

# Apology as Remedy under Chinese Copyright Law

Chen Ruwen, He Huaiwen

“Apology” is a special remedy under the Civil Law of China and seldom used in other countries. It can be found in Article 138 of General Principles of the Civil Law, as well as Article 15 of the Tort Liability Law. In the field of Intellectual Property, “apology”, as stipulated in Articles 47 and 48 of the Chinese Copyright Law (hereinafter referred to as CCL), is a common remedy for infringement of moral rights. So far, however, there is no systematic legal study in this respect. This paper ventures to depict apology as a remedy under the CCL, relying primarily on case study.

## I. “Apology” is not applicable to infringement of economic rights

Articles 47 and 48 of the CCL provide that anyone who commits copyright infringement act shall bear civil liabilities, including “apology”. Apology is a legal remedy exclusively used when the moral rights of an author was infringed, to relieve substantial mental anguish so suffered from the infringement. For instance, in *Liu Bokui v. Li Xia et al.*, the defendant is sued for infringing on the plaintiff’s right of modification, as specified in Art.10 CCL. The court reasoned:<sup>1</sup>

Apology is applicable when infringing acts result in depreciating of the author’s social evaluation and render him feel humiliated, so as to remedy his psychological suffering in hope of resumption of his self-evaluation and dignity.

Apology is not applicable to infringement of economic rights. For instance, in *China Friendship Publishing Company v. Zhejiang Taobao Network Co, Ltd., et al.*, the court of second instance held:<sup>2</sup>

Chinese Friendship Publishing Company (CFPC) claimed in the trial that Yang Hailin should publish an apology in newspaper for eliminating prejudicial effects coming from the infringement. Because CFPC enjoyed exclusive right to publish the book at issue but

had no moral right in the book, and there is no proof that Yan Hailin’s infringing act of selling the book has harmed CFPC’s reputation, the claim is legally groundless and must not be allowed.

In particular, a copyright collective management organization can only manage economic rights. It may file a lawsuit against copyright infringement in its own name, but has no right to ask the infringer to make an apology to it.<sup>3</sup>

## II. Apology as a remedy is personal

Apology, as a remedy, is personal, i.e., only the infringer may be required to make an apology to the natural author of a work for infringement of the moral rights in the work. For instance, in *China Unicom v. Hua et al.*, the court of second instance held:<sup>4</sup>

Apology is a remedy when moral rights are harmed. The infringer should make an apology to the right holder orally or in writing to repair his mental distress in hope of resumption of self-evaluation and dignity. This remedy must be conducted by qualified person and toward qualified person, being none alienable.

First, only the natural author of a work may be an object toward which an apology is made because only a natural person may suffer “mental distress”. Where a legal person is deemed as the author according to Art.11 CCL and the moral rights in the work is infringed, “elimination of prejudicial effects”, rather than apology, should be applied. For instance, in *Shanghai Lerong Industrial Co., Ltd. v. German Electrostar*, the court of final instance held that apology is a remedy for a right holder whose moral rights in the disputed work are infringed and that elimination of prejudicial effects is suited when a legal person’s reputation is harmed.<sup>5</sup>

Secondly, an apology may only be conducted toward the living author of a work. The author himself enjoys real moral interests in his work, and the moral rights therein may

not be inherited. If the author is dead, his moral rights should be “protected” under Rule 15 of the Implementing Regulations of the Copyright Law, which reads “after the death of an author, the right of attribution, the right of revision and the right of integrity in his work shall be protected by his successor or legatee. If there is neither a successor nor a legatee, these rights shall be protected by the copyright administration.” Because the successor does not own the moral rights, there are legal limitations on his enforcement of the moral right on behalf of the dead author, both in respect of filing complaint and remedy. For instance, in *Harridan Wupur et al. v. Xinjiang Luobin Culture and Arts Development Co., Ltd.*, the High People’s Court of Xinjiang Uyghur Autonomous Region held:<sup>6</sup>

[According to] Rule 15 of the Implementing Regulations of the Copyright Law … the successor may only enforce the right of attribution, revision and integrity in a work only when these rights are infringed after the natural author is dead.

And where the moral rights are infringed after the author is dead, apology is no longer good as a remedy. For instance, in *China Unicom v. Hua et al.*, the court of second instance held:<sup>7</sup>

Infringed moral rights in the present case are right of attribution and revision exclusively owned by the author. After his death, his successor shall not inherit them, but may only protect them. The author of the work in the present case has passed away, and thus no apology can be made toward him. The infringement of the right of attribution and revision will not do harm to the Appellee’s personality or mentality. It is inappropriate to order the appellant to apologize to the Appellee…

The successor, however, may demand the one who infringes the moral rights of the dead author to “eliminate prejudicial effects”. Moreover, he can also demand the infringer to pay damages for his own emotional distress suffered from the infringement of the moral rights of the dead author. Article 24 of Guiding Opinions of Beijing Higher People’s Court on Assessing Damages for Copyright Infringement provides that

Where the owner of copyright or of performer’s right is dead, his close relatives claim damages for his mental distress from infringement of moral rights of the dead author or performer, the claim should be allowed. Some court even held that the successor may demand

the infringer of moral rights of the dead author to compensate for his economic losses. In *Du Ping et al. v. Zhao Jingbo*, the High Court of Yunnan Province ruled:<sup>8</sup>

Remedies for infringement of moral rights are not limited to apologies. Damages are also applicable. The right of attribution is a moral right enjoyed solely by the author. When the author is dead, his successor may protect it on behalf of the author. In the present case, the infringer cannot apologize to the author, and the infringement of the right of attribution will not do any harm to the appellee’s personality or mentality. Therefore, it is improper to order the defendant to make apology toward the plaintiff who is the successor to the author whose moral rights were infringed; and the plaintiff should be awarded damages instead.

Apology as a remedy for infringement of moral rights is personal also in the sense that only the infringer shall conduct it. As a non-monetary liability, apology is not alienable. If the wrongdoer as a natural person is dead, or as a legal person is cancelled, “apology” may not transferred to his or its successor along with other liabilities. For instance, in *Xie Jianbo v. Xiamen International Conference & Exhibition Xincheng Investment and Construction Co., Ltd., et al.*, the Conference & Exhibition Development Company infringed the moral rights and economic rights in the disputed work. Thereinafter, the company was cancelled and all its liabilities were succeeded by the Conference & Exhibition Company. The High Court of Fujian Province held that the Conference & Exhibition Company, which only succeeded the liabilities of the infringer, did not infringe the right of attribution in the disputed work and thus was not liable to make an apology to the plaintiff, as “apology” being personal in nature.<sup>9</sup>

### III. “Apology” is applicable when the infringer was at fault

Apology is applicable only when the infringer was at fault. For instance, in *Li Jiahong v. Guangxi People Publishing House*, the defendant, knowing that the author was Li Jiahong, published the disputed book with “hong” misprinted as “hung”. The court ordered the defendant to make an apology to the plaintiff for its intentional wrongdoing.<sup>10</sup>

If the defendant did not infringe the right of attribution on purpose, the court normally will not order an apology. For instance, in *Li Jianchen v. Trade Times Newspaper*, the plaintiff Li Jianchen is one of the copyright holders of a film script

Blood Shed on Kunlun Pass. The defendant Trade Times Newspaper, when publishing a film synopsis, failed to credit “Li Jianchen”, and did not attribute Wang Yuntian as the “chief screenwriter”. The plaintiff requested the court to order the defendant to clarify the facts and make apologies in Trade Times Newspaper. While finding infringement of the right of attribution, the court did not order an apology. The court pointed out that “the defendant did not commit the infringement on purpose, and took corrective measures when the plaintiff raised objection...”<sup>11</sup>

When the infringement of moral rights (right of attribution in particular) was done by negligence, the infringer should not be held liable for making apology. For example, in *Tan Xiaojing v. Wangfujing Branch of Beijing Xinhua Bookstore et al.*, Tan Xiaojing authored the well-known poem *The Silence of Vadjra Guru Pema* (also known as *See Me or Not*) and posted it on her own blog. Zhuhai Publishing House published a book named *The Day, The Month and The Year*, which includes this poem without permission and mistakenly attributed it to “Tsangyang Gyatso”. The court held:<sup>12</sup>

In view that the publications in association with Tsangyang Gyatso and his works are numerous and disputed, and some magazines like *Readers* mistakenly attributed the poem at issue to Tsangyang Gyatso, there was an objective reason for the wrong attribution of the poem *See Me or Not* in the book at issue to Tsangyang Gyatso, which can hardly be avoided by the defendant. The plaintiff’s claim that the defendant Zhuhai Publishing House shall make an apology..... should not be allowed.

When moral rights are infringed for historical circumstances, courts would appreciate the relevant circumstances. There was no copyright law when China was dominated by planned economy. It was not until 1 June 1991 that the current Chinese Copyright Law came into effect. This law protects not only works completed thereafter, but also works completed before the date which are still within the statutory protection period as specified in the law (hereinafter referred to as “prior works”). When evaluating disputes over prior works, courts respect the practices when the work was authored in the time of no copyright law. For instance, in *Ren Xudong v. Fu Gengchen et al.*, Ren Xudong and Fu Gengchen jointly wrote the lyrics for the song *Tunnel War* for the movie *Tunnel War*. Their names, however, did not appear on the movie script. On appeal, Ren Xudong claimed that Fu Gengchen should make a public apology for in-

fringement of his right of attribution. The court of second instance held:<sup>13</sup>

Fu Gengchen attributed himself as the sole lyricist for the song *Tunnel War*. Though his act did harm the right of attribution of Ren Xudong, he should not be liable for infringement as he was not at fault. The attribution resulted from then circumstances and was not caused by his individual act..... Thus, Ren Xudong’s claim for public apology should not be allowed.

#### IV. Conflating apology with elimination of prejudicial effects

Elimination of prejudicial effects is a remedy applicable to infringement of moral rights. While apology includes private written apology and public apology, elimination of prejudicial effects is certainly a public act.<sup>14</sup> Different from apology, elimination of prejudicial effects depends not upon fault.<sup>15</sup> Elimination of prejudicial effects includes not only publishing correction statement, but also correcting infringing situation, for instance, correcting the authorship and the title of the disputed sculpture which was misattributed and misnamed.<sup>16</sup> In addition, elimination of prejudicial effects is also applicable to infringement of economic rights and neighbouring rights. For instance, in *Hainan Publishing House Co., Ltd. v. Jilin Fine Arts Press*, the Supreme People’s Court held that “elimination of prejudicial effects, as a civil remedy, is applicable not only to infringement of moral rights, and thus it is not improper for the trial court to order Hainan Publishing House Co., Ltd. to eliminate prejudicial effects flowing from its infringing act.”<sup>17</sup>

Moreover, elimination of prejudicial effects is applicable where a legal person’s good will is suffered from copyright infringement. For instance, in *Shanghai Lerong Industrial Co., Ltd. v. German Electrostar*, the court held that “apology is a remedy for a right holder whose moral rights are violated. Elimination of prejudicial effects is suited when a legal person’s reputation is harmed”.<sup>18</sup>

In practice, Chinese courts often conflate “apology” with “elimination of prejudicial effects”, being consciously or unconsciously.<sup>19</sup> No matter in the name of “apology” or “elimination of prejudicial effects”, courts formulate the remedy proportional to the infringing circumstances and the consequences.<sup>20</sup> In framing apology, courts usually weigh whether the infringing act distorts the work, damages the author’s moral interests, and harms the copyright holder’s

good well,<sup>21</sup> and whether the infringing act adversely affects public interests.<sup>22</sup> For instance, in *Kong Kaijie v. Zhejiang Pan-Asia Electrical Commerce Co., Ltd. et al.*, the court held that “the scope of apology for copyright infringement should be formulated in accordance to the scope of the infringing act. Given that the song Prefer to Die rather than to Sell Stocks was circulated through the defendant’s website for a long time and in a wide range, the defendants shall make a public apology on the website so as to eliminate the prejudicial effects coming from the infringement.”<sup>23</sup>

“Apology” and “elimination of prejudicial effects” are often mixed up. On the one hand, some courts denied “elimination of prejudicial effects” on the grounds that “apology” is sufficient to eliminate possible prejudicial effects from the infringement.<sup>24</sup> On the other hand, some court ruled that the defendant should “make an apology” in order to “eliminate prejudicial effects”. For instance, in *China Academic e-Journal Publishing House v. Zhao Pingping et al.*, the court of final instance held:<sup>25</sup>

The defendant has sold copyrighted theses for several months, which was well known in adolescent students. This infringing acts corrupted scholarship and academic pursuit. Accordingly, the defendant should make a written apology within a certain scope to eliminate the prejudicial effects from the infringing act.

For another instance, in *Tan Yuqing v. Beijing Bright Network Science & Tech. Centre et al.*,<sup>26</sup> the defendant infringed the plaintiff’s right of attribution and of revision. The court ordered that:

The defendant Bright Daily shall publish a Statement in Life Times within 30 days from the effective date of this judgment so as to eliminate the prejudicial effects caused by its infringing acts and apologize publicly to the plaintiff Tan Yuqing. The content of the Statement shall be approved by this court. If the defendant defaults, the court will publish this judgment at the expense of the defendant.

There are also cases where “apology” and “elimination of prejudicial effects” go hand in hand. For instance, in *Chen Peisi and Zhu Shimao v. Hubei Yangtze River Audiovisual Press et al.*, the court decided:<sup>27</sup>

The defendants, Hubei Yangtze River Audiovisual Press and Guangdong Zhongkai Cultural Development Co., Ltd., shall publish a Statement in China TV Newspaper and Wenhui Newspaper to apologize to the two plaintiffs and eliminate prejudicial effects from

the infringement within 30 days from the effective date of this judgment (the content of the statement is subject to this court’s approval).

Even where the judgment distinguishes apology from elimination of prejudicial effects, the coercive measures upon the defendant’s defaulting are the same. For instance, in *Jin Weijiu v. Li Yanxiu*, the Second Intermediate Court of Beijing City decided:<sup>28</sup>

Within 30 days after the entry of this judgment, Li Yanxiu shall publish a Statement in Chinese Newspaper of Calligraphy and Painting to correct the wrong attribution of the two works in the book Hundred Questions about Fine Arts: Head Portrait Sketch. The content of the Statement must be approved by the court. If Li Yanxiu defaults, the court shall publish the main content of this judgement in a national newspaper at the expense of Li Yanxiu. ... Within 10 days after the entry of this judgement, Li Yanxiu shall apologize in writing to Jin Weijiu (the content of the apology shall be reviewed by the court. If Li Yanxiu defaults, the court shall publish the main content of this judgement in a national newspaper at the expense of Li Yanxiu.)

Consequently, when the defendant defaults, the court will take the same measure, i.e., publish the judgment at the expense of the defendant. Basically, being apology or elimination of prejudicial effects, they are remedies which require the defendant to acknowledge his infringing acts publicly.

When performing “apology”, the defendant is only required to admit his infringing acts with no need to present his regret and repentance for what he has done. For instance, in *He Mingfang v. Nanjing Danny Clothing Co.*, the defendant made an apology in Naijing Daily on 1 December 2000, stating that “Nanjing Danny Clothing Co. makes a special apology to He Mingfang for its logo infringed her copyright.” For another example, Hangzhou Sierli Dress Co., Ltd. made a formal apology in Hangzhou Daily on 26 July 2008, stating that

Owing to mistakes by the employee, this company published advertisements and products manuals incorporating jacket pictures which infringed Ailaiyi Company’s copyright. This Statement is published in order to apologize and eliminate possible prejudicial effects from the infringement.

Even where the court reviews the defendant’s Statement of Apology, it only pays attention to the infringing acts and

does not require the defendant to acknowledge his wilfulness in the infringement. For instance, in *Li Xiangyun v. Reader Newspaper Office*, Reader Newspaper republished an article without crediting the author, mentioning its title, the newspaper and the date of its original publication. The court found that the defendant infringed the right of attribution belonging to Li Xiangyun. When reviewing the statement to be published in the Reader Newspaper as the required “apology” for the infringement, the court only pointed out that the statement “fails to include apology to Li Yunxiang from the perspective of infringement of the right of attribution and thus cannot eliminate the prejudicial effects of the infringement upon Li Xiangyun.”<sup>29</sup>

To conclude, with elimination of prejudicial effects being a proper remedy for infringement of moral rights, apology should be removed for it is essentially a moral liability.<sup>30</sup> Apology *per se* and enforcement thereof may go against a person's basic freedom.<sup>31</sup> Apology makes sense only when the party concerned intends to apologize on his own initiative,<sup>32</sup> and does feel repentant from the bottom of his heart. Apology cannot be enforced. Otherwise, it is reduced to a “show”. The fact that courts conflate “apology” with “elimination of prejudicial effects” betrays that “apology” is a moral duty rather than a legal one. ■

The authors: Chen Ruwen, postgraduate of 2013 with Guanghua law school of Zhejiang University;  
He Huaiwen, associate professor with Guanghua law school of Zhejiang University

<sup>1</sup> The Shanghai No. 2 Intermediate People's Court's Civil Judgment No. Huerzhongminwu(zhi)chuzi 115/2013. Reference can be made to similar cases such as the Anhui Higher People's Court's Civil Judgment No. Wanminsanzhongzi 0014/2009, one of typical 50 cases of Judicial Protection for IP rights of 2009 released by the Supreme People's Court; an appellate case of disputes over copyright infringement between Bright Daily Office and Huo Ronghui, the Beijing Higher People's Court's Civil Judgment No. Gaominzhongzi 188/2006; National Stadium Co., Ltd. v. Panda Fireworks Group Co., Ltd. and Liuyang City Panda Fireworks Co., Ltd., a case of disputes over copyright infringement of construction works, the Beijing No. 1 Intermediate People's Court's Civil Judgment No. Yizhongminchuzi 4476/2009, one of typical 50 cases of Judicial Protection for IP rights of 2011 released by the Supreme People's Court.

<sup>2</sup> The Beijing No. 2 Intermediate People's Court's Civil Judgment No. Erzhongminzhongzi 15423/2009, one of typical 50 cases of Judicial

Protection for IP rights of 2009 released by the Supreme People's Court. Reference can be made to similar cases such as Jingdezhen Franz Industrial Co., Ltd. v. Chaozhou Jialande Procelain Co., Ltd., an appellate case of disputes over copyright infringement, Fujian Province Higher People's Court's Civil Judgment No. Minsanzhongzi 15/2011, one of typical 50 cases of Judicial Protection for IP rights of 2013 released by the Supreme People's Court.; Beijing Hanyi Keyin Information Technology Co., Ltd. v. Prince Frog (CHINA) Daily Chemicals Co., Ltd. et al., an appellate case of disputes over copyright infringement, Jiangsu Province Higher People's Court Civil Judgment No. Suzhiminzhongzi 0161/2012, one of typical 50 cases of Judicial Protection for IP rights of 2013 released by the Supreme People's Court.

<sup>3</sup> See, for instance, the Beijing No. 1 Intermediate People's Court's Civil Judgment No. Yizhongminchuzi 2336/2003, in relation to a case of disputes over copyright infringement between Music Copyright Society of China and Beijing Book Building Co., Ltd. et al.

<sup>4</sup> The Shanghai No. 1 Intermediate People's Court's Civil Judgment No. Huyizhongminwu(zhi) zhongzi 51/2013.

<sup>5</sup> The Shanghai No. 1 Intermediate People's Court's Civil Judgment No. Huyizhongminwu(zhi) zhongzi 89/ 2011.

<sup>6</sup> The Xinjiang Uyghur Autonomous Region Higher People's Court's Civil Judgment No. Xinminsanzhongzi 2/2005.

<sup>7</sup> The Shanghai No. 1 Intermediate People's Court's Civil Judgment No. Huyizhongminwu(zhi) zhongzi 51/2013. Reference can be made to similar cases, such as, a case of disputes over copyright infringement between Zhou Chuankang, Zhang Jinyuan et al. and Zhejiang Dramatists Association, Hangzhou Intermediate People's Court's Civil Judgment No. zhekangzhichuzi 967/2011, one of typical 50 cases of Judicial Protection for IP rights of 2013 released by the Supreme People's Court.

<sup>8</sup> The Yunnan Higher People's Court's Civil Judgment No. Yungaomin-sanzhongzi 116/2013.

<sup>9</sup> The Fujian Higher People's Court's Civil Judgment No. Minzhizhongzi 8/ 1999.

<sup>10</sup> Li Jiahong v. Guangxi People Publishing House. *People's Court Case Selection*, 3, 102.

<sup>11</sup> The Guangxi Zhuang Nationality Autonomous Region Nanning Higher People's Court's Civil Judgment No. Nanminchuzi 4/ 1995.

<sup>12</sup> The Beijing Dongcheng District People's Court's Civil Judgment No. Dongminzhongzi 5321/ 2011, one of typical 50 cases of Judicial Protection for IP rights of 2011 released by the Supreme People's Court.

<sup>13</sup> The Beijing No. 1 Intermediate People's Court's Civil Judgment No. Yizhongzhizhongzi 211/ 2000. Reference can be made to similar cases, such as the Fujian Higher People's Court's Civil Judgment No. Min-minzhongzi 715/2004, relating to an appellate case of disputes over copyright infringement between Fu Qinglian et al. and Fujian Chang-long TV Corporation.



<sup>14</sup> See, for instance, the Beijing Chaoyang District People's Court's Civil Judgment No. Chaominchuzi 13106/2003, in relation to a case of disputes over copyright infringement between Zhao Yuan and Chinese Overseas Publishing House.

<sup>15</sup> See, for instance, a case of disputes over copyright infringement between Zheng Shouyi and Liu Junqian, Shangdong Higher People's Court's Civil Judgment No. Luminsanzhongzi 33/2012. Communique of Supreme People's Court, 2014, Issue 3 (out of 209 in total), one of ten innovative cases of Judicial Protection for IP rights of 2013 released by the Supreme People's Court.

<sup>16</sup> See Supra note 15.

<sup>17</sup> The Supreme People's Court's Civil Adjudication No. Minshenzi 1150/2012, one of 50 typical cases of Judicial Protection for IP rights of 2013 released by the Supreme People's Court.

<sup>18</sup> The Shanghai No. 1 Intermediate People's Court's Civil Judgment No. Huyizhongminwu (zhi) zhongzi 89/ 2011, relating to a case of disputes over copyright infringement between Shanghai Lerong Industrial Co., Ltd. and German Electrostar.

<sup>19</sup> Zhang Gu. Tort liability law and system thereof under the influence of two conceptions. Retrieved from [http://video.chaoxing.com/play\\_400010130\\_86973.shtml](http://video.chaoxing.com/play_400010130_86973.shtml) (latest visit on 10 August 2014).

<sup>20</sup> The Anhui Higher People's Court's Civil Judgment No. Wanmin-sanzhongzi 0014/2009, one of typical 50 cases of Judicial Protection for IP rights of 2009 released by the Supreme People's Court.

<sup>21</sup> See, for instance, a case of disputes over copyright infringement between CCTV International Network Co., Ltd. and www.21cn.com, Guangzhou Intermediate People's Court's Civil Judgment No. Huizhongminsanchuzi 352/2008, published in People's Judicature·Cases, 2010, Issue 2; a case of disputes over copyright infringement between China Friendship Publishing Company and Zhejiang Taobao Network Co, Ltd., as well as Yang Hailin, Beijing No. 2 Intermediate People's Court's Civil Judgment No. Erzhongminzhongzi 15423/2009, one of typical 50 cases of Judicial Protection for IP rights of 2009 released by the Supreme People's Court.

<sup>22</sup> See an appellate case of disputes over copyright infringement between China Academic Journal (CD edition) Electronic Publishing House and Zhao Pingping et al., Shanghai No. 1 Intermediate People's Court's Civil Judgment No. Huyizhongminwu (zhi)zhongzi 16/2006, published in People's Judicature·Cases, 2009, Issue 6.

<sup>23</sup> The Shanghai Pudong New District People's Court's Civil Judgment No. Puminsan(zhi)chuzi 120/2007, carried in People's Judicature·Cases, 2009, Issue 12. Reference can be made to similar cases, such as, the Beijing Chaoyang District People's Court's Civil Judgment No. Chaominchuzi 13106/2003, in relation to a case of disputes over copyright infringement between Zhao Yuan and Chinese Overseas Publishing House; Ningbo Intermediate People's Court's Civil Judgment No.

Zheyongzhichuzi 97/2012, in relation to a case of disputes over copyright infringement between Song XX and a company.

<sup>24</sup> The Beijing Haidian District People's Court's Civil Judgment No. Haiminchuzi 11875/ 2011, in relation to a case of disputes over copyright infringement between Wang Hongmo and Tsingtao Publishing House.

<sup>25</sup> See Supra note 22.

<sup>26</sup> The Beijing No. 1 Intermediate People's Court's Civil Judgment No. Yizhongzhizhongzi 8902/ 2002.

<sup>27</sup> The Shanghai No. 2 Intermediate People's Court's Civil Judgment No. Huerzhongzhichuzi 1/ 2001.

<sup>28</sup> The Beijing No. 2 Intermediate People's Court's Civil Judgment No. Erzhongminchuzi 00182/2003.

<sup>29</sup> The Sichuan Chengdu Intermediate People's Court's Civil Judgment No. Chengzhizhongzi 2/ 1999.

<sup>30</sup> See Supra note 19.

<sup>31</sup> Zhang Gu (2009). Several Opinions on Tort Liability Law of the PRC (Draft) — as a Remedy Act and a Freedom Protection Act. *Jinan Journal (philosophy and social science edition)*, 2, 16.

<sup>32</sup> See No. 9 Briefing of Forum on General Rule of Civil Law (draft) dated 10 December 1985 provided by Conference Secretariat.