

# The Countermeasures of Academic Journals to Deal with Illegal Agencies and Fake Websites on the Legal Liability of Network Service Providers

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**Abstract**—In order to control the infringement act thoroughly, we must effectively fight against infringers, including prevention in advance, interruption when the infringement occurs and strict post-treatment, thus making the network service provider assume their due legal liability. This paper discusses the legal liability of network service providers from the roles that they play in the infringement acts of illegal agencies and fake academic journals websites on the academic journals, and puts forward specific strategies of academic journals to deal with illegal agencies and fake websites in the view of the legal liability of network service providers.

**Keywords**—academic journals; infringement; network service providers; legal liability

## I. INTRODUCTION

With the internet technologies are blooming, academic journals in China are suffering more serious infringement brought by illegal paper agencies and fake academic websites. Hence academic journals' interests and rights are damaged [1]. The National Computer Network Emergency Response Technical Team/Coordination Center of China (known as CNCERT of CNCERT/CC) have issued the No.12 Cyber Security Incidents Weekly Report of 2017 on March 24th, which indicated there were 2988 fake websites and 849 falsifying websites in China, the number increasing 5 percent from the number of previous week. However, the number of fake academic journal websites was not exposed in this report.

Under this situation, some scholars put forward strategies for this problem as follows. One is that the editorial department of academic journals should issue a "Solemn Statement" to warn the infringement behaviors. The second is that Baidu, the search engine, should take initiative to crack down those counterfeit agencies and websites. The third is that the authors should improve their consciousness and ability to discriminate. However, these measures do not curb the infringement at the source. Academic journal editors are extremely disgusted with this phenomenon, but when asked about how to really effectively suppress such infringement, they seem extremely helpless.

Although there is a reports mechanism against fake websites in China [1], however, even if a fake website is

forced to be closed because of reports, after a period of time it would appear again in a different form. According to China Judgment Online data, there are only two relevant cases about academic journal editorial departments and none cases about fake official websites of academic journals, from which it can be inferred that most of conspirators behind the fake websites in China have not been held accountable by law. With such low cost of breaking the law but huge profit, illegal agencies and fake websites appear constantly.

Although the Chinese government has established a reporting and controlling system against the fake websites, this paper still believes that in order to control the infringement act thoroughly, based on the special nature of the Internet information transmission process, we must effectively fight against infringers, including prevention in advance, interruption when the infringement occurs and strict post-treatment. That is to say, if we want to regulate the infringement by the law, we need to make the network service provider assume their due legal liability.

In the following, the paper will put forward specific strategies of academic journals to deal with illegal agencies and fake websites in the view of the legal liability of network service providers.

## II. THE ROLE OF NETWORK SERVICE PROVIDERS IN INTERNET INFORMATION TRANSMISSION

In the case of infringement of illegal papers agencies and fake academic journals websites, the network service providers play the role of connecting the network information publisher with the information receivers. Specifically, the network service providers can be platforms for the dissemination of illegal information, and can also be software that transmits illegal information or search engines that can search and provide links to fake academic journals websites.

### A. The forms of illegal papers agencies and fake academic journals websites

The author sent out 300 questionnaires within the scope of Guangdong Province universities and research institutions to academic journal editorial departments, college teachers and students, and collected 278 valid questionnaires. According to

the result shown in Table 1, there are 180 respondents who received advertisements from agencies; when asked about experience of searching academic journals websites online,

240 respondents found intermediary websites, 224 found imitated official websites and 121 encountered forged academic journals websites.

TABLE I ILLEGAL AGENCIES AND COUNTERFEIT SITUATION OF ACADEMIC JOURNALS

Existing medium	Specific tactics	percentage
The internet	Post advertisements of paper agency on online forums, QQ, QQ group, We-chat group, e-mail	64.74%
	Establish paper agencies websites[2]	86.33%
	Imitate official websites of academic journals	80.57%
	Forge official websites of academic journals	43.52%

### *B. The role of network service providers in the process of information transmission*

Internet infringement must rely on network services. For example, posters have to register with their real name and phone number before they post anything. After the successful registration, the content of a post must also be reviewed by the administrators of the website before it can be presented on the site; if one person wants to send advertisements on QQ or QQ group, he must register a QQ account first, and then send messages through QQ software; if one person wants to send advertisement through We-chat, he must firstly use a phone number to register before sending information through We-chat software. As for imitated and forged official websites of academic journals, they can be presented in front of the network users with the help of online search services provided by online search engines. In a conclusion, in the infringement on academic journals conducted through the Internet, the network service providers mainly play the following roles: (1) Storing information; (2) Instantly transmitting information; (3) Searching for links.

## III. THE LEGALITY OF NETWORK SERVICE PROVIDERS IN INFRINGEMENT

Network service providers do not create illegal information itself when storing information, transmitting information and searching for links. Therefore, the key to judge the behavior of the network service providers legal or not lies in the legality analysis of the paper agencies and the fake academic websites, and in the fact whether the network service providers have fulfilled their legal obligations.

### *A. The legality of paper agencies*

Although the academic community agrees that it violates academic ethics to publish papers through agencies, but there is no law in China expressly prohibiting it? So is there any

legal issue when the agencies publish papers on behalf of writers?

The Chinese Contract Law stipulates that agencies could be divided into authorized agencies and unauthorized agencies.

The authorized agencies means that they are authorized by the principals to take actions in their name, while the unauthorized agencies means that the agents act in the name of the principals under circumstances that they do not have or exceed the authority, or the authority is terminated. The paper agencies collect contributions in the absence of the authorization of academic editorial department, which can be regarded as the unauthorized agencies.

Even the editorial department of academic journals has clearly refused collecting contributions through others in a variety of ways, the agencies still soliciting contributions in the name of academic journals. This is suspected as fraud.

It does not violate the law that the agencies sign contacts with the authors which aim to "help" them publish their papers by assisting the author to modify the format and punctuation, and by instructing in contributing in order to increase the successful rate of publishing their papers. However, it is illegal that most of agencies defraud the authors of high service fees by promising publishing on designated journals.

### *B. The legality of fake academic journals websites*

Fake academic journals websites, whether they are forged official academic journals websites, or absolutely fictional websites of non-existent academic journals, constitute a fraud undoubtedly. These fake academic journals websites counterfeit academic journals to solicit contributions from the public and defraud high price for reviewing and typesetting.

Some webmasters even resell the contributions received to obtain illegal benefits. Illegal receipt of contributions of fake academic journals websites disturb the order of market, and also are involved in illegal operation.

### C. Network service providers' management obligations of information network security

"Decision on Strengthening the Protection of Network Information" provides that the network service providers shall fulfill obligations of the information network security management on the premise of "discovery", but does not require them to take the initiative to "find out" illegal and harmful information. Only in the case that they are "informed" of infringement happening or there are evidence proving that the network service providers are "aware" of the existence of infringement and harmful information, they shall bear the corresponding obligations.

According to different services content, network service providers should fulfill different obligations of network content management as follows: (1) Providers providing information storage service shall perform their obligation of discovery when having background review of information before it can be posted and report and intercept harmful information. For the information that can be posted directly without a review, service providers shall perform their obligations of reporting and deleting illegal information once they are informed of the existence of illegal information. (2) Providers providing service of instant transmission of information service like QQ and Wechat shall freeze infringing QQ and WeChat accounts and intercept harmful information once they are informed of the illegal information which are verified to be true. For example, some paper agencies send advertisements through QQ, QQ groups, WeChat groups and email and the service providers should take actions to forbid them. (3) Providers providing service of searching link information shall fulfill their obligation to verify the authenticity of the academic journals website which bid for higher ranking. Firstly, the Internet service providers must have so close contact with websites operators that they have chances and conditions for identification to verify the necessary certifications to publish a journal. Secondly, the network service providers must have ideas of actual search results while they can artificially intervene in the results, which means the network service providers are able to see the original websites which are infringed.

## IV. THE LEGAL LIABILITY OF THE NETWORK SERVICE PROVIDERS

### A. The rules of notify-and-delete

China's "Tort Liability Act" provides a rule of notify-and-delete on the behavior which breaks the obligation of information network security management.

"For internet users who use the network services to implement infringement, the infringed has the right to notify the network service providers to take some necessary steps such as delete, block and disconnect the links. After being notified, the network service providers fail to take measures in a timely manner, they shall take the joint responsibility with the network users for the additional damage.

However, there are exceptions: if network service providers take no necessary measures after knowing that

network users use their network services to infringe the rights and interests of others citizens, they shall bear the joint liability with the network users. In other words, whether the network service providers are responsible for the tort liability depends on: (1) whether the network service providers delete, block and disconnect links as soon as they receive the related notices; (2) whether they are aware of the existence of illegal and fictional information.

### B. Awareness

According to the Regulations on the Applicable Laws for Civil Disputes Arising from Infringement on Personal Rights Using information network, when judging whether the network service providers are aware of the existence of the infringements, there are seven factors should be taken into account: (1) Whether the network service providers have ever processed infringing network information by recommending, ranking, selection, editing, sorting, modification or other ways artificially or automatically. (3) The type of personal rights and interests that the network information infringes and how obvious the infringement is; (4) The degree of social influence of the network information or the page views within certain period of time; (5) The technical feasibility for the network providers to take precautions against infringement and whether they have already taken proper actions; (6) whether the network service providers have taken proper corresponding measures against repeating infringement and the same infringing information; (7) Other factors that has influence on this case.

The Regulations provides that as long as the network service providers intervene in the infringement of network information, they can be regarded as being aware that some people infringe upon the civil rights using network channels. And for those who do not take necessary measures, they must be liable for the liability with the infringers. That is to say, two conditions should be satisfied before affirming the network service providers bear the joint liability, one is that they are aware what they store, transmit and link to be illegal; the other is the network service providers intervene in the information artificially. In the light of above facts, before undertaking the obligation of information network security management, the Internet service providers should "be aware of" the following two points: one is being aware of there is illegal information; the other is being informed often existence of illegal information.

## V. THE COUNTERMEASURES OF ACADEMIC JOURNALS AGAINST ILLEGAL AGENCIES AND FAKE WEBSITES

In order to let the network service providers assume the obligation of network information security management, academic journals must make the network service providers aware of genuine official websites and illegal information. Therefore, the author proposes the following recommendations:

### A. Using anti-counterfeit logo

Some scholars suggest using paper DOI (Digital Object Identifier) to label the journal official website as an anti-counterfeit logo, protecting the interests of readers,

authors and journal editorial departments [3]; There are also scholars who recommend academic journals to apply for the official certification by search websites [4]. However, the DOI identifier can be imitated and applying for certification not only increases the work of academic journal editors but also impossible to obtain complete certifications by all the search engines.

The author suggest that the official website of the academic journals added "anti-counterfeit mark of Institution" attaching to the unified mark of Party and government body websites [5] jointly issued by the Central Cyberspace Administration Office and the State Commission Office of Public Sectors Reform. Besides, addresses of all academic journals official website should submitted to the Central Cyberspace Administration Office, the Ministry of Education and the State Administration of Press, Publication, Radio, Film and Television (SARFT) to be published.

#### *B. Report the case to the public security organs.*

For exposed infringements, academic journals editorial departments should not only inform the network service providers requesting necessary measures and timely disposition against the infringements, but also should report them to the public security organs including situations that the network service providers shall bear joint liability. The author highly recommend that academic journals editorial departments should report the infringements to the Central Cyberspace Administration Office, the Ministry of Education and the State Administration of Press, Publication, Radio, Film and Television (SARFT) to be published as well.

#### *C. Use third-party electronic evidence preservation.*

According to Huang Zhongyi and other people's investigations, they report an infringement to the relevant government departments through the Internet, but were rejected [6] as their reporting was regarded as invalid in the lack of effective evidence of infringement. Fortunately, web-page preservation companies, companies through whom internet users could screenshot, preserve, upload and download web-pages, von voice on the net, chat history, e-mails and online videos and get them notarized, are springing up everywhere in China since 2016. Some of these companies have been designated as the official third [party agencies by government departments. The academic journal editorial department should use a third-party instant web-page evidence preservation system to preserve the online infringing information.

#### *D. Initiate a class action lawsuit against network service providers*

If official websites of academic journals which have been labeled with identifier but still not rank the first place in the

search results, they can file a class action lawsuit against the Internet service providers. Taking effort to have effective judgments, the academic journals can submit it to the Central Cyberspace Administration Office requesting modification of the relevant industry regulations and require the search engines to set up a white list in which the official websites of academic journals published by the Central Cyberspace Administration Office, the Ministry of Education and the State Administration of Press, Publication, Radio, Film and Television (SARFT) will be ranked as the first search result and block illegal information.

## VI. CONCLUSION

Having the largest number of internet users, China, as a vital center of internet industry, has taken its due responsibility. As for academic journal editors, governors in charge and authors, being part of global internet users, they should take active part in cultivating internet positive culture and managing the internet. While realizing the legal liability that the network service providers shall assume, they can make full use of their legal rights to urge, to monitor and to force internet service providers to protect internet copyright and maintain development space for the internet. All parties work together to create a clean internet environment for mutual benefits of academic journal editorial departments, governing bodies, authors as well as internet service providers.

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