



互联网知识产权保护执法实践中的几个问题

Issues in Cyberspace IPR Enforcement

李春雷

Chunlei LI

中国人民公安大学 教授

Professor, People's Public Security University of China





十九大报告多次提及互联网建设，强调“要为网络强国建设提供有力支撑，建立网络综合治理体系，着力营造清朗的网络空间。”

The Report to the 19th CPC National Congress made repeated calls for internet development, emphasizing the need to build China into a cyber power with an integrated governance framework and a clean cyberspace.

1.案件管辖问题 Jurisdiction

2.犯罪认定问题 Infringement identification

网络环境下，知识产权新载体形式不断变幻，侵权行为也愈发隐蔽灰色，此罪彼罪、罪与非罪？法律适用难度明显增大。

The evolving formats of IP content and the ever-more covert violations in cyberspace bring significant challenges to infringement detection and identification, as well as applicability of laws and regulations.

3.侵权证明问题 Proof of infringement

既是权利人、受害者，又是关键的侵权证明人。需设法调整改善这种局面。

The critical burden of proof, which today falls on the right holder / victim, needs to be revisited and redressed.

4.行刑衔接问题 Alignment between administrative enforcement and criminal justice

立法层面衔接；执法层面衔接

Alignment with legislation; Alignment with law enforcement

5.社会共治问题 Multi-stakeholder governance

各种网络平台企业、即时通讯类企业等，要进一步担负起“企业之企业”的管理责任；行刑执法部门，也要高度重视与各类专业打假企业的协作互动。

“Business enablers”, e.g. online marketplaces and IM service providers, should assume more management responsibilities.

Administrative and law enforcement agencies should prioritize collaboration and engagement with IPR watchdogs.