

Implementation of the Marrakesh Treaty for Visually Impaired Persons into the Chinese Copyright Law

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On June 27, 2013, the World Intellectual Property Organization adopted the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled in its efforts to resolve the global book famine of visually impaired persons by providing a series of copyright exceptions that facilitate access of the visually impaired to copyright works. As a member country of the WIPO, China signed but has not ratified the Marrakesh Treaty. However, it is important that China implement the treaty provisions into its copyright law before submitting ratification to the WIPO. Chinese lawmakers are thus advised to incorporate provisions of the Marrakesh Treaty into the national copyright legislations. This article analyzes the reasons for the global book famine of the visually impaired, examines the key provisions in the Marrakesh Treaty, and provides recommendations to incorporate the provisions of the Marrakesh Treaty into the Chinese copyright laws and regulations.

Keywords: Marrakesh Treaty, WIPO, VIPs, Chinese Copyright Law

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I. INTRODUCTION

Today, advanced digital technology allows access, management, dissemination, and utilization of copyrighted information and works. In spite of such technological progress, these works are not accessible to a large number of visually impaired persons (“VIPs”) mainly because there are no exceptions in national copyright laws allowing them access to copyright works at a nominal or no cost. The World Health Organization (“WHO”) estimates that there are approximately 285 million VIPs worldwide and about 90 percent live in low-income settings.¹ Less than 5 percent of the books are published in accessible formats for these VIPs.² Among the 186 member States of the World Intellectual Property Organization (“WIPO”), in 2006, only 57 countries provided specific exceptions to facilitate access for VIPs to copyright works.³ The lack of an accessible format for VIPs has been dubbed as the “global book famine.”⁴

On June 27, 2013, the WIPO adopted the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or otherwise Print Disabled (hereinafter Marrakesh Treaty) in an efforts to resolve this situation. As a part of the international copyright treaties administered by the WIPO,⁵ it recently brought into force after ratification by Canada, the twentieth country to accede to the treaty. Given that China has been amending its Copyright Law, Chinese lawmakers are advised to incorporate provisions of the Marrakesh Treaty into the national copyright legislations prior to submitting its ratification to the WIPO.

The primary purpose of this research is to make recommendations to incorporate the provisions of the Marrakesh Treaty into the Chinese copyright laws and regulations. This paper is composed of five parts including a short Introduction and Conclusion. Part two will discuss existing problems of inadequate access to copyright works for technical, financial, and legal reasons. Part three will carry out a detailed analysis of the Marrakesh Treaty provisions to determine the benefits of the treaty to VIPs. Part four will examine exceptions provided for VIPs by the Copyright Law of the People’s Republic of China, existing problems and its implementation into China’s domestic copyright system.