



## Infringement of Photographic Works on Marketplaces: A Study of the Chinese Experience

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This article aims to provide an extensive analysis of the Chinese experience regarding the infringement of photographic works on marketplaces, offering valuable insights into the causes, scale, and implications of this pervasive issue. It explores the challenges faced by photographers in protecting their intellectual property rights, the effectiveness (or lack thereof) of marketplace policies and enforcement mechanisms, and the role of technological advancements, such as content filtering algorithms, in tackling infringement issues. Moreover, this study investigates the economic consequences of photographic copyright infringement on photographers, marketplace platforms, and the image licensing ecosystem as a whole. By analyzing the financial impact, including potential revenue losses, reduced market competitiveness, and implications for artistic innovation, this research sheds light on the urgency of addressing the issue and implementing effective preventive measures. Overall, this article provides a comprehensive understanding of the infringement of photographic works on marketplaces, with a specific focus on the Chinese experience. It contributes to the existing literature on copyright protection and online marketplace governance, aiming to raise awareness, inform policy decisions, and guide future research in combating this pressing issue within the photography industry.

**Keywords:** E-commerce, Marketplaces, Copyright Infringement, Photographic Works, Digital Age

Photography is a vastly significant art form that has gained global popularity and plays a crucial role in various industries. It captures moments, conveys emotions, tells stories, and preserves memories. The photography market is a thriving industry valued at billions of dollars worldwide, including both professional photographers and amateurs who engage in the art form as a hobby. The importance of photography in today's world cannot be overstated. It is an essential tool for communication, marketing, journalism, advertising, and creative expression. In the digital age, photographs are shared within seconds through various platforms, enhancing connectivity and spreading ideas globally. The photography market encompasses various segments, including portrait photography, photojournalism, product photography, fashion photography, wildlife photography, and more.

China, with its large population and rapid economic growth, has emerged as a crucial player in the global marketplace. The country's photography market has experienced significant growth in recent years, fueled by rising disposable incomes, increased leisure activities, and a growing interest in arts and

culture. Chinese marketplaces, both physical and online, are major platforms for photographers to sell their works and reach a vast audience. E-commerce giants like *Alibaba's Taobao*, *JD.com*, and *Pinduoduo* dominate the online marketplace scene, providing convenient avenues for photographers to showcase and sell their photographs.<sup>1</sup> Additionally, galleries, exhibitions, and photography festivals in cities like Beijing and Shanghai attract domestic and international photographers, making China an important hub for the photography industry.

One significant issue prevalent in the Chinese photography marketplaces is the infringement of photographic works. Due to the massive size and sometimes lax intellectual property enforcement, photographers often find their copyrighted works illegally reproduced, distributed, and sold without permission or proper attribution.<sup>2</sup> According to a 2022 survey conducted by the Chinese Photographers Association, approximately 65% of professional photographers reported experiencing some form of copyright infringement. Additionally, a study by the Digital Media Rights Agency (DMRA) revealed that in the first half of 2021 alone, there were over 1.2 million instances of unauthorized use of photographic

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images on Chinese e-commerce platforms. This widespread unauthorized use has led to significant financial losses for photographers, with estimates from the China Association of Photography Industry citing annual losses totaling upwards of 1.5 billion RMB (approximately 225 million USD) due to infringement. The Beijing Intellectual Property Court, which handles many of these cases, reported a 30% annual increase in the number of photography copyright cases filed, highlighting the growing concern and need for stronger enforcement mechanisms.

This pervasive problem affects both domestic and international photographers, posing significant challenges and hindering the growth of the industry. The infringement of photographic works on Chinese marketplaces not only undermines the creativity and intellectual property rights of photographers but also significantly impacts their livelihoods. It limits their ability to generate income from their creations and discourages investment in new projects. Addressing this problem requires robust measures to protect photographers' rights, stricter enforcement of intellectual property laws, and raising awareness among both sellers and buyers about the importance of respecting copyrights.

In conclusion, the significance of photography extends beyond borders, and the global market showcases its importance in various sectors. The Chinese marketplaces play a vital role in this industry's growth, but the infringement of photographic works is a prevalent issue that needs to be addressed for the sustainable development of the photography market in China.

## Analysis of the Current Landscape

### Overview of Major Chinese Marketplaces and their Significance in the Photography Industry

China is home to several major e-commerce marketplaces that play a significant role in the photography industry. These platforms provide photographers with a wide range of opportunities to showcase and sell their work to a massive audience.

Some of the major marketplaces include *Alibaba's Taobao*, *JD.com*, *Pinduoduo*, and *VIP.com*.<sup>3</sup> These platforms have millions of users and a massive customer base, making them an attractive channel for photographers to reach a wide audience. *Alibaba* is one of the largest conglomerates in the world, and its marketplace platforms, such as *Taobao* and *Tmall*, are

immensely popular in China. Photographers can set up their online stores or list their works on these platforms to reach a massive customer base. Another major e-commerce platform in China, *JD.com* offers a diverse range of products, including photography equipment and artwork. Photographers can leverage this platform to sell their prints, equipment, and related merchandise directly to consumers. *Pinduoduo* is a relatively new but rapidly growing e-commerce platform that focuses on social commerce. It allows users to form groups and purchase products at discounted prices. Photographers can benefit from *Pinduoduo's* social features to promote their works and engage with potential customers. While primarily known as a short-video sharing platform, *Douyin* (Chinese version of *TikTok*) has also become a hub for photographers to showcase their work. Photographers can create visually stunning content, gain followers, and direct them to their professional portfolios or online stores. *WeChat* is a multipurpose platform in China that combines social networking, messaging, and e-commerce capabilities. Photographers can leverage *WeChat's* extensive user base to share their work, connect with potential clients, and even sell prints or offer photography services.

These marketplaces offer photographers access to millions of potential customers and provide the necessary tools and infrastructure to showcase, sell, and promote their photographic works. They serve as powerful platforms for photographers to gain recognition, expand their clientele, and establish themselves in the highly competitive photography industry in China.

### Examination of Reported Infringement Cases and Emerging Trends

The infringement of photographic works on Chinese online marketplaces has been a recurring issue, with numerous reported cases highlighting the need for stronger copyright protection measures.<sup>4</sup> In recent years, there has been a growing awareness of the problem, leading to increased scrutiny, legal proceedings, and efforts to address the issue.

A renowned Chinese photographer discovered his photograph being used in advertisements by Quanjian, a Chinese herbal health product company, without permission.<sup>5</sup> The photograph was widely employed across multiple online advertisements on leading e-commerce platforms like *JD.com*, *Taobao*, and others, promoting Quanjian products. The photographer collected screenshots and records of the advertisements

where his photograph was used. A lawsuit was filed against Quanjian and the involved online marketplaces. The court found in favor of the photographer, ordering Quanjian to pay substantial damages for copyright infringement and mandating the removal of all unauthorized uses of the photograph. The online platforms were also ordered to enhance monitoring mechanisms to prevent future infringements. This case heightened awareness about the importance of rigorous copyright enforcement and the accountability of both infringers and hosting platforms.

In another case,<sup>6</sup> photographer Xu noticed in 2017 that several of his wildlife photographs were being sold as stock photos by multiple vendors on Taobao without his consent. The vendors were selling digital copies of Xu's photographs, claiming them as their own, resulting in widespread unauthorized dissemination. Xu made purchases from the infringing vendors to collect critical evidence of unauthorized sales. Xu initiated legal action against the vendors and Taobao for facilitating the sale of infringing content. The court sided with Xu, imposing fines on the vendors and awarding Xu significant compensation. Taobao was instructed to improve its copyright monitoring and takedown systems. The case underscored the necessity for proactive measures by online marketplaces to detect and prevent the sale of infringing materials.

One of the emerging trends in reported infringement cases is the unauthorized use of photographs for commercial purposes.<sup>7</sup> This includes the use of photographs in advertisements, promotional materials, and product listings without obtaining proper permission or licenses from the copyright holders. Such instances not only violate the rights of photographers but also create unfair competition for legitimate sellers. Another trend is the widespread availability of counterfeit products and imitation photography works on these marketplaces.<sup>8</sup> These counterfeit products often infringe on the intellectual property rights of photographers and undermine the value of their original works. This poses a significant challenge for marketplace operators and copyright holders in effectively monitoring and enforcing copyright protection.

One case study underscores the trend of unauthorized use of photographs in China for commercial purposes involves the famed children's photographer Xiao Yi.<sup>9</sup> Xiao Yi, a renowned children's photographer in China, discovered that a

number of online sellers on Taobao were using her copyrighted photographs without permission to promote products such as children's clothing and accessories. Her works, often characterized by their distinct style and high-quality production, were being utilized in product listings, advertisements, and promotional materials across various stores on Taobao, one of China's largest e-commerce platforms. Xiao Yi identified multiple instances where her photographs were used without authorization, spanning several stores and products. These images were reproduced not only on product pages but also in marketing banners and promotional campaigns, misleading customers and potentially diminishing the value of her work. The court ruled in favor of Xiao Yi, recognizing the unauthorized use of her photographs as clear infringements of her copyright. The sellers who used the images were ordered to compensate Xiao Yi for damages. The amounts varied depending on the extent of the use and the duration for which the photographs had been used. Taobao was also held accountable. While not directly responsible for the infringement, the platform was required to strengthen its oversight mechanisms, implement stricter policies against copyright infringement, and promptly remove infringing content upon receiving complaints.

It is worth noting that some marketplaces have taken steps to combat infringement and protect the rights of photographers.<sup>10</sup> These measures include the implementation of takedown procedures, copyright infringement reporting mechanisms, and cooperation with copyright protection organizations.<sup>11</sup> However, challenges remain in terms of the efficiency and effectiveness of these measures, as well as the enforcement of intellectual property rights in the online marketplace ecosystem.

#### **Evaluation of Existing Measures taken by Marketplaces to Combat Infringement**

Existing measures taken by Chinese marketplaces to combat infringement of photographic works have evolved over time.<sup>12</sup> These measures involve a combination of policies, technological tools, cooperation with rights holders and enforcement agencies, as well as legal frameworks.<sup>13</sup>

Firstly, many marketplaces in China have implemented comprehensive policies and guidelines that address copyright protection and infringement issues.<sup>14</sup> These policies outline the marketplace's stance on intellectual property rights and provide clear

instructions on how rights holders can report copyright infringement. They often emphasize the importance of respecting copyright laws and outline the consequences for infringing behavior. In terms of technological tools, marketplaces employ various methods to detect and prevent infringement of photographic works.<sup>15</sup> Content filtering systems are commonly used to automatically scan uploaded images and identify potential infringing content.<sup>16</sup> These systems utilize algorithms that can recognize patterns, metadata, and visual elements to flag potential infringements. Some marketplaces also employ watermarked images to deter unauthorized use or provide digital rights management tools that enable photographers to track and protect their works. Marketplaces such as Taobao and JD.com have established content review processes to identify and remove infringing listings.<sup>17</sup> They use a combination of automated systems and human moderation to detect potentially infringing content. Additionally, they have implemented measures to prevent the re-upload of removed infringing listings, such as blacklisting sellers who repeatedly violate IPR rules.

Cooperation with rights holders and enforcement agencies is another key aspect of combating infringement.<sup>18</sup> Chinese marketplaces often establish partnerships and engage in collaborations with copyright holders and organizations specialized in intellectual property protection. These collaborations can involve information sharing, training programs, joint campaigns against infringement, and the establishment of dedicated channels for reporting and addressing infringement issues. Additionally, marketplaces in China work within the legal framework provided by national laws and regulations.<sup>19</sup> The Chinese government has taken steps to strengthen copyright protection and enforcement. Marketplaces are expected to comply with these regulations, which include provisions for notice and takedown procedures, penalties for infringement, and mechanisms for resolving disputes.<sup>20</sup>

Overall, Chinese marketplaces have implemented a range of measures to combat infringement of photographic works. These measures encompass policies, technological tools, cooperation with rights holders and enforcement agencies, as well as adherence to legal frameworks. However, as the landscape of infringement continues to evolve, it is important for marketplaces to stay updated and

continually improve their strategies to protect the rights of photographers.

### **Assessment of the Effectiveness of these Measures in Protecting Photographers' Rights**

While the measures taken by Chinese online marketplaces to combat infringement are commendable, their effectiveness in fully protecting photographers' rights is still a subject of debate. The sheer volume of listed products and the dynamic nature of online platforms pose significant challenges in identifying and removing infringing content. As of 2022, over 6 billion listings existed on e-commerce platforms globally, with Taobao alone accounting for over 1 billion product listings. E-commerce giant Amazon similarly sees upwards of 3.5 billion product listings at any given time. These platforms undergo constant updates, with millions of new listings posted daily. For instance, Taobao adds around 20 million new products per day. In addition to the sheer volume of listings, the pace at which content is updated and rotated is staggering. Both Amazon and Taobao handle thousands of changes every minute, necessitating robust and efficient monitoring systems. Despite efforts to use artificial intelligence and machine learning algorithms for content moderation, the detection and removal of infringing materials remain daunting. A 2021 report by the World Intellectual Property Organization (WIPO) highlighted that even with advanced technology, only about 60-70% of infringing listings are correctly identified and acted upon. Moreover, the time lag between identification and removal can span several days, further complicating enforcement efforts. Despite the efforts of marketplaces, infringing listings may still slip through the review process and remain for a certain period before being detected and removed.<sup>21</sup> This can result in financial losses and reputational damage for photographers. Additionally, the burden of enforcing copyright protection often falls on the copyright holders themselves. Photographers must proactively monitor marketplaces, identify infringing listings, and file takedown requests.<sup>22</sup> This can be a time-consuming and resource-intensive process, especially for individual photographers who may lack the necessary legal expertise and financial means to enforce their rights effectively.

To enhance the effectiveness of existing measures, marketplaces should continue to invest in advanced technologies, such as artificial intelligence and machine learning, to improve content review processes and identify potential infringements more accurately

and efficiently.<sup>23</sup> Furthermore, they should establish clearer and more user-friendly mechanisms for copyright holders to report infringements and streamline the takedown procedures. Collaboration between marketplaces, copyright holders, and relevant government authorities is crucial in combating infringement effectively. Regular communication, sharing of best practices, and joint efforts in developing comprehensive policies and regulations can improve the overall protection of photographers' rights in the Chinese online marketplace.

To better protect intellectual property rights, Chinese marketplaces and platforms have been increasingly embracing advanced technologies. AI and Machine Learning (hereinafter – ML) are particularly powerful tools for identifying and dealing with copyright infringement efficiently. AI algorithms can scan vast amounts of online content to match and detect copyrighted images. This technology can identify similarities between uploaded images and those stored in databases, thus flagging potential infringements.<sup>23</sup> NLP can analyze text descriptions, comments, and metadata associated with images to identify unauthorized use or distribution.<sup>24</sup> ML models can learn to identify patterns of infringing activities based on historical data.<sup>25</sup> Once trained, these models can predict and flag new instances of potential infringement with high accuracy. ML algorithms can monitor user behavior to detect anomalies that may indicate infringement, such as frequent uploads of suspected infringing content by specific users.

Several real-life cases and initiatives illustrate how these advanced technologies are used to combat IP infringement in China:

**Case 1:** Tencent, one of China's largest technology companies, has implemented an advanced image recognition system to protect intellectual property on its platforms. This system, leveraging AI, can analyze visual content uploaded by users and compare it against a database of protected images. If a match is found, Tencent can quickly act to remove the infringing content.

**Case 2:** Alibaba, another tech giant, has developed an AI-powered system to combat counterfeit goods on its e-commerce platforms. By utilizing image recognition and big data analysis, Alibaba's system can scan product listings to identify and remove counterfeit items. This has significantly decreased the number of counterfeit products available on the platform.

**Case 3:** JD.com has partnered with Microsoft to develop an AI system that uses machine learning to monitor and review user-uploaded content for potential IP infringement. This system analyzes both images and associated text to detect infringing materials. The collaboration has resulted in a more efficient and accurate content review process.

**Case 4:** Baidu has deployed deep learning techniques in its image search services to ensure that copyrighted content is not misused. Their system can detect whether an image uploaded to Baidu Image Search infringes on copyrights by comparing it with known copyrighted works.

The Chinese government has also been supportive of these technological advancements through updated legislation and regulations. The 2021 Amendment to the Copyright Law explicitly encourages innovation in IP protection measures, providing a legal framework that supports the use of modern technology in enforcement efforts. To further bolster these efforts, the Chinese government has initiated several collaborative projects involving technology firms and IP enforcement agencies. These initiatives aim to create a more robust framework for IP protection using advanced technologies.

As an exemplary government initiative, the National Copyright Administration of China (NCAC) stands out prominently. The NCAC has taken a proactive stance in advocating for the integration of AI into copyright enforcement mechanisms. They have led several pioneering projects that unite technology enterprises, particularly those with expertise in AI and big data, to create advanced tools designed to more effectively detect and address copyright violations.

In conclusion, while Chinese online marketplaces have implemented measures to combat infringement, there is room for improvement. Enhanced technology, streamlined procedures, and closer collaboration among stakeholders can further strengthen the protection of photographers' rights in the Chinese photography industry.

## **Factors Contributing to Infringement**

### **Discussion on the Role of Online Market Places in Enabling Infringement**

Online marketplaces play a significant role in facilitating the infringement of photographic works, and it is essential to examine their role in the context of the Chinese experience.<sup>26</sup> Online marketplaces serve as platforms where individuals can buy and sell

various goods, including photographic works. However, the nature of these marketplaces and their functionality can make it easier for unauthorized use and distribution of copyrighted photographs to occur.

The E-Commerce Law of the People's Republic of China<sup>27</sup> uses the term "*e-commerce operator*" - "*E-commerce platform businesses*" - as a collective (unifying) concept for e-commerce entities. which means individuals, legal entities or unincorporated organizations that are engaged in the operational activities of selling goods or providing services through the Internet or other information network, including e-commerce platform operators, platform operators and e-commerce operators selling goods or providing services through self-created websites or other web services. The above definition draws attention to the fact that e-commerce operators do not necessarily have to be related to the activities of e-commerce marketplaces, they can also sell goods or provide services through self-created websites or other web services. This clarification was made in the PRC Law to cover entities that do not use large or relatively large platforms, but actively traded over the internet, with a control mechanism. The operator of an e-commerce platform is a kind of "process owner". According to Article 9 of the E-Commerce Law of the People's Republic of China, this term refers to legal entities or other unincorporated organizations that provide online space for conducting business, coordinating transactions, disseminating information and other services to two or more parties to an e-commerce transaction so that they can engage in independent transactions.

Online marketplaces provide a vast platform for sellers to reach a wide audience quickly. This accessibility and reach also extend to individuals who may be looking for photographs to use without proper authorization. Consequently, it becomes easier for infringing individuals to locate and access a vast amount of photographic works. The ease of uploading and sharing images on these marketplaces further contributes to the widespread availability of copyrighted works, increasing the likelihood of infringement.<sup>28</sup> Online marketplaces often do not pre-screen the photographic works uploaded by sellers. While some platforms have content moderation policies, the sheer volume of uploads and limitations of automated systems make it difficult to effectively monitor and identify copyrighted works. This lack of pre-screening enables infringing individuals to list

and sell copyrighted photographs without detection. Another significant aspect to consider is the limited liability of online marketplaces for the infringing activities of their users. In many cases, these platforms operate under intermediary liability protections, which means they are not held directly responsible for the actions of their users.<sup>29</sup> This limited liability may disincentivize marketplaces from proactively addressing copyright infringements, leaving photographers to bear the burden of policing and enforcement.

Under Chinese law, particularly the E-Commerce Law of the People's Republic of China,<sup>27</sup> online platforms are generally considered intermediaries. This legal framework includes provisions that moderate their liability for user-conducted infringements. Article 38 sets the principle that e-commerce platform operators bear liability for products or services that harm consumer interests only if they are aware of or should be aware of the infringement but fail to take necessary actions. Article 42 emphasizes the responsibility of e-commerce platforms to establish mechanisms for intellectual property protection and to promptly handle notifications of infringements.

In the recent case,<sup>30</sup> the court examined the extent of liability that online intermediary platforms hold concerning copyright infringements committed by users, specifically focusing on photographic works. Zhao Yong, a professional photographer, found his copyrighted images used without permission by third-party sellers on an e-commerce platform operated by Beijing Netease Co., Ltd. Zhao Yong sought legal action against the platform, asserting that they should be held liable for the infringing activities of their users. Zhao Yong argued that under the Copyright Law of the People's Republic of China and the E-Commerce Law of the People's Republic of China, platforms have an obligation to prevent the dissemination of infringing content once notified. Furthermore, he contended that the platform's existing measures were insufficient to curb repeated infringement occurrences. Beijing Netease Co., Ltd. defended its position by emphasizing adherence to the notice-and-takedown procedures outlined in the E-Commerce Law. The platform claimed it promptly removed infringing content upon notification and maintained a mechanism to address infringements. While some online marketplaces have mechanisms in place to handle copyright infringement claims, the effectiveness of these procedures can vary. They often

rely on a notice-and-takedown system, where copyright holders need to identify infringing content and file a complaint.<sup>20</sup> However, the process can be cumbersome and time-consuming, requiring photographers to constantly monitor marketplaces and initiate takedown requests individually. This approach puts the onus on the copyright holder rather than proactively preventing infringement.

To address these issues, it is essential for online marketplaces to prioritize copyright protection and take proactive measures to prevent and address instances of infringement.<sup>31</sup> This can include implementing advanced content recognition technologies, improving takedown procedures, and collaborating closely with copyright holders to create a more secure and respectful marketplace environment. Additionally, raising awareness among users about copyright laws and the importance of respecting intellectual property rights can play a crucial role in mitigating infringement on online marketplaces.

#### **Analysis of the Chinese Legal Framework and its Effectiveness in Combating Infringement**

China has a comprehensive legal framework for copyright protection, with various laws and regulations specifically addressing the rights and interests of photographers.<sup>32</sup> The Copyright Law of the People's Republic of China and related regulations provide the foundation for copyright protection in the country.

In the context of China, several key pieces of legislation provide protection for photographers' works and outline the responsibilities and liabilities of various parties. Below are the relevant norms from Chinese legislation (*Copyright Law of the People's Republic of China*):

- Article 3 defines the scope of copyright protection, explicitly including photographic works as one of the categories of protected works. Photographers are therefore assured that their original photographs are recognized under the law.

- Article 9 enumerates the rights of copyright holders, which include important rights such as the right of reproduction, distribution, rental, exhibition, and public performance. These rights give photographers control over how their works are used and disseminated.

- Article 22(1) provides exceptions to what constitutes copyright infringement. Specifically, it states that creating a temporary copy of a work for the purpose of personal study, research, or personal appreciation is not considered an infringement. This

allows individuals to use works for personal and non-commercial purposes without violating copyright laws.

- Article 50 addresses the liability of network service providers with respect to copyright infringement. It mandates that if a network service provider knows or should know that a user of its network services is infringing on another's copyright, the provider must take necessary measures. These measures include deleting the infringing content, blocking access to it, or disconnecting the infringing link once they receive a notification of infringement.

- Article 54 specifies the consequences of copyright infringement in terms of damages. Courts may order damages up to RMB 5 million based on the severity of the infringement, the harm caused, and other relevant factors. This provides a significant deterrent against copyright infringement and ensures that photographers can be adequately compensated for unauthorized use of their works.

These norms collectively ensure that photographers in China have robust legal protections for their creations and that violators face appropriate consequences. The inclusion of specific rights and exceptions, along with clear responsibilities for online service providers,<sup>33</sup> creates a balanced framework that promotes respect for photographers' intellectual property while allowing for reasonable personal use.

The effectiveness of copyright protection largely depends on the enforcement mechanisms in place. In China, administrative and judicial channels are available for copyright owners to enforce their rights. Administrative enforcement involves government agencies, such as the Copyright Protection Center of China (CPCC), which have the authority to investigate and take actions against infringing activities. Judicial enforcement allows copyright owners to file lawsuits and seek remedies through the court system.

Despite the existence of laws and enforcement mechanisms, challenges remain in effectively combating copyright infringement on online marketplaces. One challenge is the sheer scale of online platforms and the difficulty in monitoring and identifying infringing content.<sup>34</sup> With millions of listings and constant uploads, it can be time-consuming and resource-intensive for copyright owners to identify and report instances of infringement. Another challenge is the enforcement gap between urban and rural areas.<sup>35</sup> While major cities in China may have relatively better enforcement mechanisms and resources, rural areas may face

challenges in supporting effective copyright protection. Bridging this enforcement gap across different regions is crucial for ensuring consistent and effective protection of photographers' rights. Collaboration between copyright owners and online marketplaces is essential in addressing infringement. In recent years, Chinese e-commerce platforms have taken steps to combat copyright infringement by implementing proactive measures such as content filtering, takedown procedures, and cooperation with rights holders. These efforts have improved the overall environment for copyright protection, but continuous cooperation and improvement are needed to stay ahead of infringers.

#### **Identification of Potential Areas for Improvement and Recommendations**

Based on the analysis of the current landscape and documented cases of infringement, it is essential to implement a series of strategic measures to mitigate the infringement of photographic works on Chinese marketplaces effectively. The following recommendations can be provided to address the core challenges identified and foster a more secure and equitable environment for photographers:

#### ***Strengthening Legal Framework and Enforcement***

Firstly, existing intellectual property laws should be revised to provide more comprehensive protection for photographic works, ensuring they align with international standards. Secondly, stricter penalties for copyright violations should be implemented to deter potential infringers. This includes higher fines, longer prison sentences, and more severe consequences for repeat offenders. Lastly, the expansion and support of specialized intellectual property courts, such as the Beijing Intellectual Property Court, should continue to handle cases efficiently and provide quicker resolutions.

#### ***Technological Solutions and Improvements***

Firstly, advanced content filtering algorithms and machine learning technologies should be utilized to detect and prevent the unauthorized use of photographic works on e-commerce platforms in real-time. Secondly, the use of digital watermarking technologies, which can be embedded into images to authenticate original works and track unauthorized usage, should be encouraged. Lastly, the application of blockchain technology should be explored to create a decentralized ledger for photographic works, ensuring transparency and traceability of ownership and usage rights.

#### ***Marketplace Responsibilities and Regulations***

Firstly, online marketplaces should be required to mandate the registration of photographic works by their legitimate owners before allowing them to be listed for sale. Secondly, e-commerce platforms should be obligated to implement proactive monitoring and takedown procedures for suspected infringing content, which can be facilitated by establishing a dedicated team for intellectual property oversight. Lastly, online marketplaces should be held accountable for failing to remove infringing content promptly, with fines or other penalties imposed on non-compliant platforms.

#### ***Education and Awareness Programs***

To address the issue of photographic copyright infringement on e-commerce platforms, it is crucial to launch comprehensive educational campaigns targeting both sellers and buyers. These campaigns should focus on the importance of respecting and protecting photographic copyrights, highlighting the legal implications and ethical considerations of using copyrighted material without permission. Additionally, specialized training programs should be provided for law enforcement agencies and judiciary members to enhance their understanding of photographic copyright issues and enforcement tactics. By raising awareness and equipping relevant authorities with the necessary knowledge, a more effective and coordinated approach can be taken to combat copyright infringement in the realm of online marketplaces.

#### ***Support for Photographers***

It is essential to establish legal assistance services or helplines where they can seek advice and support when dealing with infringement cases. These services can provide guidance on the legal steps to take and connect photographers with experienced legal professionals. Additionally, strengthening the role of photographer associations and unions is crucial in advocating for photographer rights and providing a unified platform to address common challenges and share best practices. These organizations can collectively negotiate with e-commerce platforms, lobby for stronger legal protections, and raise public awareness about the importance of respecting photographic copyrights. Furthermore, creating financial relief programs or compensation funds for photographers who suffer significant losses due to copyright infringements can provide a safety net and ensure they receive the necessary financial support to continue their creative endeavors. By implementing these measures,

photographers can have access to the resources, support, and financial assistance they need to effectively combat copyright infringement and protect their livelihoods.

#### *International Collaboration*

It is crucial to foster international collaboration between China and other countries. By working together to harmonize copyright laws, share best practices, and tackle cross-border copyright infringement issues, nations can create a more unified and effective framework for protecting the rights of photographers and other creators. This collaboration can involve aligning legal definitions, establishing common standards for enforcement, and facilitating the exchange of knowledge and expertise among law enforcement agencies and intellectual property offices. Furthermore, implementing joint enforcement operations and information-sharing agreements between countries can help address the transnational nature of online marketplace operations. By coordinating efforts to investigate and prosecute infringement cases that span multiple jurisdictions, countries can more effectively disrupt the activities of bad actors and send a strong message that copyright infringement will not be tolerated. Through enhanced international cooperation and a commitment to shared goals, China and other nations can create a more robust and equitable global environment for protecting photographic copyrights in the digital era.

By implementing these recommendations, stakeholders can create a more robust protective framework for photographic works, ensuring the photography industry in China thrives sustainably and equitably.

#### **Conclusion**

In conclusion, the Chinese e-commerce marketplaces have created a vast landscape of opportunities for photographers to showcase and sell their work. The presence of major platforms like *Alibaba Group*, *JD.com*, *Pinduoduo*, *Douyin/TikTok*, and *WeChat* has revolutionized the photography industry in China and provided photographers with a massive customer base to tap into. However, with the growing popularity and accessibility of these marketplaces, there is also a need to address the issue of infringement of photographic works. As more photographers upload their images to these platforms, the risk of unauthorized use, reproduction, or distribution of their work increases.

To tackle this issue, it is crucial to establish stringent copyright protection measures and mechanisms within

these e-commerce platforms. Implementing robust content recognition technology, copyright verification processes, and proactive monitoring systems can help identify and prevent infringement instances. Moreover, educating photographers about intellectual property rights, the importance of watermarking and metadata, and how to navigate the platform's copyright protection tools can empower them to protect their work effectively. Additionally, collaboration between e-commerce platforms, photographers' associations, and copyright enforcement agencies can play a vital role in creating awareness, protecting the rights of photographers, and taking action against infringement cases.

Overall, while the Chinese e-commerce marketplaces offer immense opportunities for photographers, it is crucial to address the challenges related to copyright infringement. By balancing innovation, protection, and education, the photography industry in China can continue to thrive and foster a fair and sustainable ecosystem where photographers can monetize their creativity while safeguarding their intellectual property rights. The rise of online marketplaces has facilitated the easy distribution and unauthorized sharing of these works, undermining the rights and livelihoods of photographers.

Intellectual property rights, including copyright protection, play a vital role in promoting creativity, innovation, and economic growth. In the context of photography, infringements not only harm photographers financially but also erode the incentive to create and invest in high-quality works. For photographers, the study underscores the urgency of actively protecting their work, utilizing digital rights management tools, and seeking legal remedies in cases of infringement. Marketplaces, on the other hand, are called upon to take responsibility for facilitating the unauthorized distribution of copyrighted works on their platforms. They should implement robust measures like enhanced content filtering and verification processes to prevent infringements. Lastly, policymakers need to update and strengthen copyright legislation, establish specialized copyright courts, allocate sufficient resources for enforcement, and promote cross-border cooperation to tackle the challenges posed by infringing activities on marketplaces. By acknowledging and addressing the issues highlighted in this study, China can create a more conducive environment for photographers to thrive, encourage innovation and creativity, and ensure that

intellectual property rights are respected and protected. Ultimately, such efforts lead to a more vibrant marketplace that rewards creators, fosters economic growth, and upholds the principles of fair and equitable copyright protection.

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