

Traffic as a Construct for Fair Use Consideration

--A Case Study of the Short Video Industry

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Abstract

With the rise of the short video industry, parodic works have rapidly gained popularity due to their humorous and satirical nature, posing new challenges for copyright protection of original works. These parodic creations in short videos are often derivative works aimed at attracting traffic, which can potentially damage the market value of the original works and lead to copyright disputes. Moreover, the user-generated content (UGC) mechanisms of short video platforms, while promoting content diversity, also complicate copyright enforcement. Situations where parodic works exceed fair use criteria include aspects like the cultural consumption nature of the usage purpose and the extent of quotation beyond appropriate limits. From legislative and judicial perspectives, expanding the range of factors considered for fair use, promoting high-quality production by short video creators, and fostering positive development in the short video parody sector require attention to the role of traffic in fair use determinations and its impact on the market value of works. In the short video industry, the criteria for determining fair use are under strain and need continual refinement in copyright law. By establishing a fair mechanism for benefit distribution, raising copyright awareness among creators, and enhancing the responsibility awareness of the audience, a better balance between the interests of parodies and original works can be achieved, thus promoting the healthy development of the cultural industry.

Keywords

Traffic; Fair Use; Short Videos; Parodic Works; Copyright.

1. Introduction

In today's digital age, short videos, characterized by their concise and content-rich nature, have quickly captured the public's attention and become a significant form of entertainment. Parodic works, as a unique creative form, have gained popularity among netizens due to their distinctive humor and creativity. However, with the increasing number of parodic works, the impact on the principles of fair use of intellectual property rights has become increasingly prominent.

Short video parodic works often directly quote segments or content from original works to create new content in a satirical and humorous manner. This type of creation generally occurs without the permission of the original copyright holders and without any form of compensation¹. Although the purpose of parodic works is for entertainment and personal expression, this unauthorized use may infringe on the legitimate rights and interests of the original creators. Parodic works in short videos tend to achieve high exposure and influence during their dissemination. These works often gain significant traffic through platform

¹ Li Chen: "Institutional Responses to Copyright Issues in the Short Video Industry," in *Publishing and Distribution Research*, 2019, No. 4, pp. 5-8.

recommendation algorithms, which can negatively impact the market value of the original works. In such cases, even though parodic works are not directly profit-driven, the potential commercial harm they cause to the original works cannot be overlooked.

This paper will discuss the definition of short video parodic works, the impact of such works on the principles of fair use, and the influence of traffic on short video parodic creations. From legislative and judicial perspectives, the paper aims to expand the range of factors considered for fair use, promote high-quality content creation by short video bloggers, and foster positive development in the field of short video parodies.

2. Traffic Characteristics and Copyright Impact in the Short Video Industry

With the rapid development of internet technology, the short video industry has emerged like bamboo shoots after rain, quickly becoming an undeniable force in the field of new media. Short videos, with their quick, convenient, and visual features, meet modern society's fast-paced demands for information acquisition and entertainment. However, the rise of this emerging industry poses unprecedented challenges to the traditional standards of fair use in copyright law². The creation and dissemination of short video content often involve referencing, adapting, or parodying existing works, actions that were already regulated by a clear legal framework in the era of traditional media³. However, in today's digital and networked environment, the production and sharing of short videos have become exceedingly easy, leading to a surge in derivative content⁴. This has caused the boundaries of fair use to start becoming blurred⁵. On one hand, short video creators pursue creative expression and personal artistic goals; on the other hand, original copyright holders seek to protect their legitimate rights. The conflict between these two interests is becoming increasingly pronounced⁶. The principle of fair use was originally designed to balance the interests of copyright holders with public interests, encouraging innovation and the dissemination of knowledge. However, its application in the short video industry has become complex. The widespread dissemination and immediacy of short videos mean that even minor copyright infringements can quickly escalate, substantially affecting the market value of the original works and the rights of the copyright holders⁷. Therefore, redefining fair use to adapt to the new mode of communication presented by short videos has become a critical issue that requires deep consideration by the legal community, the industry, and society at large.

2.1. Definition of Parodic Works in Short Videos

2.1.1. Parodic works in short videos are second-degree creations based on original works.

Parody, also known as spoofing, involves borrowing from the works of original creators within a derivative creator's own work to achieve purposes such as jesting, mocking, gaming, or even

² Wu Handong: "Freedom of Expression in the Field of Intellectual Property: Protection and Regulation," in *Modern Jurisprudence*, 2016, No. 3.

³ Chen Shaoling: "The Institutional Dilemmas and Breakthroughs in Resolving Copyright Disputes in Short Videos," in *Intellectual Property*, 2021, No. 9, pp. 17-30.

⁴ Long Wenmao: "The Cultural Accumulation Function of Fan Works and Their Legal Interest Relationship with Pre-existing Works in Competition Law: The Case of 'The Young Ones Here'," in *Electronic Intellectual Property*, 2016, No. 12, pp. 10-17.

⁵ Dong Tiance, Shao Shuolan: "Reflections on Balancing Protection of Derivative Works and Copyright: Discussing the Copyright Infringement Case of Video Blogger Guo A Mo," in *Publishing and Distribution Research*, 2018, No. 10, pp. 75-78.

⁶ Feng Xiaoqing, Diao Jiaying: "Research on the Boundary between Transformative Use and Copyright Infringement—From a Marketism and Functionalism Analysis Perspective," in *Journal of Hunan University (Social Sciences)*, 2019, No. 5, pp. 134-143.

⁷ Li Xiuqi: "Guidance of Short Video Content and Copyright Protection System," in *China Publishing*, 2017, No. 16, pp. 17-21.

paying tribute, and is a form of second-degree creation⁸. Parodic works, by their nature, are second-degree creations that build upon the original works. These creations require the derivative work to clearly identify the imitated object and express the creator's own commentary and views, without concealing the parts of the original work that are referenced⁹. In the context of short video platforms, parodic works arise from a unique environment compared to the original cinematic and television productions¹⁰. They meet the audience's demand for following dramas while reducing the time cost of viewing and providing emotional companionship during the viewing process. As a result, parodic works manifest in several forms, primarily in two main types.

The first form involves focusing on the climactic collections of the original plot. By extracting and segmenting complete scenes from the original film or TV show through simple cutting or screen recording into short videos, sometimes with added background music, this editing and recombination filters out the more mundane and lengthy parts of the original, strengthening the emotional connection between the parodic work and its audience. This involves extracting the most dramatic moments of the plot for editing, which aligns naturally with the inherent characteristics of short videos.

The second form is the editing and recombination of the original plot. Due to the strict review mechanisms of film and television works, traditional long-video originals may not meet some of the self-fulfillment needs of the audience. Therefore, after enjoying the original work, viewers often unconsciously turn to parodic works on short video platforms. These parodic works, using techniques like editing and redubbing, infuse new meanings into the original, where creators focus on details to address plot holes or introduce new storylines, thus revealing meanings that were either unachieved or implied in the original.

Regardless of the form, all short video parodic works derive their significance from the existence of the original work, which also provides a foundational understanding for the audience. Thus, the essential nature of these parodic works as second-degree creations is inherently dependent on the original work's existence.

2.1.2. The Unique Low-Barrier Fragmentation of Short Video Parodic Works

In the creation and dissemination process of short video parodic works, the tools and support provided by platforms become crucial for creator-audience interaction. This fragmentation is evident in the meticulous segmentation of user groups, where creators tailor original content into multiple domains to satisfy a diverse viewing experience. For example, to adapt to modern attention spans, parodic works often feature heavily edited clips of impactful dialogues and scenes; for those seeking relaxation in a high-pressure life, humorous imitation videos emerge; and for audiences less inclined to delve into the deeper meanings of longer videos, a wave of explanatory vloggers has surfaced. Although these parodic works vary in form, they essentially rely on the original work's popularity and traffic to attract viewers. The vast user base of short video platforms may divert some traffic from the original works, triggering potential competition between the original and the parodic creations.

The User-Generated Content (UGC) mechanism is a significant feature of the short video domain, allowing users to engage in content creation and publication anytime and anywhere, both professionally and casually. This mechanism greatly stimulates user participation but also

⁸ Zhao Xianzhang: "Hyper-textual Parody Style Interpretation," in *Journal of Social Sciences of Hunan Normal University*, 2004, No. 3, pp. 101-109; Ji Weidong: "Parody and Fair Competition in a Networked Society: A Comparative Analysis of Copyright System Design," in *China Legal Science*, 2006, No. 3, pp. 17-29.

⁹ Su Li: "Legal Protection and Restrictions on Parody—Starting from 'A Steamed Bun Leads to a Bloodbath'," in *China Legal Science*, 2006, No. 3, pp. 3-16.

¹⁰ Song Beina, Zhao Naping: "Study on Copyright Infringement Issues of Short Videos in the New Media Era," in *Hebei Law Review*, 2022, No. 4, pp. 159-184.

introduces several issues. Due to the "zero-barrier" nature of UGC, the market has seen a surge in videos varying greatly in quality and highly repetitive in content. This issue is particularly pronounced in the realm of parodic works. Relying on originals for re-creation, if a flood of low-quality imitative content enters the platform, it can degrade the overall content quality and viewer experience and, in the absence of effective regulation, lead to copyright disputes, public controversies, or even legal issues.

In such a competitive environment, short video platforms need to take on regulatory responsibilities, using technological means and policy frameworks to provide a fair and orderly competitive environment for creators and users. Creators, too, must enhance their copyright awareness, respect the intellectual property of original works, and avoid producing and disseminating content that infringes others' rights. Through the collective efforts of all parties, the short video industry can achieve healthy and sustainable development.

In this process, short video platforms and creators must benchmark against other industry competitors, continuously optimizing their creative and operational strategies to enhance content quality and differentiation, standing out in fierce market competition. They also need to learn from the successful experiences of other platforms and creators on how to create interesting and valuable works while respecting intellectual property rights. Furthermore, a symbiotic relationship may form among platforms, creators, and users: platforms attract more creators and users by providing tools and support; creators draw more viewers by producing high-quality content; and users gain pleasure and satisfaction from viewing and sharing content. This enduring behavioral phenomenon helps create a virtuous cycle, promoting the continuous development of the short video industry.

2.2. Creation Mechanism of Short Video Parodic Works

2.2.1. Parodic Works Driven by Traffic Attraction

Despite the ongoing popularity of the short video industry, its inevitable trend towards marketization, commercialization, and traffic orientation has led to a plethora of content of varying quality. While seeking quick sensory stimulation, there's also a phenomenon of errors in the deeper meanings of information. Short video creators, in their quest for more traffic and attention, overly focus on audiovisual effects, catering to the modern preference for fast-paced content but neglecting the communicative value of the videos. For instance, on platforms like TikTok, once a background song or a filming technique becomes popular, it quickly attracts a slew of imitators. Although the appearance and presentation of these imitators might differ, the content is often monotonously repetitive.

This tendency is even more pronounced in parodic works. Based on original works that already attract significant attention, numerous parodic creations emerge, often disregarding basic content and value in their quest for traffic. This superficial form of entertainment has led to parodic works becoming almost "zero-barrier," where the pursuit of traffic results in a "bad money drives out good" effect. In short video parodies, a single highly-trafficked piece can sometimes bring a massive following and commercial endorsements to a video blogger overnight. This internal emphasis on traffic within short videos is increasingly celebrated, yet it harbors significant risks in parodic works.

2.2.2. Parodic Works as Imitative Creations

Short video parodic works are a unique art form that re-creates existing film, music, or celebrity speeches through imitation, employing humor, satire, or critique. The creation mechanism of these works is complex and multidimensional, requiring creators not only to possess imitative skills but also innovative thinking and a deep understanding of cultural phenomena. Through this mechanism, parodic works provide entertainment in a novel and engaging way while also prompting reflections on society and culture.

The essence of these works lies in blending imitation with the creator's personal understanding and innovation. The core of parodic works is imitation—capturing the style, language, plot, and other elements of the original to engage the audience. However, it's not merely about replication; it involves a series of creative steps that reinterpret and recreate the original work. First, creators select a target worthy of imitation, such as a famous movie, TV show, music video, or a public figure's iconic action or speech. They then analyze the target deeply, deconstructing its core elements like plot, characters, dialogue, music, and visual style. Parodic creators base their creativity on an understanding of the original work, often exaggerating, distorting, or substituting some elements to convey new perspectives or emotions. By adapting and innovating on the basis of imitation, they create new works that are connected to the originals yet hold independent value. Finally, choosing the right platform to publish their works, they utilize the power of social media and short video platforms to reach a broader audience.

The rise of short video platforms has provided an excellent dissemination channel for parodic works, allowing these creations to spread quickly and attract large audiences. However, during the creation process, creators must consider potential legal issues related to copyright, defamation, and ethical considerations. It's crucial to avoid infringing on the original work's copyrights and to steer clear of content that might cause controversy, respecting the rights and reputations of the imitated subjects.

Overall, short video parodic works combine imitation with innovation to comment on cultural phenomena through humor and satire, providing entertainment for the audience. In creating and appreciating these works, it is important to consider their legal and ethical boundaries, as well as respect for the original works.

2.3. Exceeding Fair Use Standards in Short Video Parodic Works

2.3.1. Purpose of Use Rooted in Cultural Consumption

As a cultural phenomenon, short video parodic works serve multiple purposes, with cultural consumption playing a significant role. These works provide entertainment and relaxation in the form of humor and satire, often integrating commentary on societal phenomena, prompting viewers to think and reflect while consuming the content. By watching and sharing parodic works, audiences engage in cultural activities, expressing individual opinions and personality, and enhancing a sense of community belonging. This participation and sharing foster interactive discussions on social media, becoming an integral part of cultural consumption.

Parodic works also offer a unique aesthetic experience, meeting viewers' aesthetic needs and resonating emotionally with them. By imitating and recreating familiar cultural symbols, these works help audiences establish or strengthen their cultural identity. Additionally, parodic works can convey information and knowledge, providing viewers with a deeper understanding of specific topics or phenomena.

Especially in specific commercial contexts, like TikTok's showcase feature, the popularity of parodic works drives the development of related industries, such as advertising and merchandise sales. At the systemic level, the monetization process is: "Video content attracts viewers → Accumulates followers → Drives sales." This process reveals the direct economic impact of cultural consumption and indicates that the purpose of using parodic works might be profit-oriented.

When the creation and distribution of parodic works are profit-driven, they may exceed the boundaries of fair use as defined under Article 24 of the Copyright Law, which generally restricts fair use to non-commercial purposes. Therefore, creators of parodic works must consider whether their actions comply with copyright law to avoid infringement risks while pursuing cultural value. This requires creators to balance the profit motives of cultural consumption with legal restrictions on fair use, ensuring the legality of their works.

2.3.2. Extent of Quotation Exceeding Appropriate Boundaries

As an art form, the creation of parodic works inevitably involves referencing the original works. However, if the extent of quotation exceeds the reasonable bounds of fair use, it may lead to copyright infringement issues.

If a parodic work quotes a substantial amount of content from the original, especially those parts crucial to the original work, it may exceed the scope of fair use. If the parodic work can replace the original in the market, affecting the sales or value of the original, it is generally considered to exceed fair use¹¹. Unauthorized use of copyrighted material, particularly when the use is not for purposes such as critique, news reporting, education, or research, falls outside the appropriate range of fair use. When parodic works are used for commercial purposes, such as sales, advertising, or promotion, this may be viewed as exceeding the bounds of fair use. If the parody is merely a minor adaptation of the original without significant creative transformation or new expression, it might be considered excessive quoting. If the parodic work negatively impacts the potential market or value of the original work, this may indicate that the quotation exceeds fair use.

If the copyright owner explicitly opposes the use of the parodic work and takes legal action, this might indicate an excessive quotation beyond fair use. If the parodic work compromises the integrity of the original work, for instance, by using it in a distorted or defamatory manner, this might exceed the scope of fair use. If a creator has a history of repeated infringements, even if each act seems minor, the cumulative effect could be considered beyond the realm of fair use. Different countries and regions may have varying definitions of fair use, so whether an action exceeds fair use should be determined in reference to local copyright laws and case precedents.

When creating parodic works, creators should strive to ensure that the extent of their quotations does not exceed the appropriate boundaries of fair use. This may require a thorough understanding of copyright law or consulting with a legal professional when necessary. Creators can also consider using public domain or openly licensed materials to reduce the risk of infringement.

2.4. Traffic and Profit Mechanisms of Short Video Platforms

2.4.1. Adaptation to the Platform's Traffic-Driven Universal Values

The popularity of short video parodic works on social media and online platforms highlights a significant shift in content production and consumption methods. These works rapidly attract viewers and increase traffic not only because they are concise and suited to a fast-paced lifestyle, but also because they are easily shared and disseminated. Viewers can quickly engage through likes, comments, and shares, thus increasing the exposure and engagement of the works. Compared to traditional video production methods, the production mechanisms of contemporary short video parodic works have undergone significant changes. Traditional video content creation was often limited in scope, with substantial separation between platforms and difficulty in content interchange, primarily focusing on text and long videos. Now, the low entry barriers on major platforms have diversified and facilitated creation methods, with traffic volume becoming a crucial metric for judging the success of a work. This fast and cost-effective model of content production and consumption allows short video parodic works to quickly become popular. Moreover, these works typically include humorous elements and involve widely recognized cultural phenomena or trending elements, keeping up with current events or pop culture, making it easy to resonate with and provoke discussions among viewers. The interactive features of social media platforms, like TikTok's showcase function, provide

¹¹ Cui Guobin: "On the Duties of Internet Service Providers to Filter Copyrighted Content," in *China Legal Science*, 2017, No. 2, pp. 215-237.

direct communication channels for creators and viewers, increasing viewer loyalty and the impact of the works. The ease of imitation in short video parodic works further promotes the generation of user-generated content, expanding the reach of the works. Compared to traditional film and television productions, the production costs of short video parodic works are lower, enabling more creators to participate. The algorithmic recommendation mechanisms of social media platforms make it easier for short videos with high engagement and sharing rates to be promoted to more users. The diversity of these works, from political satire to pop culture, meets the needs of different viewer demographics. High-traffic short video parodic works bring commercial opportunities to creators, such as brand collaborations and advertising revenue. By familiarizing themselves with and leveraging the rules and features of platforms, creators maximize the dissemination of their works. In a "traffic is king" environment, short video parodic works have successfully found their niche, not only providing entertainment for viewers but also offering creators opportunities to showcase their talents and build personal brands. This form of work reflects contemporary society's demand for quick, engaging, and interactive content and also embodies a universal value — in today's society, accumulating and effectively converting traffic has become a key factor in assessing content value and creative success.

2.4.2. Interests Relationship Between Works and Originals

Short video parodic works have the potential to create a win-win situation with the original works, thanks to their inherent characteristics and the interactive relationship they maintain with the originals. By quoting or adapting the original works, parodic videos can attract new audiences who may then seek out and engage with the originals, thereby increasing the originals' visibility and viewership. These parodies often spark discussions and comparisons among viewers, which can enhance the social impact and cultural value of the originals.

If parodic works adopt a positive attitude towards the originals, they can serve as a form of promotion, bringing more attention and positive reviews to the originals. By using humor and satire, parodies can reach a broader audience, including those who might not be typically interested in the originals. Through an emotional connection with the originals, parodic works can deepen viewers' emotional engagement and enhance audience loyalty to the originals.

The creative expression in parodic works can complement the originals, offering audiences different perspectives and experiences, thereby enhancing the artistic appeal of the originals. The success of parodic works may inspire the original creators with new ideas, motivating them to produce more excellent works. The popularity of parodic works can attract the attention of brands and advertisers, providing commercial collaboration opportunities for both the creators of the originals and the parodies.

By commenting on and critiquing social phenomena, parodic works can enhance the socio-cultural impact of the originals, achieving a deeper level of mutual benefit. The existence of parodic works enriches the forms of cultural expression and promotes cultural diversity. The originals can also gain more cultural recognition and respect from this interaction. Parodic works and originals can grow together, forming a healthy interactive relationship that collectively advances cultural development.

If parodic works use original materials within the legally allowed limits of fair use, they can avoid copyright disputes and achieve harmonious coexistence. The key to achieving a win-win situation lies in the creators of parodic works respecting the originals, using the original materials reasonably, and avoiding infringing copyrights and harming the interests of the originals. Meanwhile, the copyright owners of the originals should maintain an open attitude towards parodic works, recognizing their positive contribution to the originals. Through the joint efforts of both parties, short video parodic works and originals can achieve mutual benefits and together promote the development and prosperity of culture.

3. The Impact of Traffic on Short Video Parodic Works: Generation, Creation, and Motivation

In the context of the digital age, the short video industry has rapidly developed, with traffic becoming a key indicator of a work's influence and commercial potential. Traffic is not only a direct manifestation of a work's dissemination power but is also closely related to the creator's revenue. For short video parodic works, the importance of traffic cannot be overlooked. It concerns whether the work can stand out in the fierce competition for information and determines whether the work can translate its commercial value. Therefore, discussing the impact of traffic on short video parodic works is crucial for understanding the current ecological landscape of online culture.

3.1. Traffic Generation by Short Video Platforms

3.1.1. The Traffic Racehorse Mechanism of Short Video Platforms

Short video platforms operate as commercial entities with the core goal of generating profit¹². In the current market environment dominated by traffic, these platforms strive for sustainable traffic conversion capabilities. To achieve this, platforms have developed a traffic racehorse mechanism focused on two key factors: attracting and maintaining traffic. This mechanism first manifests in the precise targeting of short video content. Platforms do not indiscriminately push large volumes of traffic to any blogger or video; instead, they assess and evaluate the performance of content to promote those that can efficiently convert into platform revenue, creating a virtuous cycle of traffic. Furthermore, to ensure a fair competitive environment within the platform, short video platforms categorize content based on its type, level, and timing of release, creating different competitive tracks. This system is designed to provide a fair competition platform for creators at all levels, safeguarding the interests of bloggers with an established fan base while also offering opportunities for newcomers to showcase their talents¹³. Under this mechanism, bloggers need to deeply understand and utilize the platform's operational rules to produce content that aligns more closely with the platform's algorithm preferences and attracts more traffic. This means that law plays a crucial role in this process by safeguarding the rights of creators, ensuring they create and benefit in a fair environment. The traffic racehorse mechanism is such an institutional arrangement, motivating creators to produce high-quality content while simultaneously benefiting the platform.

3.1.2. The Core Value of Traffic for Monetization

Traffic, as a product of the mobile internet, fundamentally represents the operational side of the business for short videos. Understanding traffic from a profit-oriented perspective highlights its essence in bringing about commercial opportunities. From the standpoint of product commercialization, traffic essentially acts as a resource for monetization. The value of traffic lies in the commercial opportunities it creates and, from a valuation perspective, it is determined by the combination of its quantity and quality. A basic value formula would be: Traffic Value = Traffic Volume × Traffic Quality. Or, to put it more plainly from a commercial perspective: Traffic Revenue = Traffic Scale × Monetization Efficiency.

In this context, the protagonists are the creators and secondary creators (referred to as "second creators"). These individuals attract traffic through content creation and ultimately achieve monetization. Initially, traffic serves as a resource of attention; as media forms evolve, so does user attention. With the advancement of 4G and 5G technologies, video media's market penetration continues to rise, making it the predominant media form in the mobile internet era.

¹² Peng Lan: "The New Content Revolution in the Intelligent Era," in *International Journalism*, 2018, No. 6, pp. 88-109.

¹³ Zhong Qi, Yang Xuefan, Wu Zhiqiao: "A Review of Value Co-creation in Platform Ecosystems," in *Systems Engineering Theory and Practice*, 2021, No. 2, pp. 421-430.

Compared to traditional text and image media, video media possesses a stronger capacity to carry information, which enables it to attract and maintain user attention¹⁴. Furthermore, traffic must be supported by user resources. While traffic is fundamentally derived from users, if a user merely visits a page once, giving the product a single exposure (PV), then that user contributes only minimally at the level of attention resources, which is not highly valuable to the platform. True value is realized when users genuinely settle on the platform, adopting unique user identities and creating usage data, thereby transforming mere traffic into a tangible user resource.

The purpose of traffic allocation is to maximize monetization efficiency while protecting the rights of creators. This is because secondary creations often face challenges such as a smaller market scale and difficulties in defending their rights. Determining the overlap between the markets for secondary and original works requires further market analysis to understand the extent of overlap and its potential impact. The evolution of internet commercialization has transitioned from an initial focus on traffic management to the core value of traffic monetization. As a product of the mobile internet, the commercial essence of short videos lies in traffic operation. From a commercial perspective, traffic is not only a reflection of user attention but also a source of business opportunities¹⁵. The value of traffic lies in the commercial opportunities it can create, and its evaluation depends on the combination of traffic quantity and quality. The basic value formula can be expressed as: Traffic Value = Traffic Volume × Traffic Quality. In simpler terms, Traffic Revenue = Traffic Scale × Monetization Efficiency. In this process, creators and secondary creators (secondary works) are the main players. They attract traffic through content creation and ultimately achieve monetization. In this context, the role of traffic extends beyond mere user engagement. It becomes a critical asset for monetization, influencing both the scale and efficiency of commercial opportunities. As creators and secondary creators generate content, they draw in traffic, which platforms can then convert into revenue through various means, such as advertising, sponsorships, and partnerships. Thus, understanding and optimizing traffic allocation becomes essential for both platforms and creators to thrive in the competitive landscape of the digital economy.

3.2. Traffic as an Incentive for Parodic Creation

3.2.1. Traffic First Attracts the Market, Then Outstanding Works Emerge

In today's digital age, the rapid development of the internet has accelerated the speed of information dissemination like never before. Against this backdrop, traffic has become an important means of attracting the market. However, traffic is not just an empty number; it represents the attention and engagement of a wide audience. Only when a work attracts enough traffic can it stand out in the fierce market competition and further stimulate the creation of more excellent works.

Traffic is the "door knocker" for a work. Among the plethora of information, a work must first have a certain traffic base to gain attention. Through effective promotion and marketing strategies, a work can gather a large number of followers in a short time, laying a solid foundation for subsequent in-depth communication and evaluation. Such traffic not only increases the exposure of the work but also attracts more investment and resources, providing strong support for its creation.

Traffic is also the "barometer" of market demand. In the internet era, user demands are increasingly diversified and personalized. If a work can attract a large amount of traffic, it

¹⁴ Lü Peng, Wang Mingxuan: "Internet Governance on Short Video Platforms: Problems and Strategies," in *Journalist*, 2018, No. 3, pp. 74-78.

¹⁵ Luo Min, Li Liangyu: "Business Model Innovation in the Internet Era: A Value Creation Perspective," in *China Industrial Economics*, 2015, No. 1, pp. 95-107.

means it has met the needs of a certain user group. These needs can be emotional resonance, knowledge acquisition, or entertainment and relaxation. By attracting traffic, the work can more accurately grasp market demands and create works that better meet user expectations. Traffic provides fertile ground for the emergence of excellent works. When a work gains a certain amount of traffic and attention, it has more opportunities to be seen and evaluated by more people. In such an environment, excellent works are often able to receive more support and encouragement, thus gaining more resources and opportunities to further improve themselves. Meanwhile, traffic also provides a broader stage for works, allowing outstanding works to transcend geographical, cultural, and language barriers, being recognized and appreciated by more people.

However, traffic is only a starting point, not an end. To achieve lasting vitality, a work must continuously improve its quality and value based on the initial traffic. Traffic first attracts the market, then excellent works emerge; this is a creation and dissemination model that aligns with the characteristics of the internet age.

3.2.2. High Traffic Promotes the Influx of Quality Works into the Market

Amidst the wave of the digital age, the internet has become an important platform for information dissemination and cultural exchange. With technological advances and the popularity of social media, high traffic has become a key factor in promoting quality works into the market. High traffic not only represents a broad audience base and attention but also is a crucial guarantee for excellent works to be seen and recognized.

High traffic provides a stage for quality works. On internet platforms, a work needs sufficient exposure to gain attention and recognition. High traffic means that the work can be seen by a large number of users in a short time, increasing its chances of being recognized and liked. Such exposure opportunities allow excellent works to stand out from the mass of information, attracting more attention.

High traffic provides creators with motivation and resources for creation. When a work receives widespread attention and appreciation from users, creators gain more inspiration and motivation. At the same time, high traffic attracts more investment and resources, providing creators with a better environment and conditions for creation. Such an environment and conditions not only encourage creators to produce more quality works but also promote the development and progress of the entire creative field.

High traffic fosters healthy competition among excellent works. On internet platforms, competition among works is very fierce. However, this competition also provides more challenges and opportunities for creators. When a large number of excellent works gather together, they form a healthy competitive atmosphere. This atmosphere not only stimulates the creative potential of creators but also pushes the entire creative field to continually advance.

High traffic also provides a broader market space for excellent works. With the popularization and development of the internet, more and more people are accessing information and entertainment online. This means that as long as excellent works can attract enough traffic, they have the potential to gain wide recognition and appreciation nationwide and even globally. Such market space provides more opportunities and possibilities for creators, enabling them to create more diverse and innovative works.

However, high traffic is not a panacea. Although it can provide more exposure and opportunities for quality works, it does not guarantee that the work will succeed. Successful works still need unique creativity, high-quality production, and deeply moving content. Therefore, while pursuing traffic, creators should also focus on the quality and value of their works.

3.3. The Promotion of Benefits by Traffic for Parodic Works

3.3.1. Traffic Influences Market Value Evaluation

In today's digital age, traffic often represents the popularity, influence, and potential commercial value of a product or service. High traffic usually translates to more exposure opportunities, potential customers, and business prospects. The evaluation of traffic value is commonly approached using a widely accepted two-dimensional method in the current market, namely the Boston Matrix analysis. This market evaluation technique typically uses a matrix or four-quadrant format for analysis.

Firstly, from the perspective of enterprise value evaluation, traffic generally refers to user traffic, which includes the visit and usage rates of a company's products or services. User traffic is a critical indicator of a company's operational status and a key factor in assessing its market value. Higher user traffic implies greater popularity of the company's products or services, potentially attracting more investors and customers, thereby increasing the company's market value.

Secondly, traffic also plays a significant role in media value evaluation. User traffic is one of the crucial factors in assessing the value of media outlets. Higher user traffic means that the media is more attractive to advertisers who wish to reach more potential customers. Additionally, user stickiness and behavior are key factors in media value assessment. Higher user stickiness indicates greater attraction to users, thereby increasing media value. User behaviors, such as the number of ads watched, also influence media value evaluation.

For parodic works on short video platforms, it is essential to find ways to increase traffic scale. This primarily involves improving the quality of the works to enhance user retention and usage duration, thereby stabilizing and amplifying the traffic scale. Additionally, each content creator needs to thoroughly explore the traffic value behind their works, identifying the best monetization methods or even diversifying their monetization strategies to achieve the highest efficiency and revenue scale.

3.3.2. Traffic Attracts Public Attention

In the information age, high-traffic content can quickly capture public attention. In today's information and digital era, traffic can direct public focus towards specific subjects, drawing attention to particular highlights. Traffic is a powerful force that can make people notice highly viewed and widely shared topics. Throughout this process, individuals or organizations can achieve their goals by attracting traffic, whether it's conveying information, promoting products, expressing opinions, or shaping their image. Therefore, understanding and mastering the dynamics of traffic is crucial for survival and development in this era.

In the digital age, traffic has become a new type of currency, representing public attention and attracting numerous viewers. Whether it is likes and shares on social media or views on video platforms, traffic is a critical measure of content influence. Traffic attracts public attention, becoming an indispensable part of modern society.

The reason traffic can attract public attention is firstly because it represents popular topics and trends. In the information age, people are eager to learn about the latest news, hottest events, and most popular cultural trends. High-traffic content often satisfies these needs, becoming conversation starters in social settings. By paying attention to high-traffic content, people can quickly engage with mainstream topics and resonate with those around them.

Secondly, traffic serves as an indicator of content quality. Amidst the vast amount of information online, it can be challenging for the public to discern valuable content from the meaningless. Traffic acts as a relatively objective evaluation standard. Generally, high-traffic content tends to be of higher quality and appeal, attracting more attention and favor. Thus, the public often gravitates towards high-traffic content, perceiving it as more worthwhile.

However, the phenomenon of traffic attracting public attention also brings some issues. On one hand, in pursuit of traffic, some content creators may forsake originality and depth, pandering to public tastes and resulting in severe content homogenization. On the other hand, the traffic-centric mentality might lead to valuable but less popular content being overlooked, limiting the development of diverse cultures.

4. The Historical Shift in Copyright Law in the Era of Short Videos

The rapid dissemination characteristic of short videos makes infringement more covert and widespread, posing new challenges for the protection of original content. The development of copyright infringement determination, especially its application in the emerging field of short videos, is particularly important. Understanding and adapting to this legal framework has profound implications for protecting creators' rights and promoting cultural innovation, providing essential legal grounds and solutions to address infringement issues in the short video domain.

4.1. The Evolution of the Copyright System

4.1.1. Historical Background of the Copyright System

The origin of copyright can be traced back to ancient copyright systems. In ancient times, books were extremely precious, and booksellers began to establish rules to protect the replication of books to safeguard their interests. This formed the earliest copyright system. However, this system primarily aimed to protect the economic interests of booksellers rather than the creative rights of authors. Consequently, despite the existence of copyright systems, the concept of authorship did not immediately form. Due to the influence of the "imitation theory," ancient and medieval societies did not recognize the creativity of authors' labor, thus lacking the social foundation necessary for the emergence of copyright law. By the 18th century, the labor of authors was widely recognized as creative, and the assertion that authors had rights over their works gained broad social acceptance, leading to the birth of copyright law. The widespread dissemination of printing technology in Europe played a crucial role in the emergence of such laws¹⁶.

Compared to other rights, copyright has a relatively small direct contribution to social productivity, resulting in its late recognition and protection. Unlike other rights such as industrial property rights and property rights, copyright does not directly drive productivity improvements. As a result, copyright was not considered an important right for a long time. Copyright, as a private right and a civil right, is the product of exercising control over literary and artistic works in the context of a fully developed market economy, where it becomes a tradable object. This development requires essential technical conditions, capital conditions, market environments, political conditions, and corresponding property concepts and legal systems¹⁷.

This phenomenon was particularly evident during the Industrial Revolution, when society primarily focused on material production and technological innovation while neglecting the importance of intellectual production and intellectual property protection. However, with societal progress and development, the significance of copyright gradually became recognized. Especially in the information age, the protection of intellectual property has become a crucial factor in driving social progress and development. Intellectual property protection not only safeguards creators' rights but also encourages more people to engage in knowledge innovation, thereby advancing technological progress and cultural prosperity. Since copyright law emerged with the promotion of printing technology, early copyright laws primarily protected publishers'

¹⁶ Sun Xinqiang: "On the Origin, Evolution, and Development of Copyright," in *Academia*, 2000, No. 3.

¹⁷ Liu Chuntian: "Thirty Years of China's Copyright Law (1990-2020)," in *Intellectual Property*, 2021, No. 3, pp. 3-26.

interests, blurring the distinction between copyright and authorship. In fact, copyright is the right enjoyed by authors based on their creation of works, while publication rights pertain to the rights enjoyed by publishers. Generally, the subject of copyright is the author of the work, the object of copyright is the work itself, while the object of publication rights includes books, periodicals, and audio-visual publications¹⁸.

4.1.2. Shift from Behaviorism to Objectivism

Chinese copyright law does not explicitly define the rules for determining copyright infringement. However, the rule of "infringement = access + substantial similarity" is widely accepted and implemented in judicial practice, serving as the universal standard for general copyright infringement determination. This rule requires the infringer to have had the opportunity to access the work and for the two works to be substantially similar. Only when both conditions are met can it be considered copyright infringement. For the narrow definition of copyright, its object is integrated as "works," distinct from objects of property rights, inventions in patent rights, and trademarks in trademark rights. Chinese copyright law delineates the general characteristics of works through "field limitation," "expressibility," and "originality." The development of Chinese copyright law has undergone a transition from behaviorism to objectivism.

This historical shift reflects a broader understanding and adaptation to the evolving nature of content creation and dissemination in the digital age. As short videos continue to reshape the landscape of media consumption, copyright law must continuously evolve to address new challenges and ensure the protection of creative rights while fostering an environment conducive to cultural and technological innovation.

4.1.3. Changes in Copyright Law in the Era of Short Videos

In the era of text, the purpose of copyright law was dual: to protect the rights of creators and to promote cultural prosperity. The law stipulated a protection period of fifty years for works, ensuring that authors could receive economic and spiritual rewards from their creations. It also strictly penalized infringements, such as unauthorized copying and distribution, and encouraged copyright registration to clarify ownership, reduce disputes, and enhance protection.

However, while stringent copyright protection measures safeguarded creators' rights, they also limited the dissemination of works. The cumbersome registration and review processes could delay the release of works, causing them to miss the optimal time for dissemination and potentially be forgotten by the market. Additionally, copyright controls could restrict the channels through which works were distributed, creating barriers to cultural exchange and hindering cultural integration and development.

In the era of broadcasting and film, copyright law protected derivative works in two main ways: first, by safeguarding the derivative works themselves, prohibiting unauthorized copying, distribution, performance, and broadcasting; second, by protecting the original works, forbidding unauthorized derivative creations based on them. This dual protection aimed to preserve the rights of both creators and original authors, fostering cultural heritage and innovation.

The rise of the short video industry has introduced new challenges for copyright protection. According to the Copyright Law, fonts, images, music, videos, and other materials used in short videos are protected by copyright, and unauthorized use may constitute infringement. This is particularly true for game footage, where unauthorized creation and dissemination are also

¹⁸ Yu Jun: "The Historical Background and Theoretical Basis of the Terminological Dispute Between 'Copyright' and 'Authors' Rights' (Part 1)," in *China Copyright*, 2022, No. 4.

considered infringements. However, some short video creators, due to a lack of copyright awareness or difficulty in locating the copyright holders, inadvertently infringe on copyrights. Despite progress in protecting short video copyrights in China, many challenges remain. The primary issue is the identification of copyright ownership. Evaluating the originality of short videos is a core difficulty, compounded by the case-by-case approach in judicial practice, which increases the uncertainty of copyright recognition. Although copyright registration has legal validity, its cost and time constraints make it impractical for the vast number of short videos. Emerging technologies like blockchain show great potential, but there is still a lack of unified industry standards and judicial recognition.

Additionally, detecting copyright infringements in short videos is challenging. The ease of creating and distributing short videos makes tracking infringements extremely difficult. Current copyright detection technologies struggle with the short duration and simple naming of short videos, resulting in limited accuracy and coverage. While artificial intelligence recognition technology has made some progress, it still has limitations in identifying complex infringements. Moreover, platforms may lack the incentive to self-monitor and detect infringements due to the traffic and revenue generated by infringing videos.

Finally, the process of defending copyright in short videos is fraught with difficulties. Filing a complaint through the platform typically results only in the removal of the infringing video, and this process is often lengthy and unable to effectively compensate for the loss of traffic and economic damage to the original work. In legal proceedings, identifying the infringing party is challenging, and the high litigation costs further reduce the willingness and ability of copyright holders to protect their rights.

4.2. Changes in Fair Use Determination Standards

4.2.1. Fair Use Determination in Comparative Law

In the field of comparative law, determining fair use is a critical issue within copyright law, involving the understanding and practice of intellectual property protection across different legal systems. Fair use allows the use of works without the copyright owner's permission under specific circumstances without constituting infringement. The criteria for determining fair use typically include the purpose and character of the use, the nature of the copyrighted work, the amount and substantiality of the portion used, and the effect of the use on the potential market for the original work. These standards are flexibly applied in judicial practices across different countries, resulting in diverse determination systems¹⁹.

Fair use determination is influenced by multiple factors, including the legal system and legislative intent, judicial practice and case accumulation, cultural traditions, and social needs. Different countries apply varying degrees of leniency or strictness based on their legal systems and legislative objectives²⁰. The accumulation of judicial cases helps form consensus and principles, while cultural and social demands also impact the strictness of the determinations. In the United States, the "four-factor analysis" is used to determine fair use, emphasizing a balance between the rights of copyright owners and the public's access to information²¹.

Europe, on the other hand, places greater emphasis on the public's right to access and use information, stressing the principles of "necessity" and "fairness." The European approach often incorporates specific exceptions and limitations to copyright, ensuring that certain uses,

¹⁹ Zeng Jun: "The Enlightenment of EU Copyright Reform on the Responsibility of Short Video Sharing Platforms," in *Electronic Intellectual Property*, 2020, No. 1, pp. 23-32.

²⁰ Lu Haijun: "On Substantial Similarity of Works and the Path Choice for Copyright Infringement Determination—Reductionism vs. the Total Concept and Feel Principle," in *Political Science and Law Forum*, 2015, No. 1, pp. 138-145.

²¹ Yang Xianwen: "The Judgment of Substantial Similarity in U.S. Judiciary and Its Implications," in *China Copyright*, 2012, No. 5, pp. 46-49.

such as for education, research, and news reporting, are permissible without the need for permission from copyright holders. China's copyright law system has rapidly developed in recent years, and its fair use determinations combine international standards with domestic realities, aiming to balance the interests of copyright holders and the public. Overall, while the criteria for fair use determination vary across different countries, the common goal remains to balance the interests of copyright holders with those of the public. By examining international practices and adapting them to local contexts, countries strive to create fair and effective copyright protection frameworks that support both creators and the broader society.

4.2.2. Definition of Fair Use in China's Copyright Law

China's Copyright Law defines fair use primarily through the following aspects: First, the work being used must have already been published. This means that only publicly available works can be subject to fair use, while unpublished works are excluded. Second, the purpose of using the work must be non-commercial. In other words, fair use cannot be for profit-making purposes but should be aimed at educational, research, news reporting, or other non-profit objectives. Additionally, fair use should not infringe on the copyright holder's rights beyond their economic rights. This includes respecting and protecting the moral and personal rights of the copyright holder. Lastly, fair use must respect the copyright holder's moral rights, which means acknowledging the author's name, the title of the work, and the source of the work. This is a fundamental respect for the rights of the copyright holder and a crucial measure to prevent the misuse of the fair use principle²². In judicial practice, the determination of fair use also considers factors such as the nature of the work used, the amount of the work used, and the nature of the original work. According to Article 24 of the Copyright Law, using someone else's work generally requires entering into a licensing agreement with the copyright holder, except in specific cases defined by the law, such as fair use. Overall, the definition of fair use in China's Copyright Law is stringent. It aims to protect the legitimate rights and interests of copyright holders while ensuring the public's freedom to access and use information. In judicial practice, making a fair determination requires a comprehensive consideration of various factors based on the specific circumstances of each case.

4.2.3. Changes in Fair Use in the Short Video Sector

The purpose-based criteria for fair use have faced significant challenges in the short video industry. This is primarily because short videos, as an emerging form of work, often exceed the traditional copyright law definitions of fair use due to their unique creation and dissemination methods.

The creation of short videos often involves numerous elements, such as background music, dialogue, and video clips, many of which are directly sourced from other works. Given the short duration and concise content of short videos, creators often rely on rapid editing and recombination of these elements to achieve their creative goals. However, this approach can substantially infringe upon the copyright of the original works, making the determination of fair use complex²³. Additionally, with the proliferation and development of mobile internet, the cost of copying and distributing other works has significantly decreased, to the point where it is almost cost-free to replicate and disseminate others' works. This makes it easier for short video creators to access and use others' works, thereby blurring the line between fair use and infringement.

Furthermore, the enhanced power of information network communication rights has further squeezed the space for the public's fair use of public domain works. The strengthened rights of

²² Zhang Wen, Zhu Ge: "The Judicial Approach and Main Issues in Handling Cases of Short Video Copyright Infringement—A Case Study of Douyin vs. Huopai Short Video," in *Law Application*, 2019, No. 6, pp. 3-14.

²³ Liu Yating: "Determining Indirect Liability for Copyright Disputes on Short Video Platforms," in *Electronic Intellectual Property*, 2020, No. 9, pp. 42-53.

copyright holders allow them to better protect their works from misuse, but they also might restrict the public's access to and use of information.

Therefore, in the short video industry, the criteria for determining fair use face numerous challenges. To balance the rights of copyright holders and the interests of the public, it is necessary to continually refine the definition of fair use in copyright law, considering the characteristics and development trends of the industry. Additionally, accumulating judicial cases and summarizing experiences in practice will help establish clearer and more reasonable determination standards.

In the digital age, traffic has become a core indicator of a work's influence and commercial value, particularly in the short video sector. It determines the dissemination power of the work and the creator's revenue. Against this background, traffic significantly impacts the standards for judging "fair use," necessitating a re-evaluation and redefinition of these standards.

Gu Amo's "Watch a Movie in X Minutes" series is a network cultural phenomenon that uses parody and compressed movie content to present movie highlights in a short time, gaining widespread popularity. However, this practice has sparked copyright disputes²⁴. Film companies argue that it infringes copyright, while Gu Amo claims fair use. This case highlights the blurred boundaries between parody works and original works in the internet environment, complicating fair use determination. In such scenarios, the consideration of traffic becomes crucial, as high-traffic works can significantly impact the dissemination and market of the original works.

Short video platforms guide and regulate content creation through algorithmic recommendations and copyright management, which is key to addressing fair use issues under the impact of traffic. The platforms' "soft and hard collaborative" governance model, combining technical measures and institutional construction, aims to maintain a healthy creative ecosystem. Platforms need to balance creative freedom and copyright protection by establishing clear rules and providing necessary guidance to help creators understand and adhere to the boundaries of fair use.

The MCN (Multi-Channel Network) profit model of short video platforms plays an important role in content production, distribution, and monetization. MCN agencies provide comprehensive services to contracted creators, including content creation support, copyright management, and commercial monetization. This model alleviates some of the copyright pressures faced by individual creators and provides new perspectives for determining fair use. The professional management and market operations of MCN agencies help creators pursue traffic while complying with fair use norms.

In the determination of "substantial similarity," courts usually rely on the level of understanding and recognition of the general public²⁵. However, in a traffic-driven environment, this standard needs further refinement. The market value of traffic is often overlooked in fair use determinations, but it directly affects the dissemination of works and the revenue of creators. Therefore, traffic should be considered an important factor in fair use determinations. Additionally, factors such as the nature of the work, the amount and quality of the use, and the impact on the original work's market should also be considered to form a comprehensive standard for fair use judgment.

²⁴ Li Jiani: "On 'Appropriate Quotation' in Fair Use of Copyright—A Case Study of Gu Amo's Secondary Creation Short Videos," in *Journal of Southeast University (Philosophy and Social Science Edition)*, 2019, No. S1, pp. 53-57.

²⁵ Wu Handong: "Discussion on the Infringement Determination Rule of 'Substantial Similarity + Access'," in *Legal Studies*, 2015, No. 8, pp. 63-72.

5. Conclusion: Considering Traffic as a Key Factor in Fair Use Determination

Within the current legal framework, the principle of fair use is an important yet relatively ambiguous concept in copyright law. With the rise of emerging media forms such as short videos, traffic has become a crucial metric for evaluating a work's influence and commercial value. Therefore, incorporating traffic as a key factor in fair use determinations is essential for balancing the interests of copyright holders and the public.

5.1. Legislation: Refining Legislative Details

First, the scope of fair use determination should be expanded. Legislators should reassess and redefine the boundaries of fair use to meet the demands of the digital age. This includes reevaluating traditional areas such as education, news reporting, commentary, and research, as well as considering new media forms like short video parodic works. Expanding the scope of fair use means revising existing copyright laws to explicitly define the weight and role of traffic in fair use determinations. Second, the prioritization of the benefit protection principle should be considered. In copyright law, the benefit protection principle typically emphasizes the economic and moral rights of copyright holders. However, in the digital age, the prioritization of this principle may need adjustment to better reflect the impact of traffic on the value of works. For example, for high-traffic parodic works, the law may need to consider their contribution to public culture and their potential value in promoting the original works. Finally, the legal value of commercial free expression should be introduced. Commercial free expression refers to the freedom of individuals or enterprises to express opinions and creativity in commercial activities²⁶. Incorporating this legal value into fair use determinations means balancing the rights of copyright holders with the public's freedom of expression. This may involve protecting parodic works, especially those with evident social commentary or satirical nature.

5.2. Judicial Determination: Enhancing Rationality Review

First, there should be an emphasis on standardizing the rationality review system. Judicial authorities need to establish a standardized rationality review system to assess whether the use of a work is reasonable. This includes a comprehensive consideration of factors such as the purpose, nature, amount of use, and nature of the work²⁷. Additionally, the review system should account for the traffic of the work and its impact on the interests of copyright holders and the public. Second, the standard for determining substantial similarity should be expanded. In determining whether a work constitutes infringement, courts typically consider whether there is "substantial similarity" between the works²⁸. In the digital age, this standard may need to be expanded to include consideration of traffic. If a parodic work's traffic is significantly lower than that of the original, even with some content similarities, it may not constitute infringement. Third, the extension of the interest balance principle in adjudication. The interest balance principle seeks to find a balance between copyright protection and public interest. In judicial proceedings, courts need to consider the traffic of the work and its impact on the interests of copyright holders and the public²⁹. For example, if a high-traffic parodic work brings more attention and economic benefits to the original work, courts might be more inclined to recognize it as fair use. Fourth, a comprehensive consideration of legal, market, technical, and conceptual factors. In fair use determinations, courts should comprehensively

²⁶ Wu Handong: "Freedom of Expression in the Field of Intellectual Property: Protection and Regulation," in *Modern Law Science*, 2016, No. 3, pp. 3-15.

²⁷ Xiong Qi: "Clarification of Judicial Standards for Fair Use of Copyright," in *Legal Studies*, 2018, No. 1, pp. 182-192.

²⁸ Wang Qian: "On the Legal Rules for Determining Parodic Works as Fair Use: A Commentary on the Copyright Issues in 'A Bloody Case Caused by a Steamed Bun'," in *Science and Law*, 2006, No. 1, pp. 18-25.

²⁹ Xiong Qi: "User-Generated Content and the Determination of Transformative Use," in *Law Review*, 2017, No. 3, pp. 64-74.

consider legal, market, technical, and conceptual factors. Legal factors include specific provisions of copyright law; market factors involve the commercial value and market demand of the work; technical factors consider the creation and dissemination methods of the work; and conceptual factors relate to societal perceptions and attitudes towards intellectual property protection. Considering these four factors together will help courts make more thorough and just decisions.