

Acupressure: The Role of Market Forces in China's Emerging Copyright Enforcement Environment

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In Beijing, China's largest "Youtube clones"—until recently havens for unlicensed video content—now spend tens of millions of dollars purchasing exclusive internet broadcast rights for popular television shows. In Guangzhou, a growing number of factories are purchasing authorized Microsoft Windows and Office software for the first time. What do these two narratives have in common and what accounts for them in a country widely viewed as having little practical regard for copyright despite the formal laws in place? The standard view in the U.S. is that respect for copyright in China will improve when domestic copyright interests reach a critical mass and it is "in China's own best interests" to cultivate an effective enforcement environment, and/or when the Chinese government develops the will to expend the political capital necessary to bear down on infringers. This received wisdom suggests the narratives above are best explained by some combination of aggressive copyright litigation and government action or pressure. But neither of these explanations appears to be the central cause of the sudden reversals identified above. Rather, both trends seem to be best explained by powerful market-based pressures that do not directly derive from the copyright owners or from the application of copyright law. This paper, drawing from interviews with executives in China's internet and content industries, seeks to provide a more nuanced picture of the copyright enforcement environment in China, and explores what lessons these case studies might teach. Do they represent "bubble" markets, or do they indicate a broader overall improvement in China's copyright and IP enforcement environment? The paper also considers what these case studies can teach us about China's role in, and how it is affected by, the international intellectual property system.