

**Reply of Supreme People's Court Regarding**

**Several Questions on the Application of Law in Network IP Infringement Disputes**

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The *Reply of Supreme People's Court Regarding Several Questions on the Application of Law in Network IP Infringement Disputes* was adopted at the 1810th meeting of the Judicial Committee of the Supreme People's Court on August 24, 2020. It is hereby promulgated and effective as of September 14, 2020.

September 12, 2020

To: Higher People's Courts of all Provinces, Autonomous Regions and Municipalities directly under the Central Government; the Military Court of the People's Liberation Army; and the Production and Construction Corps Branch of the Higher People's Court of Xinjiang Uygur Autonomous Region:

Recently, relevant parties have given suggestions in relation to the application of law in disputes involving network [online] IP rights infringement. Some Higher People's Courts have also asked this Court for instructions. After studying the matter, this Court's reply is as follows.

1. Where an IP rights holder claims that its rights have been infringed and it has filed an application for preservation that request network service providers and e-commerce platform operators to quickly take measures to remove, block, or disconnect links, etc., the People's Courts should investigate and issue a ruling in accordance with the law .
2. After a network service provider / e-commerce platform operator receives a notice issued by an IP rights holder in accordance with the law, they should promptly forward the rights holder's notice to relevant network users and operators within the platform [vendors]. They should adopt necessary measures based on the preliminary evidence of infringement and based on the type of service. Where necessary measures are not taken in accordance with the law and the rights holder claims that the network service provider / e-commerce platform operator should be jointly liable for the extended portion of the damage together with the network user / operator within the platform [vendor], the People's Court may support this in accordance with the law.
3. Where a lawfully-transmitted declaration of non-infringement has reached the IP rights holder for a reasonable period of time and the network service provider / e-commerce platform operator has not received notice that the right holder has filed a complaint or a lawsuit, it shall take prompt steps to terminate any de-listing measures such as removal [of content], blocking [of content], disconnection, etc. Where delays are caused by special circumstances beyond the control of the right holder, such as notarization and legalization procedures, etc., such delays are not included in the above-mentioned period, but such period shall not exceed 20 working days, at most.

4. If a declaration submitted in bad faith leads to an e-commerce platform operator terminating necessary measures, causing harm to the IP rights holder, then where the right holder requests corresponding punitive compensation in accordance with relevant laws and regulations, the People's Court may support this in accordance with the law.
5. If the content of a notice issued by the IP rights holder is inconsistent with objective facts, but the rights holder claims in litigation that the notice was submitted in good faith, it requests exemption from liability and it is able to provide supporting evidence, then the People's Court should support this after verifying the facts according to law.
6. This reply will apply to cases not finally decided when the reply was issued; the reply will not apply where cases had already been finally decided when the reply was issued, or where the parties apply for retrial or where cases are remitted for retrial in accordance with trial supervision procedures.