

Copyright Protection of Red Culture: Taking the Red Museum as The Starting Point

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Abstract: Red culture is the general term for the advanced culture formed by the Chinese Communist Party to lead the Chinese people in the process of struggle, and the Red Museum is the main carrier of red culture. However, in the background of the new era, the Red Museum is facing the dilemma of various copyright protection. The reasons can be attributed to the incomplete legislative system, the lack of special red cultural protection law, the corresponding system and mechanism, the two-rail protection system for judicial administration, which makes it difficult to achieve the balance of red culture development and protection. This article is based on the status of copyright protection of the Red Museum, analyzes the specific reasons for infringement, and proposes corresponding response strategies for the problem to help the copyright protection of the Red Museum, thereby promoting the continuous innovation of red culture. Red resources are the most precious spiritual wealth, and red blood is the source of spiritual strength for Chinese Communists in the new era. In order to inherit the red gene, many red museums will create works in their collections for a second time. However, due to the specificity of red culture itself and the influence of the historical background, the copyright protection of red museums is faced with problems such as difficulties in the identification of works, complicated attribution of works' rights, abnormal licensing process of works, blurred boundaries of fair use practice, and single choice of existing remedies. The traditional way of copyright protection has been unable to meet the needs of copyright protection of red museums, so the author puts forward new ideas for the protection of red culture from the perspective of copyright protection of red museums.

Keywords: Red Culture Red Museum Copyright protection.

1. Overview of Red Culture

The party and the country have always attached great importance to the protection of red culture. General Secretary Xi Jinping attaches great importance to the inheritance and promotion of red culture, and clearly proposes that "the use of red resources, inherits the red gene, and passes the red rivers and mountains for generations." The meeting also proposed that it is necessary to resolutely be the inheritor and guardians of the "red root" and magnify new advantages of political construction.

Red culture is an advanced culture formed by the Communist Party of China in the process of leading the Chinese people to compose a magnificent revolutionary history, the hard -working history of struggle, and the history of advocating innovation. The red culture contains glorious revolutionary traditions and great national spirit. It understands the connotation of red culture, which is conducive to enhancing the recognition of red culture, enhancing cultural self -confidence, and better inheriting the red gene. [1]

The Red Museum is the main carrier of red culture, a bridge to inherit the red gene, and is the main place to promote the development of red culture. It shows the revolutionary history and restores the revolutionary history of the party and the people, so that the public can better understand the revolution and thus consciously enhance the ideal and beliefs of patriotism. The Red Museum shows the red culture in a more specific form by showing the revolutionary relics and various historical materials, providing the public to provide the main way to better understand the revolutionary heroic deeds. [2]

2. The Status Quo of Copyright Protection of the Red Museum

Red classic works carries the cultural memory of commons of the whole nation, but the copyright disputes of red cultural works involve complex issues in personal rights and property rights. In the red museum established based on the important events of red history, the copyright issues of red culture works are particularly prominent. Taking the Jinggangshan Revolutionary Museum as an example, the Red Cultural Resources of the Jinggangshan Revolutionary Museum have a high popularity. In the process of dissemination and development, the works, including the promotional videos, were reprinted and released by others. It can be seen that with the prosperity of the derivative market of red culture, the corresponding copyright issues are becoming increasingly prominent. For example, before the development of red cultural works, the original works' rights are not clear, the authorization process is irregular, and the copyright is difficult to defend the rights after infringement. How to grasp the reasonable use when the second creation, how to ensure that the red culture is not distorted, and the copyright ownership of the two works. However, based on the lack of copyright protection awareness of museum managers and the lack of copyright professionals in the museum, the Red Museum may not be able to discern copyright infringement well. When the red cultural works created by the Red Museum are unreasonably used by others, the Red Museum It is also difficult to protect rights.

Compared with the copyright protection in other fields, the protection of the red museum's copyright started late, and lack of special laws and regulations to regulate the copyright protection of the Red Museum. At present, the available laws

are based on the Copyright Law of the People's Republic of China, the Museum Administrative Measures, and the "Regulations on the Museum of the People's Republic of China". The "Museum Administrative Measures" and the "Regulations on the People's Republic of China" involve a broad range, and lack targeted in the copyright protection of the Red Museum. [3] At present, the documents related to the protection of the museum are only the copyright work guidelines issued by the Shenzhen Copyright Association. It solves some of the problems facing museum's copyright protection and has a certain reference effect, but it still has lack of systematic aspects. It can be seen that although my country has gradually realized the importance of the copyright protection of the museum, the relevant work still needs to be further improved. The relevant laws and regulations that have been introduced are scatter and lack of target. Therefore, it is urgent to establish a legal system that meets the status of the museum's copyright protection. According to the above, there are currently lack of special protection for the copyright of the museum in my country. Then, the copyright protection of the Red Museum is in a blank state.

For a long time, the Copyright Management Office of the Propaganda Department of the Jiangxi Provincial Party Committee attaches great importance to the copyright protection of red culture, and uses practical actions to solve "how to use live, use the resources of red culture, protect red copyright, and help use of the resources of red culture to be used more standardized and reasonable." One subject. Jiangxi Provincial Copyright Bureau vigorously promotes the protection of red culture copyright and enhances the public's awareness of copyright protection of red cultural works; deeply dig the potential for the development of red cultural resources copyright development, and encourage the Red Museum to actively register the work; give full play to the role of "Jiangxi copyright cloud", continue to promote the transformation of copyright resources of the Red Museum. However, Jiangxi Provincial Copyright Management Department's support for copyright protection of the Red Museum is not enough. It should also improve the corresponding regulations and give the Red Museum to support the Red Museum in terms of confirmation, authorization, and rights protection.

In the information age, the Red Museum is in line with the trend of development and develops digital development and construction of the resources of red culture. In this process, there are many copyright protection dilemmas. For example, the copyright issues facing the digital construction of the Red Museum are mainly manifested in the collection of difficulties and obstacles to the communication. [4] During the construction process, due to copyright issues, data collection is restricted by copyright, allowing resource sharing to take great infringement risks. It can be seen that in the era of digitalization, the traditional copyright protection model can no longer effectively solve the problem. In addition, many red museums will use technology to spread red culture. The new media platform operation method is simple. Users do not need to use special skills when using the new media platform, and are not limited by complex processes. In addition, there are a large number of red museums applying for the new media platform account. There are naturally many red cultural works released on the new media platform. In this way, users have more ways and opportunities to contact such red cultural works. Under the circumstances of the museum's authorization, the articles published by the Red Museum on

the public account may cause infringement. It can be seen that in the process of using the new media platform to spread red culture, the threshold for copyright infringement is very low. The existence of issues such as the difficulty of confirming the right to the right, the apathy of the interest distribution, and the difficulty of defending the right to protect rights also makes the redemption protection of the red museum facing huge challenges.

3. The Problem of Copyright Protection of The Red Museum Exists

First, the rights of red culture works are complex, and the identification of new red cultural works is difficult.

Due to time, attributes, types, sources and other aspects, the existence of rights of red cultural works is blurred. In terms of time, the red cultural works that have expired during the protection period will automatically enter the public domain. At this time, the copyright disappears, and there is no copyright at all. At this time, no subject requires authorization, and it can be carried out on this basis, but the second creation of such works must not infringe on the personal rights of the copyright of others. For example, when the revolutionary figure portrait, sculpture and other characters expired in the protection period are based on the second creation of characters, pay attention to protecting the personal rights of the revolutionary characters, portraits and other personal rights, and pay attention to the image of the hero. If the author of red cultural works is still alive or died less than 50 years, his copyright is still in the period of legal protection according to the law. Even if the original author dies, the work is still during the protection period. If there is no special agreement, the property rights in the copyright are inherited by their heirs. In addition, there is a special type of special work- "no-owned works". [5] The masterless work refers to the work of the author's identity or after diligent search. Construction with institutional construction, which made the author clear whether his work was during the protection period, and then it was not determined whether it was the original author. Essence In terms of attributes, because some red works are displayed in the Red Museum, this makes the Red Museum have some rights of property rights, but it does not mean that they have the right to copyright in red works. The distinction makes the Red Museum aware of the right to the rights of the work. In terms of type, red works can generally be divided into personal works, legal person works, and job works, and work works include general job works and special job works. [6] According to the relevant provisions of the Copyright Law of my country, the works created by natural persons to complete the work of the legal person or the organization of the illegal person generally constitute a job. The work created by the "material technical conditions" provided by legal persons or illegal organizations is special jobs. In practical work, the original defendant will encounter the case of whether the work is the work or the controversial case of the work of the work or the personal work. In terms of sources, the acquisition of collections is divided into two types: original and successful. For the original works obtained by the Red Museum, copyright ownership is generally relatively clear. However, for the works that have been obtained, if the Red Museum does not sign a copy of the copyright, it will not be able to carry out subsequent development, because its copyright is still attributed to the original right holder.

Modern society is changing with each passing day, and new technologies are developing in full swing. In order to meet the requirements of the intelligent development of social digitalization and intelligence, the Red Museum will also carry out corresponding innovative development and transformation. However, there is a hidden legal hazard during the development process. For example, can the NFT (digital collection) created by the Red Museum in practice can be identified as the problem of the work, that is, the issue of its copyright attribute. [7] Some NFTs are original, but they are limited by NFT one of the typical eight types of works of the "Copyright Law of the People's Republic of China", and in the specific examples The nine items of the bottom of the pockets are "other intellectual results that meet the characteristics of the work" to identify NFT as the work. Therefore, how to identify the nature of the new work has become the problem of the red museum in the process of transformation and development in the new era. On the other hand, there are many red museums to build a VR exhibition hall, so whether the VR exhibition hall constitutes a work also has difficulty in determining. When designing the VR virtual exhibition hall, the Red Memory Pavilion will pursue artistry and require a certain degree of originality. This requires the author to have a unique awareness of the design of the VR exhibition hall itself, rather than simply copying the collections and the exhibition hall, from reality to virtual. For example, the placement of the location of a certain collection requires the author's individual choice, combined with objective environmental design such as light, and conducts multi -faceted arrangements, thereby reflecting the author's unique choice and creation, and reflecting the originality of the VR exhibition hall. Therefore, in actual operation, how to determine whether such VR and other works constitute a work need to be considered in combination with its originality.

Second, the authorized process of the Red Museum is lost, and the authorization and development of red cultural works.

In a series of development activities such as the Red Museum, the red museum may only take into account the specific form of development and the needs of tourists' preferences. Original copyright owner have submitted an authorization application to negotiate on the premise of respecting the wishes of the original copyright owner, and make an agreement on the methods and forms of usage. However, there is no shortage of authorization processes in practice. Generally speaking, the complete authorization process includes an authorized application to the original copyright owner, and the specific content of the license contract is agreed to authorize the license contract, such as authorization forms, content, time, etc., authorization management and supervision. However, in specific practice, there are often problems with the disorders of authorization. It is mainly reflected in the Red Museum that ignores some steps in the process of obtaining the authorization or operates irregular operations in the process of specific implementation.

Proper development is undoubtedly beneficial for spreading red culture and effective use of red resources. However, the balance of balance and development of appropriate authorization and development will breed many hidden dangers. In the development and operation of the Red Museum, there may be a wrong concept of disposal of collections at randomly with the ownership of the collection, such as the development of collections at will. From the perspective of development, whether it is self -development,

cooperative development, or commissioned development, as long as the Red Museum has not obtained the copyright of the work and the permission is permitted by the authorized person, the behavior of its development works is illegal. Red works carry the spirit of red. The red spirit is a strong spiritual force that inspires and inspires the Chinese people to continuously overcome difficulties and move forward. It is a common spiritual world shaped by the Chinese people. Some of the cases of development and use of excessive use of the red spirit and distortion of red images are endless. For example, the large chorus vocal set "The Yellow River Chorus" was compiled and changed to the lyrics and made an exaggerated hilarious video; Dong Cunrui's brave deeds were spoofed in the post bar ... Red works carry the red spirit, the red spirit is encouraging and motivated the strong spiritual forces of the Chinese people to overcome difficulties and move forward are the common spiritual world created by the Chinese people. The excessive development of the value orientation of the characteristics of Chinese characteristics in the new era is not only an insult to heroes, but also a harm to national emotions, and is also a kind of trampling on those difficult years. The popularity of spoof has begun to have serious impacts on "red classic works" and excellent traditional culture. Seriously affect the customs of society and the spread of civilization. It has a strong hindrance to the improvement of people's consciousness. Copyright Law, as the law of maintaining the author's personal rights as the main content, is also contrary to the spirit of the copyright law. [8]

Third, reasonable use of the boundary is blurred, the existing relief methods are single.

In practice, the infringement cases of the Red Museum are always endless. However, when the infringer is sued, it is often defense based on its own use. The so -called "reasonable use" means the copyright owner agrees to use the behavior of the works published by others for free. my country has made clear provisions on the specific content of "reasonable use", which is limited to the 13 cases stipulated in Article 24 of the Copyright Law of the People's Republic of China. The author can find that the reason why "reasonable use" is abused is mainly because the public's understanding of "reasonable use" has misunderstandings. Volkswagen may have the following misunderstandings through a shallow understanding: as long as the copyright owner is indicated, the method of use is automatically attributed to reasonable use; if the exemption statement is issued, it is reasonable to use; "entertainment" or "non -profitability" or "non -profitability" "The use of use is automatically used as reasonable use; adding its own original information to other people's works, which should be used reasonably. But in fact, "reasonable use" is not as understanding by the public. It is to balance the public interests of the public and the exclusive rights of the copyright owner. Terms created by social and cultural prosperity.

The author also found that the parties in tort cases generally choose private remedies such as reconciliation, but often ignore the judicial administration and other public remedies. However, since reconciliation does not strictly adhere to legal rules, it leads to a lack of confidence in the fairness and legality of reconciliation, and the lack of effectiveness of the settlement agreements. So what are the advantages of public remedy when it is infringed? Judicial remedies should be tried in strict accordance with legal procedures to ensure the relative fairness of the case trial. In the specific

implementation, judicial remedies should be guaranteed by the national coercive force, and their judgments are final, which can avoid the repeated delay of the settlement agreement in the process of rights protection. For administrative remedies, the cost is low and the cycle is usually short, which is a relatively convenient and quick remedy. Moreover, it has initiative. Relevant departments can deal with the applications of the right holders and interested parties, and can take the initiative to restore the right holders' rights in time.

4. Copyright Protection Measures for the Red Museum

In the first aspect, propose legislative suggestions and explore new types of countermeasures.

Red culture is an important civilized achievement. The protection of red culture is becoming increasingly important, but the types of red resources in the red museum are complicated. The ownership issues are complex and diverse, and the ownership of the works is different, which leads to the incidence of confirmation. If the problem of confirmation cannot be resolved, there will be upstream problems whether it is the subsequent authorization transaction of the Red collection works or the rights protection after infringement disputes. Therefore, the author believes that it should be grasped from the source, starting from the top-level design, the corresponding modification or formulation of laws and regulations in related fields to help relevant red cultural works achieve accurate power. Specifically, the author proposes to modify the contents of the confirmation of art in the "People's Republic of China" in the "Regulations on the People's Republic of China". And it is recommended to formulate national administrative regulations on the protection of the copyright protection of the Red Museum.

In the new era of the rapid development of the Internet, the Red Museum is also facing the needs of digital intelligence transformation. Some digital publications have emerged, such as new works such as digital collections (NFT) of the Red Museum. But these emerging digital publishing products are facing huge risks. Internet provides the most convenient way to plagiarize information because most information is available at your fingertips. The author, copyright owner, and the number of publishing products of digital publishing products cannot be effectively verified, and the issue of ownership is difficult to confirm. How to protect digital publishing products and determine its copyright owner has become the top priority in the system formulation. In this context, first of all, the judicial organs should expand the issuance rights in the Copyright Law of the People's Republic of China to control the sale and resale of the NFT digital works cast without authorization. Meanwhile, smart contracts that arbitrarily prohibit resale are subject to the one-time-exhaustion principle. Secondly, the government needs to issue policies to build rules for blockchain protection of digital copyright, and legislate to implement the pre-examination and real-name authentication obligations of NFT platform, so as to promote the resolution of the problem of confirming the rights of copyright owners of new works. With the support of the new technology, the government can improve the information release mechanism and build an online integrated service and supervision platform around the mode of "blockchain + copyright", so as to facilitate the registration of works and correct the wrong information on the chain. Finally,

the government can also strengthen the training of computer talents to support the mode of "blockchain + copyright" works.

In the second aspect, the reform model of the "three powers" management model of the Red Museum and the internal and external institutional mechanism reforms

In the specific development and operation of the Red Museum, the cognition of the ownership and copyright cognition of the collection will often occur, which will cause the Red Museum to have a cognitive identity dislocation of the copyright authorization development of the Red Museum. Therefore, it is necessary to separate the three rights of asset ownership, collections, and open operating rights of the Red Museum to promote the adjustment of the red cultural ownership system, so that the red museum clarifies specific rights to belong to Authorization and other behaviors. In addition, the Red Museum has improved the confirmation of the collection, improved the work mechanism of red cultural relics transfer, and launched special activities for red cultural relics transfer in a timely manner, and encouraged the public to donate red cultural collections and high-quality works to the Red Museum for free, in order to make full use of the copyright resources of private cultural relics. For the right of development and operation, we can promote the market-oriented reform of non-basic public services of Red Museum, introduce social forces to participate in copyright operation, and promote the publicity and development of Red Museum.

The institutional reform of museums can be divided into internal reform and external reform. First of all, in the corporate governance structure reform. The Red Museum can set up a corporate governance structure such as a copyright council composed of the staff of the Red Museum, the competent authorities and the objects of service, so as to seek all-round and three-dimensional protection of the copyright of red cultural works, so as to better promote the separation of the ownership of assets, the ownership of collections and the right of open operation. The Copyright Council can jointly make decisions on the copyright business of Red museum and develop the copyright business from multiple subjects and perspectives. The staff of Red Museum will put forward suggestions from the core values and cultural connotations of red cultural works, and the competent authorities of Red Museum will discuss the copyright authorization and rights protection of red cultural works. The service groups put forward the communication and presentation ways of red culture works that they like, as well as suggestions on the innovation of red culture works. Secondly, the author should innovate and optimize the internal operating mechanism of Red Museum. Red Museum should set up a copyright management and application department and recruit intellectual property professionals. Promote the transformation of creative achievements in the museum, form a new income distribution model, and explore a new income distribution model with the practice model of "pilot first, then promote". Formulate supporting policies of scientific and technological innovation for staff, so as to encourage staff of Red Museum to participate in cultural and creative activities, promote the emergence of high-quality works, and encourage staff to actively participate in the open operation process of collections.

In the third aspect, improve the judicial protection mechanism, and build the commissioned commissioner's adjustment system

China is a country of parallel protection of administrative

law enforcement and judicial law enforcement. The dual-track protection system has its unique advantages. The administrative law enforcement is relatively flexible and active, which can quickly stop general illegal acts. The judicial law enforcement punishment is strong, which can effectively crack down on criminal acts and enhance the role of shock and awe. Judicial protection is the last line of defense to regulate copyright infringement and relieve the legitimate rights and interests of the right holder, and it is a crucial link in the implementation of the whole chain protection of red culture copyright. To improve the judicial protection mechanism, we should improve the judicial protection system of red copyright and enhance the judicial protection ability of red copyright. First of all, the judicial organs should improve the organization of IPR adjudication, optimize the layout of judicial organs, improve the appellate hearing mechanism, and further promote the reform of the "three-in-one" adjudication mechanism for civil, criminal and administrative IPR cases. At the same time, the judicial organs should establish and improve the case jurisdiction system and coordination mechanism which are compatible with the trial and procuratorial mechanisms. China has promoted the establishment of a trans-administrative mechanism for hearing intellectual property cases, given full play to the role of the court case designation mechanism, and broken down local protection barriers. The procuratorate should improve the corresponding intellectual property procuratorial system and mechanism. Secondly, improve the judicial protection of red culture copyright litigation norms, formulate litigation norms in line with the law of red culture copyright cases, unified application standards. Finally, the judicial authorities should unify the judicial adjudication standards and the application of laws on intellectual property, so as to protect the red culture and stimulate the vitality of innovation to a greater extent. For double track at the other end of administrative protection, to build a good administrative coordination system. First of all, unified and coordinated law enforcement standards of red culture should be established, and the construction of guidance system for intellectual property administrative law enforcement should be strengthened. Secondly, we should build a red culture copyright administrative law enforcement and supervision platform to improve the traditional law enforcement and supervision mode. And the administrative organs should improve the red culture copyright across regions and departments

For the other end of the dual-track system, which is the administrative protection, the administrative coordination system must be established. First of all, we must establish a unified and coordinated red cultural law enforcement standards and strengthen the construction of the administrative law enforcement guidance system of intellectual property rights. Secondly, it is necessary to build a platform for administrative law enforcement supervision of

red cultural copyright and improve the traditional law enforcement supervision model. In addition, administrative organs should improve the cross-regional and cross-department law enforcement and protection cooperation mechanism. Strengthen the construction of the red culture copyright administrative law enforcement team, the staffing of administrative law enforcement personnel and the professional and professional construction, optimize the talent selection and recruitment mechanism and management incentive mechanism, and build a high-quality and compound talent team for the protection of red culture copyright.

5. Conclusion

Red culture is the general term for the advanced culture of the Chinese people's leading the Chinese people. The Red Museum is an important carrier to inherit the red culture. Relying on the rich exhibition methods of the Red Museum can better promote red culture. However, a series of copyright protection dilemmas faced by the Red Museum in the development process. Based on this, the author analyzes the red museum in the premise of understanding the status of the red museum's copyright protection. A series of issues such as defending rights. And explore the response strategies from the perspective of system adjustment, system adaptation, and landing practice, so as to form a comprehensive copyright protection system for red museums to help the Red Museum better adapt to the development trend of the times and inherit the better inheritance Red gene.

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