

Plagiarism in Chinese Popular Fiction:
Tolerated Copyright Infringement in a Money-making Industry

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A thesis

submitted in partial fulfillment of the
requirements for the degree of

Master of Arts in International Studies

University of Washington

2018

Committee:

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Program Authorized to Offer Degree:

International Studies

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Abstract

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This thesis is built upon a research project aimed at providing interesting insights into plagiarism in the field of popular Chinese fiction, which has been a controversial issue on the Internet in China for the past decade. The questions to be explored in this research are how the phenomenon of plagiarism among Chinese fiction writers has come into being and what distinguishes this type of plagiarism from relatively well studied academic plagiarism in China. In order to find answers to the research questions, interviews specially designed for this project and online discussions as well as existing literature on the topic are employed.

As for the arguments of the thesis, they are basically shaped by anything useful gained from qualitative interviews and site observations. It is found that plagiarists in the field of Chinese popular fiction are largely driven by fame and fortune internally and externally, which means that their pursuit of nothing but personal gain is encouraged by realities in Chinese society such as prioritizing financial interests and lagging behind in legislation and law enforcement. Compared with academic plagiarism, it is harder to identify plagiarism in the field of Chinese fiction. Apart from that, the treatment of writers who commit plagiarism is also much more lenient even though the two types of plagiarism are essentially the same.

Introduction

It is no exaggeration to say that those who were born in the early 1990s in China have already become used to things like pirated videos, pirated books, fake products and plagiarism, because they heard about and personally encountered these things on numerous occasions as they grew up. When they were infants, their parents had to keep their eyes open to avoid buying counterfeits for their kids. These kids probably grew curious about mysterious street vendors selling pirated videos every time their parents took them outside. After they entered school a few years later, they had to learn how to tell if a reference book is real or not, because bookstores could sell pirate books. They might get their first mobile phones, possibly a fake Nokia, when they were middle or high school students. Finally, as they got into college and changed their feature phones to smartphones, they would read popular articles on WeChat or browse heated discussions on Weibo about a plagiarist once in a while.¹ They gradually learned that plagiarism can be illegal and is something to be ashamed about, but as always, infringement of copyright by downloading or disseminating free music, videos and software is prevalent on the Internet. Thanks to the massive flow of information nowadays, they might even find out that the young and talented writer of teen fiction they had admired when they were younger was a plagiarist. Knowing the truth, they could regret having regarded a thief as their teenage idol, or continue to support the writer because of their indifference to plagiarism. The problems here are what makes these young people take different attitudes

¹ Both WeChat and Weibo are heavily populated Chinese social media platforms.

towards intellectual property rights (IPRs), and how these attitudes affect intellectual property (IP) protection.

As unpleasant side effects of rapid economic growth in the transitional stage, piracy and counterfeiting have become rampant in China since the economic reform was implemented, inflicting losses on the owner of the property or doing harm to consumers in various ways. Since the 1990s, the Chinese government has made a huge effort to crack down on pirates and counterfeiters, but the illegal industries are deeply entrenched in the society to the extent that it is almost impossible to wipe out pirated products and counterfeit goods in the market. Nevertheless, given that the Internet is made readily accessible to the public nowadays, the online exposure is more or less a deterrent to lawbreakers and people can learn more about fake products to avoid purchasing them. Meanwhile, the development of social media and mobile device enables people to receive up-to-date information about a wide range of issues effortlessly, and this is why cases of plagiarism are getting much more public attention than they did before.

China has witnessed numerous changes brought by the Information Age in the past two decades, which include greater publicity over plagiarism committed by famous people or big companies. Two aspects regarding plagiarism in China should be mentioned here: one is the prevalence of plagiarism in creative activities, and the other one is suspicions about the consequence of copying others taken by plagiarists. In terms of how prevalent plagiarism is in China, it can be said that those plagiarists who generate wide publicity on the Internet are from all walks of life. Aside from a few shocking and thought-provoking cases, scholars and students who

commit academic plagiarism are hardly discussed among the public. Instead, people care more about influential people in money-making industries who plagiarize. They can be best-selling fiction authors, prolific scriptwriters or Internet celebrities who upload most-watched videos on social media, but they are without exception “at the top of their professions” and enjoying considerable fame and fortune. It is not unusual for a person to come across a scandal that his or her idol turns out to be a plagiarist, and in most cases, the celebrity who is accused of committing plagiarism would suffer from a loss of reputation to some extent, but at the same time, he or she would attract a lot of publicity that favors his or her career.

As for the second aspect mentioned above, the reality appears to be that the price those rich and famous plagiarists pay for their crimes are too low to literally cause them any trouble. Guo Jingming, a Chinese best-selling fiction author, was accused of plagiarizing another Chinese writer Zhuang Yu’s novel and lost a lawsuit about ten years ago.² Despite the stigma, he has become a celebrity in China’s show business and a successful businessperson making huge profits on his film adaptations in the past decade. The newly seen term “IP drama (*IP Ju*)” in China refers to television shows adapted from animations, novels, games or songs protected by IPRs, but it is widely known that some of them are actually adapted from plagiarized works, which infringe upon the rights of the original authors. *The Poisonous Daughter* was adapted for television even though solid evidence showing that this web fiction was copied from more than 200 novels had already

² People.cn, “Despite Being Convicted of Plagiarism, Guo Jingming Never Apologized to Zhuang Yu 被判为抄袭事件 郭敬明到底没向庄羽道歉”, Accessed January 12, 2018. <http://culture.people.com.cn/GB/22219/5166088.html>.

been exposed online.³ Though public opinion on the Internet is mostly made up of contempt and criticism for plagiarism, it seems that plagiarists can simply disregard or deny the accusations against them and continue to make profits by book sales, television/film adaptation, publicity, etc.

To make sense of this paradoxical phenomenon in which plagiarists make public gain in popularity, the thesis provides insights into plagiarism in the field of Chinese popular fiction on the psychological and behavioral level of the population. The two research questions are as follows:

1. What might directly or indirectly cause plagiarism in the field of Chinese popular fiction?
2. When compared with frequently studied academic plagiarism, what distinguishes plagiarism in the field of Chinese popular fiction? How are the two types of plagiarism related to each other?

The argument based on the answers to the two research questions consists of two parts: first, plagiarism in the field of Chinese popular fiction is essentially profit-driven. Not only are plagiarists themselves willing to take a risk for quick and easy money, but external factors ranging from legal loopholes to publicity stunts, which are advantageous for wealthy celebrities, can minimize this risk and paradoxically generate more profit. Secondly, plagiarism in the field of Chinese fiction and academic plagiarism are both in essence the act of stealing something

³ People.cn, “*The Princess Weiyoung* is Based on a Novel Plagiarized from 200 Works? Copyright Protection of Web Fictions in a Predicament “锦绣未央”原著抄袭二百部作品？网络文学维权难”. Accessed January 12, 2018. <http://media.people.com.cn/n1/2016/1123/c40606-28888467.html>.

belonging to someone else. Nevertheless, plagiarists in China's writing industry hardly pay the price for their offenses and plagiarism is more difficult to detect in fiction as citation is not required in literary production.

In terms of research methods, site observation of Chinese social media and qualitative interview are mainly employed to study plagiarism in the field of popular fiction. Site observations focus on Chinese SNS postings closely related to plagiarism in the field of Chinese popular fiction and online discussions provoked by them. Qualitative interviews were carried out with general readers of Chinese popular fiction and concerned parties in China's writing industry (writers of Chinese popular fiction or web fiction, etc.). The aforementioned methods are complemented by extensive literature on the topic of the thesis, and the data collected through these channels are interpreted in a descriptive way. In the following section, research methods and sources of data are presented in detail.

Research Methods

Descriptive analyses carried out in this thesis mostly rely on two research methods, qualitative interview and site observation. First of all, six interviews were conducted in total. Among them, two were done with two interviewees at once (the first and the second interviews) and the last one only serves as a backup in the analysis because the briefly written answers given by the interviewee are already covered in the earlier interviews. With regard to the medium used in the interviews, the first two interviews were done in person and the third and the fourth over voice chat. These interviews were recorded, transcribed and partly translated from Chinese into English (English translation of coded content was done). The last two were done via text message and also partly translated from Chinese into English. Except for one interviewee who insisted on the complete anonymity (the disclosure of any information about him was rejected), the remaining seven interviewees can be divided into two groups of people. Among them, four were chosen from general readers of Chinese popular fiction and the other three from concerned parties in China's writing industry (they are, for example, writers of Chinese popular fiction or web fiction). In doing so, the way "readers" and "writers" think and feel about plagiarism in the field of Chinese popular fiction can be compared, consequently broadening the analysis.

As for the first group of interviewees, i.e. general readers of Chinese popular fiction, Interviewee Chen and Interviewee Xie are female PhD students in Engineering from China. They are currently living in the States and in the age-group 20-25. One of them used to read web fiction

and watch television adaptations of them regularly. The other one has no such experience, but she reads Chinese fanfiction⁴ and has certain knowledge about the type of plagiarism discussed here thanks to the wide publicity of some cases. Interviewees 3 (he wishes to remain anonymous) and Interviewee Gao are male M.A. students in International Studies from China. They are also currently living in the States and in the age-group 20-25. Both of them read Chinese bestsellers (mostly historical fiction) once in a while, and have relatively negative attitudes towards market-driven contemporary Chinese literature.

Members that make up the second group of interviewees all make a living as writers. To begin with, Interviewee Ouyang Debin (abbreviated to Ouyang below) lives in Shenzhen, so his novels reflect Shenzhen and his life experience in this fast-growing city in South China which has enjoyed countless benefits of the economic reform. He writes stories about young people's relationships and their city life accompanied with all kinds of realities. Ouyang has been writing since he was an undergraduate ten years ago, and now he is a full-time writer. He has only published his novels in literary magazines so far, so he can't say that his novels are popular among the public. From his point of view, there is a process for a young and inexperienced writer to rise to fame: they need to get a large number of their works published in different literary periodicals before some publishing house reaches them. Only then do they start to write and publish their books. When asked about television/film adaptation, he said that he already signed a contract with a production company in Shanghai that granted them the right to adapt his novel for television.

⁴ Derivative fiction written by fans of an original work.

The novel was originally published in a magazine and it found favor with the company.

The sixth Interviewee Sheng Wenqiang (abbreviated to Sheng below) studies and writes about China's maritime culture. He has published several historical fictional works about pirates and marine monsters in ancient China that will be adapted for movies and comic books later. Rather than catering for popular taste, he writes because he has enthusiasm for the topic. In light of China's population, he is positive about the ability of his works to attract quite a large group of readers who share a liking for the same thing, so he does not care much about the popularity of his works among the public. The last interviewee is a writer of popular suspense series which were adapted for web series on Youku, one of China's biggest video hosting sites in 2016.

Following the choice of interviewees, interview questions are carefully designed according to the groupings of interviewees. During the two interviews with general readers of Chinese popular fiction, some questions served as a lead-in for the main subject, and interviewees' impression of and preference for Chinese popular fiction and television/film adaptation of it were asked about. After that, main questions were raised about their general attitudes towards plagiarism in China's writing industry. They were asked to share their views about the factors behind this type of plagiarism, how effective they think those external forces are in restraining it and how they compare it with academic plagiarism. When writers of Chinese popular fiction or web fiction were interviewed, they were first asked to briefly introduce their careers, such as the genres, television/film adaptation and the popularity of their works. Before moving on to the topic of plagiarism, how the second group of interviewees interpret originality and imitation in literary

production was raised. In general, interview questions directly related to plagiarism are basically identical for the two groups of interviewees, but the interviews with writers of Chinese popular fiction or web fiction were expected to acquire more insider's knowledge. At the end of all the interviews, there was a question about the interviewee's general impression of IP protection including copyright protection in China.

Secondly, three site observations were conducted on the heavily populated Chinese social media site Weibo. The first research site contained two statements posted in July, 2015 by the opposite parties involved in a widely debated case of plagiarism in China and other site users' comments following these statements respectively. The formerly unknown writer Tang Qi Gong Zi (abbreviated to Tang Qi below)'s fame and fortune can be attributed to the successful television adaptation of her novel *Eternal Love*, but it should be noted here that the writer is accused of plagiarizing Da Feng Gua Guo (abbreviated to Da Feng below)'s novel *Peach Blossom Debt*. Da Feng writes fiction on the theme of "Boy's Love" (major characters in the stories are homosexual men) in classical Chinese style prolifically and has a column on one of the biggest online forums for writers and readers of genre fiction in China, Jinjiang Literature City.⁵ Both Tang Qi and Da Feng are writers contracted with publishers, and in September, 2017, television adaptation of Da Feng's novel (not the one involved in the case) was also settled.

Before *Eternal Love* enjoyed huge success in 2015, the dispute between Tang Qi and Da Feng had caught more or less public attention intermittently. Facing the escalating online

⁵ See: <http://www.jjwxc.net/oneauthor.php?authorid=39758>.

discussion, Da Feng clarified that Tang Qi justified her act of plagiarism by blurring the distinction between copying and paying tribute to (learning from) other writers, and harassed them by advertising her novel improperly in the threads started by those writers to upload their novels on the forum.⁶ One of the two statements observed is Tang Qi's reaction to Da Feng's clarification, in which she condemned Da Feng for slander and related her version of truth.⁷ Tang Qi tried to explain that she imitated Da Feng's writing out of admiration and corrected the trouble caused by readers who constantly mentioned Tang Qi's work in Da Feng's column, but Da Feng refused to be reconciled with her. In the other statement, Da Feng denied Tang Qi's version to be the case and deemed this quarrel meaningless as she found that it is impractical to persuade people who think differently (what seems intriguing here is the title of Da Feng's statement, i.e. "How I Wish to Learn How to Stay Silent").⁸ The number of comments posted below Tang Qi's and Da Feng's statements is so large that it is hard to read them through, thus only the comments with more than 1000 thumbs-ups, i.e. those among the most liked comments, are examined in the site observation. The popular comments posted below Da Feng's statement are consistent, indignant against Tang Qi's conduct, empathetic towards Da Feng and complimentary about her talent for writing directly

⁶ Da Feng Gua Guo (username "大风刮过 dfgg" on Weibo), "I Hope this is the Last Time I Talk about this... 关于某事, 希望这是最后一次说起……" Accessed January 31, 2018. <https://weibo.com/p/1001603859081893916915?sudaref=passport.weibo.com>.

⁷ Tang Qi Gong Zi (username "唐七 Vivien" on Weibo), "3500 Words about What Happened Recently. 关于最近发生的事, 我说三千五百字。" Accessed January 31, 2018. https://weibo.com/1578282541/CpLeIcijS?c=spr_qdzh_bd_baidusmt_weibo_s&type=comment&sudaref=passport.weibo.com#_rnd1517431744895.

⁸ Da Feng Gua Guo (username "大风刮过 dfgg" on Weibo), "How I Wish to Learn How to Stay Silent 希望我能学会不说话". Accessed January 31, 2018. <https://weibo.com/1391954182/CpPr3bcbN?type=comment&sudaref=passport.weibo.com>.

or indirectly (“indirectly” here means that some people show contempt for what Tang Qi wrote, including her statement). Those posted below Tang Qi’s statement, however, are polarized, as some site users denounce her as a despicable plagiarist, while others trust in her assertion and show their support for her.

In terms of the second site observation, an article posted in March, 2017 by a blogger and participatory media specialized in Chinese entertainment industry with 2.89 million followers was chosen as a research site.⁹ It talks about the online verbal abuse directed at an actress in the television adaptation of *Eternal Love*, and the author’s argument is that it is absolutely correct to criticize acts of plagiarism, but we should not turn anti-plagiarism into cyberbullying. In this article, the main focus for discussion is not on plagiarism, but a diversity of public attitudes towards plagiarism can be perceived by reading the comments the author received. Among 1046 comments posted below this article, 55 comments are considered popular (those with thumbs-up in this case). On one hand, about 90% of the popular comments show sympathy for the actress and agree on the views presented in the article. It is noticeable that some comments possibly posted by her fans even go so far as to blame the online verbal abuse on the resistance against plagiarism. On the other hand, several posters expressed the opinion that actors and actresses playing roles in the show should be more or less responsible for publicizing the plagiarized work, because they can choose scripts and they know their influence in the society.

9 Quan Nei Lao Gui, “As *Eternal Love* is Drawn into Dispute over Plagiarism Again, Yang Mi’s Weibo is Bombarded. Are We Opposing Plagiarism or Actors? 《三生三世十里桃花》又陷抄袭风波，杨幂微博沦陷，反抄袭还是反演员”. Accessed January 31, 2018. <https://weibo.com/2821843050/EyA42iJE1?type=comment&sudaref=passport.weibo.com>.

The third site observation is based on a document listing the seventh batch of films under key copyright protection released by the official account of National Copyright Administration of the People's Republic of China (NCAC) in August, 2017.¹⁰ This posting attracted more than 20 thousand comments, because the film adaptation of the plagiarized novel *Eternal Love* is on the list. Though the statement above the list indicates the state's intention to eliminate pirate copies of these films, the vast majority of Weibo users were outraged by the decision. Nearly 30 comments received over 1000 thumbs-ups, and all of them show their posters' indignation and disappointment regarding the government favoring market and capital at the expense of originality in creative activities. What seems confusing here is whether or not television/film adaptation of a plagiarized work is protected by copyright in China. Public outrage might be exaggerated and misdirected, as the statement above the list reveals the attempt of the government to crack down on the piracy of films. Nevertheless, protecting television/film adaptation of a plagiarized work ironically might constitute a breach of China's copyright law at the same time.

Last but not least, the available literature on the issue of plagiarism and copyright protection in China is necessary for analyzing the data obtained from the aforementioned qualitative interviews and site observations. Other than previous studies of plagiarism and copyright protection in China, China's copyright law and administrative or regulatory documents

10 National Copyright Administration of the People's Republic of China (NCAC), "The 2017 Warning List of the Seventh Batch of Works under Key Copyright Protection 2017 年度第七批重点作品版权保护预警名单". Accessed January 31, 2018.
https://weibo.com/5286924878/Fga1CvPsj?filter=hot&root_comment_id=4138518382666429&type=comment&sudaref=passport.weibo.com#_rnd1517431376999.

issued by NCAC as well as policy documents regarding academic plagiarism posted on the websites of Tsinghua University and Peking University are useful sources of contextual information that helps a lot to understand the topic.

Literature Review

According to the categorization of the literature the author studied, this literature review is divided into four sections. Section 1 pays attention to the definitions of key terms, i.e. the definitions of “copyright” and “plagiarism” provided in China’s copyright law and relevant documents issued by NCAC. Comparing China’s case with that of the West, studies that contextualize general attitudes towards copying/borrowing others’ creations and how people differentiate “plagiarism” with undoubtedly negative connotation from words like imitation/learning are referred to in section 2. Following that comes section 3 wherein gradually improving policies that regulate academic conduct in China are closely examined. Finally, case studies pertaining to a highly successful and controversial Chinese writer in recent years are highlighted in the last section. They are directly concerned with the target of this research and point to the multifaceted reality of plagiarism in the field of Chinese popular fiction.

Despite the fact that some studies and documents presented here do not focus on plagiarism in the field of Chinese popular fiction, which is the subject of the thesis, all of them prove to be really helpful in learning about it and conducting subsequent research. Indeed, academic articles and official archives that attempt to discuss the issue, clarify the rights or regulate the conduct should be made full use of. Understanding what constitutes and what shapes “copyright infringement” or “plagiarism” in China with their help are prerequisites for looking into the dynamics of plagiarism in the field of Chinese popular fiction.

1. Copyright and plagiarism defined by the Chinese government

“Copyright (*banquan*)” follows “authors’ rights (*zhuzuoquan*)” as NCAC defines the exclusive rights to protect literary and artistic creations.¹¹ This indicates that unlike “copyright” in American and English law, and “authors’ rights (*droits d’auteur/ Urheberrecht*)” in French and German law, the two Chinese terms *banquan* and *zhuzuoquan* are interchangeable. The conceptual distinction between “copyright” and “authors’ rights” is that the former underscores the “right to copy” the work while the latter “the person who claims authorship” having rights over his or her work.¹² The interchangeability of copyright and authors’ rights in the Chinese context also implies that China’s lawmakers probably consulted legal texts of the West when they drafted copyright legislation. It can be seen as a gesture of compliance with IP protection strongly supported by the international society, facilitating China being admitted as a WTO (World Trade Organization) member as a result.¹³ Therefore, the development of a regulatory regime with regard to IPRs and the subcategory copyright in China is inseparable from the government’s effort to embrace globalization.

On the website of *People’s Daily*, which is the most authoritative newspaper in China, there is

¹¹ National Copyright Administration of the People’s Republic of China (NCAC), “What is Copyright (*banquan*) 什么是著作权 (版权)”. Accessed January 04, 2018. <http://www.ncac.gov.cn/chinacopyright/contents/579/20916.html>.

¹² Société des Auteurs et Compositeurs Dramatiques (SACD), “Authors’ rights vs. Copyright”. Accessed January 04, 2018. <https://www.sacd.fr/en/authors-rights-vs-copyright>.

¹³ Lena Henningsen, *Copyright Matters: Imitation, Creativity and Authenticity in Contemporary Chinese Literature*. Berlin: BWV, Berliner Wiss.-Verl., 2010.

a section introducing the notion of IP to the public. The definition of IP given on the web page is as follows: “IPRs are the rights to possess, exploit and make a profit from intellectual output.”¹⁴ Copyrights as a main component of IPRs is aligned with patents and trademarks,¹⁵ and defined as “the exclusive rights authors have over literary, artistic, scientific and technological works” by NCAC in the FAQs section.¹⁶ Copyright as a part of civil rights in China is a compound of more than 17 personal and property rights such as the rights of authorship, integrity (to ensure the integrity of the work), publication, reproduction and distribution, just to name a few.¹⁷ Accordingly, if B copies A’s novel to write a book in B’s name that sells millions, then B infringes A’s rights of authorship (personal right) and distribution (property right) at the same time. Except for some situations in which the author’s permission is not required before using his or her work (“fair use” in American law), e.g. non-profit personal, social or educational use of a work in copyright so long as its source is clearly indicated, exploitation of a work protected by copyright requires a contract signed with/permission obtained from and remuneration paid to the copyright owner.¹⁸ In return, “the rights and interests related to copyright” retained by anyone who rightfully exploits copyright works are protected by China’s copyright law, as is suggested by Article 33 of

14 People.cn, “What is Intellectual Property Rights? 什么是知识产权? ”, Accessed January 04, 2018. <http://ip.people.com.cn/n/2014/1229/c391948-26294411.html>.

15 People.cn, “What Constitute Intellectual Property Rights? 知识产权包括哪些内容? ”, Accessed January 04, 2018. <http://ip.people.com.cn/n/2014/1229/c391948-26294451.html>.

16 National Copyright Administration of the People’s Republic of China (NCAC), “What is Copyright (*banquan*) 什么是著作权 (版权)”. Accessed January 04, 2018. <http://www.ncac.gov.cn/chinacopyright/contents/579/20916.html>.

17 National Copyright Administration of the People’s Republic of China (NCAC), “Copyright Law of the People’s Republic of China”. Beijing: NCAC, 2010. Accessed January 02, 2018. <http://en.ncac.gov.cn/copyright/contents/10365/329083.shtml>.

18 Ibid.

Copyright Law of the People's Republic of China in which concurrent submissions of a work to multiple periodical publishers are prohibited.¹⁹ To put it simply, the ownership of a work can be equated to the discretion over the use of it.²⁰

Although under certain circumstances the administrative department of copyright may hold the defendant accountable for damaging public rights and interests, or criminal liability may be imposed on him or her, in most cases a person who infringes copyright only has civil liability, which means the court usually just order him or her to apologize to and compensate the copyright owner.²¹ In terms of the amount of compensation, either the losses for the copyright owner or the illegal gain can be the measure, but if both of them are difficult to determine, the maximum amount of compensation shall not exceed RMB 500,000 (USD 77,065).²² It is implied in this provision that the penalty might be too light on the offender who is a millionaire, since RMB 500,000 could be just a fraction of his or her income. Moreover, despite the fact that plagiarism is included in the acts of infringement, it is unable to find words describing the activities that constitute plagiarism in the legal and regulatory documents disclosed or any other section on the website of NCAC. The written definition of plagiarism from an official source is only located in the response letter from the management department of NCAC to a municipal administrative department for copyright,

¹⁹ Ibid.

²⁰ National Copyright Administration of the People's Republic of China (NCAC), "What is Copyright 著作权是一种什么权利". Accessed January 04, 2018. <http://www.ncac.gov.cn/chinacopyright/contents/579/20915.html>.

²¹ National Copyright Administration of the People's Republic of China (NCAC). *Copyright Law of the People's Republic of China*. Beijing: NCAC, 2010. Accessed January 02, 2018. <http://en.ncac.gov.cn/copyright/contents/10365/329083.shtml>.

²² Ibid.

which sought solutions to a copyright lawsuit filed by a teacher of a local university against another teacher of the same university.²³ According to NCAC, plagiarism should be defined as “the act of stealing, publishing and claiming ownership of another person’s work or excerpts from that work.”²⁴ It can be noticed in the wording that intangibles like “idea” is not protected by the copyright; in other words, stealing another person’s “idea” does not correspond to plagiarism, an act of infringement in the context of copyright law. This is different from how Hames introduces plagiarism as a type of misconduct in science and publishing to her readers, as plagiarizing “others’ ideas” is clearly written in her *Peer Review and Manuscript Management in Scientific Journals: Guidelines for Good Practice*.²⁵

2. Social construction of copyright awareness in China and the West

The difficulty experienced by Chinese people to distinguish between stealing and learning from another person’s work cannot be understood completely without looking into China’s millennia, in that there was hardly any notion of plagiarism among the population in imperial China. As a full-hearted attempt to appreciate and capture the quintessence of great masterpieces, imitation was considered to be a commendable act in the production of literary, artistic and calligraphic

²³ National Copyright Administration of the People’s Republic of China (NCAC), “A Response Concerning How to Define Act of Plagiarism from the Management Department of National Copyright Administration to XX Municipal Administrative Department for Copyright 国家版权局版权管理司关于如何认定抄袭行为给××市版权局的答复”. Accessed January 04, 2018. <http://www.51wf.com/print-law?id=1129002>.

²⁴ Ibid.

²⁵ Irene Hames, *Peer Review and Manuscript Management in Scientific Journals: Guidelines for Good Practice*. Malden, Mass.: Blackwell, 2008.

works. In order to pass civil service examinations and start a bureaucratic career, which has been a symbol of success in China even up until now, men had to absorb themselves in the Confucian canon by memorizing and reproducing the classics.²⁶ In addition, imitation (*linmo*) as a basic technique for the reproduction of artworks provided learners with ideal opportunities to learn from great works produced by artists and calligraphers par excellence.²⁷ It also unintentionally preserved at least the appearance of those masterpieces by enabling copies of the originals to circulate in the market during the period when there was no advanced photocopying method.²⁸

Considering the extent to which literature is related to both education and fine art in imperial China, the practice of imitation should be noticeable in the history of premodern Chinese literature as well. Within the context, the notion of imitating others was expressly incorporated in intertextuality, i.e. “the complex interrelationship between a text and other texts taken as basic to the creation or interpretation of the text.”²⁹ After going through the numerous studies focusing on the tradition of literary practice in China, Henningsen concludes that intertextuality of Chinese literature in the imperial era was embodied in “quotation” and “reworking of extant material in fictional texts”.³⁰ Regarding the way intertextuality was achieved by using and interpreting quotations, it was necessary for the scholars in imperial China to be well versed in the classics to

²⁶ Lena Henningsen, *Copyright Matters: Imitation, Creativity and Authenticity in Contemporary Chinese Literature*. Berlin: BWV, Berliner Wiss.-Verl., 2010.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Merriam-Webster, “Intertextuality”. Accessed January 08, 2018. <https://www.merriam-webster.com/dictionary/intertextuality>.

³⁰ Lena Henningsen, *Copyright Matters: Imitation, Creativity and Authenticity in Contemporary Chinese Literature*. Berlin: BWV, Berliner Wiss.-Verl., 2010.

enrich their writings by quoting the wisdom of the ancients extensively.³¹ Furthermore, they were expected to interpret what their contemporaries wrote with the help of their knowledge and understanding of the borrowings which were not pointed out by the authors.³² In the realm of literary production, it seems unreasonable that a fiction duplicating some excerpts from another fiction like the Ming dynasty novel *The Plum in the Golden Vase* (*Jing Ping Mei*) can be published and acclaimed as one of the top Chinese fiction without the author being accused of committing plagiarism. However, Stone draws the example of *The Plum in the Golden Vase* copying one of the Four Great Classic Novels *Water Margin* (*Shui Hu Zhuan*) to illustrate his point that combining materials available from a broad range of written and oral sources with one's own creation was widely accepted at that time.³³ Moreover, it became a required practice as opposed to a punishable offence on a number of occasions.³⁴ Alongside the dominance of Confucianism repeatedly emphasized by other scholars, Stone also highlights how Buddhism and a mass circulation of religious texts shaped the status given to IPRs in China via Buddhist philosophy, which dislikes the idea of ownership.³⁵

In the premodern West, the authors paid little attention to creativity or originality when they produced their works and put a great deal of energy into representing the world they perceived to

³¹ Charles R. Stone, "What Plagiarism Was Not: Some Preliminary Observations on Classical Chinese Attitudes toward What the West Calls Intellectual Property", *Marquette Law Review* 92, no. 1 (2008): 199-230.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

show their reverence for nature and God.³⁶ That is to say, the inner workings of seemingly identical indifference towards authorship in imperial China and the premodern West are not the same. The age of Enlightenment witnessed emerging individualism and burgeoning private ownership that encouraged the authors to protect the fruits of their creative activities.³⁷ The enduring internal conflict between criticizing lack of creativity and accepting the repetitions, the depreciation of authorship in the wake of postmodernism and the habit of copying and pasting brought by the widespread use of computers are real.³⁸ Nevertheless, copyright awareness is apparently much stronger in the West than in China thanks to the intellectual and philosophical legacy of the Enlightenment. In short, to figure out what is wrong with the status quo of copyright protection in China, a close study of copyright awareness against the backdrop of historical and cultural changes is indispensable.

3. Tackling China's academic plagiarism

The cases of academic plagiarism, in which scholars steal their colleagues' research findings or students copy papers written by others to simply deal with their assignments, are definitely not rare in Chinese universities. Even though it is not a topic that attracts so much public attention as other eye-catching scandals do, plagiarism as a typical academic misconduct in Chinese academia has been brought up for discussion among not only foreign observers but also Chinese intellectuals.

³⁶ Alastair Pennycook, "Borrowing Others Words: Text, Ownership, Memory, and Plagiarism", *TESOL Quarterly* 30, no. 2 (1996): 201.

³⁷ Ibid.

³⁸ Ibid.

Henningsen devotes one chapter in her book elaborating plagiarism and copyright in contemporary Chinese literature to analyze discussions of the three widely known cases of academic plagiarism which took place on the academic-related Chinese online forums Academic Criticism (*Xueshupingwang*)³⁹ and New Threads (*Xin Yu Si*)⁴⁰ in the early 2000s. Her analysis reveals that Chinese intellectuals who participated in the discussions agreed on the importance of reducing ambiguities in laws and regulations, reforming current academic system in China and preventing interest groups from penetrating it.⁴¹ However, as the fact of authors using pseudonyms to post their analytical essays and avoiding “any personal attack on anyone in particular” shows,⁴² people who choose to uncover academic plagiarism committed by prominent scholars are likely to worry about the possible cost of their choice. Some discussants also attempted to propose theories about academic plagiarism in China, but they had difficulty in developing abstract ideas that can explain this type of academic misconduct through classification of either methods or motives.⁴³ In other words, there is still room for improvement in systematic analysis of academic plagiarism.

Publishers of academic journals also plays an indispensable role in the war against academic plagiarism. The result of a survey conducted on editors who work for academic journals categorized by discipline, language and country points to varying degrees of tolerance towards plagiarism: about 60% of the editors working for English or American journals chose “rejecting

³⁹ See: <http://acriticism.com/>.

⁴⁰ See: <http://www.xys.org/>.

⁴¹ Lena Henningsen, *Copyright Matters: Imitation, Creativity and Authenticity in Contemporary Chinese Literature*. Berlin: BWV, Berliner Wiss.-Verl., 2010.

⁴² Ibid.

⁴³ Ibid.

manuscripts copied from published articles under any circumstances”, while only 40% of the editors working for Chinese journals took that option.⁴⁴ Another article on academic integrity reiterates the importance of academic journals making good use of plagiarism detection software and adopting anti-plagiarism policy.⁴⁵

The screening function of academic journals can prevent plagiarized articles from being published, but the key to eliminating academic plagiarism is held by the regulatory authority of academic institutions. Chinese universities were criticized for being irresponsible because they failed to establish a complete set of academic integrity policies and investigatory procedures to handle cases of academic plagiarism,⁴⁶ but policy documents issued by Chinese universities and China’s Ministry of Education (MOE) suggest that the condition has improved in recent years. Chinese academic institutions now rely much less on judicial authority to make judgements in cases of academic plagiarism. For example, the establishment of academic integrity committees and the implementation of a standard procedure to cope with cases of academic misconduct reported to them are explicitly stated in a series of academic integrity guidelines drawn up by

⁴⁴ Yuehong Zhang, “A Study into Periodical Editors’ Tolerance of Academic Plagiarism Worldwide 全球期刊编辑对学术抄袭容忍度调查”, *China Publishing Journal* 中国出版, 2012 (24):3-11.

⁴⁵ Qing Ye, Shuqi Yang and Yuehong Zhang, “Scientific Research Integrity as the Global Eternal Issue: The Integrity Environment of Scientific Research Management and Academic Publishing in China 科研诚信是全球永远的课题——中国科研管理与学术出版的诚信环境”, *Chinese Journal of Scientific and Technical Periodicals* 中国科技期刊研究, 2015, 26(10):1040-1045.

⁴⁶ Aimin Qi and Weimeng Zhou, “Discussion of the Dual Character of Plagiarism: From the Angle of Distinction of Academic Norms and Legal Norm 论学术抄袭的两面性：以学术规范和法律规范的区分为视角”, *Journal of Chongqing University (Social Science Edition)* 重庆大学学报 (社会科学版), 2010, 16(6):86-92.

Peking University and Tsinghua University.⁴⁷ In 2016, MOE issued a document *Preventive and Disciplinary Measures against Academic Misconduct in Higher Institutions* to make suggestions on how to accept, investigate, decide and settle a case concerning academic misconduct, advocating the integration between education and punishment.⁴⁸ The aforementioned institutional improvement is promising, but it should not be ignored that Chinese academia still needs a set of detailed and powerful academic integrity guidelines that teach scholars and students what constitute academic plagiarism and how to cite sources correctly.⁴⁹

4. Case studies as different mirrors of plagiarism in contemporary Chinese literature

Among a few studies focusing on the originality of written works in contemporary Chinese literature and how they are protected by copyright, Henningsen's book *Copyright Matters: Imitation, Creativity and Authenticity in Contemporary Chinese Literature* dissects typical cases to disclose multifaceted and at times contradictory cultural idiosyncrasies embodied in the topic.

⁴⁷ Peking University, "Academic Integrity Guidelines for Faculty in Peking University 北京大学教师学术道德规范". Accessed January 09, 2018.

<http://hr.pku.edu.cn/document/20170601180452399601.pdf>.

Tsinghua University, "*Preventive and Disciplinary Measures against Academic Misconduct in Tsinghua University* 清华大学预防与处理学术不端行为办法". Accessed January 09, 2018.

<http://www.tsinghua.edu.cn/publish/xswyh/10029/index.html>.

⁴⁸ Ministry of Education of the People's Republic of China, "*Preventive and Disciplinary Measures against Academic Misconduct in Higher Institutions* 高等学校预防与处理学术不端行为办法". Accessed January 09, 2018.

http://www.moe.gov.cn/srcsite/A02/s5911/moe_621/201607/t20160718_272156.html.

⁴⁹ Aimin Qi and Weimeng Zhou, "Discussion of the Dual Character of Plagiarism: From the Angle of Distinction of Academic Norms and Legal Norm 论学术抄袭的两面性：以学术规范和法律规范的区分为视角", *Journal of Chongqing University (Social Science Edition)* 重庆大学学报 (社会科学版), 2010, 16(6):86-92.

Her analysis and discussion of Guo Jingming's plagiarized work *Never Flowers in Never Dream* make it clear that Guo was found guilty of committing plagiarism by reason of the close similarity in the components (characters, the structure of plots, language, etc.) of his *Never Flowers in Never Dream* and Zhuang Yu's novel *In and Out of the Circle*, but Guo did not copy excerpts of Zhuang's novel verbatim.⁵⁰ According to Henningsen, there is a sign of creativity in how Guo modified *In and Out of the Circle* and added original content to pass it off as his own creation.⁵¹

Guo's another work *Rush to the Dead Summer* published after he lost in the lawsuit and was ordered to pay the compensation is analyzed by Henningsen as well. Guo was willing to pay hundreds of thousands of RMB, but he refused to make an apology and wrote *Rush to the Dead Summer*. The story in which the main character is maliciously portrayed as a plagiarist can be easily associated with Guo insisting on his innocence notwithstanding a lack of evidence that can be used to prove that.⁵² When the plot of *Rush to the Dead Summer* is closely examined, it becomes obvious that Guo maintains a stance against equating imitation with plagiarism.⁵³ He puts great emphasis on the necessity and justifiability of imitation in artistic and literary production while ignoring the fact that publishing his imitative novel without acknowledging the original author is a blatant infringement of copyright, especially the right of authorship.⁵⁴ Apparently, contextualized ideas about plagiarism and copyright are implied in the coexistence of conflicting

⁵⁰ Lena Henningsen, *Copyright Matters: Imitation, Creativity and Authenticity in Contemporary Chinese Literature*. Berlin: BWV, Berliner Wiss.-Verl., 2010.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

“creativity” and “borrowing” in Guo’s plagiarized work as well as his strong support for the practice of “imitation” in creative activities like painting and writing.

Analysis and Discussion

In this section, the data collected from six qualitative interviews are brought together and thoroughly examined. Combined with site observations and textual material closely related to the content of analysis, those messages extracted from the interviews are conceptualized and associated with the argument presented earlier in the introduction of this thesis. Through following analysis and discussion, it becomes noticeable that the argument is shaped by the data acquired in the course of addressing the research questions.

Excerpt 1

Chen: Like Tang Qi or Guo Jingming's early works... When they (plagiarists) just embarked on writing, they are not likely to expect their novels to be blockbusters. Their alleged acts of plagiarism are more likely to result from a lack of inspiration and/or unconscious reference to quite a few identical plots because they read similar stories before writing their own. But I think... I believe most of them at that time (when they copied others' works) didn't mean to plagiarize for profit, but since Yu Zheng is a screenwriter, his script is definitely commercial in nature, so his act of plagiarism is of a different nature from those committed by online writers who are beginners to plagiarism.

Excerpt 2

Xie: If I were following a TV drama right now, and you told me that it were plagiarized, I would probably not watch it anymore, because I think the original would definitely be... I mean, the flow of spirit in the story would be smoother and the whole work would make more sense (in the original), but a copy would be always... you always encounter logical inconsistencies or something else (in a copy).

Excerpt 3

Gao: First of all, plagiarism is bad. It is wrong to plagiarize no matter what. And next, if copying from others leads to success, then fine, forget it. But the problem is that compared with the original, their plagiarized works are...

Interviewee 3: But they do enjoy great success in the market.

Gao: Eh, yeah, they enjoy great success in the market, but not in the quality of their works.

Excerpt 4

Xie: I think for some people, their definitions of plagiarism are not particularly.... or just extremely vague. They might think “oh I just take a quick glance at... it’s okay to borrow a little bit since what I write is close to nothing.”

Excerpt 5

Gao: I mean, you can borrow from other creators, right? But you shouldn’t copy their creations

entirely, though that's what they do.

Excerpt 6

Interviewee 3: I know a little about Guo Jingming's case regarding *L.O.R.D: Legend of Ravaging Dynasties*, because I watched the *Fate* series and know them well. Like when everyone praised *Fate/Zero*⁵⁵ as a masterpiece, so did I. Meanwhile, people pointed out that this man called Guo Jingming wrote this stuff, at which I took a glance and found that the content and framework of his story closely resemble those of *Fate/Zero*. Even so Guo Jingming's novel was overhyped by those people, especially his crazy fans... and it was also adapted for the movie which generated huge profit. The fact humiliates one of my favorite works and I am indignant about that.

Excerpt 7

Ouyang: Since there is no clear-cut distinction between imitation and plagiarism, they might think that they are simply learning from others. They are completely ignorant of what they are doing.

Excerpt 8

Interviewee 7: Whoever is found guilty of plagiarism did that on purpose and viciously. There

⁵⁵ A popular Japanese anime series. *Fate/Zero* mentioned below is a prequel in this series.

is no such thing as plagiarizing others in a moment of aberration or on impulse.

First of all, a high tolerance for plagiarism is noteworthy among the interviewees who are general readers of Chinese popular fiction. In Excerpt 1, “learning from others” is an excuse for committing plagiarism if a plagiarist’s motive does not appear to be profit-driven, and remarks like “some people plagiarize to publish their books” made later in the interview also indicate that the severity of plagiarism depends on the motive behind it (for profit or not for profit). In other words, the negative picture of plagiarism is associated with “profit-making” label. If a person commits plagiarism by the time he or she just embarks on a writing career and the plagiarized work does not bring much profit, his or her fault is more likely to be overlooked.

Excerpt 2 and 3 imply that it is easier for a high-quality plagiarized work to draw support from the public, though high quality won’t change the fact of it being a plagiarized work. Comparable to Xie disliking a plagiarized TV drama because of its flaws compared with the original, plagiarized works succeeding in their quality might leave Gao with better impression than low-quality ones do. This line of thought is also reflected in comments like “she plagiarizes, but she writes better stories” posted below Tang Qi’s statement on Weibo and “I don’t give a damn about plagiarism. I watch the show because it’s good” posted below the online article talking about the righteousness of condemning an actress who plays the protagonist in a television series adapted from a plagiarized fiction.

Chen and 2 in Excerpt 1 and 4 interpret plagiarism as some writers’ unintentional borrowings

from works similar to what they write, suggesting that these people may commit plagiarism due to a lack of copyright awareness. That is to say, some people do not know what plagiarism is, and that is why they are unaware that they actually infringe others' rights by copying their words. Ouyang in Excerpt 7, who is a full-time fiction writer, shares their view. In his opinion, it is likely to happen that some plagiarists confuse their misconduct and the practice of learning from others due to the blurred boundary between accepted imitation and unaccepted plagiarism. However, Interviewee 7 in Excerpt 8 emphasized that Plagiarism is always committed with intention as opposed to through negligence or on impulse.

As a close parallel to comments like “borrowing as a common practice is not equal to plagiarism” posted below Tang Qi’s statement, duplicating (copying entirely) is found intolerable while partial copying (borrowing) tolerable in Excerpt 5. The implication is that the prevalence of vague and wrong ideas about plagiarism can also reduce the intensity of criticism in the society.

As shown in Excerpt 6, Interviewee 3 is the only interviewee who used strong words against plagiarism during the two interviews with general readers of Chinese popular fiction, but rather than targeting at plagiarism in general, they appeared to be targeted at a specific case in which his favorite work is involved.

Excerpt 9

Ouyang: Some writers have better understanding (of literary writing), and they probably grasp the spirit or an aura of elegance the writer they admire has. Later when they create their own

works, they will make improvement. This practice (imitation) is perfectly acceptable in literary production, because literature has always been built upon the past. However, in other cases where imitation is the same as copying others' stories almost entirely while merely changing the cultural background or copying poorly, "imitation" should be regarded as plagiarism... What seems to be the problem here is that if the two stories look alike, but the concepts of writing or elements like cultural backgrounds are significantly different, then it is hard to tell plagiarism from imitation due to the vague dividing line between them.

Excerpt 10

Sheng: Suppose that after I write a book called *A Brief History of Marine Monsters*, books and articles with the phrase "a brief history of..." in their titles are published one after another. I'm not saying that this phrase is rarely seen, or other people are not permitted to use it since it is created by me. I'm saying that in our relatively small writing circle...in this circle you should try to avoid doing that (imitating others). Otherwise, you are doing that... you can't call it plagiarism, but it is a practice called "inbreeding."

Excerpt 11

Sheng: Nowadays they talk about "merging plots (*rong geng*)", which is a combination of the character "rong" in the word "merge (*rong he*)" and "geng" in "main ideas (*geng gai*)". It means compiling ideas from a variety of sources... I copy a plot at the beginning of the first

story, another plot in the middle of the second one and the ending of the third one. Then I assemble them into a brand-new story, which is distinct from all the earlier ones. It looks familiar to you, but you feel it's still different. As for the details of this method, it is possible to copy something word for word, but the copied text should not exceed a percentage... This can be done very nicely by machine now, and assembled plots are logically consistent. In other words, software that can do this task is available now.

Excerpt 12

Interviewee 7: In my opinion, originality corresponds to unique senses and impressions a particular work gives people who read it. The originality of a novel lies in the aggregation of historical and cultural backgrounds, characters' personalities, plots, how the story unfolds, language, writing techniques, etc. Meanwhile, it is acceptable that you imitate and adapt the writing, the portrayal of characters, the historical background, and even the story of someone else's work, but except for imitation, you have to write something unique, like original characters and stories. Otherwise, you will be accused of plagiarism.

During the interview, the two writers Ouyang and Sheng as well as Interviewee 7 elaborated on how they interpret plagiarism, imitation and the relation between the two, and a lack of consensus is noticeable among their responses. To begin with, through reading *The Complete Works of William Shakespeare*, Ouyang found that there seem to be prototypes, or some general

“forms” for Shakespeare’s scripts and novels. Many classics of Western literature were created in the course of imitation (learning/borrowing) and development, embodying intertextuality. To put it simply, a work can still be original while influenced by others. Some writers refine their writing while learning from the spirit and class of the works written by the authors they admire. As a result, their works facilitate the development of literature. As opposed to them, those who plagiarize may copy or poorly imitate the stories written by others. It is relatively easy to tell a work is plagiarized verbatim or not according to the percentage of the words identical with those in previously published works. However, if there is wide disparity in cultural backgrounds and other aspects between two similar stories, the boundary between plagiarism and imitation becomes vaguer.

In Excerpt 10, Sheng drew attention to a general agreement among writers in the same circle on avoiding “inbreeding”, i.e. applying the elements of someone else’s work published shortly before to the work currently being written by one. He suggests that though “inbreeding” is not equivalent to plagiarism, it is a risky practice of imitating others. Excerpt 11 also reveals that identification of plagiarism is based on the percentage the copied text making up the original and the plagiarized work, ignoring the fact that in most of the cases, plagiarists do not copy others’ work in the exact words. As stated in *Detailed Rules for the Implementation of Provisional Laws on Copyright Protection of Books and Periodicals* enacted by China’s Ministry of Culture in 1985, quotation accounting for no more than 10% of the word count of a quoted work and the author’s own work respectively is considered as acceptable.⁵⁶ To fully exploit this loophole, they may

⁵⁶ Ministry of Culture of the People’s Republic of China. “Detailed Rules for the Implementation of Provisional Laws on Copyright Protection of Books and Periodicals 文化部

slightly change the wording and combine the components of multiple stories written so far to produce a new one. This practice can be associated with writers merging plots and elements of stories created by others to write their own. Moreover, the process of putting together a corpus of materials collected from a variety of stories to produce a new one is increasingly automated nowadays, as the sale of “writing software” on the e-commerce platform in China suggests. This “writing software” can be taken as resource packs containing a large number of well-organized sources of creative writing, such as commonly used phrases in a certain scene. How to judge copyright infringement in this new situation is brought up for discussion on the website of NCAC as well,⁵⁷ implying that the government recognizes the need for catching up on legislation.

Unlike Ouyang and Sheng, Interviewee 7 seems to have more clear-cut ideas about identifying plagiarism. He thinks that imitation should be limited to only one or two aspects of the original work, otherwise it is equivalent to plagiarism. According to Interviewee 7, originality is a series of unique reading experiences associated with the components of a particular work such as characters, plots and writing techniques. While these parts that make up an earlier work can be selectively learned from and adapted for a later one, they should be integrated with original content so that the practice of imitation can be differentiated from plagiarism.

关于颁发《图书、期刊版权保护试行条例实施细则》和《图书约稿合同》、《图书出版合同》的通知”. Accessed January 30, 2018. http://www.110.com/fagui/law_179174.html.

⁵⁷ National Copyright Administration of the People's Republic of China (NCAC). “Has Writing Software Become the ‘Weapon’ to Plagiarize Web Fiction? 网络小说抄袭，写作软件成“凶器”？” Accessed January 30, 2018.

<http://www.ncac.gov.cn/chinacopyright/contents/4509/316999.html>.

Excerpt 13

Ouyang: On one hand, they (the plagiarists) lead a boring life or they are too lazy to think and unwilling to explore things unique to them.... On the other hand, instead of putting considerable effort in writing a novel, they produce works with ease. They earn royalties from books or articles while devoting negligible time and effort on them. I would say they are induced by the all kinds of secular interests.

Excerpt 14

Sheng: While I can't write a book by myself, I can make profit instantly by copying yours... that is to say, if the plagiarized book is a blockbuster, I will get millions of yuan all at once... So at the bottom of plagiarism is profit. Many people plagiarize others in pursuit of profit. In addition, "FMCG (Fast Moving Consumer Goods)" are more likely to become the target for plagiarists. The things they plagiarize are mostly boring, poorly written but paradoxically popular.

Excerpt 15

Interviewee 7: Plagiarism is a personal matter. In China, there are tens of thousands of new writers of web fiction. However, it should be recognized that there is always a small minority of them led astray by quick success and huge profit, hence becoming plagiarists themselves.

In comparison to general readers of Chinese popular fiction mentioning not many words about the causal relationship between moneymaking and plagiarism in the interviews, interviewees who have writing careers tend to attach greater importance to the fact of plagiarists seeking wealth at the expense of their integrity and originality.

According to Ouyang in Excerpt 9, what induce some writers to plagiarize others are essentially their laziness and greed. They might be short of inspiration and unwilling to cultivate their creativity. More importantly, while it takes far less time and effort to copy others' work than come up with something original, they still earn a lot in royalties. In Excerpt 10, Sheng expressed similar views— when it comes to the motives for committing plagiarism, what it all boils down to is the pursuit of profit, since plagiarizing others is a fast and easy way to make money. Apart from that, he pointed out that articles and books comparable to non-durable goods, are more likely to become the target for plagiarists. Boring but popular stories leave people with hardly more than a vague impression, thus while it is highly profitable to plagiarize them, the risk of being exposed is reduced as difficulty in detecting plagiarism increases. Surprisingly, Interviewee 7 in Excerpt 11 does not problematize plagiarism as a social issue or take it as something socially constructed. On the contrary, he thinks that those who plagiarize others' work choose to do that. They are no more common than people who commit other crimes. Only a small minority become plagiarists as they seek quick success and huge profit.

Excerpt 16

Interviewee 3: What should be emphasized here is that the more popular they (“Big V”)⁵⁸ are on the Internet, the bolder they become when they plagiarize. The authors of the original works are too weak to counterbalance these plagiarists. Even if they hire paid posters on the Internet, they are no match for “Big V.”

Excerpt 17

Interviewee 3: First of all, it is hard to reach a conclusion on plagiarism. They are clever enough not to plagiarize published works. If they plagiarize published works, when their works are compared with the originals, they won’t be able to get away with it. Most of the works they plagiarize are, therefore, written by unknown writers on the Internet... It’s not easy to hold someone legally responsible in this case already, not to mention the fact that nowadays a lot of plagiarists are big shots who have many more resources to employ than those they offend against do. When they hire a public relations agency to protect their reputations... even if they have to face lawsuits, the defense teams they hire are always better than the lawyers representing the victims. Therefore, I think there is hardly any constraint on this type of plagiarism.

Excerpt 18

Gao: Sometimes those cases involving foreign parties are especially difficult to deal with.

⁵⁸ “Big V” is a verified Weibo user who has more than 500,000 followers.

Even if the legal regime is applicable to transnational cases, those plagiarists are immune from prosecution, because we don't use the same set of laws and regulations.

Excerpt 19

Gao: The government doesn't care about plagiarism. They only care about output. It's all right so long as you produce output. Like "you produce output; I subsidize you."

Interviewee 3: *Gao Tie Xia*⁵⁹ can be counted as a project for the government. That's why it's subsidized and when the producers receive subsidies, they plagiarize...

Gao: The government might support them instead of punishing them.

Excerpt 20

Ouyang: Online platforms for sharing documents like Baidu Wenku would store scanned documents for which users have to pay to download while their authors are not paid at all. You call this copyright protection? I would say this is a blatant infringement of copyright.

Excerpt 21

Ouyang: Suppose an author finds out that someone plagiarized him or her work and takes the case to court. Judging from a fair number of cases in which the plaintiff wins the lawsuit, the law is functioning... Enforcement measures like ordering the accused to issue an apology in

⁵⁹ Chinese anime *Gao Tie Xia* is allegedly plagiarized from the Japanese anime *Hikarian*, whose story is about bullet trains transforming into robots.

the newspaper or pay a certain amount of compensation are being taken.

Excerpt 22

Sheng: I might earn tens of millions of yuan, let's say thirty million yuan, by copying your work. After you sue me and I lose the lawsuit, I admit that I plagiarized your work and apologize for that, but according to the law the amount of compensation does not exceed twenty or thirty thousand yuan. Then I'll just pay the compensation. It's a piece of cake for me since I've already got thirty million yuan, right?

Excerpt 23

Interviewee 7: The thing should not be ignored is the absence of an impartial third party consisting of authentic experts in the identification of plagiarism. Simply put, who get to decide an alleged plagiarist is guilty or innocent? If no one is competent to do that, those who never plagiarize cannot prove their innocence, while real plagiarists go unpunished and succeed in their careers like before.

It is implied in Excerpt 16 and 17 that social inequality between plagiarists and victims can be aggravated further by ineffective law enforcement. Unrestrained big shots are in sharp contrast to powerless victims in the cases of plagiarism as rich and famous plagiarists can employ their wealth and status to infringe upon the rights of unknown authors who are too vulnerable to defend their

rights. Legal constraints are limited given that those powerful plagiarists can not only take advantage of legal ambiguities or loopholes (they plagiarize unpublished and unknown works to avoid exposure, for example) but also hire public relations agency and better lawyers to get the upper hand if they cannot evade criticism and lawsuits. In addition, the possibility of different legal systems acting as a barrier to settling the cases of plagiarism involving foreign parties is indicated in Excerpt 18. As suggested in Excerpt 19, Interviewee 3 and Gao further explored the role of government in tackling plagiarism. Instead of proactively advocating anti-plagiarism, they would even support plagiarized works (subsidize plagiarists) so long as output is there. The posting of NCAC which shows that the film adaptation of a plagiarized novel is protected by copyright can be associated with this attitude of the government.

Ouyang is unsatisfied with weak legislation against online portals that collect, store and share these written materials without their authors' permission and lack of channels for submitting complaints when copyright owners' rights are infringed. Nevertheless, he is optimistic about China's copyright law acting as a useful weapon against plagiarism to a certain extent, since there are many cases in which victims of plagiarism win the lawsuit and receive adequate compensation. In Excerpt 23, the importance of imposing heavier penalties on plagiarists is illustrated by Sheng. The disproportion between the amount of money the accused earned by publishing the plagiarized work and the sum of compensation he or she is ordered to pay to the plaintiff according to China's copyright law is conspicuous. Similar to Ouyang, Interviewee 7 expressed confidence in the current state of protecting original works, as not only a complete set of laws and regulations, codes

of practice as well as other detailed provisions are ready for copyright protection but plagiarism is also condemned in the mainstream. From his perspective, the problem that deserves attention is a lack of impartial specialists in plagiarism detection, because accurate identification of plagiarism is a prerequisite to proving an alleged plagiarist's innocence or guilt.

Excerpt 24

Ouyang: I don't think there's any (code of practice curbing plagiarism), and a case of plagiarism is discussed only when the author of the original comes across the plagiarized version. Besides, there's only minimal supervision.

Excerpt 25

Sheng: For example, a literary magazine would reject works written by someone who turns out to be a plagiarist, and people who work for other literary magazines would also know about that... As far as I know, there are less than 500 publishers in China now, but companies that can publish books are way too many, making the communication not so effective in the publishing industry. The only thing I want to mention here is that this kind of loose coalition inside the industry restrains plagiarism to a limited extent.

Ouyang doubts that there is any code of practice or supervision from writers' association that acts as a check on plagiarism. Usually a dispute arises when the author of the original learns that

a book sold in a bookstore is plagiarized from what he or she wrote earlier. In Sheng's opinion, though, the information of a habitual plagiarist is often shared among editors who work for literary periodicals, making it difficult for the offender to find a publisher for their works. However, considering that there are numerous big or small publishing houses in China, poor communication in the publishing industry still allows quite a few plagiarists to stay hidden and continue their careers in writing. In general, a loose coalition or a code of practice that favors anti-plagiarism does exist inside the industry, but it is unlikely to be effective enough.

Excerpt 26

Chen: If it's a novel I... I'm not likely to reject it because like... and if it causes sensation, like everyone is accusing the author of plagiarism, I will get even more curious about what on earth they wrote, which book they copied and the like.

Excerpt 27

Gao: I think there's one more thing called "publicity stunts" (Interviewee 3: Yeah, you're right, I forgot to mention it). Suppose I am widely known already, whether it is in a good or bad way, publicity stunts will gain more fame and fortune for me.

Interviewee 3: Yeah, people like us will probably buy a book for the publicity. Then, oh, no, it's a trap.

Gao: Right, but I'm willing to walk into this trap. I'm willing to do that.

Excerpt 28

Ouyang: They (plagiarists) are under the pressure of public opinion, but you know the size of China's population. I don't mean to be rude, but there're too many morons, and those plagiarists have no shortage of crazy fans. No matter how much they plagiarize, those fans will always remain loyal to them and are willing to purchase their products.

Excerpt 29

Sheng: Just look at Guo Jingming's fans. Guo is undoubtedly a plagiarist, but his fans defend him by saying that being able to make the most of plagiarism is his talent. They will support and admire him regardless, so do you think public opinion influenced by these people can lead anti-plagiarism movement? I don't think so.

The situation in which the publicity of a case ironically attracts the audience's attention to plagiarized works and people might contribute to the sales figures out of curiosity is reflected in Excerpt 26 and 27. Moreover, as suggested in Excerpt 28 and 29, big shots do not need to worry about losing their readers because they always have "crazy fans" who support them unconditionally. Considering China's large population, the number of "crazy fans" of a particular celebrity is enormous. These people support their idols no matter what, so they have no problem purchasing the novels written by the writer they worship, despite the fact that he or she is accused

of plagiarizing others. In addition, public opinion can be easily distorted by a fairly large population who blindly admire their idols and insist on the argument that the plagiarized work becoming more famous than the original substantiates their idols' talent.

The influence of the idol effect and publicity stunts on popular attitudes towards plagiarism should not be overlooked. Comments like "I'll be right behind you no matter what" posted below Tang Qi's statement and "when a show becomes popular, people envy its success and all kinds of problems emerge" posted below the online article also illustrate that people are more likely to have a hard time telling the line between right and wrong in the age of disordered value system and declining moral standards,

Excerpt 30

Chen: But when it comes to fiction, you know Guo was found guilty of plagiarism, but he wrote many novels after that, and we all know he is successful now. The penalty on them (plagiarists in the field of popular fiction) is likely to be negligible, because the impact of plagiarizing "entertainment products" on the society is limited. By comparison, we talk about rigorous scholarship, so if you commit academic plagiarism, not only the plagiarized research itself but your intellectual and personal integrity as well as the authenticity of your later achievements are questioned. After that, it is almost unlikely to get things back to normal.

Excerpt 31

Gao: Scholarly work is more serious and restrained, and people avoid overdoing everything, right? It is true that scholars may also go after financial interests, but they don't discard their reputation for them... As for plagiarists in writing industry, they barely care about their reputation. (They would say,) "I will plagiarize anyway. Plagiarizing is not a waste of time and it gives me publicity, right? Then why not? Obviously I gain more from plagiarizing."

Interviewee 3: Sue me if you can.

Gao: If a professor plagiarizes, he or she will suffer from a loss of reputation.

Interviewee 3: You might get fired as well.

Gao: Yeah, getting fired and a notice of criticism being circulated around the university are both terrible, right?

Excerpt 32

Ouyang: They (plagiarism in literary production and academic plagiarism) are essentially the same, but they look different. Papers have specific formats and requirements that teach us how to cite sources and what constitute plagiarism. Speaking of the difference between plagiarism in literary production and academic plagiarism, I think plagiarism in literary production is more invisible and hard to identify. If a plagiarized story and the original have different appearances, they may read like two separate stories. If you encounter them, you'll find it difficult to detect plagiarism.

As for the similarities and differences between plagiarism in the field of popular fiction and academic plagiarism, it seems that plagiarizing literary works and committing academic plagiarism are essentially the same, as they all point to the act of passing off what other people create as one's own. Other than that, it is also pointed out by Sheng that some scholars plagiarize studies done by others to publish their papers for the sake of their academic ranks, since they receive increasingly generous salaries and get higher funding for their projects as they climb the ladder. It cannot be denied that economic interests lie at the bottom of both academic plagiarism and plagiarism in writing/entertainment industry.

Plagiarism in literary production and academic plagiarism are both in essence the act of appropriating others' work or ideas for gain, but they have different outward appearances. Chen thinks that committing academic plagiarism greatly affects a plagiarist's academic career, because people will mistrust not only the plagiarized work but also the plagiarist's intellectual integrity. By contrast, plagiarists who are writers of popular fiction can still succeed despite being exposed, because novels for recreational use is unlikely to cause considerable harm to the society. In Excerpt 31, academic plagiarism is considered as more tactful, and the consequence of it more serious. Although scholars and popular writers alike can commit plagiarism for money's sake, plagiarists from academia apparently care more about their reputation than those from writing industry do. For a professor who works in a university there is risk of a notice of criticism being circulated around the university or being dismissed from their jobs. However, plagiarists from writing industry may think that reputation can be discarded in favor of public stunts brought by plagiarism

because it generates profits.

Last but not least, Ouyang looked into the distinction between academic and creative writing. He mentioned that unlike academic writing, creative writing does not follow a set of relatively strict rules regarding how to cite something in a certain format. Plagiarism in literary production is more invisible, since plagiarized works may appear to be completely different from the originals at first glance.

To conclude, the items below are highlighted throughout interview and site observation: the high tolerance for plagiarism among the public resulting from distorted and vague ideas about copyright and plagiarism; missing institutional curbs on plagiarism inside China's writing industry (there seems to be a lack of consensus about the identification of plagiarism in the field of Chinese popular fiction); the pursuit of quick and easy money; social inequality between plagiarists and victims; flaws in legislation, weak law enforcement and insufficient government supervision; idol effect and publicity stunts in the cases of plagiarism. There is no doubt that all of them affect the environment for copyright protection more or less. Nevertheless, the reality of a growing number of Chinese writers putting moneymaking first and excessive commercialization of both contemporary Chinese literature and the society as a whole are likely to bear majority of responsibility for the prevalence of plagiarism in the field of Chinese popular fiction. In addition, similarities and differences between the two types of plagiarism are discussed in the analysis. It is found that although plagiarism in the field of Chinese popular fiction and academic plagiarism have similar cores, they vary in appearance and consequence.

Conclusion

Although plagiarism in the field of Chinese popular fiction is increasingly common nowadays, it is much less studied as opposed to academic plagiarism and other issues concerned with IP protection in China. By looking into the factors behind the spread of plagiarism among Chinese writers and comparing this type of plagiarism with extensively studied academic plagiarism, the thesis is aimed at filling the gap in the study of plagiarism, copyright and IPRs at least a little bit. The last interviewee quotes “the burden is heavy and the road is long” from the Analects of Confucius to describe the worrying situation for copyright protection in China. The realities are inadequate protection of original content, the prevalence of pirated books and the absence of copyright awareness among readers. Furthermore, these problems are compounded by the massive output of products considering China’s population and highly complicated real-life cases brought by the situation. Nevertheless, it is possible to change the state of disorder in IP protection including copyright protection in China by closing legal loopholes one after another and materially supporting originality case by case. There are always writers who choose to plagiarize for fame and fortune, but the number of them can be greatly reduced if they are severely punished by the law, the public (including their readers) and codes of practice. Much less potential plagiarists are willing to take risks if accusations of plagiarism clearly affect their careers and public images. More importantly, viable solutions to plagiarism in the field of popular fiction can be achieved so long as plagiarism and piracy are studied thoroughly.

The most significant thing to learn about throughout the study is how people react to plagiarism is shaped by and reciprocally shaping the environment breeding plagiarism. If this aspect is to be further explored, better approaches should be developed to cope with the difficulties in screening out a large amount of useless information on the Internet, shortening the time it takes to transcribe interviews and translate transcriptions, and finding ideal interviewees who are also willing to attend in-depth interviews. In a word, there is considerable room for improvement in these areas of research, and prospective studies are sure to give unique insights into the protection of authors' rights in China.

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Template for Interview Questions (1)

1. Do you read Chinese popular fiction?
2. If you read Chinese popular fiction, what genre do you like to read the most and why? How did you come to know the fiction you read?
3. If you only heard about Chinese popular fiction and the community writing or reading them, what is your impression about them?
4. Can you explain what appeal fiction has for you if there's any?
5. If you don't find delight in them, what make you feel this way?
6. Do you know or watch any television/film adaptation of Chinese popular fiction? What do you think of those adaptations and why?
7. Have you ever spent money on a genre fiction and/or its television/film adaptation? What makes you willing or unwilling to do that?
8. How well do you know about the cases of plagiarism regarding Chinese popular fiction, e.g. Yu Zheng's, Guo Jingming's and Tang Qi's cases?
9. Would you read a novel written by an alleged plagiarist and/or watch television/film adaptation of it? Why?
10. In your opinion, what induces some writers of Chinese popular fiction to commit plagiarism?
11. Do you think there is any legal/ institutional (a code of practice, for example)/ financial/ reputational check on plagiarism in the field of Chinese popular fiction?

12. How does the type of plagiarism we are talking about differ from academic plagiarism?

You can also elaborate on the differences in the treatment of them.

13. What kind of general impression do you have on the environment for intellectual property protection and its subcategory copyright protection in China?

Template for Interview Questions (2)

1. What type of fiction do you write? Are they adapted for television, film, etc.? How do you describe the popularity of your works?
2. How do you define the originality of a literary work?
3. How do “originality” and “imitation (learning, borrowing)” interrelate in literary production?
4. Have you ever heard about any case of plagiarism in your circle? What do you think of it?
5. In your opinion, what induces some writers to commit plagiarism?
6. Do you think there is any legal/ institutional (a code of practice, for example)/ financial/ reputational check on plagiarism in your field?
7. How does the type of plagiarism we are talking about differ from academic plagiarism?

You can also elaborate on the differences in the treatment of them.
8. What kind of general impression do you have on (or what do you think of...) the environment for intellectual property protection and its subcategory, i.e. copyright in China?