

Protecting Creative Enterprises through Intellectual Property and Cultural Policy in the United States and China

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Abstract

Creative enterprises depend on legal control over intangible assets, but recognition of intellectual property rights does not by itself ensure access to finance, distribution, or affordable remedies. This article examines how selected institutions in the United States and China address these different needs. It develops a comparative framework covering rights recognition, access to enforcement, project financing, and institutional intermediation. The analysis is a focused documentary and doctrinal comparison of official legal and policy materials, rather than a systematic review or an empirical evaluation of national performance. The United States examples include trademark adjudication, copyright small claims, and public arts funding. The China discussion examines copyright reform and, as a separately identified jurisdictional example, film co-production funding in Hong Kong. The comparison suggests that enforcement and cultural support perform complementary functions: remedies address infringement, whereas funding arrangements address the conditions under which creative production can occur. Neither institutional design nor announced funding establishes effective protection in practice. The article proposes that policy transfer should focus on specific mechanisms and their implementation conditions, with particular attention to affordability, eligibility, contractual control, and institutional accountability. Its contribution is an analytical distinction between formal entitlements and the practical capacity of creative enterprises to exercise them.

Keywords: creative enterprises; intellectual property; cultural policy; comparative legal analysis; access to remedies; public funding

1 Introduction

For a creative enterprise, the ability to produce a work and the ability to retain its economic value are related but different problems. A publisher may hold rights in a catalogue without having sufficient capital to distribute it. A small production company may receive project funding while lacking the resources to challenge infringement. A designer may control a distinctive brand but depend on an intermediary for market access. These situations make the relationship between intellectual property law and cultural policy a useful object of institutional comparison.

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This article uses “creative enterprises” to refer to individuals and organizations engaged in producing or commercializing cultural and creative goods and services, including publishing, music, audiovisual production, and design. The term is analytical and does not imply identical legal classifications in the jurisdictions examined. Copyright, trademarks, and other intellectual property instruments also serve different purposes. Their availability must therefore be assessed in relation to the asset and activity concerned, rather than treated as a single undifferentiated form of protection.

The problem addressed here is the distance between a formal legal entitlement and the capacity to exercise it. A right can be difficult to enforce when the potential recovery is small relative to procedural costs. Public support can widen access to production while remaining selective in its eligibility requirements. Intermediaries can provide expertise and distribution while also shaping the terms under which creators participate. An account that equates sectoral growth with effective rights protection overlooks these distinctions.

The research question is how selected legal and cultural policy mechanisms in the United States and China address the different constraints facing creative enterprises. Three subsidiary questions guide the discussion. What function does each mechanism perform? What conditions govern access to that mechanism? What can be inferred about policy design without assuming that the mechanism has already produced measurable improvements in enterprise outcomes?

The contribution is a functional framework connecting rights recognition, access to remedies, financing, and intermediation. The analysis does not rank the two countries or attribute their creative output to particular laws. Instead, it identifies institutional questions that a receiving jurisdiction would need to answer before adapting an external policy instrument. Implications for Russia are considered as a policy transfer question requiring a separate assessment of domestic institutional conditions.

2 Analytical framework and approach

The unit of comparison is the institutional mechanism, rather than the national creative economy as a whole. The United States and China provide contrasting settings in which public institutions and commercial activity interact. This is an exploratory comparison. The selection does not establish that the examples are representative of all creative sectors or of every subnational jurisdiction.

The documentary corpus consists of official materials cited in the references: a United States Supreme Court judgment, USPTO registration guidance, Copyright Office and Copyright Claims Board materials, a National Endowment for the Arts funding announcement, the Chinese Copyright Law record in WIPO Lex and its amendment summary, and Hong Kong Film Development Council scheme documentation. These sources were selected for their identifiable legal or administrative authority and their relevance to the four comparison dimensions. They were consulted for this revision on 4 October 2026. Historical funding examples are identified by their announcement or application period; they are not presented as currently open opportunities.

The approach is doctrinal where a legal rule or judgment is interpreted and documentary where program design is examined. For each example, the discussion identifies the protected interest, the responsible institution, the access condition, and the limit of the inference that the source supports. A legal provision establishes what a framework permits or requires. A program announcement establishes the announced design or funding commitment. Neither is equivalent to evidence of implementation quality or beneficiary outcomes.

Four dimensions structure the analysis. Rights recognition concerns the identification of a protectable interest and its holder. Access to enforcement concerns the availability and practical suitability of procedures. Financing concerns support for producing and circulating creative output. Intermediation concerns the institutions that

connect enterprises to expertise, representation, and markets. These dimensions are used as interpretive categories, not as measured variables or validated indices.

Hong Kong is treated separately within the China discussion because its film funding example belongs to a distinct legal and administrative setting. Its eligibility rules cannot be generalized to mainland China. Similarly, the United States examples span different institutions and asset types; an arts grant is not a trademark remedy. The comparison therefore concerns complementary functions rather than legal equivalence.

3 Selected mechanisms in the United States

A rights framework must identify the interest at issue before it can provide a remedy. In *United States Patent and Trademark Office v. Booking.com B.V.* (2020), the Supreme Court held that the generic character of a “generic.com” expression depends on its meaning to consumers. The judgment does not establish that adding a domain suffix automatically makes a generic word protectable. For this comparison, it illustrates the evidential basis of trademark recognition rather than a general rule favoring the exclusive appropriation of ordinary language.

USPTO guidance also distinguishes obtaining a registration from maintaining it. For the registrations covered by its guidance, the required declaration of use or excusable nonuse is generally filed between the fifth and sixth years, followed by the relevant maintenance and renewal filings between the ninth and tenth years and at subsequent ten-year intervals (USPTO, n.d.). These requirements show why registration and its subsequent maintenance must be distinguished. The analytical point is that an enterprise needs administrative capacity as well as an identifiable mark.

Access to a remedy presents a separate problem. The Copyright Claims Board is an alternative forum for certain copyright disputes involving up to US\$30,000, established under the CASE Act (U.S. Copyright Office, n.d.). Participation is voluntary in the sense that a respondent may opt out, and the procedure is distinct from federal court litigation (Copyright Claims Board, n.d.). Its relevance here is the attempt to match a dispute resolution channel to relatively modest claims. The existence of that channel does not establish its effectiveness or eliminate the need to assess procedural limits.

The financing function is illustrated by the National Endowment for the Arts announcement of more than US\$110 million in recommended grants in its second major fiscal year 2024 round. The announcement covered Grants for Arts Projects, Our Town, and State and Regional Partnerships (NEA, 2024). It was a specific funding round, not a statement of total annual expenditure or universal direct assistance to individual creators. Eligibility and competitive selection prevent an inference that all applicants receive equivalent support.

Taken together, these examples separate recognition, procedural access, and project support. They provide a basis for asking whether an enterprise can identify its entitlement, maintain the relevant administrative requirements, and pursue a proportionate remedy. Funding raises a further question about which activities public institutions choose to support. The materials do not allow an assessment of how often the same enterprise benefits from all three functions or whether benefits are evenly distributed across sectors.

4 Copyright reform in mainland China and film support in Hong Kong

China’s Copyright Law, as amended in 2020, provides a legal basis for examining protection of creative works (WIPO, 2020). WIPO’s amendment summary identifies changes that took effect on 1 June 2021, including a broader audiovisual category, statutory damages reaching RMB5 million, punitive damages provisions, changes concerning collective management, and additional investigative powers (WIPO, 2021). These are features of the legal framework. They do not independently establish consistent enforcement or equal access to remedies.

The amendment example illustrates why the legal strength of a remedy should be distinguished from an enterprise's ability to obtain it. A potentially substantial award is relevant to deterrence, but a claimant must still establish entitlement and satisfy the applicable procedural and evidential requirements. Evaluating practical accessibility would require information about case duration, litigation cost, representation, and recovery. Those data are not available in the documentary corpus used here.

Collective management also invites a functional distinction. Its relevance lies in coordinating rights administration; it should not be equated with every professional association or commercial intermediary. The amendment summary provides a basis for recognizing collective management as an institutional concern. It does not support a general conclusion about the quality of representation, distribution of remuneration, or accountability of all organizations operating in the sector.

The first-phase Hong Kong–Asian Film Collaboration Funding Scheme provides a bounded financing example. Its documented application period was February to June 2023. It offered approved co-production projects support up to HK\$9 million and required qualifying practitioners, local participation in specified production roles, and a minimum share of below-the-line expenditure in Hong Kong (Hong Kong Film Development Council, n.d.). The scheme combines project funding with collaboration and local expenditure conditions. These design features should be interpreted within Hong Kong's own administrative context.

For the comparison, this scheme shows that support can be organized around a production relationship rather than an unrestricted transfer to any creative enterprise. Conditions concerning practitioners and expenditure shape who can participate and which activities benefit. Whether they improve collaboration or restrict entry by newer producers is an empirical question. The scheme description alone cannot answer it.

The mainland copyright reform and Hong Kong financing example therefore illuminate different institutional functions. They are not evidence of a unified national model, nor do they establish a trajectory from regional experimentation to successful nationwide implementation. Such a claim would require a documented policy sequence and evidence of implementation across jurisdictions.

5 Comparative interpretation

The selected examples support a functional comparison more securely than a binary distinction between a market-led United States and a state-led China. Public funding appears in the United States material, while the Hong Kong scheme contemplates additional investment where production costs exceed the grant ceiling. Institutional arrangements combine public rules, selective support, and enterprise decisions. Their interaction is more informative than assigning an entire country to one ideal type.

Table 1 summarizes the comparison. It records the mechanisms examined and their evidential limits, rather than assigning scores to national performance.

Table 1 Selected mechanisms and limits of comparison

Dimension	United States example	China related example	Inference limit
Rights recognition	Consumer perception in Booking.com; trademark maintenance requirements	Mainland copyright framework and 2020 amendment	Rules differ by asset and jurisdiction

Dimension	United States example	China related example	Inference limit
Access to remedies	Copyright Claims Board for certain small claims	Revised copyright remedies in mainland China	Availability does not establish affordability or success
Financing	NEA second FY2024 grant round	Hong Kong film co-production scheme, first phase	Announced support does not establish beneficiary outcomes
Intermediation	Specialized public bodies in the examples reviewed	Collective management reform; co-production arrangements	No comprehensive comparison of associations or platforms

The first implication is that finance and enforcement address different constraints. A grant does not compensate an enterprise for an infringement unless the program expressly provides that function. An infringement remedy does not supply the working capital needed to produce a new work. Policy evaluation should therefore identify which constraint an intervention is intended to reduce before using sectoral output or investment as an indicator of success.

The second implication concerns access conditions. The requirements attached to registration maintenance, a dispute procedure, or a funding application are part of the protective environment. They may serve legitimate administrative objectives while demanding expertise that a small enterprise does not possess. The appropriate research question is who can use the institution, at what cost, and with what practical result. Aggregate funding totals or statutory damages ceilings cannot substitute for that inquiry.

The third implication is that stronger protection can involve competing interests. Trademark recognition must preserve space for generic language. Copyright remedies must be considered alongside permitted uses and procedural safeguards. Funding conditions must balance program objectives with access by potential beneficiaries. A framework focused exclusively on expanding exclusive control would omit these institutional choices.

6 Policy transfer and implications for developing frameworks

For a jurisdiction considering reforms, including Russia, the comparison suggests beginning with an identified institutional gap. If small claims are uneconomic to pursue, the relevant lesson is a proportionate procedure with adequate safeguards. If early production is constrained by financing, the relevant instrument may be a targeted grant or co-production arrangement. If enterprises cannot navigate registration and contracts, advisory support may address the problem more directly than expanding statutory rights.

These are conditional recommendations, not conclusions about the current state of Russian law. Applying them would require a separate review of domestic legislation, institutional mandates, available procedures, and sector-specific conditions. The receiving jurisdiction must establish whether a comparable mechanism already exists and whether the problem lies in its design, funding, implementation, or use.

Public support should also specify its intended result. A program directed toward cultural participation needs different assessment criteria from one intended to attract commercial investment. Possible indicators include the characteristics of eligible and successful applicants, access to independent advice, the terms of rights retention,

project completion, and the availability of complaints procedures. The choice of indicators should follow the program's actual purpose.

Digital platforms warrant further investigation because financing and distribution may be tied to contractual control. Before recommending platform expansion as a protective measure, researchers should examine who retains rights, how remuneration is calculated, whether exclusivity is imposed, and how disputes are resolved. These are proposed questions for future analysis; the present corpus contains no platform contracts and cannot establish actual bargaining conditions.

7 Limitations and research agenda

This article provides a focused comparison of selected official sources. It is not a systematic literature review, a representative sample of legal decisions, or a causal study of creative economy performance. The documentary selection gives greater visibility to formal institutional design than to informal practice. The United States and mainland China material also differs in coverage, and the Hong Kong example must remain jurisdictionally bounded.

The analysis does not measure enforcement costs, award recovery, creator income, funding success rates, or the effects of intermediary participation. It cannot conclude that one system protects enterprises more effectively or that adopting any individual mechanism would increase sectoral growth. Sectoral GDP estimates and cross-country trademark approval rates are not used as measures of rights protection because the corpus does not provide comparable definitions and denominators.

A stronger subsequent study would combine a wider scholarly literature with a documented source selection protocol and sector-specific evidence. A matched comparison of publishing or audiovisual enterprises could examine dispute cost, remedy duration, rights retention, and funding access. Interviews with enterprises and intermediaries could clarify where formal entitlements fail to translate into usable protection. Any causal claim would require a research design capable of distinguishing institutional effects from market size and other contextual factors.

8 Conclusion

Protecting creative enterprises requires attention to the capacity to use legal rights as well as to the conditions of creative production. The selected United States and China related examples illustrate separate functions of recognition, remedies, financing, and intermediation. They do not establish a comprehensive national ranking or demonstrate the effectiveness of any mechanism in practice.

The central analytical implication is that legal protection and cultural support should be evaluated together without treating them as interchangeable. A receiving jurisdiction should identify the constraint it seeks to address, examine the access conditions of a proposed instrument, and assess the institutional resources required for implementation. This approach supports more precise policy transfer and provides a basis for subsequent empirical investigation.

Research context

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References

- Copyright Claims Board. (n.d.). Frequently asked questions. U.S. Copyright Office. <https://ccb.gov/faq/>
- Hong Kong Film Development Council. (n.d.). First phase of co-production funding scheme: Hong Kong–Asian Film Collaboration Funding Scheme. https://www.fdc.gov.hk/en/applications_detail.php?id=2022110811104255978
- National Endowment for the Arts. (2024, May 15). National Endowment for Arts announces second round of grants for FY 2024. <https://www.arts.gov/news/press-releases/2024/national-endowment-arts-announces-second-round-grants-fy-2024>
- United States Patent and Trademark Office. (n.d.). Maintaining your federal registration. <https://www.uspto.gov/trademarks/basics/maintaining-registration>
- United States Patent and Trademark Office v. Booking.com B.V., 591 U.S. 549 (2020). https://www.supremecourt.gov/opinions/19pdf/19-46_8n59.pdf
- U.S. Copyright Office. (n.d.). Copyright small claims and the Copyright Claims Board. <https://www.copyright.gov/about/small-claims/>
- World Intellectual Property Organization. (2020). Copyright Law of the People’s Republic of China (amended November 11, 2020) [WIPO Lex]. <https://www.wipo.int/wipolex/en/legislation/details/21065>
- World Intellectual Property Organization. (2021, June 1). China: Decision of November 11, 2020, of the Standing Committee of the National People’s Congress on amending the Copyright Law of the People’s Republic of China. https://www.upov.int/en/web/wipolex/w/news/2021/article_0009