyed and exercised jointly by its co-authors after reaching a consensus through consultation. If the co-authors fail to reach a consensus through consultation, none of the co-authors may, without just cause, prevent the other co-authors from using or from permitting others to use the work, provided that the profits obtained therefrom shall be reasonably distributed among all the co-authors.	合作作品不可以分割使用的，其著作权由各合作作者共同享有，通过协商一致行使；不能协商一致，又无正当理由的，任何一方不得阻止他方使用或者许可他人使用，但是所得收益应当合理分配给所有合作作者。	[No comment]	
	If the copyright in a work of joint authorship is infringed on by others, any of the co-authors of the work may institute proceedings in his own name, provided that the compensation received therefrom shall be reasonably distributed among all the co-authors.	他人侵犯合作作品著作权的，任何合作作者可以以自己的名义提起诉讼，但其所获得的赔偿应当合理分配给所有合作作者。	[No comment]	
Article 14 A collection of preexisting works or passages therefrom, or of data or other material which does not constitute a work, if manifesting the originality of a work by reason of the selection or arrangement of its contents, is a compilation. The copyright in such compilation shall be enjoyed by the compiler, provided that the exercise of such copyright does not prejudice the copyright in the preexisting works.	Article 18 Any work that is created by compilation of several works or parts therefrom, or data or other materials that do not constitute a work, if manifesting the originality by reason of the selection or arrangement of its content, shall be deemed to be a compiled works, and the copyright in the work shall be enjoyed by the compiler.	第十八条 汇编若干作品、作品的片段或者不构成作品的数据或者其他材料，对其内容的选择或者编排体现独创性的作品，为汇编作品，其著作权由汇编人享有。	[No comment]	
	Anyone who uses a compiled work shall obtain permission from the copyright owner of the compiled work and the copyright owner of the original work.	使用汇编作品应当取得汇编作品的著作权人和原作品著作权人许可。	[No comment]	
Article 15 The copyright in a cinematographic work or in a work created by a process analogous to cinematography shall be enjoyed by the producer of the work, while its scriptwriter, director, cameraman, lyricist, composer and other authors shall enjoy the right of authorship therein and shall be entitled to receive remuneration in accordance with the terms of the contracts concluded between them and the	Article 19 If a producer produces an audio & video work by using any novel, musical and dramatic or other existing works, he shall obtain permission from the copyright owners of such works. In the absence of agreements to the contrary, the copyright owners of the aforesaid existing works shall enjoy the right to exclusive use of the audio & video work pursuant to Paragraph 2 of Article 16 herein.	第十九条 制片者使用小说、音乐和戏剧等已有作品制作视听作品，应当取得著作权人的许可；如无相反约定，	[No comment]	
	The authors of films, TV series and other audio & video works shall include directors, screenwriters and the authors of the musical works created specifically for the audio & video works.	前述已有作品的著作权人根据第十六条第二款对视听作品的使用享有专有权。	AIPLA recommends that this provision be made subject to contracts negotiated among these various contributors to audiovisual works.	AIPLA建议本条款应以各音像制品贡献者之间签订的契约为条件。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	Issues concerning property rights and profit sharing of the copyright of films, TV series and other audio & video works shall be agreed upon by producers and authors. In the absence of such agreements or clear agreements, the property rights in the copyright shall be enjoyed by the producers, provided that the authors shall enjoy the right of authorship and the right to share profits.	电影、电视剧等视听作品的作者包括导演、编剧以及专门为视听作品创作的音乐作品的作者等。电影、电视剧等视听作品的著作权中的财产权和利益分享由制片者和作者约定。没有约定或者约定不明的，著作权中的财产权由制片者享有，但作者享有署名权和分享收益的权利。	AIPLA notes that this provision is inconsistent with international norms of copyright protection and other provisions of the copyright law regarding authorship. As such it may foster greater uncertainty in determining ownership of rights. AIPLA recommends that authorship be determined under the prior provisions of the copyright law and that this provision be stricken.	AIPLA指出本条款违背了国际版权保护规范及著作权法关于署名权的其它规定。因此在决定权利享有者上增加不确定性。AIPLA建议署名权根据著作权法先前的规定来确定，并且删除本条款。
The authors of the script, the musical works and the other works which are included in a cinematographic work or in a work created by a process analogous to cinematography and which can be exploited separately shall be entitled to exercise their copyright independently.	The authors of screenplay, musical or other works that can be used separately in the audio & video works shall be entitled to exercise their copyright independently, provided that their exercise of copyright shall not affect the normal use of the audio & video works.	视听作品中可以单独使用的剧本、音乐等作品，作者可以单独行使著作权，但不得妨碍视听作品的正常使用。	AIPLA notes that this provision is inconsistent with international norms of copyright protection and other provisions of the copyright law regarding authorship. As such it may foster greater uncertainty in determining ownership of rights. AIPLA recommends that authorship be determined under the prior provisions of the copyright law and that this provision be stricken.	AIPLA指出本条款违背了国际版权保护规范及著作权法关于署名权的其它规定。因此在决定权利享有者上增加不确定性。AIPLA建议署名权根据著作权法先前的规定来确定，并且删除本条款。
Article 16 A work created by a citizen in the fulfillment of tasks assigned to him by a legal entity or other organization is a work created in the course of employment. Subject to the provisions of the second paragraph of this Article, the copyright in such work shall be enjoyed by the author; however, the legal entity or other organization shall have priority to exploit the work within the scope of its professional activities. Within two years after the completion of the work, the author may not, without the consent of the legal entity or other organization, authorize the exploitation of the work by a third party in the same manner as the legal entity or other organization exploits the work.	Article 20 Any works created by an employee in the fulfillment of tasks assigned to him in the course of his employment shall be deemed to be works created in the course of employment, and the ownership of copyright in such works shall be agreed upon by the parties concerned.	第二十条 职工在职期间为完成工作任务所创作的作品为职务作品，其著作权归属由当事人约定。	AIPLA believes that the current international norm is that, in the case of works for hire, ownership should reside in the employer and that compensation for the employee has already been agreed upon by the parties concerned.	AIPLA认为在雇佣作品问题上，现行的国际规范认为所有权利人应为雇主且对于雇员的补偿已由当事人事先约定。
In any of the following cases, the author of a work created in the course of employment shall enjoy the right of authorship, while the legal entity or other organization shall enjoy the other rights included in the copyright and may reward the author: (1) drawings of engineering designs and product designs, maps, computer software and other works which are created in the course of employment mainly with the material and technical resources of the legal entity or other organization and for which the legal entity or other organization bears responsibility; (2) works created in the course of employment the copyright in which is, in accordance with laws, administrative regulations or contracts, enjoyed by the legal entity or other organization.	In the absence of an agreement or an explicit agreement between the parties concerned, the copyright in works created in the course of employment shall be enjoyed by the employee; however, the copyright in drawings of engineering designs, drawings of product designs, maps, computer programs and relevant files, works created by staff members specifically for the fulfillment of report tasks assigned to them in the course of their employment with a newspaper or periodical publisher, a news agency or a radio or television station shall be enjoyed by the employer, provided that the authors of such works shall enjoy the right of authorship in the works.	当事人没有约定或者约定不明的，职务作品的著作权由职工享有，但工程设计图、产品设计图、地图、计算机程序和有关文档，以及报刊社、通讯社、广播电台和电视台的职工专门为完成报道任务创作的作品著作权由单位享有，作者享有署名权。	AIPLA notes that the division of the authorship rights is inconsistent with international norms of copyright protection and may foster uncertainty in the ownership of copyright. AIPLA recommends that the rights for all works made for hire or in the course of employment should belong to the employer and that the employer should be treated as the owner of the work.	AIPLA指出署名权分配违背了国际版权保护规范并可能使版权所有者具有不确定性。AIPLA建议所有雇佣作品或者职务作品的权利应属于雇主，雇主应被视为该作品的所有者。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	If the copyright in works created in the course of employment is enjoyed by an employee according to the provisions of Paragraph 2 of this Article, his employer shall be entitled to use the works free of charge within its scope of business, and enjoy the right to exclusive use thereof for two years.	依本条第二款规定，职务作品的著作权由职工享有的，单位有权在业务范围内免费使用该职务作品并对其享有两年的专有使用权。	AIPLA notes that the division of the authorship rights is inconsistent with international norms of copyright protection and may foster uncertainty in the ownership of copyright. AIPLA recommends that the rights for all works made for hire or in the course of employment should belong to the employer and that the employer should be treated as the owner of the work.	AIPLA指出署名权分配违背了国际版权保护规范并可能使版权所有者具有不确定性。AIPLA建议所有雇佣作品或者职务作品的权利应属于雇主，雇主应被视为该作品的所有者。
	If the copyright in works created in the course of employment is enjoyed by an employer according to the provisions of Paragraph 2 of this Article, the employer shall give corresponding rewards to the employees concerned according to the quantity and quality of the works created, and the employees may publish the works created thereby by way of compilation.	依本条第二款规定，职务作品由单位享有的，单位应当根据创作作品的数量和质量对职工予以相应奖励，职工可以通过汇编方式出版其创作的作品。	AIPLA notes that the division of the authorship rights is inconsistent with international norms of copyright protection and may foster uncertainty in the ownership of copyright. AIPLA recommends that the rights for all works made for hire or in the course of employment should belong to the employer and that the employer should be treated as the owner of the work.	AIPLA指出署名权分配违背了国际版权保护规范并可能使版权所有者具有不确定性。AIPLA建议所有雇佣作品或者职务作品的权利应属于雇主，雇主应被视为该作品的所有者。
Article 17 The ownership of the copyright in a commissioned work shall be agreed upon in a contract between the commissioning and the commissioned parties. In the absence of such a contract or of an explicit agreement in such a contract, the copyright in the work shall belong to the commissioned party.	Article 21 The ownership of copyright in a commissioned work shall be agreed upon between the related parties. In the absence of an agreement or an explicit agreement between the parties concerned, the copyright in a commissioned work shall be enjoyed by the commissioned party, provided that the commissioning party may use the work free of charge within the scope of use as agreed upon between the parties. In the absence of such a scope of use, the commissioning party may use the work free of charge within the scope of particular purpose for which the creation of the work is commissioned.	第二十一条 受委托创作的作品，其著作权归属由当事人约定。 当事人没有约定或者约定不明的，委托作品的著作权由受托人享有，但受托人在约定的使用范围内可以免费使用该作品；当事人没有约定使用范围的，委托人可以在委托创作的特定目的范围内免费使用该作品。	This provision appears consistent with international norms of copyright protection.	本条款与国际版权保护规范相一致。
Article 18 The transfer of ownership of the original copy of a work of the fine arts or other works shall not be deemed to include the transfer of the copyright in such work or works; however, the right to exhibit the original copy of the work of the fine arts shall be enjoyed by the owner of the original copy.	Article 22 The transfer of ownership of the original of a work does not produce the transfer of the copyright in such work. The owner of the original of a work of fine art or a photographic work may exhibit the original.	第二十二条 作品原件所有权的移转，不产生著作权的移转。	This provision appears consistent with international norms of copyright protection.	本条款与国际版权保护规范相一致。
	If the author transfers the original of an unpublished work of fine art or an unpublished photographic work, the exhibition of the original by the transferee shall not constitute an infringement upon the author's right of publication.	美术、摄影作品原件的所有人可以展览该原件。	This provision appears consistent with international norms of copyright protection.	本条款与国际版权保护规范相一致。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	Where the original of a work of fine art displayed at a public space is the only carrier of the work, the owner of the original shall notify the author thereof within a reasonable period before dismantling, damaging or otherwise disposing of the work in fact, and the author may protect his copyright by repurchase, reproduction or other means, unless otherwise agreed upon between the parties concerned.	作者将未发表的美术或者摄影作品的原件转让给他人，受让人展览该原件不构成对作者发表权的侵犯。 陈列于公共场所的美术作品的原件为该作品的唯一载体的，原件所有人对其进行拆除、损毁等事实处分前，应当在合理的期限内通知作者，作者可以通过回购、复制等方式保护其著作权，当事人另有约定的除外。	AIPLA notes that this provision is potentially inconsistent with the rights of the owner of the work or the parties' agreement regarding display of a work and recommends that it be stricken. It may impose a continuing encumbrance on museums and galleries.	AIPLA指出本条款可能与作品所有人权利或当事人关于作品展览的协议相违背，建议删除本条款。本条款可能使博物馆及美术馆承受持久的产权负担。
	Article 23 After the death of an author, the right of authorship and the right of integrity in his copyright shall be protected by his successor or legatee. In the absence of such a successor or legatee, the author's rights of authorship and integrity shall be protected by the copyright administrative department.	第二十三条 作者死亡后，其著作权中的署名权和保护作品完整权由作者的继承人或者受遗赠人保护。 著作权无人继承又无人受遗赠的，其署名权和保护作品完整权由著作权行政管理部门保护。	AIPLA recommends that the second sentence of this provision is inconsistent with international norms of copyright protection and fosters uncertainty, and recommends that it be stricken. If the successor or legatee fails to enforce the rights of authorship and integrity, AIPLA recommends that they lapse.	AIPLA认为本条款第二句违背了国际版权保护规范并使本条款具有不确定性，建议删除。如果继承人或者受遗赠人未能行使署名权和保护作品完整权，则AIPLA建议将该权利视为失效。
	Article 24 In respect of a work that has not been published by its author during his lifetime, if the author has not explicitly declined to publish the work, his right of publication of the work shall be exercised by his successor or legatee within fifty years after his death. In the absence of such a successor or legatee, his right of publication of the work shall be exercised by the owner of the original of the work.	第二十四条 作者生前未发表的作品，如果作者未明确表示不发表，作者死亡后五十年内，其发表权可由其继承人或者受遗赠人行使；没有继承人又无人受遗赠的，其发表权由作品原件的所有人行使。	AIPLA recommends that the second sentence of this provision is inconsistent with international norms of copyright protection and fosters uncertainty, and recommends that it be stricken. If the successor or legatee fails to enforce the right of publication, AIPLA recommends that it lapse.	AIPLA认为本条款第二句违背了国际版权保护规范并使本条款具有不确定性，建议删除。如果继承人或者受遗赠人未能行使发表权，则AIPLA建议将该权利视为失效。
Article 19 Where the copyright in a work belongs to a citizen, the rights as provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10 of this Law in respect of the work shall, after his death and during the term of protection provided for in this Law, be transferred in accordance with the provisions of the Law of Succession.	Article 25 Where the copyright in a work belongs to a natural person, the property rights in the copyright shall, after his death, during the term of protection provided for in this Law, be transferred in accordance with the provisions of the Law of Succession of the People's Republic of China.	第二十五条 著作权属于自然人的，自然人死亡后，著作权中的财产权在本法规定的保护期内，依照《中华人民共和国继承法》的规定转移。	AIPLA supports the provision except to the extent that if the Law of Succession fails to provide a successor other than the State. If there is no successor other than the State, AIPLA recommends that the work enter the public domain free of any exclusive rights.	AIPLA支持本条款，除非按照《继承法》的规定，除国家以外无人继承。如果除国家以外无人继承，AIPLA建议该作品为公众共同所有，任何人不再享有对该作品的专有权。
Where the copyright in a work belongs to a legal entity or other organization, the rights provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10 of this Law shall, after the change or the termination of the status of the legal entity or other organization and during the term of protection provided for in this Law, be enjoyed by the succeeding legal entity or other organization which takes over the former's rights and obligations, or, in the absence of such succeeding entity or organization, by	Where the copyright in a work belongs to a legal person or other organization, the property rights in the copyright shall, after the change or termination of the legal person or organization and during the term of protection provided for in this Law, be enjoyed by the succeeding legal person or organization which has taken over the former's rights and obligations, or, in the absence of such a successor legal person or other organization, shall be enjoyed by the State.	著作权属于法人或者其他组织的，法人或者其他组织变更、终止后，著作权中的财产权在本法规定的保护期内，由承受其权利义务的法人或者其他组织享有；没有承受其权利义务的法人或者其他组织的，由国家享有。	AIPLA supports the provision except to the extent that if the Law of Succession fails to provide a successor other than the State. If there is no successor, other than the State, AIPLA recommends that the work enter the public domain free of any exclusive rights.	AIPLA支持本条款，除非按照《继承法》的规定，除国家以外无人继承。如果除国家以外无人继承，AIPLA建议该作品为公众共同所有，任何人不再享有对该作品的专有权。
	Article 26 The property rights of a co-author of a work of joint authorship in the copyright in the work shall be enjoyed by other co-authors of the work after his death if he doesn't have a successor or legatee of such property rights.	第二十六条 合作作者之一死亡后，其对合作作品享有的著作权中的财产权无人继承又无人受遗赠的，由其他合作作者享有。	AIPLA supports this provision.	AIPLA支持此条款

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	<p>Article 27 In respect of a work the author of which is unknown, the copyright, excluding the right of authorship, in the work shall be exercised by the owner of the original of the work. After the author has been identified, the copyright shall be exercised by the author or his successor or legatee.</p>	<p>第二十七条 作者身份不明的作品，其著作权除署名权外由作品原件的所有人行使。作者身份确定后，其著作权由作者或者其继承人、受赠人行使。</p>	<p>AIPLA supports this provision, except in the case of computer programs.</p>	<p>AIPLA支持此条款，但不支持针对计算机程序的情况。</p>
Section 3: Term of Protection of Copyright				
<p>Article 20 No time limit shall be set on the term of protection for an author's rights of authorship and revision and his right to protect the integrity of his work.</p>	<p>Article 28 The term of protection of the right of authorship and the right of integrity shall be unlimited.</p>	<p>第二十八条 署名权、保护作品完整权的保护期不受限制。</p>	<p>AIPLA recommends that the personal rights of authorship and integrity be limited in time, especially in the case of computer programs.</p>	<p>AIPLA建议署名权和保护作品完整权的保护期应有时间限制，尤其是对于计算机程序。</p>
<p>Article 21 In respect of a work of a citizen, the term of protection for the right of publication and the rights as provided for in Subparagraph (5) through Subparag+A82raph (17) of the first paragraph in Article 10 of this Law shall be the lifetime of the author and fifty years after his death, expiring on December 31 of the fiftieth year after his death. In the case of a work of joint authorship, the term shall expire on December 31 of the fiftieth year after the death of the last surviving author.</p>	<p>Article 29 The term of protection of the right of publication and the property rights in the copyright in respect of works of a natural person shall be the lifetime and fifty years after his death. In the case of a work of joint authorship, the term of protection of such work shall be subject to the death of the last surviving author.</p>	<p>第二十九条 自然人的作品，其发表权、著作权中的财产权的保护期为作者终身及其死亡后五十年；如果是合作作品，其保护期计算以最后死亡的作者为准。</p>	<p>AIPLA notes that these terms are shorter than the term of copyright protection in certain countries but are generally consistent with international norms.</p>	<p>AIPLA指出这些期限和某些国家版权保护期限相比较短，但是大体上和国际规范相一致。</p>
<p>In respect of a work of a legal entity or other organization or a work which is created in the course of employment and the copyright (except the right of authorship) in which is enjoyed by a legal entity or other organization, the term of protection for the right of publication and the rights as provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10+A66 of this Law shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of such work; however, such work A63shall no longer be protected under this Law if it is not published within fifty years after the completion of its creation.</p>	<p>The term of protection of the right of publication in works of a legal person or other organization, or in works created in the course of employment in which the legal person or other organization enjoys the copyright (except for the right of authorship), or in audio & video works shall be fifty years, but any of such works that has not been published within fifty years after the completion of works shall no longer be protected under this Law.</p>	<p>法人或者其他组织的作品、著作权（署名权除外）由单位享有的职务作品、视听作品，其发表权的保护期为五十年，但作品自创作完成后五十年内未发表的，本法不再保护；其著作权中的财产权的保护期为首次发表后五十年，但作品自创作完成后五十年内未发表的，本法不再保护</p>	<p>[No comment]</p>	
<p>In respect of a cinematographic work, a work created by a process analogous to cinematography or a photographic work, the term of protection for the right of publication and the rights as provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10 of this Law shall be fifty years, expiring on December 31 of the fiftieth year after the first publication of such work; however, such work shall no longer be protected under this Law if it is not published within fifty years after the completion of its creation.</p>				
	<p>The term of protection of the property rights in the copyright of such works shall be fifty years after the date of first publication of the works, but any of such works that has not been published within fifty years after the completion shall no longer be protected under this Law.</p>	<p>实用艺术作品，其发表权的保护期为二十五年，但作品自创作完成后二十五年内未发表的，本法不再保护；其著作权中的财产权的保护期为首次发表后二十五年，但作品自创作完成后二十五年内未发表的，本法不再保护。</p>	<p>AIPLA notes that these terms are shorter than the term of copyright protection in certain countries but are generally consistent with international norms.</p>	<p>AIPLA指出这些期限和某些国家版权保护期限相比较短，但是大体上和国际规范相一致。</p>

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	The term of protection of the right of publication in works of applied art shall be twenty-five years, but any of such works that has not been published within twenty-five years after the completion shall no longer be protected under this Law.	前三款所称的保护期，自作者死亡、相关作品首次发表或者作品创作完成后次年1月1日起算。	AIPLA notes that these terms are shorter than the term of copyright protection in certain countries but are generally consistent with international norms.	AIPLA指出这些期限和某些国家版权保护期限相比较短，但是大体上和国际规范相一致。
	The term of protection of the property rights in the copyright in such works shall be twenty-five years after the date of first publication of the works, but any of such works that has not been published within twenty-five years after the completion shall no longer be protected under this Law.	本法施行前保护期已经届满、但依据本条第一款仍在保护期内的摄影作品，不受本法保护。	AIPLA notes that these terms are shorter than the term of copyright protection in certain countries but are generally consistent with international norms.	AIPLA指出这些期限和某些国家版权保护期限相比较短，但是大体上和国际规范相一致。
	For the purpose of the three paragraphs above, the term of protection shall be calculated from January 1 of the year following the death of an author, the first publication of a work or the completion of creation of a work.	本法第十四条规定的权利的保护期，适用本条第一款的规定。	AIPLA notes that these terms are shorter than the term of copyright protection in certain countries but are generally consistent with international norms.	AIPLA指出这些期限和某些国家版权保护期限相比较短，但是大体上和国际规范相一致。
	Photographic works that fall under the following circumstances are not protected by this Law: their term of protection has expired prior to the implementation hereof; but they are still within the term of protection pursuant to Paragraph 1 of this Article.		[No comment]	
	The term of protection of the rights prescribed by Article 14 herein shall be governed by Paragraph 1 of this Article.		[No comment]	
	Article 30 In respect of a work the author of which is unknown, the term of protection of the property rights in the copyright in such work shall be fifty years commencing from January 1 of the year following the first publication of the work. After the author has been identified, the provisions of Article 29 of this Law shall apply.	第三十条 作者身份不明的作品，其著作权中的财产权的保护期为五十年，自该作品首次发表后次年1月1日起算。作者身份确定后适用本法第二十九条的规定。	AIPLA notes that these terms are shorter than the term of copyright protection in certain countries but are generally consistent with international norms.	AIPLA指出这些期限和某些国家版权保护期限相比较短，但是大体上和国际规范相一致。
Chapter 3: Related Rights, Section 1: Publisher				
	Article 31 For the purpose of this Law, publication refers to reproduction and distribution. For the purpose of this Law, layout designs refer to designs of layout format of books and periodicals.	第三十一条 本法所称的出版，是指复制并发行。本法所称的版式设计，是指对图书和期刊的版面格式的设计。	[No comment]	
	Article 32 A publisher shall have the right to license others to use the layout designs of a book or periodical it has published. The term of protection of the right under the preceding paragraph shall be ten years, commencing from January 1 of the year following the first publication of the book or periodical using such layout designs.	第三十二条 出版者有权许可他人使用其出版的图书、期刊的版式设计。 前款规定的权利的保护期为十年，自使用该版式设计的图书或者期刊首次出版后次年1月1日起算。	AIPLA notes that these terms are shorter than the term of copyright protection in certain countries but are generally consistent with international norms.	AIPLA指出这些期限和某些国家版权保护期限相比较短，但是大体上和国际规范相一致。
	Article 30 A book publisher who intends to publish a book shall conclude a publishing contract with, and pay remuneration to, the copyright owner.			

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
<p>Article 31 The exclusive right enjoyed by the book publisher in accordance with the agreement in the contract to publish a work that the copyright owner delivered to him for publishing shall be protected by law, and the work may not be published by others.</p>				
<p>Article 32 The copyright owner shall deliver the work within the term specified in the contract. The book publisher shall publish the work in compliance with the quality requirements and within the term as specified in the contract. The book publisher who fails to publish the work within the term specified in the contract shall bear civil liabilities provided for in Article 53 of this Law. When the book publisher reprints or republishes the work, it shall notify the copyright owner of the matter and pay remuneration to him. If the publisher refuses to reprint or republish the work when the stock of the book is exhausted, the copyright owner shall have the right to terminate the contract.</p>				
<p>Article 33 Where a copyright owner has submitted the manuscript of his work to a newspaper or periodical publisher for publication and has not received, within 15 days from the newspaper or within 30 days from the periodical publisher, counted from the date of submission of the manuscript, any notification of the said newspaper's or publisher's decision to publish the work, the copyright owner may submit the manuscript of the same work to another newspaper or periodical publisher for publishing, unless the parties have agreed otherwise. Except where the copyright owner declares that no reprinting or excerpting of his work is permitted, a newspaper or periodical publisher may, after the work is published by another newspaper or periodical publisher, reprint the work or print an abstract of it or print it as reference material, provided that remuneration is paid to the copyright owner in accordance with relevant regulations.</p>				
<p>Article 34 A book publisher may, with the permission of the author, revise or abridge the work. A newspaper or periodical publisher may make editorial modifications and abridgments in the language of a work. Any revision in the contents of the work shall be subject to permission by the author.</p>				
<p>Article 35 When publishing a work created by adaptation, translation, annotation, arrangement or compilation of a preexisting work, the publisher shall obtain permission from, and pay remuneration to, both the owner of the copyright in the work created by adaptation, translation, annotation, arrangement or compilation and the owner of the copyright in the preexisting work.</p>				

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
<p>Article 36 A publisher shall have the right to permit another person to exploit, or prohibit such person from exploiting, the typographical design of the book or the periodical which he publishes. The term of protection for the right specified in the preceding paragraph shall be ten years, expiring on December 31 of the tenth year after the first publication of the book or the periodical in which the typographical design is used.</p>				
Section 2: Performer				
<p>Article 37 A performer (an individual performer or a performing group) who exploits, for a performance, a work created by another person shall obtain permission from, and pay remuneration to, the copyright owner. Where a performance is organized by a person, the organizer shall obtain permission from, and pay remuneration to, the copyright owner. Anyone who exploits, for a performance, a work created by adaptation, translation, annotation or arrangement of a preexisting work shall obtain permission from, and pay remuneration to, both the owner of the copyright in the work created by adaptation, translation, annotation or arrangement and the owner of the copyright in the preexisting work.</p>	<p>Article 33 For the purpose of this Law, a performer refers to a natural person who performs literary or artistic works or folk literature and art by means of recitation, singing, playing or the like.</p>	<p>第三十三条 本法所称的表演者，是指以朗诵、演唱、演奏以及其他方式表演文学艺术作品或者民间文学艺术表达的自然人。</p>	[No comment]	
<p>Article 38 A performer shall, in respect of his performance, enjoy the following rights: (1) to claim performership; (2) to protect the image inherent in his performance from distortion;</p>	<p>Article 34 Performers shall, in relation to their performance, enjoy the following rights: (1) To claim performership; (2) To protect the image inherent in their performance from distortion;</p>	<p>第三十四条 表演者对其表演享有下列权利: (一) 表明表演者身份; (二) 保护表演形象不受歪曲;</p>	AIPLA recommends that this provision be revised to parallel the personal rights of authorship and that the further provisions regarding the performance right be stricken.	AIPLA建议修改本条款使其与个人署名权相并列，并且删除关于表演权的进一步规定。
<p>(3) to authorize others' live broadcasting or communicating to the public of his performance, and receive remuneration therefrom; (4) to authorize others' making of sound recordings and video recordings of his performance, and receive remuneration therefrom; (5) to authorize others' reproduction and distribution of the sound recordings and video recordings of his performance, and receive remuneration therefrom; and</p>	<p>(3) To license others to telecast or broadcast publicly their live performance in a wireless or wired way; (4) To license others to record their performance; (5) To license others to reproduce, distribute or lease the recordings of their performance or copies of such recordings; and</p>	<p>(三) 许可他人以无线或者有线方式公开播放其现场表演; (四) 许可他人录制其表演; (五) 许可他人复制、发行、出租其表演的录制品或者该录制品的复制件;</p>	AIPLA recommends that this provision be revised to parallel the personal rights of authorship and that the further provisions regarding the performance right be stricken.	AIPLA建议修改本条款使其与个人署名权相并列，并且删除关于表演权的进一步规定。
<p>(6) to authorize others' making of his performance available to the public through information network, and receive remuneration therefrom.</p>	<p>(6) To license others to provide their performance to the public in a wireless or wired way, to make their performance available to the public at such time and place as chosen by the public at their discretion.</p>	<p>(六) 许可他人以无线或者有线方式向公众提供其表演，使公众可以在其个人选定的时间和地点获得该表演。</p>	AIPLA notes that the additional rights extended by this Article are inconsistent with international norms of copyright protection. AIPLA recommends that this provision be revised to parallel the personal rights of authorship and that the further provisions regarding the performance right be stricken.	AIPLA指出此款延伸出的附加权利违背了国际版权保护规范。AIPLA建议修改本条款使其与个人署名权相并列，并且删除关于表演权的进一步规定。
<p>A person who is authorized exploitation of a work in the manner provided for in Subparagraph (3) through Subparagraph (6) of the preceding paragraph shall, in addition, obtain permission from, and pay remuneration to, the copyright owner.</p>				

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
Article 39 No time limit shall be set on the term of protection for the rights provided for in Subparagraphs (1) and (2) of the first paragraph in Article 37 of this Law. The term of protection for the rights provided for in Subparagraph (3) through Subparagraph (6) of the first paragraph in Article 37 of this Law shall be fifty years, expiring on December 31 of the fiftieth year after the performance takes place.	The term of protection of the rights under the items (1) and (2) above shall be unlimited. The term of protection of the rights under the items (3) through (6) above shall be fifty years, commencing from January 1 of the year following the occurrence of the performance.	前款第（一）项、第（二）项规定的权利的保护期不受限制；第（三）项至第（六）项规定的权利的保护期为五十年，自该表演发生后次年1月1日起算。	AIPLA recommends that this provision be revised to parallel the personal rights of authorship and that the further provisions regarding the performance right be stricken.	AIPLA建议修改本条款使其与个人署名权相并列，并且删除关于表演权的进一步规定。
	A licensee, if using a work by the ways prescribed in the items (3) through (6) above, shall additionally obtain permission from the copyright owner of the work.	被许可人以本条第一款第（三）项至第（六）项规定的方式使用作品，还应当取得著作权人许可。	AIPLA recommends that this provision be revised to parallel the personal rights of authorship and that the further provisions regarding the performance right be stricken.	AIPLA建议修改本条款使其与个人署名权相并列，并且删除关于表演权的进一步规定。
	Article 35 A performance organizer who organizes a performance shall obtain permission from the copyright owner of the performance.	第三十五条 演出组织者组织表演的，由该演出组织者取得著作权人许可。	[No comment]	
	Article 36 Any performance given by a performer in the fulfillment of tasks assigned to him in the course of his employment shall be deemed to be performance given in the course of employment, and the ownership of rights in such performance shall be agreed upon by the parties concerned.	第三十六条 表演者在在职期间为完成工作任务进行的表演为职务表演，其权利归属由当事人约定。	AIPLA recommends that the additional rights in Article 36 are inconsistent with international norms of copyright protection and recommends that the Article be revised to conform to the above suggestions limiting the scope of an authors rights in a work made for hire.	AIPLA认为第36条规定延伸出的附加权利违背了国际版权保护规范，建议修改本条款使其符合上述关于限制职务作品著作权权利范围的建议。
	In the absence of an agreement or an explicit agreement between the parties concerned, the copyright in a performance given in the course of employment shall be enjoyed by the performer; however, the copyright in a collective performance given in the course of employment shall be enjoyed by the performing entity, provided that the performers shall enjoy the right of authorship in such performance.	当事人没有约定或者约定不明的，职务表演的权利由表演者享有，但集体性职务表演的权利由演出单位享有，表演者享有署名权。	AIPLA recommends that the additional rights in Article 36 are inconsistent with international norms of copyright protection and recommends that the Article be revised to conform to the above suggestions limiting the scope of an authors rights in a work made for hire.	AIPLA认为第36条规定延伸出的附加权利违背了国际版权保护规范，建议修改本条款使其符合上述关于限制职务作品著作权权利范围的建议。
	If the copyright in a performance given in the course of employment is enjoyed by the performer according to the provisions of Paragraph 2 of this Article, his performing entity may use the performance free of charge within its scope of business.	依本条第二款规定，职务表演的权利由表演者享有的，演出单位可以在其业务范围内免费使用该表演。	AIPLA recommends that the additional rights in Article 36 are inconsistent with international norms of copyright protection and recommends that the Article be revised to conform to the above suggestions limiting the scope of an authors rights in a work made for hire.	AIPLA认为第36条规定延伸出的附加权利违背了国际版权保护规范，建议修改本条款使其符合上述关于限制职务作品著作权权利范围的建议。
	If the copyright in a performance given in the course of employment is enjoyed by the performing entity according to the provisions of Paragraph 2 of this Article, the performing entity shall give corresponding rewards to the performer according to the quantity and quality of the performance.	依本条第二款规定，职务表演的权利由演出单位享有的，单位应当根据表演的数量和质量对表演者予以奖励。	AIPLA recommends that the additional rights in Article 36 are inconsistent with international norms of copyright protection and recommends that the Article be revised to conform to the above suggestions limiting the scope of an authors rights in a work made for hire.	AIPLA认为第36条规定延伸出的附加权利违背了国际版权保护规范，建议修改本条款使其符合上述关于限制职务作品著作权权利范围的建议。
	Article 37 If a producer employs a performer to produce an audio & video work, the producer shall conclude a written contract with and pay remunerations to the performer.	第三十七条 制片人聘用表演者制作视听作品，应当签订书面合同并支付报酬。	AIPLA recommends that the additional rights in Article 37 are inconsistent with international norms of copyright protection and recommends that the Article be revised to conform to the above suggestions limiting the scope of an authors rights in a work made for hire.	AIPLA认为三十七条中增加的权利与国际版权保护规范不一致，建议该条款应遵循上述限制职务发明作者的权利范围的意见，进行修改。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	Issues concerning property rights and profit sharing under Item (5) and Item (6) of Article 34 herein that are applicable to the performers of an audio & video work shall be agreed upon by the producer and the key performers. In the absence of such agreements or clear agreements, the foregoing rights shall be enjoyed by the producer, provided that the key performers shall enjoy the right of authorship and the right to share	视听作品中的表演者根据第三十四条第(五)项和第(六)项规定的财产权及利益分享由制片者和主要表演者约定。如无约定或者约定不明的,前述权利由制片者享有,但主要表演者享有署名权和分享收益的权利。	AIPLA recommends that the additional rights in Article 37 are inconsistent with international norms of copyright protection and recommends that the Article be revised to conform to the above suggestions limiting the scope of an authors rights in a work made for hire.	AIPLA认为三十七条中增加的权利与国际版权保护规范不一致,建议该条款应遵循上述限制职务发明作者的权利范围的意见,进行修改。
Section 3: Recording Producer				
	Article 38 For the purpose of this Law, a sound recording refers to any recording of sounds performed or other sounds. For the purpose of this Law, a recording producer refers to the first producer of a sound recording.	第三十八条 本法所称的录音制品,是指任何对表演的声音和其他声音的录制品。 本法所称的录音制作者,是指录音制品的首次制作人。	[No comment]	
Article 42 The producer of a sound recording or video recording shall enjoy the right to authorize others' reproducing, distributing or renting the sound recording or video recording or making it available to the public through information network and to receive remuneration therefrom. The term of protection for such right shall be fifty years, expiring on December 31 of the fiftieth year after the first completion of the recording.	Article 39 Recording producers shall have the following rights to their sound recordings: (1) To license others to reproduce their sound recordings; (2) To license others to distribute their sound recordings; (3) To license others to lease their sound recordings; and	第三十九条 录音制作者对其制作的录音制品享有下列权利: (一) 许可他人复制其录音制品; (二) 许可他人发行其录音制品; (三) 许可他人出租其录音制品;	[No comment]	
	(4) To license others to provide their sound recordings to the public in a wireless or wired way, to make their sound recordings available to the public at such time and place as chosen by the public at their discretion.	(四) 许可他人以无线或者有线方式向公众提供其录音制品,使公众可以在其个人选定的时间和地点获得该录音制品。	[No comment]	
	The term of protection of the rights under the preceding paragraph shall be fifty years, commencing from January 1 of the year following the completion of the first production of a sound recording.	前款规定的权利的保护期为五十年,自录音制品首次制作完成后次年1月1日起算。	AIPLA notes that these terms are shorter than the term of copyright protection in certain countries but are generally consistent with international norms.	AIPLA注意到这些期限比某些国家版权保护期限短,但也符合国际标准。
Anyone who is authorized reproducing or distributing a sound recording or video recording or making it available to the public through information network shall, in addition, obtain permission from, and pay remuneration to, both the copyright owner and the performer.	A licensee, if reproducing, distributing or leasing the sound recordings, or disseminating the sound recordings to the public through information networks, shall additionally obtain permission from the copyright owner and the performer.	被许可人复制、发行、出租、通过信息网络向公众传播录音制品,还应当取得著作权人、表演者许可。	AIPLA recommends that the additional rights in Article 39 are inconsistent with international norms of copyright protection and recommends that the Article be revised to conform to the above suggestions limiting the scope of an authors rights in a work made for hire.	AIPLA认为三十九条中增加的权利与国际版权保护规范不一致,建议该条款应遵循上述限制职务发明作者的权利范围的意见,进行修改。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
<p>Article 40 A producer of sound recordings or video recordings who exploits, for making a sound recording or video recording, a work created by another person shall obtain permission from, and pay remuneration to, the copyright owner. A producer of sound recordings or video recordings who exploits a work created by adaptation, translation, annotation or arrangement of a preexisting work shall obtain permission from, and pay remuneration to, both the owner of the copyright in the work created by adaptation, translation, annotation or arrangement and the owner of the copyright in the preexisting work. A producer of sound recordings who exploits, for making a sound recording, a musical work of which a lawful sound recording has been made, may do without permission from the copyright owner, but shall, in accordance with regulations, pay remuneration to the copyright owner; no such work may be exploited where the copyright owner declares that exploitation is not permitted.</p>	<p>Article 40 The producer of a sound recording shall have the right to receive reasonable remuneration from use of the sound recording in any of the following ways:</p>	<p>第四十条 以下列方式使用录音制品的，其录音制作者享有获得合理报酬的权利：</p>	<p>AIPLA notes that this Article 40 is inconsistent with international norms of copyright protection and may create uncertainty in the use of the sound recording. AIPLA recommends that the Article be modified to provide that rights need be obtained only from the owner of copyright in the sound recording.</p>	<p>AIPLA注意到四十条与国际版权保护规范不一致，在使用录音制品时会出现很多不定因素，建议该条款修改为规定所需权利仅由录音制品的著作权人提供。</p>
	<p>(1) To publicly broadcast or telecast, or relay the broadcasting or telecasting of the sound recording in a wired or wireless way, or disseminate the broadcasting or telecasting of the sound recording to the public by using technical devices; or</p>	<p>（一）以无线或者有线方式公开播放录音制品或者转播该录音制品的播放，以及通过技术设备向公众传播该录音制品的播放；</p>	<p>AIPLA notes that this Article 40 is inconsistent with international norms of copyright protection and may create uncertainty in the use of the sound recording. AIPLA recommends that the Article be modified to provide that rights need be obtained only from the owner of copyright in the sound recording.</p>	<p>AIPLA注意到四十条与国际版权保护规范不一致，在使用录音制品时会出现很多不定因素，建议该条款修改为规定所需权利仅由录音制品的著作权人提供。</p>
	<p>(2) To disseminate the sound recording to the public by using technical devices.</p>	<p>（二）通过技术设备向公众传播录音制品。</p>	<p>AIPLA notes that this Article 40 is inconsistent with international norms of copyright protection and may create uncertainty in the use of the sound recording. AIPLA recommends that the Article be modified to provide that rights need be obtained only from the owner of copyright in the sound recording.</p>	<p>AIPLA注意到四十条与国际版权保护规范不一致，在使用录音制品时会出现很多不定因素，建议该条款修改为规定所需权利仅由录音制品的著作权人提供。</p>
<p>Article 41 When making a sound recording or video recording of a performance, the producer shall conclude a contract with, and pay remuneration to, the performer.</p>				
<p>Section 4: Radio Station and Television Station</p>				
	<p>Article 41 For the purpose of this Law, a radio or television program refers to sound- or image-carrying signals that are first broadcasted or telecasted by a radio station or television station.</p>	<p>第四十一条 本法所称的广播电视节目，是指广播电台、电视台首次播放的载有声音或者图像的信号。</p>	<p>[No comment]</p>	
<p>Article 45 A radio station or television station shall have the right to prohibit the following acts performed without its permission: (1) broadcasting its programs; and</p>	<p>Article 42 Radio station or television stations shall have the following rights to their radio or television programs: (1) To license others to relay their radio or television programs in a wireless or wired way;</p>	<p>第四十二条 广播电台、电视台对其播放的广播电视节目享有下列权利： （一）许可他人以无线或者有线方式转播其广播电视节目；</p>	<p>AIPLA notes that this Article 42 is inconsistent with international norms of copyright protection and may create uncertainty in the use of radio or television programs. AIPLA recommends that the Article be modified to provide that rights need be obtained only from the owner of copyright in the radio or television program.</p>	<p>AIPLA注意到四十二条与国际版权保护规范不一致，在广播、电视节目播放时会出现很多不定因素，建议该条款修改为规定所需权利仅由广播、电视节目的著作权人提供。</p>

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
(2) making a sound recording or video recording A116of its programs and reproducing such recording.	(2) To license others to record their radio or television programs; and (3) To license others to reproduce their radio or television programs.	(二) 许可他人录制其广播电视节目; (三) 许可他人复制其广播电视节目的录制品。	AIPLA notes that this Article 42 is inconsistent with international norms of copyright protection and may create uncertainty in the use of radio or television programs. AIPLA recommends that the Article be modified to provide that rights need be obtained only from the owner of copyright in the radio or television program.	AIPLA注意到四十二条与国际版权保护规范不一致, 在广播、电视节目播放时会出现很多不定因素, 建议该条款修改为规定所需权利仅由广播、电视节目的著作权人提供。
The term of protection for the right specified in the preceding paragraph shall be fifty years, expiring on December 31 of the fiftieth year after the first broadcasting of a program.	The term of protection of the rights under the preceding paragraph shall be fifty years, commencing from January 1 of the year following the first broadcasting or telecasting of a radio or television program.	前款规定的权利的保护期为五十年, 自广播电视节目首次播放后的次年1 月 1日起算。	AIPLA notes that this Article 42 is inconsistent with international norms of copyright protection and may create uncertainty in the use of radio or television programs. AIPLA recommends that the Article be modified to provide that rights need be obtained only from the owner of copyright in the radio or television program.	AIPLA注意到四十二条与国际版权保护规范不一致, 在广播、电视节目播放时会出现很多不定因素, 建议该条款修改为规定所需权利仅由广播、电视节目的著作权人提供。
	A licensee, if using a work, performance or sound recording by the ways prescribed in the Paragraph 1 of this Article, shall also obtain permission from the copyright owner, performer and recording producer thereof.	被许可人以本条第一款规定的方式使用作品、表演和录音制品的, 还应当取得著作权人、表演者和录音制作者的许可。	AIPLA notes that this Article 42 is inconsistent with international norms of copyright protection and may create uncertainty in the use of radio or television programs. AIPLA recommends that the Article be modified to provide that rights need be obtained only from the owner of copyright in the radio or television program. +D121	AIPLA注意到四十二条与国际版权保护规范不一致, 在广播、电视节目播放时会出现很多不定因素, 建议该条款修改为规定所需权利仅由广播、电视节目的著作权人提供。
Article 43 A radio station or television station that broadcasts an unpublished work created by another person shall obtain permission from, and pay remuneration to, the copyright owner. A radio station or television station that broadcasts a published work created by another person may do without permission from, but shall pay remuneration to, the copyright owner.				
Article 44 A radio station or television station that broadcasts a published sound recording may do without permission from, but shall pay remuneration to, the copyright owner, unless the parties have agreed otherwise. Specific measures in this regard shall be formulated by the State Council.				
Article 46 A television station that intends to broadcast a cinematographic work or a work created by a process analogous to cinematography, or a video recording produced by another person, shall obtain permission from, and pay remuneration to, the producer; in the case of a video recording, the television station shall, in addition, obtain permission from, and pay remuneration to, the copyright owner				
Chapter 4: Limitation on Rights				

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
Article 22 In the following cases, a work may be used without permission from, and without payment of remuneration to, the copyright owner, provided that the name of the author and the title of the work are mentioned and the other rights enjoyed by the copyright owner in accordance with this Law are not prejudiced:	Article 43 In the following cases, a work may be used without permission from and without payment of remuneration to the copyright owner, provided that the name of the author as well as the title and source of the work shall be indicated and the other rights enjoyed by the copyright owner in accordance with this Law shall not be prejudiced:	第四十三条 在下列情况下使用作品，可以不经著作权人许可，不向其支付报酬，但应当指明作者姓名或者名称、作品名称、作品出处，并且不得侵犯著作权人依照本法享有的其他权利：	AIPLA notes that this Article 43 appears to be generally consistent with international norms regarding fair use of copyright, with the exceptions noted below.	AIPLA注意到四十三条在著作权法合理使用方面，大体符合国际标准，但以下几点除外。
(1) use of another person's published work for purposes of the user's own personal study, research or appreciation;	(1) To reproduce parts of a published work of another person for the user's personal study or research;	(一) 为个人学习、研究，复制他人已经发表的作品片段；	[No comment]	
(2) appropriate quotation from another person's published work in one's own work for the purpose of introducing or commenting a certain work, or explaining a certain point;	(2) To appropriately quote a published work of another's person in the user's work for the purposes of introducing or commenting on a certain work or explaining a certain issue, provided that such quotations do not constitute the main or material part of the user's work;	(二) 为介绍、评论某一作品或者说明某一问题，在作品中适当引用他人已经发表的作品，引用部分不得构成引用人作品的主要或者实质部分；		
(3) unavoidable inclusion or quotation of a published work in the media, such as in a newspaper, periodical and radio and television program, for the purpose of reporting current events;	(3) To inevitably include or quote a published work in newspapers, periodicals, radios, televisions, the Internet or other media for the purpose of reporting news events;	(三) 为报道新闻，在报纸、期刊、广播电台、电视台、网络等媒体中不可避免地再现或者引用已经发表的作品；	AIPLA seeks clarification that the act of reporting does not cause the copyrighted content to become a "fact" which would cause a loss of copyright protection merely because an authored work was reported as a "fact."	AIPLA寻求说明报道的行为不会导致有版权的内容变成“事实”，因此导致仅仅因为一个创作作品被报道成“事实”而失去版权保护。
(4) publishing or rebroadcasting by the media, such as a newspaper, periodical, radio station and television station, of an article published by another newspaper or periodical, or broadcast by another radio station or television station, etc. on current political, economic or religious topics, except where the author declares that such publishing or rebroadcasting is not permitted;	(4) To publish or broadcast (telecast) the articles on political, economic or religious topics published by other newspapers, periodicals, radio stations, television stations, the Internet or other media, by newspapers, periodicals, radio stations, television stations, the Internet or other media, except where the author has declared that the use is not permitted;	(四) 报纸、期刊、广播电台、电视台、网络等媒体刊登或者播放其他报纸、期刊、广播电台、电视台、网络等媒体已经发表的关于政治、经济、宗教问题的时事性文章，但作者声明不得使用的除外；	AIPLA recommends that this provision be modified to make clear that such uses are subject to the exclusive rights of the copyright owner.	AIPLA建议该条款应更明确受限于著作权人的专用权的这类使用。
(5) publishing or broadcasting by the media, such as a newspaper, periodical, radio station and television station of a speech delivered at a public gathering, except where the author declares that such publishing or broadcasting is not permitted;	(5) To publish or broadcast (telecast) a speech delivered at the public gathering by newspapers, periodicals, radio stations, television stations, the Internet or other media, except where the author has declared that the use is not permitted;	(五) 报纸、期刊、广播电台、电视台、网络等媒体刊登或者播放在公众集会上发表的讲话，但作者声明不得使用的除外；	[No comment]	
(6) translation, or reproduction in a small quantity of copies of a published work by teachers or scientific researchers for use in classroom teaching or scientific research, provided that the translation or the reproductions are not published for distribution;	(6) To translate, or reproduce in a small quantity, a published work for use by teachers or scientific researchers in classroom teaching or scientific research, provided that the translation or reproduction shall not be published;	(六) 为学校课堂教学或者科学研究，翻译或者少量复制已经发表的作品，供教学或者科研人员使用，但不得出版；	[No comment]	
(7) use of a published work by a State organ to a justifiable extent for the purpose of fulfilling its official duties;	(7) To use a published work by a State organ to a reasonable extent for the purpose of performing its official duties;	(七) 国家机关为执行公务在合理范围内使用已经发表的作品；	[No comment]	
(8) reproduction of a work in its collections by a library, archive, memorial hall, museum, art gallery, etc. for the purpose of display, or preservation of a copy, of the work;	(8) To reproduce a work in its collection by a library, an archives center, a memorial hall, a museum, an art gallery or a similar institution, for the purpose of display or preservation of a copy of the work;	(八) 图书馆、档案馆、纪念馆、博物馆、美术馆等为陈列或者保存版本的需要，复制本馆收藏的作品；	AIPLA recommends that this provision be modified to make clear that such uses are subject to the exclusive rights of the copyright owner.	AIPLA建议该条款应更明确受限于著作权人的专用权的这类使用。
(9) gratuitous live performance of a published work, for which no fees are charged to the public, nor payments are made to the performers;	(9) To perform a published work gratuitously, with neither collection of charge from the public nor payment of remuneration to the performer for the performance, nor the attainment of economic benefits by any other means;	(九) 免费表演已经发表的作品，该表演未向公众收取费用，未向表演者支付报酬，也未以其他方式获得经济利益；	AIPLA recommends that this provision be deleted. The unauthorized performance of a work without charge should not be permitted in all circumstances.	AIPLA建议删除该条款。免费表演未经授权的作品在任何情况下都应该被禁止。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
(10) copying, drawing, photographing or video-recording of a work of art put up or displayed in an outdoor public place;	(10) To copy, draw, photograph or video record an artistic work located or on display at an outdoor public place, and reproduce, distribute and disseminate the products obtained therefrom to the public, provided that the products obtained therefrom may not be reproduced, displayed or otherwise publicly disseminated in the same way as that of the artistic work;	(十) 对设置或者陈列在室外公共场所的艺术作品进行临摹、绘画、摄影、录像并复制、发行以及向公众传播，但不得以该艺术作品的相同方式复制、陈列以及公开传播；	AIPLA recommends that this provision be modified to make clear that such uses are subject to the exclusive rights of the copyright owner.	AIPLA建议该条款应更明确受限于著作权人的专用权的这类使用。
(11) translation of a published work of a Chinese citizen, legal entity or other organization from Han language into minority nationality languages for publication and distribution in the country; and	(11) To translate a work published by a Chinese natural person, legal person or other organization from the language of the Han nationality into minority nationality languages for publication in the country;	(十一) 将中国自然人、法人或者其他组织已经发表的以汉语言文字创作的作品翻译成少数民族语言文字作品在国内出版；	[No comment]	
(12) transliteration of a published work into braille for publication.	(12) To transliterate a published work into Braille for publication; and (13) Other circumstances.	(十二) 将已经发表的作品改成盲文出版； (十三) 其他情形。	AIPLA recommends that "other circumstances" be deleted as it is unclear and may unduly prejudice copyright owners.	AIPLA认为该条款中“其他情形”不清楚，可能过度的损害版权人的利益，应删除。
The provisions of the preceding paragraph shall be applicable also to the rights of publishers, performers, producers of sound recordings and video recordings, radio stations and television stations.				
	Use of a work in any of the ways mentioned above shall neither affect the normal use of the work nor unreasonably infringe upon the legitimate rights and interests of the copyright owner.	以前款规定的方式使用作品，不得影响作品的正常使用，也不得不合理地损害著作权人的合法利益。	AIPLA supports this provision.	AIPLA支持该条款。
	Article 44 The lawfully authorized user of a computer program may engage in the following conducts: (1) To install the program in computers or other devices having information processing capacity according to the requirements for use;	第四十四条 计算机程序的合法授权使用者可以从事下列行为： (一) 根据使用的需要把该程序装入计算机等具有信息处理能力的装置内；	AIPLA notes that this Article 44 appears generally consistent with international norms of copyright protection, except as noted. We recommend that, in the introductory phrase, "lawfully authorized user" be changed to "owner."	AIPLA认为第四十四条大体符合国际版权保护规范，特别指出除外。我们建议，将介绍语当中的“合法授权使用者”改为“所有者”。
	(2) To make backup copies of the program in order to prevent the damage of the computer program, provided that such backup copies may not be provided to others for use in any way, and, when the user loses his lawful authorization, shall be destroyed by the user;	(二) 为了防止计算机程序损坏而制作备份复制件；这些备份复制件不得通过任何方式提供给他人使用，并在本人丧失合法授权时，负责将备份复制件销毁；	[No comment]	
	(3) To make necessary modifications to the program for the purpose of allowing the program to be used in the actual computer application environment or achieving its functions, provided that such modified program and the devices or components specifically used for performing the modification may not be provided to any third party without permission from the copyright owner of the program.	(三) 为了把该程序用于实际的计算机应用环境或者实现其功能而进行必要的改动；未经该程序的著作权人许可，不得向任何第三方提供修改后的程序以及专门用作修改程序的装置或者部件。	AIPLA recommends that this provision be stricken and that the law be modified to note that modification of a copyrighted computer program without the copyright owner's authorization is an infringement.	AIPLA建议删除该条款，修改时应注意到未经著作权人的许可，对受版权保护的计算机程序进行修改是侵权。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	<p>Article 45 A computer program may be used by its lawfully authorized user by means of installation, display, transmission, storage or the like, for the purpose of study and research on the design ideas and principles inherent in the program, without permission from and without payment of remuneration to the copyright owner of the computer program.</p>	<p>第四十五条 为了学习和研究计算机程序内含的设计思想和原理，计算机程序的合法授权使用者通过安装、显示、传输或者存储等方式使用计算机程序的，可以不经计算机程序著作权人许可，不向其支付报酬。</p>	<p>AIPLA notes that this Article 45 may be read to permit reverse engineering and decompilation of a computer program to reveal the source code and is inconsistent with international norms of copyright protection. AIPLA recommends that this Article be stricken. At the very least, it should be clarified throughout that reverse engineering does not prevent one from merely using a computer program for the purpose for which it was intended, and using the information which is learned.</p>	<p>AIPLA注意到四十五条字面可以理解为允许对计算机程序进行逆向工程和反编译并以此来揭露源代码，这不符合国际版权保护规范。AIPLA建议删除该条款。至少要自始至终表明逆向工程并不妨碍一个人仅因为计算机程序的指定用途而使用它，并且使用学到的信息。</p>
	<p>Article 46 Where the lawfully authorized user of a computer program is unable to obtain necessary compatibility information through normal channels, the user may reproduce and translate the part of the program related to the compatibility information without permission from the copyright owner of the program.</p>	<p>第四十六条 计算机程序的合法授权使用者在通过正常途径无法获取必要的兼容性信息时，可以不经该程序著作权人许可，复制和翻译该程序中与兼容性信息有关的部分内容。</p>	<p>AIPLA notes that this Article 46 may be read to permit reverse engineering and decompilation of a computer program to reveal the source code and is inconsistent with international norms of copyright protection. AIPLA recommends that this Article be stricken.</p>	<p>AIPLA注意到四十五条字面可以理解为允许对计算机程序逆向工程和反编译，以此来揭露源代码，这不符合国际版权保护规范。AIPLA建议删除该条款。</p>
	<p>Any information obtained pursuant to the provisions of the preceding paragraph may not be used for any purpose other than program compatibility, or be provided to others, or be used for developing, manufacturing or selling computer programs that are substantially similar to the program, or be used for any act of copyright infringement.</p>	<p>适用前款规定获取的信息，不得超出计算机程序兼容的目的使用，不得提供给他人，不得用于开发、生产或者销售实质性相似的计算机程序，不得用于任何侵犯著作权的行为。</p>	<p>[No comment]</p>	
<p>Article 23 Except where the author declares in advance that use of his work is not permitted, passages from a work, a short written work, musical work, a single work of the fine arts or photographic work which has been published may, without permission from the copyright owner, be compiled in textbooks for the purpose of compiling and publishing textbooks for the nine-year compulsory education and for national education planning, provided that remuneration is paid, the name of the author and the title of the work are mentioned, and the other rights enjoyed by the copyright owner in accordance with this Law are not prejudiced. The provisions of the preceding paragraph shall be applicable also to the rights of publishers, performers, producers of sound recordings and video recordings, radio stations and television stations.</p>	<p>Article 47 A short written work, a musical work or a single work of fine art, a photographic work or a graphic work that has been published may, pursuant to the conditions set forth in Article 50 of this Law, be used in textbooks compiled for the purpose of implementing national compulsory education, without permission from the copyright owner.</p>	<p>第四十七条 为实施国家义务教育编写教科书，依照本法第五十条规定的条件，可以不经著作权人许可，在教科书中汇编已经发表的短小的文字作品、音乐作品或者单幅的美术作品、摄影作品、图形作品。</p>	<p>AIPLA notes that although inconsistent with international norms of copyright protection, the stated use may constitute fair use in appropriate circumstances.</p>	<p>AIPLA认为虽然该条款不符合国际版权保护规范，但国家在某些特定的情况下的使用可属于合理使用。</p>
	<p>Article 48 After a written work is published in a newspaper or periodical, it may be reprinted or published as abstracts or reference materials pursuant to the conditions set forth in Article 50 of this Law without permission from the author.</p>	<p>第四十八条 文字作品在报刊上刊登后，其他报刊依照本法第五十条规定的条件，可以不经作者许可进行转载或者作为文摘、资料刊登。</p>	<p>AIPLA notes that this Article 48 is inconsistent with international norms of copyright protection and recommends that it be modified to make clear that such uses are subject to the exclusive rights of the copyright owner.</p>	<p>AIPLA认为四十八条不符合国际版权保护规范，AIPLA建议该条款应更明确受限于著作权人的专用权的这类使用。</p>

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	If a newspaper or periodical publisher enjoys an exclusive right to publish a work as granted by the author of the work and has declared no reprinting or publishing is permitted in a prominent place of the newspaper or periodical where the work is published, other newspaper or periodical publishers may not	报刊社对其刊登的作品根据作者的授权享有专有出版权，并在其出版的报刊显著位置作出不得转载或者刊登的声明的，其他报刊不得进行转载或者刊登。	AIPLA supports the provision but recommends that the unauthorized use not be permitted.	AIPLA支持该条款，但是认为未经允许的使用不可取。
	Article 49 Radio stations and television stations may, pursuant to the conditions set forth in Article 50 of this Law, broadcast (telecast) works that have been published without permission from the copyright owners thereof, provided that such permission shall be obtained from the copyright owners if their audio & video works are to be broadcasted (telecasted).	第四十九条 广播电台、电视台依照本法第五十条规定的条件，可以不经著作权人许可，播放其已经发表的作品；但播放视听作品，应当取得著作权人的许可。	AIPLA notes that this Article 49 is inconsistent with international norms of copyright protection and recommends that it be modified to make clear that such uses are subject to the exclusive rights of the copyright owner.	AIPLA认为四十九条不符合国际版权保护规范，AIPLA建议该条款应更明确受限于著作权人的专用权的这类使用。
	This Article shall apply to Chinese copyright owners and foreign copyright owners whose works are created in China.	本条规定适用于中国著作权人及其作品创作于中国的外国著作权人。	[No comment]	
	Article 50 Use of a published work without permission from the copyright owner pursuant to Article 47, Article 48 and Article 49 of this Law shall be subject to the following conditions:	第五十条 根据本法第四十七条、第四十八条和第四十九条的规定，不经著作权人许可使用其已发表的作品，必须符合下列条件：	[No comment]	
	(1) An application shall be filed with relevant organization for collective administration of copyright for the record prior to the use of the work;	(一) 在首次使用前向相应的著作权集体管理组织申请备案；	[No comment]	
	(2) The name of the author as well as the title and source of the work shall be indicated during the use of the work, unless impracticable due to technical reasons; and	(二) 在使用作品时指明作者姓名或者名称、作品名称和作品出处，但由于技术原因无法指明的除外；	[No comment]	
	(3) Within one month after the use of the work, relevant royalties shall be paid to the right owner directly or via relevant organization for collective administration of copyright according to the remuneration payment standards set forth by the copyright administration department under the State Council, and the name of the author, the title and source and other information in respect of the work shall be provided to the organization for collective administration of copyright. The foregoing remuneration payment standards shall apply to the activities of use of published works that are conducted upon the implementation hereof.	(三) 在使用作品后一个月内按照国务院著作权行政管理部门制定的付酬标准直接向权利人或者通过著作权集体管理组织向权利人支付使用费，同时提供使用作品的作品名称、作者姓名和作品出处等相关信息。前述付酬标准适用于自本法施行之日起的使用行为。	[No comment]	
	The organization for collective administration of copyright shall publish record-filing information under the preceding paragraph in a timely manner, and establish an information inquiry system about the use of works, for relevant right owners to access information about the use of works and payment of	著作权集体管理组织应当及时公告前款规定的备案信息，并建立作品使用情况查询系统供权利人免费查询作品使用情况和支付使用费支付情况。	[No comment]	

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	The organization for collective administration of copyright shall transfer the royalties collected under Paragraph 1 of this Article to relevant right owners within a reasonable period.	著作权集体管理组织应当在合理时间内及时向权利人转付本条第一款所述的使用费。	[No comment]	
	Article 51 Where a user, despite due efforts, is unsuccessful in finding the right owner of a published work whose term of copyright protection has not expired, and where any of the following conditions are satisfied, the user may use the published work in a digital format after applying to and depositing use fees with an institution designated by the copyright administration department under the State Council:	第五十一条 著作权保护期未届满的已发表作品，使用者尽力查找其权利人无果，符合下列条件之一的，可以在向国务院著作权行政管理部门指定的机构申请并提存使用费后以数字化形式使用：	AIPLA commends this provision for advancing a workable solution to the orphan works problem that arises under many copyright laws internationally.	AIPLA对本条款表示称赞，认为其为无主著作问题提出了一则切实可行的解决方案，无主著作问题在国际版权中频繁出现。
	(1) Where the identity of the copyright owner is unknown; or (2) Where the identity of the copyright owner is ascertained, but the copyright owner is unreachable.	(一) 著作权人身份不明的； (二) 著作权人身份确定但无法联系的。	AIPLA commends this provision for advancing a workable solution to the orphan works problem that arises under many copyright laws internationally.	AIPLA对本条款表示称赞，认为其为无主著作问题提出了一则切实可行的解决方案，无主著作问题在国际版权中频繁出现。
	Detailed implementing measures for the preceding Paragraph shall be separately formulated by the copyright administration department under the State Council.	前款具体实施办法，由国务院著作权行政管理部门另行规定。	[No comment]	
Chapter 5: Exercise of Rights, Section 1: Contracts on Copyright and Related Rights				
	Article 52 A copyright owner may exercise the property rights in the copyright by means of licensing, transfer, creation of pledge or other means permitted by the law.	第五十二条 著作权人可以通过许可、转让、设立质权或者法律允许的其他形式行使著作权中的财产权。	[No comment]	
Article 24 Anyone who exploits another person's work shall conclude a copyright licensing contract with the copyright owner, except where no permission need be obtained under this Law.	Article 53 Anyone who uses a work created by others shall, except where no permission is required in accordance with the provisions of this Law, conclude a licensing contract with the copyright owner.	第五十三条 使用他人作品，应当同著作权人订立许可使用合同，本法规定可以不经许可的除外。	AIPLA notes that this Article 53 is inconsistent with international norms of copyright protection that, generally, permit authorized use of a work without requiring a formal license agreement.	AIPLA认为五十三条与国际版权保护规范不一致，总的来说，授予作品使用权不需要正式的许可合同。
A licensing contract shall include the following main points: (1) the category of the right to exploit the work covered by the license; (2) the exclusive or non-exclusive nature of the right to exploit the work covered by the license;	A licensing contract shall include the following basic contents: (1) The name of the work; (2) The type of the right to use the work and the manner of use of the works covered by the license;	许可使用合同包括下列主要内容： (一) 作品的名称； (二) 许可使用的权利种类和使用方式；	AIPLA recommends that the details included in a license agreement be left to the individual contracting parties. AIPLA is concerned that failure to strictly comply with these provisions will result in the license agreement being invalid, contrary to the intention of the parties to the contract. However, AIPLA recommends that any exclusive license agreement be in writing and signed by the parties to the agreement.	AIPLA建议许可合同包含的内容应由合同双方确定。AIPLA担心会由于没有严格符合该许可合同本身的规定导致许可合同无效，违背合同双方的意图。但是，AIPLA建议独占性许可合同采用书面形式签章。
(3) the territory and the term covered by the license; (4) the rates of remuneration and the means of payment;	(3) The exclusive or non-exclusive nature of the right to use the works covered by the license; (4) The geographic scope and term of the license;	(三) 许可使用的是专有使用权或者非专有使用权； (四) 许可使用的地域范围、期限；	[No comment]	
(5) the liabilities in the case of breach of the contract; and (6) other matters which the parties consider it necessary to agree upon.	(5) The rates of remuneration and the method of payment; (6) The liability for breach of contract; and (7) Any other matters the contracting parties consider necessary.	(五) 付酬标准和办法； (六) 违约责任； (七) 双方认为需要约定的其他内容。	[No comment]	

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
<p>Article 28 The rates of remuneration for the exploitation of a work may be agreed upon by the parties and may also be paid in accordance with the rates fixed by the administrative department for copyright under the State Council in conjunction with the other departments concerned. In the absence of an explicit agreement in the contract, the remuneration shall be paid in accordance with the rates fixed by the said department under the State Council in conjunction with the other departments concerned.</p>	<p>The rates of remuneration for use of a work shall be agreed upon by the parties concerned. In the absence of an agreement or an explicit agreement, the remuneration shall be paid according to the market price or the remuneration standard set forth by the copyright administration department under the State Council in conjunction with relevant departments.</p>	<p>使用作品的付酬标准由当事人约定，当事人没有约定或者约定不明的，按照市场价格或者国务院著作权行政管理部门会同有关部门制定的付酬标准支付报酬。</p>	<p>AIPLA supports this change in that it gives priority to the remuneration rate negotiated between the parties, and in the absence of that negotiated rate, provides for reliance on market rates as an equal alternative to rate set by the administration department under the State Council. The previous language did not provide for the consideration of market rates at all.</p>	<p>AIPLA支持这一改变。该条款优先考虑当事人之间协商的付酬标准，在没有约定付酬标准的情况下，规定应按照市场价格作为国务院著作权行政管理部门制定的付酬标准的替代。修订前的条款表述中根本没有规定需要考虑市场价格。</p>
	<p>Article 54 Where the right licensed is a right of exclusive use, the licensing contract shall be made in writing. If the contract does not explicitly provides that the right granted is an exclusive right to use the works, the right granted shall be deemed as a non-exclusive right to use the works.</p>	<p>第五十四条 许可使用的权利是专有使用权的，许可使用合同应当采取书面形式。 合同中未明确约定许可使用的权利是专有使用权的，视为许可使用的权利为非专有使用权。</p>	<p>AIPLA agrees that exclusive license agreements should be made in writing. AIPLA further recommends that such agreements must be signed by the parties to the contract.</p>	<p>AIPLA赞同独占性许可合同采用书面形式。AIPLA建议此合同必须由合同有关各方签订。</p>
	<p>If the contract provides that the right granted is an exclusive right to use the works, but does not stipulate or explicitly stipulate the details of the right, it shall be deemed that the licensee has the right to exclude any other person, including the copyright owner, from using the works in the same manner.</p>	<p>合同中约定许可使用的方式是专有使用权，但对专有使用权的内容没有约定或者约定不明的，视为被许可人有权排除包括著作权人在内的任何人以同样的方式使用作品。</p>	<p>[No comment]</p>	
	<p>Where the contract concluded between a newspaper or periodical publisher and an author on the exclusive right to publish a work does not stipulate or explicitly stipulate the term of the exclusive right to publish the work, the term of the exclusive right to publish the work shall be presumed to be one year.</p>	<p>报刊社与著作权人签订专有出版合同，但对专有出版权的期限没有约定或者约定不明的，专有出版权的期限推定为一一年。</p>	<p>[No comment]</p>	
	<p>Article 55 Where a book publishing contract provides that the book publisher enjoys an exclusive right to publish the book but does not explicitly stipulate the details of the right, it shall be deemed that the book publisher enjoys the exclusive right to publish the original and revised editions of the book in the same language within the term of the contract and the geographic scope prescribed in the contract.</p>	<p>第五十五条 图书出版合同中约定图书出版者享有专有出版权但没有明确其具体内容的，视为图书出版者享有在合同有效期内和在合同约定的地域范围内以同种文字的原版、修订版出版图书的专有权利。</p>	<p>[No comment]</p>	
	<p>Article 56 A book publisher, when reprinting or republishing a work, shall notify the copyright owner thereof and pay remuneration to the copyright owner.</p>	<p>第五十六条 图书出版者重印、再版作品的，应当通知著作权人，并支付报酬。</p>	<p>[No comment]</p>	
	<p>If the book publisher refuses to reprint or republish the book when the stocks of the book are exhausted, the copyright owner shall have the right to terminate the contract. If two orders sent by the copyright owner to the book publisher within six months fail to be fulfilled, it shall be deemed that the stocks of the book are exhausted.</p>	<p>图书脱销后，图书出版者拒绝重印、再版的，著作权人有权终止合同。著作权人寄给图书出版者的两份订单在6个月内未得到履行，视为图书脱销。</p>	<p>[No comment]</p>	

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
Article 25 Anyone who transfers any of the rights provided for in Subparagraph (5) through Subparagraph (17) of the first paragraph in Article 10 of this Law shall conclude a written contract.	Article 57 A written contract shall be concluded for the transfer of property rights in copyright. A right transfer contract shall include the following basic contents:	第五十七条 转让著作权中的财产权利，应当订立书面合同。 权利转让合同包括下列主要内容：	AIPLA recommends that the details included in a transfer agreement be left to the individual contracting parties. AIPLA is concerned that failure to strictly comply with these provisions will result in the transfer agreement being invalid, contrary to the intention of the parties to the contract. However, AIPLA recommends that any transfer agreement be in writing and signed by the parties to the agreement.	AIPLA建议由合同双方来制定转让合同的具体内容。AIPLA担心未能严格遵守这些条款会造成转让合同的无效，从而违背合同双方的本意。但是，AIPLA建议由合同双方以书面形式订立转让合同并在合同上签字。
A copyright transfer contract shall include the following main points: (1) the title of the work; (2) the category of the right to be transferred and the territory covered by the transfer; (3) the rates of the transfer fee;	(1) The name of the works; (2) The type and geographic scope of the rights transferred; (3) The transfer price;	(一) 作品的名称; (二) 转让的权利种类、地域范围; (三) 转让金;	[No comment]	
(4) the date and the means of payment of the transfer fee; (5) the liabilities in the case of breach of the contract; and (6) other matters that the parties consider it necessary to agree upon.	(4) The date and method of payment of transfer price; (5) The liability for breach of contract; and (6) Any other matters the contracting parties consider necessary.	(四) 支付转让金的日期和方式; (五) 违约责任; (六) 双方认为需要约定的其他内容。	[No comment]	
Article 27 The other party may not, without permission from the copyright owner, exercise any right that is not explicitly licensed or transferred by the copyright owner in the contract.	Article 58 A licensee or transferee may not exercise any right that has not been explicitly granted or transferred in the licensing contract or transfer contract without consent of the copyright owner. Without consent of the copyright owner, the licensee may not permit a third party to exercise the same right.	第五十八条 许可使用合同和转让合同中著作权人未明确许可或者转让的权利，未经著作权人同意，被许可人或者受让人不得行使。 未经著作权人同意，被许可人不得许可第三人行使同一权利。	AIPLA recommends that the copyright owner be permitted to authorize use without requiring a written contract where the authorization is non-exclusive. Where the authorization is exclusive AIPLA supports the requirement of a written contract.	AIPLA建议如果授权是非专属授权，可允许著作权人不要求书面合同而进行授权使用；如果授权是专属授权，AIPLA则提倡要求签订书面合同。
	Article 59 An exclusive licensing contract or transfer contract concluded with a copyright owner may be registered by the right user with the special registration agency established by the copyright administration department under the State Council. An unregistered right may not be used in defense against a bona fide third party.	第五十九条 与著作权人订立专有许可合同或者转让合同的，使用者可以向国务院著作权行政管理部门设立的专门登记机构登记。未经登记的权利，不得对抗善意第三人。	AIPLA supports the availability of a voluntary recordation procedure but notes that a mandatory recordation procedure would be inconsistent with international norms of copyright protection. AIPLA recommends further that the last sentence of the provision be stricken .	AIPLA支持提供自愿登记程序，但需注意的是，强制登记程序是违背国际版权保护规范的。AIPLA进一步建议删除该条的最后一句。
	Relevant fees shall be paid for registration at the rate set by the financial administration department under the State Council and the price administration department under the State Council.	登记应当缴纳费用，收费标准由国务院财政、价格管理部门确定。	[No comment]	
Article 26 Where a copyright is pledged, both the pledger and pledgee shall undergo the formalities for registration with the copyright administration department under the State Council.	Article 60 In the case of pledge of a copyright, the pledger and the pledgee shall register the pledge with the copyright administration department under the State Council. Relevant fees shall be paid for registration of copyright pledge at the rate set by the financial administration department under the State Council and the price administration department.	第六十条 以著作权出质的，由出质人和质权人向国务院著作权行政管理部门办理出质登记。 登记应当缴纳费用，收费标准由国务院财政、价格管理部门确定。	AIPLA notes that voluntary recordation of assignments as security are consistent with international norms of copyright protection but recommends that the requirement that recordation is mandatory be stricken.	AIPLA注意到对转让著作权作为抵押进行自愿登记是符合国际版权保护规范的，但是建议删除强制登记的要求。

Section 2: Collective Administration of Copyright

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
<p>Article 8 Copyright owners or owners of the rights related to the copyright may authorize collective copyright administration organizations to exercise their copyright or rights related to the copyright. Upon authorization, a collective copyright administration organization may exercise the copyright or the rights related to the copyright in its own name for the copyright owner or the owner of the rights related to the copyright and participate as a party in legal or arbitration proceedings concerning the copyright or the rights related to the copyright. Collective copyright administration organizations are non-profit organizations, and regulations concerning the way of their establishment, their rights and obligations, their collection and distribution of copyright licensing fees, and their supervision and administration shall be formulated separately by the State Council.</p>	<p>Article 61 An organization for collective administration of copyright is a non-profit social organization exercising copyright or related rights the owners of which have difficulty to exercise or control, by means of collective administration according to the authorization by relevant copyright owners and owners of related rights or the provisions of relevant laws.</p>	<p>第六十一条 著作权集体管理组织是根据著作权人和相关权人的授权或者法律规定，以集体管理的方式行使权利人难以行使和难以控制的著作权或者相关权的非营利性社会组织。</p>	<p>AIPLA generally supports the establishment of a collective rights management system in China as an effective means of protecting and enforcing the rights of individual copyright holders.</p>	<p>AIPLA总体赞成在中国设立一个管理集体权利的系统，从而有效保护和加强个体著作权人的权利。</p>
	<p>In the administration of rights, an organization for collective administration of copyright may claim rights for relevant copyright owners and owners of related rights in its own name, and may act as a party concerned to carry out lawsuit, arbitration and mediation activities for copyright or related rights.</p>	<p>著作权集体管理组织管理权利时，可以以自己的名义为著作权人和相关权利人主张权利，并可以作为当事人进行著作权或者相关权的诉讼、仲裁和调解活动。</p>	<p>AIPLA generally supports enabling a collective rights management agency to exercise these functions.</p>	<p>AIPLA总体赞成赋予一个集体权利管理机构实现这些功能的权利。</p>
	<p>Article 62 Organizations for collective administration of copyright shall make available the charging standards for royalties of copyright or related rights according to the rights under their administration, and such charging standards shall be announced on the media designated by the copyright administration department under the State Council for implementation. In the case of any objection to the charging standards, the copyright administration department under the State Council shall organize a special committee to make adjudication. The adjudication shall be final. The implementation of the charging standards shall not be suspended during the period of such adjudication.</p>	<p>第六十二条 著作权集体管理组织应当根据管理的权利提供使用费标准，该标准在国务院著作权行政管理部门指定的媒体上公告实施，有异议的，由国务院著作权行政管理部门组织专门委员会裁定，裁定为最终结果，裁定期间使用费标准不停止执行。</p>	<p>[No comment]</p>	
	<p>The special committee referred to in the preceding Paragraph shall be composed of judges, civil servants from the supervisory departments of organizations for collective administration of copyright, lawyers, etc.</p>	<p>前款所述专门委员会由法官、著作权集体管理组织的监管部门公务员、律师等组成。</p>	<p>[No comment]</p>	

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	Article 63 Where an organization for collective administration of copyright can represent the interests of relevant right owners throughout the country as authorized by the right owners, it may exercise the copyright or related rights on behalf of all the right owners when their published musical or audio & video works are disseminated to the public through self-service karaoke systems and when their works are otherwise used, except where the right owners have declared in writing that the collective administration is not authorized:	第六十三条 著作权集体管理组织取得权利人授权并能在全国范围内代表权利人利益的，可以就自助点歌系统向公众传播已经发表的音乐或者视听作品以及其他方式使用作品，代表全体权利人行使著作权或者相关权，权利人书面声明不得集体管理的除外。	AIPLA generally supports enabling a collective rights management agency to exercise these functions.	AIPLA总体赞成赋予一个集体权利管理机构实现这些功能的权利。
	An organization for collective administration of copyright shall fairly treat all right owners in the transfer of relevant royalties.	著作权集体管理组织在转付相关使用费时，应当平等对待所有权利人。	AIPLA generally supports enabling a collective rights management agency to exercise these functions.	AIPLA总体赞成赋予一个集体权利管理机构实现这些功能的权利。
	Article 64 Copyright owners and related right owners shall exercise the right to obtain remunerations under Article 14 and Article 40 herein through the corresponding organizations for collective administration of copyright.	第六十四条 著作权和相关权利人依据本法第十四条和第四十条享有的获酬权，应当通过相应的著作权集体管理组织行使。	AIPLA generally supports enabling a collective rights management agency to exercise these functions.	AIPLA总体赞成赋予一个集体权利管理机构实现这些功能的权利。
	Article 65 Where two or more organizations for collective administration of copyright collect royalties on the same user for the same manner of use, they shall jointly formulate uniform royalties charging standards, and appoint one organization to collect the royalties in a consolidated manner through consultation. The royalties collected shall be reasonably allocated among the relevant organizations for collective administration of copyright.	第六十五条 两个以上著作权集体管理组织就同一使用方式向同一使用者收取使用费的，应当共同制定统一的使用费标准，并且协商确定由一个著作权集体管理组织统一收取使用费。收取的使用费应当在相应的著作权集体管理组织之间合理分配。	AIPLA generally supports enabling a collective rights management agency to exercise these functions.	AIPLA总体赞成赋予一个集体权利管理机构实现这些功能的权利。
	Article 66 The copyright administration department under the State Council shall be in charge of the collective administration of copyright throughout the country and be responsible for the examination, approval, supervision and administration of the establishment, business scope, change, deregistration and other registration particulars of organizations for collective administration of copyright.	第六十六条 国务院著作权行政管理部门主管全国的著作权集体管理工作，负责著作权集体管理组织的设立、业务范围、变更、注销以及其他登记事项的审批和监督管理。	[No comment]	
	Other competent departments under the State Council shall supervise and administer organizations for collective administration of copyright according to their respective responsibilities.	国务院其他主管部门在各自职责范围内对著作权集体管理组织进行监督管理。	[No comment]	
	Article 67 The mode of establishment, business scope, rights, obligations, collection and distribution of copyright royalties, supervision and administration of copyright royalties, adjudication of objections to the charging standards for royalties and other issues in respect of organizations for collective administration of copyright shall be specified separately by the State Council.	第六十七条 著作权集体管理组织的设立方式、业务范围、权利义务、著作权许可使用费的收取和分配，对其监督和管理，授权使用收费标准异议裁定等事宜由国务院另行规定。	[No comment]	

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
Chapter 6: Technical Protection Measures and Rights Management Information				
	<p>Article 68 For the purpose of this Law, technical protection measures refer to effective technologies, devices or components adopted by right owners for the purpose of preventing or restricting their works, performance, sound recordings or radio or television programs from being reproduced, browsed, enjoyed, operated, adapted, or disseminated via the Internet.</p>	<p>第六十八条 本法所称的技术保护措施，是指权利人为防止、限制其作品、表演、录音制品或者广播电视节目被复制、浏览、欣赏、运行、改编或者通过网络传播而采取的有效技术、装置或者部件。</p>	<p>AIPLA generally supports the recognition of technical protection measures to protect unauthorized use of copyright protected works, but it is recommended that the recognition of the technical protection measures not be restricted solely to dissemination via the Internet.</p>	<p>AIPLA总体支持使用技术保护措施来防止未经授权使用版权所有的作品，但是建议勿将这些技术保护措施限制于仅针对网络传播。</p>
	<p>For the purpose of this Law, rights management information refers to the information about a work and its author, a performance and its performer, a sound recording and its producer, a radio or television program and its radio or television station, the information about the owners of rights in works, performance, sound recordings and radio or television programs and the conditions for use of such works, and the digits or codes indicating the aforementioned information.</p>	<p>本法所称的权利管理信息，是指说明作品及其作者、表演及其表演者、录音制品及其制作者的信息、广播电视节目及其广播电台电视台，作品、表演、录音制品以及广播电视节目权利人的信息和使用条件的信息，以及表示上述信息的数字或者代码。</p>	<p>AIPLA notes that these provisions are generally consistent with international norms of copyright protection.</p>	<p>AIPLA注意到这些条款与国际版权保护规范大体一致。</p>
	<p>Article 69 A right owner may take technical protection measures for the purpose of protecting the copyright and related rights. Unless otherwise stated in relevant laws and administrative regulations, no organization or individual may intentionally bypass or damage any technical protection measures, or intentionally produce, import or provide to the public the devices or components that are mainly used for bypassing or damaging any technical protection measures, or intentionally provide others with technical services for bypassing or damaging any technical protection measures without permission.</p>	<p>第六十九条 为保护著作权和相关权，权利人可以采用技术保护措施。 未经许可，任何组织或者个人不得故意避开或者破坏技术保护措施，不得故意制造、进口或者向公众提供主要用于避开或者破坏技术保护措施的装置或者部件，不得故意为他人避开或者破坏技术保护措施提供技术或者服务，但是法律、行政法规另有规定的除外。</p>	<p>AIPLA notes that these provisions are generally consistent with international norms of copyright protection.</p>	<p>AIPLA注意到这些条款与国际版权保护规范大体一致。</p>
	<p>Article 70 Without permission from relevant right owners, no one may engage in any of the following conducts: (1) To intentionally delete or alter any rights management information, unless such deletion or alteration is inevitable due to any technical reason; or</p>	<p>第七十条 未经权利人许可，不得进行下列行为： (一) 故意删除或者改变权利管理信息，但由于技术上的原因无法避免删除或者改变的除外；</p>	<p>AIPLA notes that these provisions are generally consistent with international norms of copyright protection.</p>	<p>AIPLA注意到这些条款与国际版权保护规范大体一致。</p>
	<p>(2) To provide the public with works, performance, sound recordings or radio or television programs that the provider knows or should have known that the rights management information thereof has been deleted or altered without permission.</p>	<p>(二) 知道或者应当知道相关权利管理信息被未经许可删除或者改变，仍然向公众提供该作品、表演、录音制品或者广播电视节目。</p>	<p>AIPLA notes that these provisions are generally consistent with international norms of copyright protection.</p>	<p>AIPLA注意到这些条款与国际版权保护规范大体一致。</p>
	<p>Article 71 In the following cases, a technical protection measure may be bypassed, provided that the technologies, devices or components for bypassing the technical protection measure shall not be provided to others and the other rights enjoyed by the right owner according to law shall not be prejudiced:</p>	<p>第七十一条 下列情形可以避开技术保护措施，但不得向他人提供避开技术保护措施的技术、装置或者部件，不得侵犯权利人依法享有的其他权利：</p>	<p>AIPLA notes that these provisions are generally consistent with international norms of copyright protection.</p>	<p>AIPLA注意到这些条款与国际版权保护规范大体一致。</p>

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	(1) To provide published works, performance, sound recordings or radio or television programs to a small number of teachers or scientific researchers for use in classroom teaching or scientific research, provided that such works, performance, sound recordings or radio or television programs cannot be obtained through normal channels;	(一) 为学校课堂教学或者科学研究，向少数教学、科研人员提供已经发表的作品、表演、录音制品或者广播电视节目，而该作品、表演、录音制品或者广播电视节目无法通过正常途径获取；	AIPLA notes that these provisions are generally consistent with international norms of copyright protection.	AIPLA注意到这些条款与国际版权保护规范大体一致。
	(2) To provide published written works to blind persons in a special manner to enable the blind persons to feel them, provided that such works are not provided for profit-making purposes and cannot be obtained through normal channels; (3) To perform official duties by a State organ according to relevant administrative or judicial procedures;	(二) 不以营利为目的，以盲人能够感知的独特方式向盲人提供已经发表的作品，而该作品无法通过正常途径获取； (三) 国家机关依照行政、司法程序执行公务；	AIPLA notes that these provisions are generally consistent with international norms of copyright protection.	AIPLA注意到这些条款与国际版权保护规范大体一致。
	(4) To test security performance of a computer and its system or network by institutions qualified to perform such security tests; or (5) To conduct encryption research or reverse engineering research of a computer program.	(四) 具有安全测试资质的机构对计算机及其系统或者网络的安全性能进行测试； (五) 进行加密研究或者计算机程序反向工程研究。	AIPLA supports exception (4) and recommends that exception (5) be stricken.	AIPLA支持第(四)款，建议删除第(五)款。
Chapter 7: Protection of Rights				
Article 29 No publishers, performers, producers of sound recordings and video recordings, radio stations, television stations, etc. that exploit another person's work in accordance with the relevant provisions of this Law may infringe upon the authors' rights of authorship, revision or protection of the integrity of the works, or their right to remuneration				
Article 47 Anyone who commits any of the following acts of infringement shall, depending on the circumstances, bear civil liabilities such as ceasing the infringement, eliminating the bad effects of the act, making an apology or paying compensation for damages: (1) publishing a work without permission of the copyright owner; (2) publishing a work of joint authorship as a work created solely by oneself, without permission of the other co-authors;	Article 72 Anyone who infringes on copyright or related rights, or violates any technical protection measures or obligations in respect of rights management information prescribed in this Law shall bear the civil liabilities such as stopping the infringement act, eliminating its ill effects, making an apology, compensating for losses, etc. in accordance with the law.	第七十二条 侵犯著作权或者相关权，违反本法规定的技术保护措施或者权利管理信息有关义务的，应当依法承担停止侵害、消除影响、赔礼道歉、赔偿损失等民事责任。	AIPLA supports the general provision of remedies for infringement, including damages and injunctions. The provision for "eliminating its ill effects" is vague and AIPLA recommends that it be stricken. AIPLA recommends further that the provision for an apology also be stricken. AIPLA recognizes that this is a feature of Chinese law but notes that it could unfairly prejudice a party in foreign proceedings related to the same work.	AIPLA支持补救侵权行为的一般规定，包括损害赔偿和禁令等。但是“消除影响”这一说法不明确，AIPLA建议将其删除。AIPLA进一步建议将赔礼道歉的规定删除。AIPLA认识到这是中国法律的一个特点，但是在同一个作品的涉外程序中，这会不正当地损害合同一方的权利。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
<p>(3) having one's name mentioned in another person's work in the creation of which one has taken no part, in order to seek personal fame and gain;</p> <p>(4) distorting or mutilating a work created by another person;</p> <p>(5) plagiarizing a work created by another person;</p> <p>(6) exploiting a work for exhibition or film-making or in a manner analogous to film-making, or for adaptation, translation, annotation, or for other purposes, without permission of the copyright owner, except where otherwise provided for in this Law;</p> <p>(7) exploiting a work created by another person without paying remuneration as one should;</p> <p>(8) renting a cinematographic work or a work created by a process analogous to cinematography, computer software, or products of sound recording or video recording, without permission of the copyright owner or the owner of the rights related to the copyright, except where otherwise provided for in this Law;</p> <p>(9) exploiting the typographical design of a published book or periodical, without permission of the publisher;</p> <p>(10) live broadcasting, communicating to the public, or recording a performance, without permission of the performer; or</p> <p>(11) committing other acts infringing upon the copyright and the rights related to the copyright.</p>				
<p>Article 48 Anyone who commits any of the following acts of infringement shall, depending on the circumstances, bear civil liabilities such as ceasing the infringement, eliminating the bad effects of the act, making an apology or paying compensation for damages; where public rights and interests are impaired, the administrative department for copyright may order the person to discontinue the infringement, confiscate his unlawful gains, confiscate or destroy the copies produced through infringement, and may also impose a fine; where the circumstances are serious, the said department may, in addition, confiscate the material, tools and instruments mainly used to produce copies through infringement; and where a crime is constituted, criminal liabilities shall be investigated in accordance with law:</p>				

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
<p>(1) reproducing+A204, distributing, performing, presenting, broadcasting, compiling a work or making it available to the public through information network, without permission of the copyright owner, except where otherwise provided for in this Law;</p> <p>(2) publishing a book the exclusive right of publication in which is enjoyed by another person;</p> <p>(3) reproducing or distributing a sound recording or video recording of a performance, or making a performance available to the public through information network, without permission of the performer, except where otherwise provided for in this Law;</p> <p>(4) reproducing or distributing a product of sound recording or video recording or making it available to the public through information network, without permission of the producer, except where otherwise provided for in this Law;</p> <p>(5) rebroadcasting a radio or television program or reproducing such a program without permission, except where otherwise provided for in this Law;</p> <p>(6) intentionally circumventing or sabotaging the technological measures adopted by a copyright owner or an owner of the rights related to the copyright to protect the copyright or the rights related to the copyright in the work or the products sound recording or video recording, without permission of the owner, except where otherwise provided for in laws or administrative regulations.</p>				
<p>Article 50 Where a copyright owner or an owner of a right related to the copyright who can present evidence to prove that another person is committing, or is about to commit, an infringement upon his right, which, unless prevented promptly, is likely to cause irreparable harm to his legitimate rights and interests, he may, before taking legal proceedings, apply to a People's Court for measures to order discontinuation of the infringement and to preserve property. When dealing with the application specified in the preceding paragraph, the People's Court shall apply the provisions in Article 93 through Article 96 and Article 99 of the Civil Procedure Law of the People's Republic of China.</p>				

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
<p>Article 51 In order to prevent infringement, a copyright owner or an owner of a right related to the copyright may, before taking legal proceedings, apply to a People's Court for preserving evidence, where the evidence is likely to be missing or is difficult to obtain later. After accepting the application, the People's Court shall make a ruling within 48 hours. Where it rules to adopt preservation measures, it shall have the measures enforced immediately. The People's Court may order the applicant to provide a guarantee, and shall reject the application where the applicant fails to do so. Where the applicant fails to take legal proceedings within 15 days from the date the People's Court adopts the preservation measure, the People's Court shall terminate the measure.</p>				
<p>Article 52 When trying a case where the copyright or a right related to it is infringed upon, the People's Court may rule to confiscate the unlawful gains, the products of infringement and money and things of value used for illegal activities.</p>				
<p>Article 53 A publisher or a producer of reproductions who fails to prove that he is legally authorized publishing or producing the reproductions, or a distributor of reproductions or a renter of reproductions of a cinematographic work or a work created by a process analogous to cinematography, computer software, sound recording or video recording who fails to prove the legal source of the reproductions that he distributes or rents, shall bear legal liabilities.</p>				
<p>Article 54 Any party who fails to perform his contractual obligations, or performs them at variance with the agreed conditions in the contract, shall bear civil liabilities in accordance with the relevant provisions of the General Principles of the Civil Law of the People's Republic of China, the Contract Law of the People's Republic of China and other related laws.</p>				
	<p>Article 73 A network service provider, while providing storage, search, interlinking and other simple network technical services to network users, shall not bear the obligations of examination in respect of copyright or related rights.</p>	<p>第七十三条 网络服务提供者为用户提供存储、搜索或者链接等单纯网络技术服务时，不承担与著作权或者相关权有关的审查义务。</p>	<p>AIPLA notes that this provision is consistent with international norms of copyright protection and supports them.</p>	<p>AIPLA认为该款项符合国际版权保护规范并支持该款项。</p>

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	Where another person takes advantage of network services to commit any act of infringement of copyright or related rights, the right owner may notify the network service provider in writing, requesting it to take necessary measures, such as deleting and breaking links, against such infringement act. The network service provider shall not be liable for compensation if it takes necessary measures promptly after receipt of the notice; if it fails to do so, shall bear joint and several liability with the infringer for the portion of the damage aggravated due to the failure to take necessary measures.	他人利用网络服务实施侵犯著作权或者相关权行为的，权利人可以书面通知网络服务提供者，要求其采取删除、断开链接等必要措施。网络服务提供者接到通知后及时采取必要措施的，不承担赔偿责任；未及时采取必要措施的，对损害的扩大部分与该侵权人承担连带责任。 网络服务提供者知道或者应当知道他人利用其网络服务侵害著作权或者相关权，未及时采取必要措施的，与该侵权人承担连带责任。	AIPLA notes that this provision is consistent with international norms of copyright protection and supports them.	AIPLA认为该款项符合国际版权保护规范并支持该款项。
	Where a network service provider knows or should have known that another person takes advantage of its network services to infringe on copyright or related rights but fails to take necessary measures, it shall bear joint and several liability with the infringer for the infringement act.	网络服务提供者教唆或者帮助他人侵犯著作权或者相关权的，与该侵权人承担连带责任。	AIPLA notes that this provision would be consistent with international norms of copyright protection if the provision is modified to provide that the network service provider shall be liable only where it fails to act reasonably after having gained such knowledge. We therefore suggest deletion of the words "should have known."	AIPLA认为，如果该款项进行以下更改，将符合国际版权保护规范：如果网络服务供应商在了解情况的前提下没有作出合理行动，才承担相应责任。因此我们建议删除“应当了解”。
	Where a network service provider instigates or helps another person to infringe on copyright or related rights, it shall bear joint and several liability with the infringer. The provisions of Paragraph 1 of this Article shall not apply to provision of works, performance or sound recordings of others to the public by network service	网络服务提供者通过网络向公众提供他人作品、表演或者录音制品，不适用本条第一款规定。	If the network service provider acts knowingly or intentionally, this provision would be consistent with international norms of copyright protection. AIPLA recommends that these additional provisions be added.	如果网络服务提供者是有意或故意这么做，该款项则符合国际版权保护规范。AIPLA建议增加上述附加款项。
	Article 74 If a user has paid remuneration for use of rights the owners of which have difficulty to exercise or control to the relevant member of an organization for collective administration of copyright according to the contract concluded with the organization for collective administration of copyright, and if a right owner who isn't a member of the organization for collective administration of copyright institutes proceedings for the same right and the same manner of use, the user shall immediately stop the use and make compensation for the loss of the non-member right owner according to relevant standard for royalties under the collective administration of copyright.	第七十四条 使用者使用权利人难以行使和难以控制的权利，依照与著作权集体管理组织签订的合同向其支付会员的报酬后，非会员权利人就同一权利和同一使用方式提起诉讼的，使用者应当停止使用，并按照相应的著作权集体管理使用费标准赔偿损失。	AIPLA notes that this provision is inconsistent with the collective rights management provisions of the law. AIPLA recommends that this provision be stricken. If the owner has arranged with the collective rights management organization to authorize use of the work and the user has paid the collective rights management organization, the owner's remedy is with the collective rights management organization and not the user. Any "difficulty" the owner may have with the collective rights management organization should not impair the user. The reference to "difficulty to exercise or control" is unclear and AIPLA requests that it be clarified. Moreover, if the user has paid the collective rights management royalty, there is no basis for stopping the use and AIPLA requests that the provisions be modified.	AIPLA认为该款项不符合著作权集体管理的法律规定，建议删除该款项。如果权利人安排著作权集体管理组织授权作品的使用，且使用者已向著作权集体管理组织缴费，权利人应当向著作权集体管理组织索要赔偿，而不是使用者。权利人在与著作权集体管理组织交涉中有何种“困难局面”都不应损害使用者的利益。款项中“难以行使和难以控制”的意义不清楚，AIPLA要求对其进行澄清。此外，如果使用者已经支付著作权集体管理使用费，就不能要求其停止使用，AIPLA要求对该款项进行更改。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	The provisions of the preceding paragraph shall not apply to the following circumstances: (1) Where the user still uses the works of the non-member right owner after the latter has declared that his rights may not be exercised by way of collective administration;	下列情形不适用前款规定： (一) 使用者知道非会员权利人作出不得以集体管理方式行使其权利的声明，仍然使用其作品的；	[No comment]	
	(2) Where the user still uses the works of the non-member right owner after the latter has asked the user not to use his works; or (3) Where the user uses the works of the non-member right owner again after the user stops the use of the works according to the adjudication of the proceedings instituted by the non-member right owner.	(二) 非会员权利人通知使用者不得使用其作品，使用者仍然使用的； (三) 使用者履行非会员诉讼裁决停止使用后，再次使用的。	[No comment]	
	Article 75 Where a person who possesses one of the copies of a computer program doesn't know and shouldn't have known that such program is an infringing copy, the person shall not be liable for compensation, but shall stop the use of and destroy the infringing copy. Where the said person needs to continue to use the computer program, he shall obtain the permission from the copyright owner of the	第七十五条 计算机程序的复制件持有人不知道也不应当知道该程序是侵权复制件的，不承担赔偿责任；但是应当停止使用、销毁该侵权复制件。计算机程序复制件持有人需要继续使用该计算机程序的，应当取得该计算机程序著作权人的许可。	AIPLA recommends that these provisions be stricken and that the general principles governing infringement apply.	AIPLA建议删除该款项，管理侵权的一般原则适用。
	Article 76 In calculating the amount of damages for infringement on copyright or related rights, the right owner may claim compensation by choosing to base the damages on actual losses, the illegal income obtained by the infringer, a reasonable multiple of the cost of rights transaction, or a specific amount below	第七十六条 侵犯著作权或者相关权的，在计算损害赔偿数额时，权利人可以选择实际损失、侵权人的违法所得、权利交易费用的合理倍数或者一百万元以下数额请求赔偿。	AIPLA generally supports these damages provisions.	AIPLA大体支持这些赔偿款项。
	If a person has intentionally committed infringement upon copyright or related rights twice or more times, the competent people's court may determine the amount of compensation at twice to three times the amount of compensation as calculated according to the provisions of the preceding Paragraph. In determining the amount of compensation, the competent people's court shall include reasonable expenditures incurred by the right owner for stopping the infringement act.	对于两次以上故意侵犯著作权或者相关权的，人民法院可以根据前款计算的赔偿数额的二至三倍确定赔偿数额。人民法院在确定赔偿数额时，应当包括权利人为制止侵权行为所支付的合理开支。	AIPLA notes that these provisions appear to be generally consistent with international norms for damages for willful infringement and supports these provisions.	AIPLA认为该款项大体符合故意侵权赔偿的国际规范，支持该款项。
	Where the right holder has duly discharged its obligation of burden of proof, but the account books and materials related to the infringing acts are mainly controlled by the infringer, the relevant people's court may, for the purpose of determining the amount of compensation, order the infringer to submit account books and materials related to the infringing acts. Where the infringer fails to provide such account books and materials or provides false account books and materials, the people's court may render a judgment on the amount of compensation according to the claims of the right holder.	人民法院为确定赔偿数额，在权利人已经尽力举证，而与侵权行为相关的账簿、资料主要由侵权人掌握的情况下，可以责令侵权人提供与侵权行为相关的账簿、资料；侵权人不提供或者提供虚假的账簿、资料的，人民法院可以根据权利人的主张判定侵权赔偿数额。	AIPLA notes that this provision is generally consistent with international norms for computing damages and supports it.	AIPLA认为该款项大体符合赔偿数额计算的国际规范，支持该款项。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
<p>Article 49 Anyone who infringes upon the copyright or a right related to the copyright shall pay compensation for the actual losses suffered by the right owner, or where the actual losses are difficult to calculate, pay compensation to the amount of the unlawful gains of the infringer. The compensation shall include the reasonable expenses that the right owner has paid for putting a stop to the infringement. Where the actual losses of the right owner or the unlawful gains of the infringer cannot be determined, the People's Court shall, in light of the circumstances of the infringement, decide on a compensation amounting to not more than 500,000 RMB yuan.</p>	<p>Article 77 Where a party commits any of the following acts of infringement, the copyright administration department may order him to stop the infringement act, give him a warning, confiscate his illegal income from the act, or confiscate and destroy the infringing products and copies. The copyright administration department may also impose a fine on him at not less than one time but not more than five times the amount of illegal business operation if the said amount is of RMB 50,000 or more, or a fine of up to RMB 250,000 if there is no amount of illegal business operation, or the amount of illegal business operation is difficult to calculate or below RMB 50,000.</p>	<p>第七十七条 下列侵权行为，可以由著作权行政管理部门责令停止侵权行为，予以警告，没收违法所得，没收、销毁侵权制品和复制件，非法经营额五万元以上的，可处非法经营额一倍以上五倍以下的罚款，没有非法经营额、非法经营额难以计算或者非法经营额五万元以下的，可处二十五万元以下的罚款；情节严重的，著作权行政管理部门可以没收主要用于制作侵权制品和复制件的材料、</p>	<p>[No comment]</p>	
	<p>If his infringement act is of a serious nature, the copyright administration department may also confiscate the main materials, tools, equipment and the like that are used for producing the infringing products and copies. If his infringement act constitutes a crime, criminal liability shall be imposed according to law:</p>	<p>工具、设备等；构成犯罪的，依法追究刑事责任：</p>	<p>AIPLA generally supports the imposition of criminal liability for infringement where appropriate.</p>	<p>AIPLA大体支持侵权刑事责任的追究。</p>
	<p>(1) Reproducing, distributing, leasing, exhibiting, performing or broadcasting (telecasting), or disseminating to the public through the Internet, a work without permission from its copyright owner, unless otherwise provided for in this Law;</p>	<p>（一）未经著作权人许可，复制、发行、出租、展览、表演、播放、通过网络向公众传播其作品的，本法另有规定的除外；</p>	<p>[No comment]</p>	
	<p>(2) Broadcasting (telecasting) and recording a performance, reproducing, distributing or leasing sound recordings of a performance, or disseminating a performance to the public through the Internet without permission from its performer, unless otherwise provided for in this Law;</p>	<p>（二）未经表演者许可，播放、录制其表演，复制、发行、出租录有其表演的录音制品，或者通过网络向公众传播其表演的，本法另有规定的除外；</p>	<p>[No comment]</p>	
	<p>(3) Reproducing, distributing or leasing a sound recording or disseminating a sound recording to the public through the Internet without permission from its producer, unless otherwise provided for in this Law; (4) Without permission from a radio station or television station, re-broadcasting, recording or reproducing its radio or television programs, unless otherwise provided for in this Law;</p>	<p>（三）未经录音制作者许可，复制、发行、出租、通过网络向公众传播其录音制品的，本法另有规定的除外； （四）未经广播电台、电视台许可，转播、录制、复制其广播电视节目的，本法另有规定的除外；</p>	<p>[No comment]</p>	
	<p>(5) Using works, performance, sound recordings or radio or television programs which others enjoy the exclusive right to use; (6) Using works of others in violation of the provisions of Article 50 of this Law;</p>	<p>（五）使用他人享有专有使用权的作品、表演、录音制品或者广播电视节目的； （六）违反本法第五十条规定使用他人作品的；</p>	<p>[No comment]</p>	
	<p>(7) Without permission, using copyright or related rights the owners of which have difficulty to exercise or control, except for the circumstances prescribed in Paragraph 1 of Article 74 of this Law; or (8) Producing or selling a work where the signature of the author is forged.</p>	<p>（七）未经许可，使用权利人难以行使和难以控制的著作权或者相关权的，本法第七十四条第一款规定的情形除外； （八）制作、出售假冒他人署名的作品的。</p>	<p>[No comment]</p>	

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	<p>Article 78 Where a party commits any of the following illegal acts, the copyright administration department may give him a warning, confiscate his illegal income from the act, and confiscate the main devices or components that are used for bypassing or damaging relevant technical protection measures; if his act is of a serious nature, the copyright administration department shall confiscate relevant materials, tools and equipment, and impose a fine on him at not less than one time but not more than five times the</p>	<p>第七十八条 下列违法行为，可以由著作权行政管理部门予以警告，没收违法所得，没收主要用于避开、破坏技术保护措施的装置或者部件；情节严重的，没收相关的材料、工具和设备，非法经营额五万元以上的，可处非法经营额一倍以上五倍以下的罚款，没有非法经营额、非法经营额难以计算或者非法经营额五万元以下的，可处二十五万元以下的罚款；构成犯罪的，依法追究刑事责任：</p>	[No comment]	
	<p>amount of illegal business operation if the said amount is of RMB 50,000 or more, or a fine of up to RMB 250,000 if there is no amount of illegal business operation, or the amount of illegal business operation is difficult to calculate or below RMB 50,000; if his act constitutes a crime, criminal liability shall be imposed according to law:</p>		[No comment]	
	<p>(1) Without permission, intentionally bypassing or damaging technical protection measures adopted by a right owner, unless otherwise provided for in relevant laws and administrative regulations;</p>	<p>（一）未经许可，故意避开或者破坏权利人采取的技术保护措施的，法律、行政法规另有规定的除外；</p>	[No comment]	
	<p>(2) Without permission, intentionally producing, importing or providing others with the devices or components that are mainly used for bypassing or damaging any technical protection measures, or intentionally providing others with technologies or services for bypassing or damaging any technical protection measures;</p>	<p>（二）未经许可，故意制造、进口或者向他人提供主要用于避开、破坏技术保护措施的装置或者部件，或者故意为他人避开或者破坏技术保护措施提供技术或者服务的；</p>	[No comment]	
	<p>(3) Without permission, intentionally deleting or altering any rights management information, unless otherwise provided for in this Law; or</p>	<p>（三）未经许可，故意删除或者改变权利管理信息的，本法另有规定的除外；</p>	[No comment]	
	<p>(4) Without permission, reproducing, distributing, leasing, performing or broadcasting (telecasting), or disseminating to the public through the Internet, works, performance, sound recordings or radio or television programs that he knows or should have known that the rights management information</p>	<p>（四）未经许可，知道或者应当知道权利管理信息被删除或者改变，仍然复制、发行、出租、表演、播放、通过网络向公众传播相关作品、表演、录音制品或者广播电视节目的。</p>	[No comment]	
	<p>Article 79 In the investigation and punishment of suspected infringement or illegal acts, the copyright administration department may make inquiry of the parties concerned, and investigate circumstances related to the suspected infringement or illegal acts; carry out on-the-spot inspection of places and articles which are used by the parties concerned to conduct the suspected infringement or illegal acts; consult and reproduce contracts, invoices, accounts and other materials related to the suspected infringement or illegal acts; and seal up or detain the venues and articles that are suspected of being involved in the infringement or illegal acts.</p>	<p>第七十九条 著作权行政管理部门对涉嫌侵权和违法行为进行查处时，可以询问有关当事人，调查与涉嫌侵权和违法行为有关的情况；对当事人涉嫌侵权和违法行为的场所和物品实施现场检查；查阅、复制与涉嫌侵权和违法行为有关的合同、发票、账簿以及其他有关资料；对于涉嫌侵权和违法行为的场所和物品，可以查封或者扣押。</p>	[No comment]	

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	The parties concerned shall give assistance and cooperation to the copyright administration department in the performance of its official duties prescribed in the preceding paragraph according to law. If any party refuses to provide, or obstruct or delay the provision of materials prescribed in the preceding paragraph without just cause, the copyright administration department may give him a warning; if his act is of a serious nature, may confiscate relevant materials, tools and equipment; if his act constitutes a crime, criminal liability shall be imposed according to law.	著作权行政管理部门依法行使前款规定的职权时，当事人应当予以协助、配合，无正当理由拒绝、阻挠或者拖延提供前款材料的，可以由著作权行政管理部门予以警告；情节严重的，没收相关的材料、工具和设备；构成犯罪的，依法追究刑事责任。	[No comment]	
	Article 80 Any party who is not satisfied with an administrative penalty may apply to relevant administrative authority for administrative reconsideration within sixty days after receipt of the written decision of the administrative penalty, or institute proceedings in a people's court within three months after receipt of the written decision of the administrative penalty. If the party neither applies for administrative reconsideration or institutes proceedings, nor executes the decision within the time limit, the copyright administration department may apply to a people's court for enforcement.	第八十条 当事人对行政处罚不服的，可以自收到行政处罚决定书之日起六十日内向有关行政机关申请行政复议，或者自收到行政处罚决定书之日起三个月内向人民法院提起诉讼，期满不申请行政复议或者提起诉讼，又不履行的，著作权行政管理部门可以申请人民法院执行。	AIPLA supports the civil enforcement of copyright and supports the right of appeal to the People's Courts.	AIPLA支持著作权的民事强制执行，支持向人民法院提起诉讼的权利。
	Article 81 In the event of any of the following circumstances, users of copyright or related rights shall bear civil or administrative legal liability: (1) Where a publisher or producer of copies of a work is unable to prove that his publication or reproduction has been duly authorized;	第八十一条 著作权和相关权的使用者在下列情形下，应当承担民事或者行政法律责任： (一) 复制件的出版者、制作者不能证明其出版、制作有合法授权的；	AIPLA notes that this article is inconsistent with international norms of copyright protection in that it imposes on the alleged infringer the burden to prove authorization. AIPLA suggests that the burden initially should be on the owner or administrative authority to prove that the use was unauthorized. Nonetheless, AIPLA recognizes that shifting the burden to the accused infringer may be expedient and appropriate in the event of repeated instances of infringement.	AIPLA认为该条款不符合国际版权保护规范，因为它把证明授权的责任转嫁到了被控侵权人身上。AIPLA建议，最初应该是权利人或有关行政机关来证明其使用是未被授权的。但是，AIPLA认为，在反复侵权发生的情形下，把证明授权的责任转嫁到被控侵权人身上是可取且合适的。
	(2) Where a network user is unable to prove that his dissemination of a work to the public through the Internet has been duly authorized; (3) Where a lessor is unable prove that his lease of the original or copies of an audio & video work, a computer program, or a sound recording has been duly authorized; or (4) Where a distributor is unable to prove that the copies of a work it distributes come from a lawful source.	(二) 网络用户不能证明其通过网络向公众传播的作品有合法授权的； (三) 出租者不能证明其出租视听作品、计算机程序或者录音制品的原件或者复制件有合法授权的； (四) 发行者不能证明其发行的复制件有合法来源的。	[No comment]	
	Article 82 Where copyright owners or related right owners apply for preservation of acts, property or evidence, the provisions on preservation under the Civil Procedure Law of the People's Republic of China shall apply.	第八十二条 著作权人或者相关权人申请行为、财产或者证据保全的，适用《中华人民共和国民事诉讼法》有关保全的规定。	AIPLA strongly supports the provisions regarding the preservation of evidence given the lack of civil discovery. AIPLA recommends expanding this right to ensure that material evidence is preserved and available to the copyright owner.	考虑到民事证据开示的缺乏，AIPLA强烈支持关于证据保全的款项。AIPLA建议扩大这个权利，以保证实物证据被保全并可作为著作权人所用。

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	Article 83 In the trial of cases involving infringement on copyright or related rights, a people's court may confiscate the illegal income from the infringement act, infringing products and copies, and property used for committing the illegal activities.	第八十三条 人民法院审理案件，对于侵犯著作权或者相关权的，可以没收违法所得、侵权制品和复制件以及进行违法活动的财物。	AIPLA supports these remedies.	AIPLA支持该款项。
Article 55 Any dispute over copyright may be settled through mediation, it may also be submitted to an arbitration body for arbitration under a written arbitration agreement between the parties or under the arbitration clause in the copyright contract. Any party may take legal proceedings directly in a People's Court where there is neither a written arbitration agreement between the parties nor an arbitration clause in the contract.	Article 84 The parties to a dispute over copyright or related rights may apply for arbitration to an arbitration institution in accordance with the Arbitration Law of the People's Republic of China, or apply for mediation.	第八十四条 著作权和相关权纠纷的当事人可以按照《中华人民共和国仲裁法》向仲裁机构申请仲裁，也可以申请调解。	AIPLA supports the availability of voluntary arbitration (both binding and non-binding) or mediation. AIPLA recommends that generally accepted arbitration procedures be permitted, including Uncitral and American Arbitration Association rules with which many litigants already have familiarity and experience.	AIPLA支持自愿仲裁（有法律约束力的和无法律约束力的）或调解的有效性。AIPLA建议允许使用普遍接受的仲裁程序，包括联合国国际贸易法委员会和美国仲裁协会的为很多诉讼当事人所熟知的条例。
	Article 85 The copyright administration department may establish a mediation committee for copyright disputes, which shall be responsible for mediating disputes over copyright and related rights. The judicial affirmation of mediation agreements shall be governed by the provisions on the affirmation of mediation agreements under the Civil Procedure Law of the People's Republic of China.	第八十五条 著作权行政管理部门可以设立著作权纠纷调解委员会，负责著作权和相关权纠纷的调解。调解协议的司法确认，适用《中华人民共和国民事诉讼法》有关确认调解协议的规定。	AIPLA supports the availability of voluntary arbitration (both binding and non-binding) or mediation. AIPLA recommends that the parties be permitted to arbitrate or mediate these disputes through any qualified international arbitration authority including, without limitation, the International Chamber of Commerce, American Arbitration Association, and private dispute resolution parties with whom many litigants already have familiarity and experience.	AIPLA支持自愿仲裁（有法律约束力的和无法律约束力的）或调解的有效性。AIPLA建议允许相关当事方通过任何有资格的国际仲裁机构进行仲裁或调解，包括但不限于国际商会、美国仲裁协会以及为一些诉讼当事人所了解并有一定经验的民间纠纷解决机构。
	The establishment, mediation procedures and other matters in respect of the mediation committee for copyright disputes shall be stipulated separately by the copyright administration department under the State Council.	著作权调解委员会的组成、调解程序以及其他事项，由国务院著作权行政管理部门另行规定。	AIPLA supports the availability of voluntary arbitration (both binding and non-binding) or mediation. AIPLA recommends that the parties be permitted to arbitrate or mediate these disputes through any qualified international arbitration authority including, without limitation, the International Chamber of Commerce, American Arbitration Association, and private dispute resolution parties with whom many litigants already have familiarity and experience.	AIPLA支持自愿仲裁（有法律约束力的和无法律约束力的）或调解的有效性。AIPLA建议允许相关当事方通过任何有资格的国际仲裁机构进行仲裁或调解，包括但不限于国际商会、美国仲裁协会以及为一些诉讼当事人所了解并有一定经验的民间纠纷解决机构。
Article 56 Any party that is not satisfied with an administrative penalty, may taking legal proceedings in a People's Court within three months from the date he receives the written decision on the penalty. Where the party neither takes legal proceedings nor implements the decision at the expiration of the time limit, the administrative department for copyright may apply to the People's Court for enforcement.				

Prior Text	Current Revised Text (English)	Current Revised Text (Chinese)	AIPLA Comments (English)	AIPLA Comments (Chinese)
	Article 86 A copyright owner or owner of related rights may apply to the customs for investigation and punishment in respect of the imported or exported articles that are suspected of infringing on his copyright or related rights. The specific measures in this regard shall be specified separately by the State Council.	第八十六条 著作权人和相关权人对进口或者出口涉嫌侵害其著作权或者相关权的物品，可以申请海关查处。具体办法由国务院另行规定。	AIPLA supports establishment of a customs enforcement procedure to address copyright infringement.	AIPLA支持为处理著作权侵权问题建立海关执法程序。
Chapter 8: Supplementary Provisions				
Article 57 The term zhuzuoquan (copyright) as used in this Law means banquan commonly used in the country.A251	Article 87 For the purpose of this Law, the term "zhuzuoquan" (author's right) is synonymous with the term "banquan" (copyright).	第八十七条 本法所称的著作权即版权。	[No comment]	
	Article 88 Restrictions on and exercise of related rights shall be subject to relevant provisions of this Law on copyright.	第八十八条 相关权的限制和行使适用本法中著作权的相关规定。	[No comment]	
	Article 89 The rights of copyright owners and owners of related rights as provided for in this Law shall, if their term of protection as specified in this Law has not yet expired on the date when this Law comes into force, be protected in accordance with this Law.	第八十九条 本法规定的著作权人和相关权人的权利，在本法施行之日尚未超过本法规定的保护期的，依照本法予以保护。	[No comment]	
	Any act of infringement or breach of contract committed prior to the date when this Law comes into force shall be dealt with in accordance with relevant laws, provisions and policies in force at the time when such act was committed.	本法施行前发生的侵权或者违约行为，依照侵权或者违约行为发生时的有关法律、规定和政策处理。	[No comment]	
Article 58 The term publish as used in Article 2 of this Law means reproducing and distributing of a work.				
Article 59 Measures for the protection of computer software and of the right of communication through information network shall be formulated separately by the State Council.				
Article 60 The rights of copyright owners, publishers, performers, producers of sound recordings and video recordings, radio stations and television stations, as provided for in this Law, shall, if the term of their protection specified in this Law has not yet expired on the date this Law goes into effect, be protected in accordance with this Law. Any act of tort or breach of contract committed prior to the date this Law goes into effect shall be dealt with in accordance with the relevant regulations or policies in force at the time when such act was committed.				
Article 61 This Law shall go into effect on June 1, 1991.	Article 90 This Law shall come into force on MM DD, YY.	第九十条 本法自 年 月 日起施行。	[No comment]	
	Appendix: Notes on the Copyright Law of the People's Republic of China (Revised Draft for A4Examination) (omitted)			