

Original Paper

Research on Copyright Infringement Determination of Short Videos in the Digital Economy

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Received: October 7, 2026

Accepted: October 20, 2026

Online Published: October 23, 2026

doi:10.22158/elp.v9n2p156

URL: <http://dx.doi.org/10.22158/elp.v9n2p156>

Abstract

Short videos have become an essential product of the digital economy, and with their rapid reuse, editing and algorithmic distribution, the traditional rules of copyright infringement are being challenged. What are the causes of infringement in short-video disputes, and when is liability established? Doctrinal Analysis of Chinese Copyright and Tort Law, a Comparison of the Regimes in the United States and the European Union, Public Statistics on Users and Litigation, and four publicly disclosed adjudicated cases are included. A transparent factor-weighting index will be used to assign weights to the degree of access, similarity, market substitution and permitted use. The indices for the four disputes are all relatively high, ranging from 0.875 to 1.000, but the outcomes on the platform vary among them; some have been dismissed and others found liable. Based on the results, the contested issue is not whether the platform used copies of protected works or whether it was aware of, controlled and profited from the distribution of such works. A Two-Tier Determination Path and Evidence Recommendations for Courts, Platforms and Creators are Proposed.

Keywords

short video, copyright infringement, substantial similarity, platform liability, algorithmic recommendation

1. Introduction

Short videos are one of the most popular online services in China. According to the China Internet Network Information Center, by the end of 2024, there were 1.03953 billion short-video users, accounting for 93.8% of all internet users (China Internet Network Information Center, 2025), up from 1.05330 billion and 96.4% a year ago (China Internet Network Information Center, 2025), and 1.01185 billion at the end of 2022 (China Internet Network Information Center, 2024). Litigation remains heavy.

As shown in Figure 1, the number of new first-instance civil copyright cases received by courts in 2024 was 247,149, down from 251,687 in 2023 and 255,693 in 2022, for a total decrease of 3.34 per cent. Copyright disputes will still be a very large number of cases even after the user growth slows down. Although the number of users in 2024 decreased by 1.31% (China Internet Network Information Center, 2025) and the quantity of civil copyright registrations fell by 1.80% (Wininger, A., 2025), the number of new first-instance criminal copyright cases rose significantly to 938, up 49.6%, so the focus of enforcement attention has been on serious cases rather than a general decline.

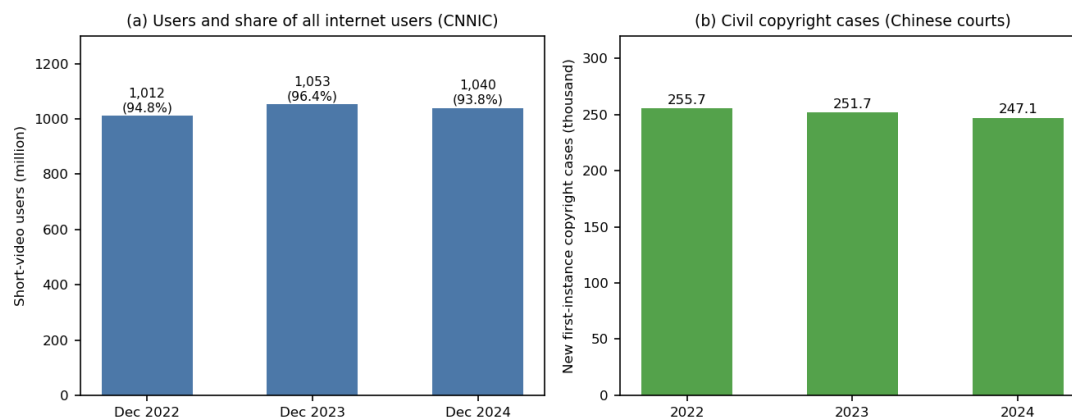


Figure 1. Short-Video Users and Civil Copyright Cases in China, 2022-2024

Short videos challenge the doctrine in three ways. They are short, so the creative space for each clip is small and the line between lawful quotation and appropriation is faint. They are often taken from films, TV shows and other videos and then edited, dubbed or remixed. In addition to being the results of users' searches, they are also recommended by algorithms and do not fall under the category of neutral hosts or active publishers (Lyu, X., & Yang, Y., 2025; Lu, Y., 2025). At the same time, too much regulation will obstruct the flow of creation; a difference-in-differences analysis of Douyin shows that the national anti-piracy campaign has increased the originality of short videos (Rong, K., Huang, J., Hao, F., Xie, D., & Li, S., 2025, pp. 50-72).

This paper has two problems. First, what factors should shape the structure of the determination of infringement for short videos? Second, who will be responsible for how the uploader uploads the content on the platform? The working hypothesis is that in adjudicated disputes, the reasons for the outcome are often platform-level faults and do not depend significantly on the use-level similarity of the goods. Doctrinal study of Chinese law and comparison with the rules of the United States and the European Union are used for analysis, coded comparison of four publicly disclosed disputes is conducted, and a factor-weighting index is applied to show the reasoning behind the use level.

2. Legal Foundations and Conduct Typology

2.1 Short Videos as Protected Works

The Copyright Law of the People's Republic of China, as amended in 2020, has replaced the category of cinematographic works and works created through analogous processes with the broader category of audiovisual works (Standing Committee of the National People's Congress. Copyright Law of the People's Republic of China (2020 amendment)). In its first short-video judgment in December 2018, the Beijing Internet Court found that the short video met the conditions of a film-like work and approved the use of blockchain-stored evidence; however, it did not rule in favour of the claimant and subsequently deleted the video upon notification (TechNode. In a series of three firsts, Beijing's internet court dismisses ByteDance copyright suit against Baidu). The two fixed points are: the form is not contrary to the protection, and platform liability is judged separately from the legality of the underlying use.

2.2 Typology of Infringing Conduct

Table 1 shows the categories of short-video behaviour and the reasons for this behaviour. It is a typology and not a rule; its purpose is to show that various conduct gives rise to different problems.

Table 1. Classification of Short-Video Infringement Conduct and Decisive Legal Elements

Conduct	Rights engaged	Decisive elements	Illustration
Re-uploading a complete video	Reproduction; information network dissemination	Access, identity of expression, authorisation	Douyin operator v. Baidu (TechNode. In a series of three firsts, Beijing's internet court dismisses ByteDance copyright suit against Baidu)
Cutting film or series into clips	Reproduction; dissemination; adaptation if recast	Quantity and substance taken, market substitution	iQiyi v. ByteDance (Rouse. News & cases from China: January 2023)

Conduct	Rights engaged	Decisive elements	Illustration
Commentary or remix of footage	Adaptation; integrity; dissemination	Proportion of borrowed expression to commentary purpose	Museum documentary dispute (Lyu, X., & Yang, Y., 2025, pp. 197-203)
Algorithmic alteration such as face swapping	Adaptation; alteration; dissemination	Substantial similarity of selection and arrangement	AI face-swap case (China IP Law Update)
Platform recommendation of infringing uploads	Indirect liability under Civil Code Arts. 1194-1197	Knowledge, necessary measures, control and benefit	iQiyi v. ByteDance (Rouse. News & cases from China: January 2023)

The first two rows are copies that are easy to create but have different market effects; a full re-upload will compete with the original platform, and a series of clips will compete with licensed streaming. The last three rows show how the new techniques change the focus of the study: remix and commentary increase the problem of proportion; algorithmic alteration tests how much of the creative structure is kept; recommendation changes attention from the uploader to the service platform. Based on the above reasons, a single test for all short-video disputes will not be practical.

3. Use-Level Determination of Infringement

3.1 Access and Substantial Similarity

Access to platform content is generally not a problem because the works have been published and time-stamped; thus, the evidential task is to prove the order of publication, and platform records and blockchain deposits are relevant to this (TechNode. In a series of three firsts, Beijing's internet court dismisses ByteDance copyright suit against Baidu). Substantial similarity does not cover protected expressions or ideas; therefore, in short videos, the main subject of protection is generally the selection and arrangement of shots, camera work, characters and movements. A typical case decided by the Supreme People's Court in 2024 saw that the Jiading District People's Court determined that an AI mini-program which only replaced faces in thirteen ten-second videos and did not change the scenes, lenses, character models and movements was substantially similar to the original and violated the right of dissemination of information networks (China IP Law Update). The court did not deem it fair use or

adaptation, and therefore ruled in favour of RMB 7,500. Thus, if the creative structure is the same, there will be no decrease in similarity after the technical modification. Since many short videos are only a few seconds long, their length cannot be considered an indicator of originality; rather, it is to be judged whether the author has made choices in selection and arrangement, and the court found that each of the thirteen clips shows such choices in composition and cinematography (China IP Law Update).

3.2 Permitted Use and Transformative Reuse

Article 24 of the Copyright Law permits use without permission only in the enumerated circumstances, and if the author and title are indicated, normal exploitation shall not be infringed, nor shall the legitimate interests of the owner be unreasonably prejudiced (Standing Committee of the National People's Congress. Copyright Law of the People's Republic of China (2020 amendment)). Quotation for commentary is the relevant way to review videos, but it only supports short excerpts and not the whole program. Comparable Regimes are relatively more lenient: The European Union lists quotation, criticism, review, caricature, parody and pastiche as mandatory exceptions to user uploads (European Parliament and Council. Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market), and US law is an open four-factor fair-use test (Legal Information Institute. 17 U.S. Code § 107: Limitations on exclusive rights: Fair use). Scholarship shows that the re-packaging of film clips and concert footage is now a source of disputes (Lu, Y., 2025), as it is likely a substitution for licensed streaming and lacks the commentary element.

3.3 A Factor-Weighting Index

To make the use-level reasoning transparent, a use is scored on four factors that mirror the elements above. For a given use, let s_k denote the score of factor k , where s_1 is access, s_2 is similarity of protected expression, s_3 is market substitution and s_4 is absence of a permitted-use justification. Each factor is coded 0, 0.5 or 1 from the reasoning reported in the public record. The coding rules are as follows: $s_1 = 1$ when copying from the claimant's published video is shown; $s_2 = 1$ when the court finds substantial similarity of selection and arrangement and 0.5 when similarity is partial; $s_3 = 1$ when the use competes with licensed exploitation or is commercially monetised and 0.5 when substitution is only partial; and $s_4 = 1$ when no permitted use applies or the court rejects the defence. The risk index is

$$R = \sum_{k=1}^4 \omega_k s_k, \quad \sum_{k=1}^4 \omega_k = 1,$$

where ω_k is the weight of factor k . The base weights are $\omega_1 = 0.20$, $\omega_2 = 0.35$, $\omega_3 = 0.25$ and $\omega_4 = 0.20$, giving priority to similarity, which is the element courts examine most closely. The index is a structured aid to reasoning, not a predictor of judgments; its value is that it exposes which factor carries a conclusion. Robustness was checked with equal weights, a similarity-dominant scheme and a market-dominant scheme.

4. Platform-Level Determination of Liability

4.1 Comparative Standards

Platform liability has different logics in various places, as shown in Table 2. Chinese law holds the network service provider jointly and severally liable if it is aware of or should have been aware of the infringement and fails to take remedial measures; timely action must be taken after receiving a notice (National People's Congress of the People's Republic of China. Civil Code of the People's Republic of China (2020)). The United States will provide a safe harbour if there is no actual or reckless knowledge of the infringement, and swift removal procedures will be in place without direct financial gain for the service provider (Legal Information Institute. 17 U.S. Code § 512: Limitations on liability relating to material online). The European Union goes further by treating large content-sharing services as communicating to the public themselves, so they need to obtain authorisation or show the best efforts, including notice and stay-down (European Parliament and Council. Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market). Thus, the three regimes place the burden at different times: China at the time of knowledge or awareness, the United States at the time of notice, and the European Union at the time of upload. Chinese law has not issued specific rules for algorithmic recommendations, and due to the lack of such regulations, courts have had to shoulder a "higher duty of care" that scholars distinguish from the general obligation of pre-monitoring (Lyu, X., & Yang, Y., 2025, pp. 197-203; Liu, Z., 2024, pp. 913-925).

Table 2. Comparison of Platform Liability Standards in China, the United States and the European Union

Jurisdiction	Fault trigger	Proactive duty	Creator permitted use
China (Standing Committee of the National People's Congress. Copyright Law of the People's Republic of China (2020 amendment); National People's Congress of the People's Republic of China. Civil Code of the People's Republic of China (2020))	Knew or should have known; failure to act on notice	No general monitoring; higher care for recommendation in case law	Enumerated list with three-part guard

Jurisdiction	Fault trigger	Proactive duty	Creator permitted use
United States (Legal Information Institute. 17 U.S. Code § 107: Limitations on exclusive rights: Fair use; Legal Information Institute. 17 U.S. Code § 512: Limitations on liability relating to material online)	Actual or red-flag knowledge; benefit with right and ability to control	None as a condition of safe harbour; repeat-infringer policy	Open four-factor fair use
European Union (European Parliament and Council. Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market)	Service communicates to the public unless authorised	Best efforts for licences; notice and stay-down	Mandatory exceptions including parody and pastiche

4.2 Evidence from Adjudicated Disputes

Table 3 presents the indices of the four public short-video disputes and how they have been handled by platforms. The selected cases are those for which there have been judgments or court-released summaries, and each case contains user-generated short videos; the set is illustrative rather than statistically representative. The fourth column of Table 3 reports the use-level risk index R of each dispute under the base weights, calculated as $R = \sum_{k=1}^4 \omega_k s_k$, where s_k is the score of factor k coded 0, 0.5 or 1 and the four weights ω_k sum to one. R is therefore a dimensionless score on a scale from 0 to 1, where 1 means that all four factors are fully present. A value of 0.875 corresponds to full scores on access, similarity and absence of a permitted-use justification together with a partial score of 0.5 on market substitution.

Table 3. Adjudicated Short-Video Disputes, Use-Level Risk Index and Platform Outcome

Case	Court and year	Platform outcome	Use-level risk index R
Douyin operator v. Baidu (TechNode. In a series of three firsts, Beijing's internet court dismisses ByteDance copyright suit against Baidu)	Beijing Internet Court, 2018	Not liable after takedown; claim dismissed	0.875

Case	Court and year	Platform outcome	Use-level risk index <i>R</i>
iQiyi v. ByteDance (Rouse. News & cases from China: January 2023)	Haidian District People's Court, 2021	Liabile; RMB 1.5 million damages plus RMB 0.5 million expenses	1.000
Museum documentary dispute (Lyu, X., & Yang, Y., 2025, pp. 197-203)	Beijing Intellectual Property Court, 2024	Duty limited to repeated uploads; recommendation treated as personalised	0.875
AI face-swap case (China IP Law Update. China's Supreme People's Court releases typical intellectual property cases in People's Courts of 2024)	Jiading District People's Court, 2024	Provider of the synthesis tool liable; RMB 7,500	1.000

The index is at least 0.875 for all four disputes under the base weights, and it does not fall below 0.775 under the alternative schemes; thus, the conclusion of use-level is almost the same. Not Platform Outcomes. In the first case, the host escaped responsibility by taking down the video upon being informed (TechNode. In a series of three firsts, Beijing's internet court dismisses ByteDance copyright suit against Baidu). In the iQiyi case, users uploaded clips from a popular show, the platform's algorithm recommended them, and the court found that the platform had knowledge of the infringement and promoted it in an active manner (Lyu, X., & Yang, Y., 2025, pp. 197-203; Rouse. News & cases from China: January 2023); later, both sides reached an agreement to authorise the use of the material (Rouse. News & cases from China: January 2023). In the case of the museum documentary dispute, the court applied the "knowledge or substantial assistance" rule and ruled that collaborative filtering based on user behaviour did not constitute active intervention; thus, the duty of repeated uploads by a single user was not established (Lyu, X., & Yang, Y., 2025, pp. 197-203). The two decisions made by the platform can be judged based on the three criteria mentioned in the court's reasoning: whether there was technical intervention in the form of recommendations, whether profit was gained from the infringing content, and whether a feasible filtering technology that did not exist has been created (Lyu, X., & Yang, Y., 2025, pp. 197-203). All three were determined to be faults in the iQiyi dispute, and in the case of the museum documentary dispute, it was found that the recommendation had been automatically generated based on user behaviour, and other infringing

videos had been removed by the platform in time (Lyu, X., & Yang, Y., 2025, pp. 197-203). Based on the above evidence, it can be concluded that if the platform switches from a passive host model to an active recommendation and commercialisation model, the liability will be relatively high; that is to say, the high-usage risk will be relatively low.

5. Evidentiary Pathway and Governance Implications

5.1 Two-Layer Determination Pathway

Therefore, it is proposed that the two levels of determination are shown in Figure 2. The first is to determine whether the protected work has been used and whether it falls under the scope of permitted use; the second is to consider the role, knowledge and control of the platform. Separate the levels so that a serious violation is not treated lightly as a problem of platform responsibility, and the failure of the platform to promptly remove the infringing post is not ignored.

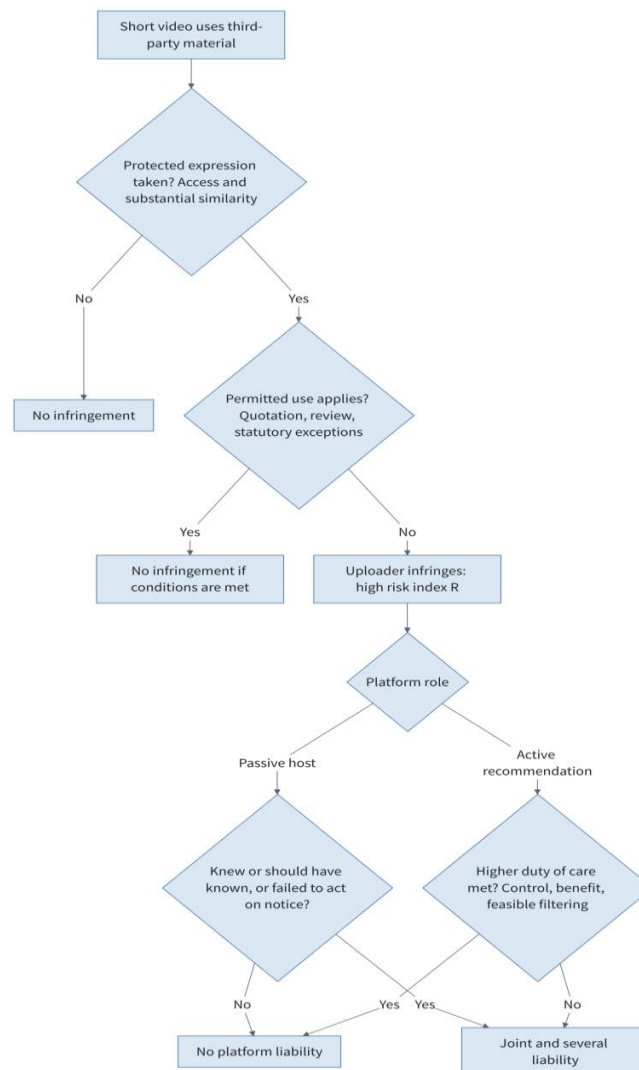


Figure 2. Decision Pathway from Content Use to Infringement Liability

In fact, the index R serves as a display. A high value at the first level will send the inquiry to the second level instead of terminating it; a low value, for instance, is when only an unprotected idea or a properly limited quotation is involved, and thus can close the case early. Report the weights and the coding of each factor, and then you can contest the assessment factors one by one.

5.2 Evidence and Governance Recommendations

Four recommendations follow. First, standardise the collection of evidence. Timestamped records and blockchain deposits have been recognised as evidence in the first short-video case (TechNode. In a series of three firsts, Beijing's internet court dismisses ByteDance copyright suit against Baidu), and platform logs of recommendation parameters can be used to determine whether there is knowledge of the algorithm (Lyu, X., & Yang, Y., 2025, pp. 197-203). Second, the degree of duty should correspond to exposure. Fingerprint filtering and manual inspection are suitable for popular, high-value programs, but general pre-monitoring is too laborious (Lyu, X., & Yang, Y., 2025, pp. 197-203; Liu, Z., 2024, pp. 913-925). Recently, some scholars have also put forward graded duties according to the level of control ability and dissemination risk (Huang, Y., & Lu, Y., 2026). Thirdly, licence and litigation should be combined, as shown in the iQiyi settlement on authorised use (Rouse. News & cases from China: January 2023), and more explicit rules for commentary-based reuse will reduce disputes in the margin where quotation and substitution overlap (Lu, Y., 2025). Fourth, creators of derivative works should keep the original materials, licence information and drafts of their commentary; this way, it will be easier to prove that the work is authorised, proportional and independently created in the event of a dispute. In 2026, the Wuhan Department of Culture and Tourism also required the preservation of scripts, draft prompts, generation records and proof of the first publication for AI-assisted short dramas (Wininger, A., 2026).

6. Conclusion

Based on the above, this paper believes that identifying short-video violations can be done in two stages. At the level of use, access, substantial similarity, market substitution and permitted use can be arranged in a transparent factor-weighting index, and this index was uniformly high in the four publicly disclosed disputes. At the platform level, the outcomes varied from dismissal to full liability based on the platform's knowledge, control and benefit; this is in line with the view that platform fault is the deciding factor in many contentious cases.

The first theoretical problem that needs to be solved is to separate the two problems that are often combined: whether there is an infringement and whether the platform should be held liable (Lyu, X., & Yang, Y., 2025, pp. 197-203; Liu, Z., 2024, pp. 913-925). Only focus on the algorithmic duty of care, and this framework has also been extended to cover use-case testing; the two levels are connected by comparative rules. In fact, it can give the court a list, a reason for the tiered filtering on platforms, and a clearer boundary for creators of commentary-based reuse. Based on the above evidence, strong enforcement will promote the creation of original works rather than hinder it (Rong, K., Huang, J., Hao,

F., Xie, D., & Li, S., 2025, pp. 50-72), and therefore one cannot be expected to suffer from a clear liability standard for platforms.

There are no such studies. Since the set of cases is small, we have used court-issued summaries and secondary reports, ordinal coding and analyst-set weights; thus, the index reflects reasoning rather than probability. The total number of users and cases cannot distinguish between disputes over short videos and other copyright cases. Next, an extended judgment-level database will be constructed, inter-coder reliability tests will be carried out, the results of various platform designs will be compared, and we will observe how courts have applied the higher duty of care to recommendation systems over time.

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