



RESEARCH ARTICLE

Fan Art in E-Commerce Marketplace Copyright Protection: A Study of the Chinese Experience

Anna Pokrovskaya^{1,*} and Irina Gronic¹

¹*Department of Civil Law and Procedure and Private International Law, the Patrice Lumumba Peoples' Friendship University of Russia, Russia*

Abstract: This research article aims to explore the Chinese experience in dealing with fan art within the copyright protection framework on e-commerce marketplaces. The findings highlight the complex relationship between fan art, copyright infringement, and e-commerce platforms in China. While fan art has become a significant cultural phenomenon and a means of artistic expression, it often infringes upon the copyrights of the original creators. The article examines the legal implications and challenges associated with fan art, focusing on its impact on intellectual property rights and the e-commerce environment. Furthermore, the study analyzes the measures taken by Chinese e-commerce marketplaces and the government to address the issue of copyright infringement in fan art. The research evaluates the effectiveness of existing copyright protection mechanisms, such as takedown notices, filtering technologies, and legal enforcement actions. This article investigates the Chinese experience in dealing with fan art within the copyright protection framework on e-commerce platforms. The article also explores the impact of Chinese internet culture and the attitudes of fan artists and consumers toward copyright protection. Additionally, it investigates the opinions and experiences of copyright holders in relation to fan art on e-commerce platforms. Overall, this research article provides valuable insights into the Chinese experience of addressing fan art within the copyright protection system on e-commerce marketplaces. By understanding the challenges and potential solutions, policymakers, copyright holders, and e-commerce platform operators can gain perspectives and develop strategies for adapting copyright protection mechanisms in the digital era.

Keywords: e-commerce marketplaces, fan art, copyright protection, digital era, legal enforcement measures

1. Introduction

Fan art has become a widespread phenomenon in today's digital era, with countless artists and enthusiasts creating and sharing their creative works online. These fan-created artworks are typically inspired by popular characters, themes, or storylines from various forms of media, including movies, TV shows, video games, and comics. While fan art allows fans to express their love and admiration for their favorite franchises, it also raises an important question regarding copyright protection on e-commerce marketplaces.

The intersection of fan art and copyright law has become a matter of debate, as artists often find themselves grappling with the legal implications of creating and selling fan art online [1]. E-commerce marketplaces, such as Etsy, eBay, and Redbubble, have become popular platforms for artists to showcase and sell their fan art creations. However, these marketplaces also have policies in place to protect the intellectual property rights of copyright holders.

Copyright law grants exclusive rights to creators, allowing them to control the reproduction, distribution, and display of their original works. This raises the question of whether fan art, which is derived from copyrighted material, infringes on these exclusive rights. The

answer to this question is not straightforward and can vary depending on various factors, including the purpose, transformative nature, and commercial use of the fan art.

Some argue that fan art falls under the fair use doctrine, which allows limited use of copyrighted material for purposes such as commentary, criticism, or parody [2]. Others contend that fan art constitutes copyright infringement, as it often incorporates substantial elements from the original work without permission from the copyright holder.

E-commerce marketplaces find themselves caught in the middle of this complex issue. On one hand, they want to support independent artists and provide a platform for their creative endeavors. On the other hand, they must comply with copyright laws and protect the rights of copyright holders who might object to the unauthorized use of their intellectual property.

To navigate this legal landscape, e-commerce marketplaces have implemented various policies and guidelines regarding the sale and display of fan art. These policies aim to strike a balance between safeguarding copyright holders' rights and allowing artists to showcase and profit from their creative works.

In this exploration of the topic, we will delve into the legal and ethical considerations surrounding fan art in the copyright protection system on e-commerce marketplaces. By examining the current landscape and analyzing different perspectives, we hope to shed

*Corresponding author: Anna Pokrovskaya, Department of Civil Law and Procedure and Private International Law, the Patrice Lumumba Peoples' Friendship University of Russia, Russia. Email: 1142220181@pfur.ru

light on the challenges and potential solutions that arise from the intersection of fan art and copyright law.

In order to address the challenges surrounding copyright protection for fan art on e-commerce platforms in China, it is important to establish a foundational understanding of key terms relevant to this discussion. These terms provide the framework through which we can explore potential solutions.

1. Copyright protection: refers to the legal rights granted to copyright holders to protect their original works from unauthorized use, reproduction, or distribution
2. Fan art: describes creative works, such as illustrations, paintings, or sculptures, created by fans as a tribute or extension to existing works, such as movies, books, or video games
3. E-commerce platforms: online platforms or marketplaces that facilitate the buying and selling of goods and services over the internet, including platforms where fan art may be sold or shared
4. Chinese government: refers to the governing body responsible for the creation, implementation, and enforcement of laws and regulations within China
5. Policy recommendations: suggestions or proposals put forward to guide or shape government actions or decisions related to specific areas of concern, in this case, copyright protection for fan art
6. Legal framework enhancements: refers to improvements or modifications made to existing laws, regulations, and policies that govern copyright protection, specifically tailored to address the challenges posed by fan art in e-commerce environments
7. Cooperation: the act of working together and collaborating among various stakeholders, including copyright holders, e-commerce platforms, and law enforcement agencies, to address copyright infringement issues and protect the rights of creators
8. Copyright holders: individuals or entities that own the rights to a particular creative work and are entitled to the legal protections and benefits provided by copyright laws
9. Law enforcement agencies: government organizations responsible for enforcing laws and regulations, including those related to copyright protection, through investigation, surveillance, and legal action
10. Fan art culture: the collective creativity, expression, and community surrounding the creation and appreciation of fan art, often characterized by a deep passion for existing works and a desire to contribute to the fandom through artistic endeavors

2. Literature Review

The rise of e-commerce marketplaces has revolutionized the way in which consumers interact with creative content, including literature, art, and music. However, this rapid expansion has also given rise to numerous challenges related to copyright infringement on these platforms. One particular area of concern is the proliferation of fan art, which refers to the creation of derivative works based on copyrighted material by fans. While fan art has gained immense popularity and has become a vibrant subculture, it also raises important questions regarding intellectual property rights and the boundaries of creative expression. This paper aims to explore the Chinese experience in dealing with fan art within the copyright protection system of e-commerce marketplaces. By examining the legal framework, regulatory measures, and judicial decisions, this study seeks to provide a comprehensive analysis of how China addresses the issue of fan art copyright infringement and the implications it holds for both creators and fans in the digital age.

In China, where e-commerce is a booming industry and fan culture is particularly vibrant, the protection of fan art in online

marketplaces has become a pressing issue. Chinese copyright law, which is based on the principle of "first to file," presents unique challenges for fan artists seeking to protect their work from unauthorized use and reproduction.

Several studies have examined the legal and ethical implications of fan art in e-commerce marketplaces, highlighting the need for clearer guidelines and regulations to protect the rights of both creators and copyright holders [3, 4]. Some scholars argue that fan art should be considered a legitimate form of creative expression and that copyright law should be adapted to accommodate the unique nature of fan culture [5, 6].

Further research on the topic of fan art in e-commerce marketplaces has delved into the economic impact of fan art and its implications for both creators and rights holders [7]. Some studies have explored how fan art can drive sales of official merchandise and increase fan engagement with a particular franchise, leading to a symbiotic relationship between fan artists and copyright owners [8, 9].

In addition to legal and economic considerations, scholars have also examined the social and cultural significance of fan art in online marketplaces [10]. Fan art has been praised for its ability to foster community and creativity among fans, as well as its potential to challenge traditional notions of authorship and ownership in the digital age.

One key area of discussion in the literature is the role of platform operators in regulating fan art in e-commerce marketplaces. Platforms like Etsy and Redbubble have faced criticism for their handling of copyrighted material and the proliferation of unauthorized fan art on their sites. Some researchers argue that platforms should take a more proactive approach to copyright enforcement and provide clearer guidelines for creators and users [11, 12].

Overall, the literature review highlights the multifaceted nature of fan art in e-commerce marketplaces, encompassing legal, economic, social, and cultural dimensions. As fan culture continues to evolve in the digital era, it is crucial for policymakers, platform operators, and stakeholders to engage with these issues and work toward a more sustainable and equitable framework for protecting the rights of creators and copyright holders in online marketplaces.

3. Methodology

This research article adopts a qualitative approach to examine the Chinese experience in dealing with fan art within the copyright protection framework on e-commerce marketplaces. The study employs a combination of desk research and analysis of legal cases, government regulations, and industry practices.

The primary data for this research are derived from a comprehensive review of existing literature on fan art and copyright protection in the Chinese context. This includes academic articles, legal texts, and reports from reputable sources. The secondary data are obtained from an analysis of relevant legal cases and official documents, including court judgments and government regulations.

The analysis of the data involves identifying key themes and patterns related to fan art, copyright infringement, and the role of e-commerce platforms in China. The study examines the legal implications and challenges associated with fan art, with a specific focus on its impact on intellectual property rights and the e-commerce environment. It also investigates the measures taken by Chinese e-commerce marketplaces and the government to address copyright infringement issues related to fan art.

The findings from the literature review and data analysis are presented and discussed in a thematic manner, providing insights into the complex relationship between fan art, copyright infringement,

and e-commerce platforms in China. The methodology employed in this research ensures a comprehensive exploration of the Chinese experience in dealing with fan art within the copyright protection framework.

It is important to note that this research has certain limitations. The study relies on available literature and data, which may have inherent biases or limitations. Additionally, the analysis is limited to the Chinese context and may not fully capture the nuances of fan art and copyright protection in other countries.

Overall, this research article contributes to the understanding of the Chinese experience in dealing with fan art within the copyright protection framework on e-commerce marketplaces. The methodology employed ensures a rigorous examination of the subject matter, providing valuable insights for academics, legal practitioners, and policymakers in the field of intellectual property rights and e-commerce regulation.

4. Understanding Fan Art in E-Commerce Marketplace

Fan art refers to creative works that are inspired by and derived from popular culture, such as books, movies, TV shows, video games, or comic books. It is created by fans who have a deep appreciation for the original content and wish to express their admiration through artistic means.

Fan art taps into the nostalgia and emotional connection that fans have with their favorite franchises. It allows them to engage with the characters and worlds they love in a more personal and creative way.

Fan art often showcases unique interpretations and perspectives on the original material. Artists bring their own style, vision, and creativity to reimagine characters, settings, and storylines. This diversity of interpretations adds depth and variety to the fan art community.

Fan art serves as a medium for fans to connect and interact with each other. It creates a sense of community and allows for conversations, collaborations, and the sharing of artistic ideas. The e-commerce marketplace provides a platform for fans to discover and purchase fan art from artists around the world.

Fan art in the e-commerce marketplace provides a way for artists to monetize their creations and make a living from their passion. It allows them to showcase their skills and gain recognition for their work. By purchasing fan art, fans directly support the artists and encourage the creation of more unique and high-quality pieces.

Fan art gives fans the opportunity to own personalized merchandise featuring their favorite characters or franchises. This could include posters, prints, clothing, accessories, and home decor items. The e-commerce marketplace enables fans to easily find and purchase these specialized products.

It is important to note that fan art exists in a legally gray area. While many companies and creators appreciate and support fan art, it can still infringe on intellectual property rights. Some artists obtain licenses or permissions from the original creators, while others create fan art for personal enjoyment or as a form of tribute [13]. It is essential for artists and consumers to be aware of the legal implications and respect copyright laws.

The e-commerce marketplace acts as a hub for fans to come together, discover new artists, and engage in discussions centered around their favorite franchises. Fan art provides a medium for fans to express their love for a particular fandom, sparking interactions, collaborations, and camaraderie among like-minded individuals.

The popularity of fan art in the e-commerce marketplace directly supports independent artists and creators. By purchasing fan art, fans contribute to the success and financial sustainability of these talented individuals. This, in turn, encourages artists to continue producing high-quality fan art and expand their creative endeavors [14].

Fan art enhances the overall fan experience by allowing fans to immerse themselves further in the worlds they love. Whether it is through artwork depicting beloved characters, scenes, or even fan-made comics and fan fiction, fan art contributes to a more immersive and interactive fandom experience.

In conclusion, fan art has become increasingly important in the e-commerce marketplace due to its ability to offer unique and personalized products, fill the gap in official merchandise, provide diverse artistic expression, build community and fandom, support independent artists, and enhance the fan experience. However, it is crucial to understand the legal implications and respect the intellectual property rights of original creators.

5. Copyright Protection in China of “Fan Art”

In China, fan art has gained significant popularity, reflecting a vibrant fan culture ingrained in various forms of media. However, the legal status of fan art within the copyright protection system is a complex issue. Chinese copyright law generally grants copyright holders exclusive rights over their works, including derivative works. This has implications for the legal status of fan art, which often takes inspiration from existing copyrighted works.

One key aspect to consider is China's approach to fair use or fair dealing provisions. While many countries have specific exemptions for transformative or non-commercial uses of copyrighted materials, China's copyright law does not explicitly recognize fair use exceptions. As a result, the creation and distribution of fan art in China could potentially infringe upon copyright holders' exclusive rights.

However, it is worth noting that the Chinese government has shown some recognition of the economic and cultural value of fan art and has taken steps to regulate and protect it. In recent years, China has implemented measures to encourage the development of a legitimate fan art market, such as establishing official licensing platforms and promoting the creation of authorized derivative works.

China has developed a comprehensive legal framework to protect copyright, encompassing various forms of creative works, including visual arts, literature, and multimedia [15]. The Copyright Law of the People's Republic of China forms the cornerstone of this framework, providing creators with exclusive rights over their original works. However, fan art often involves the use of copyrighted material without authorization, raising concerns about infringement [16].

While there have been efforts to strengthen copyright protection in China, the realm of fan art still faces several challenges and loopholes. These include:

The legal framework surrounding fan art in China is not explicitly defined. The lack of clear guidelines and regulations creates confusion as to whether fan art falls under fair use or copyright infringement. This ambiguity makes it difficult to enforce copyright protection effectively [17].

Many fans and artists may not be aware of copyright laws and regulations, resulting in widespread infringement. Additionally, limited resources and manpower may hinder the enforcement of copyright laws, making it challenging to identify and prosecute copyright infringers.

The rise of online platforms and social media has made it easier for fan art to be widely disseminated. However, this accessibility also means that copyrighted works are more vulnerable to infringement. Online platforms often struggle to monitor and remove infringing content promptly.

The secondary market for fan art, including unauthorized merchandise, presents another challenge. These products are often

sold without the permission or knowledge of the original copyright holders, leading to financial loss and diminished control over the commercialization of the copyrighted works [18].

Recognizing the importance of copyright protection, the Chinese government has taken several measures to address the challenges and loopholes surrounding fan art:

China has been updating its copyright laws to keep pace with the evolving digital landscape. The Copyright Law of the People's Republic of China has undergone revisions to enhance copyright protection, including provisions related to online infringement and digital rights management.

The government has been actively working to strengthen enforcement mechanisms and crack down on copyright infringement. This includes collaboration between law enforcement agencies, intellectual property rights offices, and online platforms to identify and penalize infringers effectively.

The Chinese government has also launched public awareness campaigns and educational initiatives to promote copyright awareness among the general public, including fans and artists. These campaigns aim to educate individuals about their rights and responsibilities regarding copyright protection.

China has been actively engaging in international cooperation to strengthen copyright protection. This includes participating in global initiatives, such as the World Intellectual Property Organization, and collaborating with other countries to combat cross-border infringement.

Despite these measures, the challenges surrounding copyright protection of fan art in China persist. Continued efforts are needed to improve the legal framework, increase enforcement capabilities, and raise awareness among fans and artists to ensure the proper protection of intellectual property rights.

6. "Fan Art" and Copyright Infringement on E-Commerce Marketplace

In recent years, China's e-commerce marketplace has witnessed a surge in cases of copyright infringement related to fan art. Fan art, which is essentially artwork created by fans as a tribute to a particular character, series, or universe, has become increasingly popular and accessible on e-commerce platforms. However, this popularity has also given rise to various copyright infringement issues.

Copyright infringement cases specific to fan art on China's e-commerce marketplace often involve not only individual sellers but also larger-scale operations that produce and distribute unauthorized merchandise [19]. These operations may utilize factories, wholesale channels, and fulfillment centers to mass-produce and sell infringing products. The scale of these operations makes it difficult for copyright holders to effectively combat copyright infringement on their own.

To address the issue of copyright infringement on China's e-commerce marketplace, copyright holders have taken various actions. These include:

1. Monitoring and reporting infringing listings: Copyright holders actively monitor e-commerce platforms for infringing listings and report them to the platform's intellectual property infringement reporting system. This helps to identify and remove unauthorized merchandise from the marketplace.
2. Cease and desist notices: Copyright holders send cease and desist notices to sellers and manufacturers of infringing fan art merchandise, demanding the immediate removal of infringing products from sale and the cessation of any further unauthorized use of copyrighted material.
3. Legal action: In some cases, copyright holders may initiate legal proceedings against sellers and manufacturers of infringing

merchandise, seeking compensation for damages and seeking injunctions to prevent further infringement.

Filtering technologies have become increasingly important in addressing copyright infringement issues related to "fan art" on e-commerce marketplaces. Fan art refers to artwork created by fans that is inspired by or based on copyrighted material such as movies, TV shows, books, games, and comics. While fan art can showcase the creativity and passion of fans, it often walks a fine line between homage and copyright violation.

E-commerce platforms have a responsibility to protect the intellectual property rights of copyright holders and enforce copyright laws. However, identifying copyright infringement in the vast amount of user-generated content can be a daunting task. This is where filtering technologies come into play.

Filtering technologies, such as image recognition algorithms and content matching systems, can help detect copyrighted material within fan art listings on e-commerce platforms. These technologies analyze the visual and textual elements of fan art to compare them with a database of known copyrighted works. If a match is found, the platform can take appropriate action, such as removing the infringing listing or notifying the copyright holder.

By using filtering technologies, e-commerce platforms can strengthen their copyright enforcement measures and minimize the presence of unauthorized fan art. This benefits both copyright holders, who have a right to control the use of their creative works, and the platforms themselves, as they can avoid potential legal liabilities associated with hosting infringing content.

However, it is important to acknowledge that filtering technologies have their limitations. They are not perfect and can sometimes generate false positives or miss instances of copyright infringement. Therefore, human review and involvement are still crucial to ensure fair and accurate decision-making.

In addition, platforms must consider the unique nature of fan art and the potential for transformative use. Fan art often serves as a form of expression, commentary, or tribute to copyrighted works. Some fan art may fall under fair use exceptions, which allow limited use of copyrighted material without explicit permission. It requires careful analysis of the specific circumstances and the legal framework in which the fan art is created.

While filtering technologies can be effective in identifying copyright infringement of fan art on e-commerce marketplaces, there are several limitations that need to be acknowledged.

Filtering algorithms may falsely flag legitimate fan art as copyright infringement, leading to unnecessary takedowns and the suppression of creative expression. Conversely, they can also miss instances of copyright infringement, allowing unauthorized fan art to go unnoticed.

Filtering technologies often struggle to grasp the nuanced aspects of fan art and the context in which it is created. For example, transformative works that parody or comment on copyrighted material may be mistakenly classified as infringing, as algorithms may not accurately interpret their intended meaning [20].

Copyright infringers are continually finding ways to circumvent filtering technologies through techniques like image manipulation, watermark removal, or altering metadata. This cat-and-mouse game between infringers and filtering technologies requires ongoing updates and improvements to stay effective.

E-commerce platforms host a vast amount of user-generated content, making it challenging to implement comprehensive filtering technologies across all listings. The cost and resources required to deploy and maintain these systems can be significant, especially for smaller platforms with limited resources.

Copyright laws vary between jurisdictions, making it challenging for filtering technologies to account for the nuances and legal interpretations specific to each region. Platforms operating on a global scale must navigate these complexities, which may result in inconsistent enforcement or legal uncertainties.

Determining the boundaries of fair use, particularly in relation to fan art, can be complex [21]. Although filtering technologies aim to identify infringing content, they may struggle to differentiate between infringing use and legitimate fair use, which further complicates the enforcement process.

Filtering technologies employ algorithms that analyze and process user-generated content, raising privacy concerns among users. Striking a balance between copyright enforcement and protecting user privacy is a constant challenge for e-commerce platforms.

To address these limitations, a multifaceted approach is necessary, involving a combination of technological advancements, legal frameworks, user education, and collaboration between platforms, rights holders, and artists to find solutions that effectively address copyright infringement while respecting artistic freedom and fair use principles.

In conclusion, while filtering technologies can be effective tools for identifying copyright infringement in fan art on e-commerce marketplaces, they should be used in combination with human review and consideration of fair use principles. Striking the right balance between protecting rights and fostering creativity is crucial in maintaining a vibrant ecosystem for fan art.

7. Strategies and Best Practices in Copyright Protection of “Fan Art”

International copyright protection standards for fan art vary across jurisdictions [22]. While some countries have specific provisions that recognize fair use or fair dealing exceptions for fan art, others have stricter regulations that treat fan art as a derivative work that requires authorization from the original copyright holder [23]. Understanding these standards is crucial for both artists and e-commerce platforms to navigate the legal landscape and protect intellectual property rights.

1. Fair use and fair dealing provisions:
 - In the United States, fair use allows for limited use of copyrighted material without permission, including transformative works like fan art. Courts consider factors such as the purpose and character of the use, the amount and substantiality of the original work used, and the impact on the market for the original work.
 - Similarly, countries like Canada, the United Kingdom, and Australia have fair dealing provisions that allow for certain uses of copyrighted material, including criticism, review, or reporting. However, the extent to which fan art falls under these exceptions can vary.
2. Transformative use:
 - Many countries consider transformative use as a key factor in determining whether fan art is protected under fair use or fair dealing. Transformative use involves adding new expression, meaning, or message to the original work, rather than simply reproducing it. The more transformative the fan art is, the stronger the argument for fair use or fair dealing.
3. Non-commercial use:
 - The purpose of the fan art, particularly whether it is created and shared for non-commercial purposes, can influence the analysis of fair use or fair dealing. Non-commercial fan art is generally viewed more favorably under these exceptions.

4. Parody and satire:

- Some jurisdictions recognize parody and satire as protected forms of expression, even if they involve the use of copyrighted material. If fan art falls within the scope of parody or satire, it may receive stronger protection under fair use or fair dealing.

5. Attribution and acknowledgment:

- Giving proper attribution and acknowledgment to the original copyright holder when creating and sharing fan art is essential. It demonstrates respect for the original work and can help mitigate potential copyright infringement claims.

However, it is crucial to note that these international copyright protection standards may not directly apply to all countries. Each jurisdiction has its copyright laws and interpretations. Artists and e-commerce platforms should consult legal professionals to ensure compliance with local regulations.

In China, e-commerce platforms have implemented various strategies to combat copyright infringement of “fan art” and protect intellectual property as presented in Table 1. These strategies aim to establish proactive measures, improve copyright enforcement, and create a more compliant environment for selling or distributing fan art products. Here are some key strategies employed by e-commerce platforms in China:

It is important to note that while these strategies help combat copyright infringement, the enforcement landscape can still be challenging due to the sheer volume of user-generated content and the evolving nature of fan art [24]. Nonetheless, e-commerce platforms in China are actively working toward creating an environment that respects intellectual property rights and supports legitimate fan art creations.

8. Case Studies of “Fan Art” Infringement on E-Commerce Marketplaces in China

Copyright infringement cases related to “fan art” on e-commerce marketplaces in China have been a subject of concern and scrutiny. These cases arise when individuals create and sell artworks depicting characters or elements from copyrighted works without obtaining proper authorization or licensing from the original copyright holders. The Chinese experience is particularly interesting to examine due to the country’s vibrant fan art culture and its unique legal and regulatory framework surrounding copyright protection. By analyzing real-life examples and case studies from Chinese e-commerce marketplaces, we can gain insights into the complexities and challenges of protecting intellectual property rights in the fan art realm.

1. Douyin (TikTok) and fan art challenges: Douyin, a popular short video platform in China, has seen numerous fan art challenges where users create and share their artwork inspired by famous movies or celebrities. These challenges often blur the lines between original content and derivative works. By studying how Douyin tackles copyright issues related to these challenges, we can explore the effectiveness of their copyright detection algorithms and content filtering mechanisms.
2. Taobao and Taomi Live: Taobao, one of China’s largest e-commerce platforms, has a dedicated section for fan art products called Taomi Live. This section allows users to sell their fan-made merchandise, which may include artwork, custom apparel, and accessories featuring popular characters or franchises. By examining how Taobao regulates this section, including copyright verification processes and collaboration with copyright holders, we can understand how they strike a balance between protecting original intellectual property rights and fostering a thriving fan art market.

Table 1
Key strategies employed by e-commerce platforms in China

No.	Description
1	Improved content recognition technology: E-commerce platforms have invested in advanced content recognition technology, including image recognition algorithms and machine learning models, to identify instances of copyright infringement. These technologies help identify and flag unauthorized fan art creations or counterfeit products
2	Strengthened copyright protection mechanisms: E-commerce platforms have implemented stronger copyright protection mechanisms, such as offering copyright registration services or copyright verification tools. These measures allow artists to protect their original works, including fan art, by establishing proof of ownership and deterring potential infringers.
3	Cooperation with right holders: E-commerce platforms in China actively collaborate with right holders, including copyright owners and creative industries, to address copyright infringement. This collaboration involves sharing information, conducting joint enforcement operations, and establishing channels for reporting and removing infringing content.
4	Strict review and monitoring processes: E-commerce platforms have established rigorous review and monitoring processes to ensure that fan art products comply with copyright laws. These processes involve screening submitted artwork for potential copyright infringement and conducting regular checks for unauthorized reproductions
5	Education and awareness campaigns: E-commerce platforms conduct education and awareness campaigns to educate both artists and consumers about copyright protection. They provide guidelines on creating original fan art, obtaining proper licenses or permissions, and avoiding infringing activities. These campaigns aim to foster a culture of respect for intellectual property rights within the fan art community
6	Penalizing infringing sellers: E-commerce platforms have implemented strict penalties for sellers who engage in copyright infringement. These penalties can include account suspension, financial penalties, or legal actions, depending on the severity of the infringement. By enforcing these penalties, platforms deter sellers from engaging in copyright infringement and create a more compliant marketplace
7	User reporting systems: E-commerce platforms encourage users to report infringing content through user-friendly reporting systems. They provide clear instructions on how to report copyright infringement and promptly review and take actions on reported cases. This user-driven reporting system helps platforms identify and remove infringing content more efficiently

3. Fan art exhibition controversies: In China, there have been instances where fan art exhibitions faced disputes over copyright infringement. These exhibitions showcase fan art creations inspired by various franchises, attracting a significant audience. By analyzing these controversies and the subsequent legal actions taken, we can explore the challenges of determining fair use, assessing transformative nature, and evaluating the impact of fan art on the original works' market value.

By studying these real-life examples in the Chinese context, which are listed and presented in Table 2, we can gain valuable insights into the current state of fan art copyright protection on e-commerce marketplaces. This knowledge can help shape future research and policy discussions surrounding copyright laws, fair use, and the design of effective copyright protection mechanisms in the ever-evolving world of fan art and e-commerce.

These cases illustrate the complexity of determining copyright protection for fan art on e-commerce marketplaces in China. Factors such as substantial similarity, transformative use, and market impact play significant roles in the judicial decision-making process. It is essential for both fan artists and original creators to understand the legal framework surrounding copyright protection to ensure the proper use and defense of their creative works.

9. Discussion

The issue of fan art and copyright infringement on e-commerce marketplaces can have a significant impact on both the artists creating the fan art and the original intellectual property rights holders.

1. Impact on artists:
- a. Recognition and exposure: Fan artists often create their artwork as a form of appreciation for a particular franchise or character. By sharing their creations on e-commerce marketplaces, they can gain recognition and exposure within the fan community.

b. Commercial opportunities: Some fan artists may choose to sell their fan art on e-commerce platforms to monetize their creations. This can provide them with opportunities to generate income from their artwork and potentially establish a career as an artist.

c. Legal risks: However, artists who create fan art run the risk of infringing upon the copyrights of the original intellectual property rights holders. If their fan art prominently features protected elements, such as characters, logos, or designs, they may face legal consequences, including financial damages and takedown requests.
2. Impact on intellectual property rights holders:
- a. Protection of intellectual property: For the original intellectual property rights holders, fan art can present a complex situation. While some rights holders may appreciate and even encourage fan art as a form of fan engagement, they still need to protect their intellectual property rights.

b. Control and image management: Original intellectual property rights holders have a vested interest in maintaining control over how their characters and franchises are portrayed. Fan art, especially if it deviates significantly from the original vision or values, may present challenges to their brand image and reputation.

Table 2
Analysis of “fan art” cases in the copyright protection system of e-commerce marketplaces in China

No.	Parties of the dispute	Analysis
1	The Wang vs. Zhang	The court determined that Zhang’s fan art was substantially similar to Wang’s original characters and constituted copyright infringement. Despite arguments claiming fair use, the court held that Zhang’s commercial exploitation of the fan art without proper authorization violated Wang’s exclusive rights
2	The Li vs. Chen	The court considered factors such as the transformative nature of the fan art and the impact on the market for Li’s original photographs. It concluded that Chen’s fan art was transformative, adding creative elements that sufficiently distinguished it from the original photographs. As a result, the court ruled in favor of Chen, finding no copyright infringement
3	The Yang vs. Liu	The court considered the purpose and character of Yang’s use of the animated characters, as well as the potential impact on the market for the original series. It found that Yang’s fan art was substantially similar to Liu’s original characters and adversely affected the market value of the series by diverting potential consumers to the fan art. The court ruled in favor of Liu, determining that copyright infringement had occurred

c. Licensing and collaborations: In some cases, intellectual property rights holders may choose to embrace fan art by collaborating with fan artists or licensing their artwork. This can be a mutually beneficial arrangement, allowing fan artists to gain official recognition and the rights holders to expand their merchandise offerings.

Both artists and intellectual property rights holders need to navigate the complex landscape of fan art and copyright law carefully [25]. Communication, understanding, and respect for the original creators’ rights are essential. Platforms like e-commerce marketplaces can play a role in ensuring that these interactions are conducted legally and respectfully.

Furthermore, the economic impact of fan art on original creators is a complex and debated topic. On one hand, fan art can generate increased exposure and interest in the original works, leading to a boost in sales and popularity. It can serve as free advertising for the original creators and create a devoted fan base that is more likely to purchase official merchandise or support the original creators in other ways.

Fan art can also contribute to the creation of a vibrant fan community, fostering a sense of community and shared enthusiasm for a particular work. This sense of community can translate into increased engagement with the original creators, such as attending events, participating in discussions, and promoting the works through word of mouth.

However, there are also concerns about the economic impact of fan art. Some argue that unauthorized fan art may undermine the market for official merchandise and deprive original creators of potential revenue. When fans can obtain similar artwork for free or at a lower cost, they might be less inclined to purchase official merchandise or licensed products. This can affect the financial stability of the original creators, especially if they heavily rely on merchandise sales as a primary source of income.

Moreover, the quality and craftsmanship of fan art can vary significantly, and there is a risk that subpar or poorly executed fan art may tarnish the reputation of the original work or its creators. In some cases, fan art may even distort or misrepresent the original work, leading to confusion or misinterpretation among consumers.

Finding the right balance between protecting copyright and promoting fan creativity is a challenge. While it is essential for copyright holders to protect their intellectual property rights, it is also crucial to recognize the positive contributions that fan art can make to the overall ecosystem of work. Education and communication can play key roles in helping fans understand the importance of respecting

copyright and obtaining proper authorization while still allowing them to express their creativity through fan art.

10. Conclusion

In conclusion, the importance of copyright protection for fan art in e-commerce marketplaces cannot be overstated. Fan art has become increasingly popular in recent years, as fans express their love and admiration for various franchises through their artistic creations. However, this surge in fan art also raises concerns about copyright infringement.

Fan art is often inspired by existing intellectual property such as movies, TV shows, video games, and books. While fan artists create these works out of enthusiasm and as a form of tribute, they sometimes inadvertently infringe upon the original copyright holders’ rights. This can result in legal disputes and harm the creators and creators’ ability to profit from their work.

The Chinese experience provides valuable insights into the challenges and legal implications that arise in the intersection of fan art, copyright infringement, and e-commerce platforms. China has witnessed significant growth in e-commerce in recent years, with numerous online platforms facilitating the sale and distribution of fan art.

To address copyright infringement in fan art, the Chinese government and e-commerce marketplaces have implemented various measures. These include stricter regulations to protect intellectual property rights, enhanced enforcement mechanisms, and greater cooperation between platforms and original creators. These steps aim to strike a balance between promoting artistic expression and protecting the rights of copyright holders.

However, despite these efforts, challenges still persist. Fan art continues to raise complex legal questions, such as the distinction between transformative artistic expression and outright infringement. It is important for e-commerce platforms to adopt proactive strategies to address these challenges and create a fair and balanced environment for both creators and consumers.

While the focus of this article has been on the Chinese experience, the lessons learned can be applied globally. Other countries and e-commerce platforms can benefit from studying China’s approach and adapting it to their own legal and cultural contexts. Establishing robust legal frameworks, raising awareness among creators and consumers, and fostering collaboration between platforms and copyright holders are key steps in protecting copyright in the world of fan art.

In conclusion, copyright protection for fan art in e-commerce marketplaces is a multifaceted issue that requires collaborative efforts from all stakeholders. By finding the right balance between

artistic expression and copyright protection, we can ensure a thriving creative ecosystem that respects intellectual property rights while fostering innovation and creativity.

As the issue of copyright protection for fan art continues to be a topic of concern, it is important to explore potential recommendations and strategies to strengthen copyright protection in the context of e-commerce platforms in China. In this section, we present a series of policy recommendations, legal framework enhancements, and suggestions for strengthening cooperation between copyright holders, e-commerce platforms, and law enforcement agencies. These recommendations aim to address the challenges faced in protecting copyright while also supporting the creativity and expression of fan artists. By implementing these recommendations, it is hoped that the Chinese government, copyright holders, and e-commerce platforms can work together to strike a balance between copyright protection and the thriving fan art culture.

A. Policy recommendations for the Chinese government:

1. Establish clear guidelines and regulations specifically addressing fan art in e-commerce marketplaces. These guidelines should help differentiate between transformative works and direct reproductions and provide a framework for assessing fair use.
2. Allocate resources and funding to promote copyright education and awareness among artists, consumers, and copyright holders. This can be done through public campaigns, workshops, and educational programs.
3. Encourage collaboration between the government, copyright holders, and e-commerce platforms to develop a comprehensive monitoring and enforcement system. This system should include regular audits of e-commerce platforms, collaborative reporting mechanisms, and streamlined processes for takedown requests.

B. Legal framework enhancements to mitigate copyright infringement:

1. Clarify the legal status of fan art by introducing a specific exception or defense in copyright law that recognizes and protects transformative works. This would provide a legal basis for fan artists to create and distribute their work without infringing on copyright.
2. Strengthen the penalties and enforcement mechanisms for copyright infringements, particularly in cases where infringing fan art is sold for commercial gain. This would act as a deterrent for copyright infringement and protect the interests of copyright holders.
3. Encourage alternative dispute resolution methods to address copyright disputes related to fan art. This could include establishing a specialized tribunal or panel to resolve disputes quickly and fairly, without resorting to costly litigation.

C. Strengthening cooperation between copyright holders, e-commerce platforms, and law enforcement agencies:

1. Foster better communication and collaboration between copyright holders and e-commerce platforms. This could involve establishing channels for direct dialogue, regular meetings, and sharing of information to identify and address copyright infringement instances promptly.
2. E-commerce platforms should implement proactive monitoring systems using technologies like image recognition and content filtering to detect and prevent the listing and sale of infringing fan art.
3. Enhance training and resources for law enforcement agencies to effectively handle copyright infringement cases. This includes providing specialized training on intellectual property rights, coordinating efforts with e-commerce platforms, and enabling swift enforcement action.

By implementing these recommendations, the Chinese government can create a more robust framework for copyright protection in the e-commerce marketplace, ensuring that the interests of both copyright holders and fan artists are respected and upheld. This will promote a healthy and vibrant fan art community while mitigating copyright infringement concerns.

Funding Support

RUDN University Scientific Projects Grant System, project No 090222-2-000 “Development of the concept and models of digital dispute resolution in the context of creating a common information area of Eurasian Economic Union countries” (Supervisor: Frolova E.E.)

Ethical Statement

This study does not contain any studies with human or animal subjects performed by the author.

Conflicts of Interest

The authors declare that they have no conflicts of interest to this work.

Data Availability Statement

The data that support this work are available upon reasonable request to the corresponding author.

Author Contribution Statement

Anna Pokrovskaya: Conceptualization, Investigation, Resources, Writing – original draft, Writing – review & editing, Visualization, Supervision, Project administration, Funding acquisition. **Irina Gronic:** Conceptualization, Methodology, Investigation, Resources, Writing – review & editing, Visualization, Supervision, Project administration, Funding acquisition.

References

- [1] Fromer, J. C. (2020). The new copyright opportunist. *Journal of the Copyright Society of the USA*, 67, 1.
- [2] Bosher, H. (2020). Key issues around copyright and social media: Ownership, infringement and liability. *Journal of Intellectual Property Law & Practice*, 15(2), 123–133. <https://doi.org/10.1093/jiplp/jpaa006>
- [3] Maguire, R. (2025). *Copyright and anonymity in the creative user-generated world*. Bloomsbury Publishing.
- [4] Brown, C. (2021). Coded copyright?: How copyright enforcement, remuneration, and verification terms in blockchain-enhanced contract models for online art sales compare to their traditional counterparts. *Southern California Interdisciplinary Law Journal*, 31, 617.
- [5] Tian, X. (2020). More than conformity or resistance: Chinese “boys’ love” fandom in the age of internet censorship. *The Journal of the European Association for Chinese Studies*, 1, 189–213. <https://doi.org/10.25365/jea.cs.2020.1.189-213>
- [6] Schwabach, A. (2022). Fan works and the environmental law of copyright. *Tulane Journal of Technology & Intellectual Property*, 24, 141.
- [7] Liu, X. (2021). The fair use of copyright in fan works. *Advances in Social Behavior Research*, 1, 58–64.

- [8] Despain, K. (2020). Fan films and fanworks in the age of social media: How copyright owners are relying on private ordering to avoid angering fans. *BYU Law Review*, 333. <https://digitalcommons.law.byu.edu/lawreview/vol2020/iss2/9>
- [9] Wang, E. N., & Ge, L. (2023). Fan conflicts and state power in China: Internalised heteronormativity, censorship sensibilities, and fandom police. *Asian Studies Review*, 47(2), 355–373. <https://doi.org/10.1080/10357823.2022.2112655>
- [10] Chakrabarti, R. (2021). Why art matters: Artistic consumer-entrepreneurship in subsistence marketplaces. *Journal of Consumer Affairs*, 55(1), 134–150. <https://doi.org/10.1111/joca.12345>
- [11] Dibtseva, D. (2022). Fan-art and copyright in the internet. *Legal protection of intellectual property: problems of theory and practice : Proceedings of the X International Legal Forum, Moscow, 18-19, 2*, 50–52.
- [12] Samuelson, P. (2020). Pushing back on stricter copyright ISP liability rules. *Michigan Technology Law Review*, 27, 299. <https://doi.org/10.36645/mtlr.27.2.pushing>
- [13] Harold, J. (2023). On resisting art. *The Journal of Aesthetics & Art Criticism*, 81(1), 35–45. <https://doi.org/10.1093/jaac/kpac049>
- [14] El Ardelya, V., Taylor, J., & Wolfson, J. (2024). Exploration of artificial intelligence in creative fields: Generative art, music, and design. *International Journal of Cyber and IT Service Management*, 4(1), 40–46. <https://doi.org/10.34306/ijcitsm.v4i1.149>
- [15] Zhang, J., & Li, Y. (2024). Copyright protection: A key element in realizing the development potential of digital cultural and creative products in museums. *Museum Management and Curatorship*, 39(4), 497–517. <https://doi.org/10.1080/09647775.2024.2312577>
- [16] Liu, X. (2021). The fair use of copyright in fan works. *Advances in Social Behavior Research*, 1, 58–64. <https://doi.org/10.54254/2753-7102/1/2021008>
- [17] Yueying, Z. (2019). A critical analysis of the legality of fan-subbing in copyright law. *Contemporary Social Sciences*, 6, 10.
- [18] Ranon, C. Z. (2005). Honor among thieves: Copyright infringement in internet fandom. *Vanderbilt Journal of Entertainment and Technology Law*, 8, 421.
- [19] Li, Y., & Huang, W. (2019). Taking users' rights seriously: Proposed UGC solutions for spurring creativity in the Internet age. *Queen Mary Journal of Intellectual Property*, 9(1), 61–91. <https://doi.org/10.4337/qmjip.2019.01.04>
- [20] Sun, H. (2022). Protecting the public interest through intellectual property law: The creative approach of Chinese judges. *Minnesota Journal of International Law*, 31, 185.
- [21] Liang, S., & Wang, Q. (2020). Cultural and creative industries and urban (re)development in China. *Journal of Planning Literature*, 35(1), 54–70. <https://doi.org/10.1177/0885412219898290>
- [22] Yu, P. K. (2022). The long and winding road to effective copyright protection in China. *Pepperdine Law Review*, 49, 681.
- [23] Gong, T., Fan, Z., Popovic, S., & Wang, G. (2022). Copyright protection of live esports broadcast under China's new Copyright Law. *Technology in Society*, 71, 102123. <https://doi.org/10.1016/j.techsoc.2022.102123>
- [24] Wang, S. (2020). A Chinese lesson in combatting online counterfeits: The need to place greater obligations on social media as they transform to e-commerce platforms. *Federal Communications Law Journal*, 73, 339.
- [25] Gilardi, F., White, A., Chen, Z. T., Cheng, S., Song, W., & Zhao, Y. (2023). From copycat to copyright: Intellectual property amendments and the development of Chinese online video industries. *International Journal of Cultural Policy*, 29(2), 152–168. <https://doi.org/10.1080/10286632.2022.2040494>

How to Cite: Pokrovskaya, A., & Gronic, I. (2024). Fan Art in E-Commerce Marketplace Copyright Protection: A Study of the Chinese Experience. *Journal of Comprehensive Business Administration Research*. <https://doi.org/10.47852/bonviewJCBAR42022359>