

<<中国知识产权>>

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## 内容概要

This book brings a general conception towards copyright in China with a thorough study. As well as providing the necessary context for understanding the law, the author worked systematically through the essential elements of copyright law. A particular attention has been given to the difficulties of conceptualizing liability for infringement of copyright and of relating that crucial, practical aspect of copyright law to the general principles of liability in Chinese law. With the urgency given to compliance by China's international obligations, it is doubtless that readers will find the book both interesting and valuable for an understanding of current Chinese copyright law and its development.

## 作者简介

Mr. Sanqiang Qu is now working at Law School of Beijing University of the PRC. He graduated and obtained his first degree from Beijing University in 1982. Six years later , he got his master degree of law from the same university. He went to Australia as a scholar in 1995 , and obtained Ph , D. in 2000. For more than ten years of educational career in the field of law , his research involves many subjects such as jurisprudence , legal theory , criminal law and intellectual property law. His publications include many books such as Economic Criminology Law , Criminology and several dozens of thesis , essays and book reviews.

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## 章节摘录

An important issue raised by this case concerns whether or not "joint and several liability" should be imposed upon Lianbang. However, this question involves consideration of the original question of whether no-fault liability could be applied to cases of infringement of copyright. In this case, the attitudes of the first instance court and the second instance court with regard to this issue are quite different. According to Article 130 of the GPCL, if an infringement occurred as a result of the acts of more than one person, joint liability would be imposed on all of the responsible parties. The regime of joint liability is an important supplement to the civil law which does not clearly provide whether or not aiding and abetting activities produce civil liability. In theory, the regime of "joint and several liability" is aimed at providing greater protection for the lawful interests of the infringed party. Under this regime, the infringed party may receive compensation from whichever of the infringing parties has the greatest ability to pay the debt. That means the infringed party has a better chance of obtaining compensation. There is no doubt that the application of "joint and several liability" in this context extends the legal basis of copyright protection. On the other hand, "joint and several liability" also extends the scope of liability for infringement of copyright. For this reason, some people argue that the purpose of "joint and several liability" in law is to provide more safety for the infringed party, but that it should not thereby be used to punish the infringing party. The regime of "joint and several liability" must Operate under the requirement of maintaining "social justice and fairness". .....

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