

Intellectual Property Controversies in China's Emerging Influencer Economy

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Abstract

Previously, it can be said that mass media systems were dominated by one-way communication flows (Bennet & Manheim, 2006). This created a clear demarcation between media producers and media consumers whom were also the primary target for established media campaigns (Jhally, 2000). However, in recent years, emerging media platforms have generated new opportunities for social groupings and cultural modes in the process of transforming the traditional communications landscape (Srnicek, 2015). This new dynamic has challenged previously established regulations as embodied in the dynamic between fashion intellectual property (IP) and the commercialization of the “social media influencer” figure, as a new breed of online entrepreneurs and digital consumers have emerged in the Internet economy. While this is evident in many areas of the world today these processes play themselves out in a unique way in China.

In the Chinese context, according to data regarding sales of women’s apparel on Taobao during the Single’s Day Shopping Carnival in 2018, four of the top ten highest selling stores were not run by traditional companies but instead were run by social media influencers (ASKCI, 2017). The nature of this impact can be explained by looking at one such influencer, renowned online celebrity Cherie who has contracted 30 online celebrities in her company Chen Fan, and delivered sales exceeding 150 million yuan in just 5 minutes and 50 seconds (ASKCI, 2017). Within 24 hours she was able to bring in 350 million yuan (ASKCI, 2017).

As the influencer economy continues to expand in China so have questions concerning the nature of this new economy. For example, some social media influencers have used the same graphics or the recipes of world-famous companies, such as CPB or Loreal, when making their own products which are then available for purchase in their respective online shops. These behaviors have generated significant controversy in the Chinese online markets, from increasingly savvy consumers and local regulators, and even received global attention, from international IP regulators and media. Based on my case study and online observations, there is a contradiction between the presence of IP infringements in China’s emerging influencer economy and the state’s enforcement of IP law. It can be argued that facing this contradiction is a crucial step for China to rethink its shifting position in the global capitalist system.

Keywords: social media influencer, influencer economy, intellectual property, global capitalism, China

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Chapter 1. Introduction

In 2016, Dayi “Big Eve” Zhang made her first live streaming show on Taobao -- a Chinese e-commerce site -- and achieved a record-breaking view count of 413,000 (Ke, 2019). This translated into \$3 million in revenue in just two hours (Ke, 2019). Early this year, this controversial Chinese Internet celebrity and entrepreneur became the first self-made social media influencer that has ever rang the bell at Nasdaq (Ke, 2019; Li, 2019). Armed with authentic and grassroots online personas as well as the capacity to persuade a large audience, social media influencers -- sometimes also known as Key Opinion Leaders (KOL) in China -- form a distinctive group of social media users, which have established credibility in a specific industry and hence tended to wield that influence through social media platforms, quite often for money-making purposes (Klein, 2017; Newberry, 2018; Pixlee, 2019). By extensively producing online content, including texts, photos and videos, social media influencers are actively accumulating followers and acquiring more visibility on the Internet, which later converted to marketing compensations, product endorsement opportunities, direct sales of their own brands and other revenue streams.

As big brands in the US are turning to social media influencers predominantly for marketing-related actions, China has witnessed a somehow different trend alongside the undoubtedly intensifying cooperation between international/domestic brands and Chinese social media influencers. On the one hand, since Chinese influencers usually receive far less monetary compensation from content platforms (i.e. video-sharing websites), they are inclined to find other ways to monetize their generated content, and thus get more deeply involved in the direct selling of quite often self-made/self-branded commodities (Liao, 2019). On the other hand, as a consequence of the seemingly omnipresent commercial scandals and fake products, Chinese customers put more trust in social ties or personal connections rather than in big brands, which makes it much easier for influencers to establish their own communities and transform their audience into streams of revenue in an infrastructural setting where social media services are so deeply intertwined with e-commerce services (China Briefs, 2019; Liao, 2019). On the very foundation of this nascent mechanism of content monetization within the Internet milieu, an emerging “influencer economy” in China is building an increasing presence around the globe

(Stokel-Walker, 2019; Yang, 2019). Taking Dayi “Big Eve” Zhang as an example again, three years in a row from 2016 to 2018, her own Taobao store was the fastest one to reach 100 million RMB in sales on Single’s Day -- the equivalent of the Black Friday in the West (Ke, 2019). In 2018, the Single’s Day also saw 25 influencer-owned online stores rank among the top 30 female apparel stores, six of which grossed over 100 million RMB within the same day (Sina Tech, 2018). As for the bigger picture, the influencer economy in China was worth an estimated \$8.6 billion and predicted to be able to reach \$17 billion in 2018 according to the big data firm CBNDData (Yang, 2019). And it should be also noticed that more than 70% of Chinese Generation Z consumers prefer to purchase products directly through social media platforms than any other channels (Yang, 2019).

Behind these “empowered” social media influencers and their highly profitable online businesses lies an unsophisticated industry with an under-regulated market, which fosters and even shelters the rise of a dramatic amount of intellectual property-related controversies. Following the unbridled logic of capital, in the fashion industry in particular, influencer-owned brands have more or less copied or appropriated the designs of big brands (Pan, 2018). Among many other things, these Chinese luxury copycats contribute to the discursive making of China’s image as the so-called “IP theft”, which renders an increasingly stronger request for the actual enforcement of Intellectual property -- from both within and outside the country and from both the general public and the state authorities -- problematic (Boxwell, 2018; Mercurio, 2012). Sara Liao (2017) went even further to argue that the state is actually co-opting the Shanzhai (copycat) culture “to utilize the bottom-up practice of creativity to foster innovation nationwide” (p. 425).

In the research that I conducted, I firstly retrace the process of China involving into the global economy in the order of history and analysed how China’s economy reshape China’s e-commerce, and then incubate the influencer economy. Based on the economic background and under the transforming geopolitical context, I mainly used online observation to collect data and analyze the cartography of China’s social media influencers. Based on their monetization ways, they can basically be divided into the following three parts: content creators, online store owners and live stream hosts. Since the type online store owner is our research focus, I further analyse the monetization model of them. Based on the infrastructural Setting, China’s social media influencers rely on three types of platforms to realize their monetization process. Microblogging websites let them realize their self-representation. Live Streaming Channels give them places for their

spectacularization. Finally, they finish their monetization on the e-commerce platforms. After that, with the methodology of case study, I will state how the IP controversies is played out between China's social media influencer and the international big brands. In conclusion, I will give my own comment and suggestions on locating solutions at the nexus of market and state while also recognizing the current impasse as being beneficial for some social media influencers.

Chapter 2. Influencer Economy, Intellectual Property, and China's Shifting Position in the World Economy

Chinese economy has experienced great transformations since the 1970s. The country's thriving influencer economy serves as a miniature of its intensified economic reform and accelerated (re)integration into the global capitalist system over the past decade. But at the same time, it also demonstrates how China's rise as a global economic power has been increasingly contested with a rising concern about intellectual property-related issues in particular that the country's accession to the World Trade Organization (WTO) underlined.

2.1. China's (re)Integration into Global Capitalism

China's economic reform from the late 1970s is widely considered to be an irreversible process of the country's (re)integration into the capitalist world system (Yue, 2016). Chinese Scholar Fang Cai (2018) explains: "The process of China's reform and opening up is an institutional change with both universal and unique features" (p. 22). This strategy is a great revolution that has not only reshaped China but also provided tangible benefits to the world (Khan, 2018). As a key manifestation of this gradual and ongoing transformation, foreign direct investments to China, which were prohibited before 1978, started to grow in the 1980s as restrictions were substantially removed (McGrattan, 2016). This "Great Transformation" culminated in China's accession to the World Trade Organization (WTO) in December 2001. It took China 15 years to join the WTO after submitting its application in 1986 to resume its status as a founding member of the General Agreement on Tariffs and Trade (GATT), the precursor of the WTO. Joining the WTO was a momentous decision made by the country's leadership, after which China gained wider access to foreign markets and further opened its door by massively removing barriers to trade and foreign investment (Yue, 2016). Today, China is ranked the world's second largest foreign direct investment (FDI) recipient and the largest recipient in Asia. In just one year, FDI between 2017 and 2018 increased from \$136-139 billion (UNCTAD, 2019). China also experienced major shifts in official discourses and policy decisions, including the enforcement of new laws that benefit foreign investors (Leo & Sam, 2013). Jiang Zemin (1997), China's former president, stated very clearly in his Work Report:

the establishment of a 'socialist market economy' requires the following: a change in the way state-owned enterprises operate, separating them from the government and granting them more autonomy; accelerating the establishment of the market system; accelerating the change in the functions of the government and reform of the distribution system. (p. 22)

Even before Jiang Zemin's work report, former Chinese president, Deng Xiaoping's ground-breaking vision for Chinese economic reform, which underpinned all these consequential changes, were compared to Ronald Regan's neoliberal "trickle down" economics (UPI, 1984).

Neoliberalism is an intellectual, economic and political perspective that opposes what its proponents deem as unnecessary economic intervention by the state, emphasizing the importance of free markets, and aims at restoring conditions of capital accumulation after the "stagflation" crisis of the 1970s and hence maintaining the capitalist system of private ownership and the hegemony of capitalist countries (Harvey, 2007; see also Cahill et al., 2018; Howard and King, 2008; Saad-Filho and Johnston, 2004; Touraine, 2001). According to David Harvey (2007),

although neoliberalism has had limited effectiveness as an engine for economic growth, during the several years that China followed the instruction of Neoliberalism, it has succeeded in channeling wealth from subordinate classes to dominant ones and from poorer to richer countries.

Over the past decade, China has grown to be a major engine generating decisive dynamics in the global market economy, which further encourages the state to "deliberately integrate network connectivity and networked applications into the country's key national strategy for economic restructuring" (Hong, 2017, p. 1486). Particularly after the implementation of the Internet Plus Action plan in 2015, the main purpose of which is to articulate ICTs as the key driver of a new digital economy for further uplifting the China's position in the global economic system (State Council, 2015), the country's e-commerce

has become a new impetus for the economic and social development of the people in China. It plays an increasingly prominent role in cultivating new platforms, creating new demands, expanding new markets, facilitating the transformation and upgrading of traditional industries, and promoting innovations for public services. China is now the largest Internet market in the world with more than 800 million Internet users it has a penetration rate of 64% of the population. China's E-Commerce share is expected to reach half of the global market by 2020 (MarketingToChina, 2017). In fact, if Chinese consumers live in small, third-tier cities they can have online access to different kind of products they couldn't find before. As an increasing number of overseas brands continually entered China's e-commerce scene, despite the tremendous growth of the size of the market, more and more controversies have appeared as the result of the "neoliberalism with 'Chinese characteristics'" (Harvey, 2005), the official discourse of "Chinese Dream" with a particular emphasis on the development of national industry and domestic enterprises (Liao, 2017), as well as the shifting geopolitical dynamics, all of which are shaping and shaped by China's unfinished (re)integration into global capitalism. A recent and eye-catching case could be found in relation to the controversial issue of intellectual property. Since the 1990's China has experienced accelerated development of its technology, media and internet industries. Chinese intellectual property regulations (IPRs) and legislation, however, has not developed as quickly. In terms of global digital capitalism, China is "first and foremost a downstream manufacturing powerhouse" (Hong, 2017, p. 1489).

2.2. Geopolitics of Intellectual Property: China as a Threat?

As part and parcel of the unfolding processes of global power shifts (Zhao, 2014), China's escalation in the world economic system has far-reaching implications. Banning Garrett (2010) argues that "'Rising China'—which has been the result of and contributor to globalization—has become perhaps the single most important factor shaping the rapidly-changing geopolitical landscape of the twenty-first century" (p. 7249). Such exponential growth and expansion have also given birth to a whole slew of "China Threat" discourses (Song, 2015). One of these discursive constructions has long been anchored in the image of China as an intellectual property theft.

The idea of Intellectual property (IP) has been debated for centuries (Al-Aali, 2013). Indeed, the history of Intellectual property can be traced back to the Copyright Law of the United Kingdom, alongside the rise of capitalism, in the year of 1710. Intellectual property

(IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce (WIPO, 1967). After the 1870s, the issue of intellectual property became a growing concern for the international society as a result of the consolidation and maturation of the global market dominated by western capitalist states. Since the Paris Convention of 1883, advanced capitalist countries have ensured high IP protection standards, which laid the foundation for the later internationally-agreed trade rules for IP rights (Brandl, Darendeli and Mumdabi, 2019). However, it was also argued that the making of these high standards should be situated back into specific geopolitical contexts with regard to domestic players' stocks of IP (Botoy, 2004). For instance, US firms were the leading violators of international IP rights in the nineteenth century, infringing on the knowledge assets of European firms on a regular basis (Peng, Ahlstrom, Carraher & Shi, 2017). However, with US firms' rising stocks of IP, the US IP regime was not adequately formalized until the establishment of the World Intellectual Property Organization (WIPO) in 1967 and the introduction of the Bayh-Dole Act/Patent and Trademark Law Amendments Act in 1980 (Brandl, Darendeli and Mumdabi, 2019).

The World Intellectual Property Organization (WIPO) and the TRIPS agreement recognize several different types of intellectual property and associated rights, including copyrights and related rights, patents, and trademarks and related designations (Liberti, 2010). In fact, over the past few decades since China joined WIPO, the country's accomplishments in the field of intellectual property has been remarkable (WIPO, 2010). China's earliest contact with WIPO, approved by the former Premier Zhou Enlai, took place in November 1973, when Ren Jianxin -- the Minister of Legal Affairs of the China Council for the Promotion of International Trade -- led a delegation to attend the second plenary session of WIPO (WIPO, 1997). In 1980, China joined the WIPO and became its 90th member, which marked the starting point of the development of China's IP system both compatible with the country's developmental needs and consistent with international rules (WIPO, 2010). After China's accession to the WTO in 2001, the TRIPS Agreement was consequently implemented in China as well as a series of other agreements. In this sense, China has joined the world's most important international intellectual property treaties (Ma, 2017). While integrating into the international system of intellectual property rights, China is also constantly improving its own intellectual property legal system. In addition to promulgating and amending the Trademark Law and the Patent Law, China also enforced the copyright Law, anti-unfair competition law and other regulations in the 1980s and

1990s Jonge, 2018). In 2008, the state launched China's national IP strategy, which was considered as a turning point in the country's engagement with IP and a strong indicator of the country's determination to develop a knowledge-based economy (WIPO, 2010).

However, alongside the passing of the "honey-moon period" between China and the United States, a relationship that was termed by Harvard historian Ferguson (Ferguson & Schularick, 2007) and his colleagues as "Chimerica" while critiqued by Yuezhi Zhao (2013) as a manifestation of geopolitical power shifts, which doesn't benefit China as much as it does the United States, there is an increasing discursive trend in the global society that accuses China of constantly stealing IP in a wide range of industries. Following Trump's direction in early 2017, U.S. Trade Representative Robert Lighthizer completed a seven-month investigation into China on intellectual property-related controversies (SunnyOh, 2018). U.S. officials were said to find strong evidence that China has used foreign-ownership restrictions to compel American companies to allow the appropriation of their IP (Clark, 2018). When Huawei was trying to sell phones to the U.S. market, The US government also accused Huawei of stealing IP from T-Mobile, which had allowed Huawei limited access to use "Tappy" to improve its devices since 2012 (Sussman, 2019). Given these constantly-emerging and widespread statements mediated through various platforms, it seems like common sense, more recently, in both public and official discourses in North America that China is not meeting its international obligations to protect intellectual property rights (IPRs), harming innovation processes not only in China but also many other places (Brander & Cui, 2017, 909). The US government has stated that China's IP infringement has caused a great amount of loss to the US, not only on the IPRs per se, but also the overall economy, national security and all related industries.

The US states that the largest category of loss was for copyright infringement, covering areas such as software piracy and unauthorized copying of movies and music. According to a 2011 report on piracy published by the Business Software Alliance, the market for illegal software in China was \$9 billion, while the market for legal software was only \$3 billion. (Brander & Cui, 2017, 911)

In addition, patent infringement is claimed to be another major area of IPR violations in China (Brander & Cui, 2017, p. 916). According to statistical data from the Beijing IP Court,

the rate in favour of rights owners in patent infringement litigation is 81.7% among 142 judgments (Li, 2018). Litigation undertaken by non-Chinese plaintiffs against Chinese defendants has escalated from 177 cases in 2006 to 745 cases in 2015, a striking increase (State Intellectual Property Office of the P.R.C., 2017). James A Brander, Victor Cui and Ilan Vertinsky (2017) give suggestions for understanding Chinese current IP issues with the following key points: first, IPR protection can go “too far” in curtailing the possibilities of future development as innovation does not increase linearly with higher levels of protection; second, patent systems have become vulnerable to “patent trolls” (also called “patent assertion entities”) which, in essence, impose a tax on innovative firms; third, the “one size fits all” model for establishing IP regimes is not ideal; fourth, the standard for granting patents in China is too low; and lastly, there are disagreements between China, the United States, and other countries over what should be admissible for patent protection.

Facing this kind of situation, President Xi Jinping highlighted in a speech the need to speed up and deepen the implementation of IP regulations in 2017, calling for stricter enforcement to have infringers pay a “heavy price (Cheng, 2018).” In December 2018, China has announced its most serious measures over IP theft since the trade war erupted, including punishments that could restrict involved companies’ access to loans and state-funding support (Bloomberg News, 2018). The government said in January 2019 it would accelerate the passage of a new foreign-investment law that includes administrative measures to protect the IP of foreign companies and ease pressure on them in terms of technology transfer (The Business Times, 2019). However, it becomes more difficult for IP protection in the terrain of social media. Copycatting is considered easier on social media platforms because of the difficulty of tracking those actions. Any netizen can download an image and post it. The image can be on a private site, in a blog post, or on social media. In each of these cases, the netizen is likely committing copyright infringement (D’Angelo, 2018). The sharing nature of social media has heavily hindered copyright management. In fact, it is not only difficult for copyright owners to defend their rights after being infringed, but also hard for a third party, when accessing and using certain content, to confirm the author or copyright owner because it is difficult for the original author to be verified after the content being shared or reprinted on social media multiple times (Sohu, 2017). Most of the individual victims choose not to defend their own rights or even choose to keep silent, because they feel so helpless in the social media context. The

social media infringement is common and the litigation process is expensive. The maximum fee for copyright infringement lawsuit, if the original creator registers their work in a timely fashion with the copyright office, is \$150,000 per work (D'Angelo, 2018). However, in the long run, such infringements will eventually harm the vitality of the e-commerce market.

2.3. Influencer Economy: A Contested Terrain of Intellectual Property

2.3.1. A Critical Understanding of Social Media Influencer

The term “social media influencer” is inspired by Katz and Lazarsfeld’s (Katz and Lazarsfeld, 2009) concept of “personal influence” prior to the advent of social media. The term “Influencer” refers to multi-platform microcelebrity, which is the latest iteration of “bloggers” (Google, 1999). An influencer is an individual who has the power to affect purchase decisions of others because of his/her authority, knowledge, position or relationship with his/her audience (InfluencerMarketingHub, 2019). There is a wide range of literature on social media influencers, focusing respectively on self-curation (Abidin, 2014a; Marwick, 2015; Wissinger, 2015), follower-engagement (Abidin, 2015), authenticity (Hopkins and Thomas, 2011), advertorial disclosure (Ots and Abidin, 2015), as well as the use of ordinary users as “promotional apparatus” for brands (Carah and Shaul, 2016) and as participants in electronic word-of-mouth (Erkan, 2015). The emergence of social media influencer is mainly understood as either audience-anchored -- the audience’s taste and their continual request for new content (Abidin, 2015; Liu and Sun, 2017) or market-driven -- the push of commercial advertising industry (Ots and Abidin, 2015) on the other.

Social media is now challenging Marxist conceptions of labour in the way its business model leverages the “work” of users. Crystal Abidin (2016) argues that influencers actually capitalise on the free labour of followers who voluntarily offer feedback for the potential of small rewards. Tiziana Terranova (2000), developed the notion of the “free labour” for the production and communication of online information out of the labor pleasure of seeking cooperation with others. Echoing Terranova, David Hesmondhalgh (2010) quoted Terranova’s definition of “free labour” as “simultaneously voluntarily given and unwanted, enjoyed and exploited (p. 396)” and including “building web sites,

modifying software packages, reading and participating in mailing lists and building virtual spaces” on the Internet. Hesmondalgh (2010) criticized the concept, which he feels is too expansive. He further pointed out the relationship between free labor and digital media:

digitalisation has led to a proliferation of new forms of amateur and semi-professional production, it is certainly the case that the cultural industries in the digital era, like many other kinds of firm, increasingly seek to draw upon the participation of their users and consumers. (p. 267)

However, among the existing literature, it is still relatively rare to see thorough analyses on Chinese social media influencers and the issue of intellectual property, even among Chinese scholars.

2.3.2. The Emergence of Influencer Economy: A Challenge for Intellectual Property Protection

As social media platforms such as YouTube and Instagram has redefined and concretized the business potential of “influencer” throughout the 2010s, the term “influencer economy” is thus coined, widely recognized, and continually re-appropriated in a broader range of circumstances (Ahmed, 2019; Stokel-Walker, 2019; Yotka, 2019). Having its roots in the blogging movement, the influencer economy is often realized in the way of influencer marketing, which is a hybrid of old and new marketing tools, taking the idea of the celebrity endorsement and placing it into a modern content-driven marketing campaign (Biggins, 2018; William, 2013). Nowadays, there is a sizeable amount of business cooperation between brands and influencers, which often takes the form of giveaways or contests sponsored by the advertising client (William, 2013). The image a brand gains from social media influencers helps it build direct relationships with its key consumers and encourage brand loyalty (Newberry, 2019). More specifically, social media influencers work to enhance brands’ relationships with key audiences by improving the reputation of the brand, raising customer awareness on their online activities, and soliciting customers’ comments and feedback (Glucksman, 2017).

Such mechanisms of today’s influencer economy can be explained by a 19th century economic theory developed by the American economist and sociologist Thorstein

Veblen. Veblen (1899) wrote in his masterpiece *Theory of the Leisure Class* that the “ideal of consumption” for most people is what they can’t acquire, or which, at best, could be acquired only through considerable effort. Influencer posts display their highly curated, enviable lifestyles. Affiliate marketing platforms then cooperate with the influencers to sell the products pictured directly from the influencers’ posts. These platforms sell the fantasy of a ‘curated’ lifestyle, making heaps of money in the process. The influencers’ fans are led to believe that if they buy the products featured in the posts, they too can have that lifestyle. (Kozłowska, 2019). Nowadays, influencer economy is of great value throughout the network, despite the well-known Instagram influencer marketing. According to Adweek (2019), the industry is set to reach \$10 billion in worth by 2020. In the Chinese context, there are an increasing number of literature addressing the development of influencer economy, covering a wide range of issues including its motives, developmental trajectories, current challenges and so on. One of the reasons that makes influencer economy so popular among people is that the cost of making an influencer is not as high as that of a star (Zhang, Chen & Jin, 2019). Even an ordinary person can make his/her content of large amount of views. They may only need one mobile phone for recording, have a certain style of interesting content, and have a chance to perform. Only with these simple elements, all ordinary people can become an influencer. Influencer economy is based on influencers’ fans. Fans’ consumption behaviors are a little bit different from typical consumers (Zheng, 2019). Ordinary consumers pay more attention to the practical factors such as the appearance, price, quality and origin of the products, while the fan’s consumption is more like a psychological satisfaction. Because fans have a strong preference for those influencers who are being followed, fans’ consumption has an emotional orientation, which is more like an identity status or a display of value orientation. Therefore, fans’ consumption are more likely to happen and this explains why influencer economy booms easily. However, there are some problems for China’s influencer economy development (Zhou, Zhao, Tang & Tan, 2019). The most serious one is content homogenization. At present, the graphics, video types and content produced by influencers are similar, it is difficult to produce high-quality content in a stable fashion and continuously, and there is a problem of insufficient original power as well. Content that can attract audiences are the core, so high-quality content making in a stable fashion is the primary task for the better future of influencer economy.

The emergence of influencer economy is due to five interrelated main factors: the development of mobile technology, the market need for new advertising methods/means, the formation of new consumption preferences, and the money-making capacity of social media influencers (Zhan and Zhang, 2019).

However, the rules and regulations concerning the use of intellectual property have changed dramatically as social media has given all of us the power to share content and be our own publishers. Even though major new media platforms, such as Youtube and Instagram, have specific rules for the protection of users' IPRs, the general trend today is that intellectual property owners are becoming more lenient on the appropriation of their content (Kelvin, 2016). It is the fast pace of the Internet that has led many content creators to realizing that they often have more to gain by freely sharing their content than by restricting its use (66 Agency, 2017). In addition to having mentality shifts on IP protection, influencers are sometimes involved in IP controversies themselves, particularly in China. Unfortunately, although the influence economy demonstrates the consumption preference of China's younger generation and foretells the future of the country's market economy, there has been no substantial discussion so far on the controversial issue of intellectual property in the context of China's booming influencer economy.

2.4. Conceptual Framework and Research Questions

The Chinese economy has continued to grow rapidly over the past 70 years. During the decades, China's economic reforms from the late 1970s are widely considered to be an irreversible process of the country's integration into the capitalist world system. It is a clear fact that China is more and more integrated into global capitalism. With the continuous improvement of China's economic level and the increasing acceptance of online shopping by consumers, the market size of the Chinese e-commerce industry continues to expand. In many ways it can be said that shopping online has become a life habit of most Chinese people. There are a group of online store owners that are getting more attention from Chinese online market because of their powerful monetization ability and good-quality products.

Besides, with the large amount of economic volume and international influence, China's development is witnessed by the world market. China is taking on responsibilities and obligations at the same time as part of the international economy. IPR is one of them.

In fact, China has joined in the international group of intellectual property protection for a long time. However, it appears as if China has not completely fulfilled its obligations and acts in the treaties it has approved, as the US government consistently accuses China of IP theft. As social media develops with the support of mobile technology, IP infringement is appearing on the network. What I notice here is the IP controversy happening in the process of social media influencer's online store product manufacturing. There are hundreds of influencers selling replica from the big brand in China right now. This phenomenon draws significant controversy in the Chinese online market and even received global attention. The purpose of my research is to explore how influencer economy is managed in China and why it is so powerful. Facing the IP controversy generated by the influencers, what should our attitude be and how can we solve it? The research I did matters because as the Chinese economy becoming larger and more globally important, China has increasingly influence on global markets and global regulational markets, so China cannot neglect the current leak on intellectual property protection and needs much stricter enforcement of IP law in order to become a well-respected member of the global economy. Based upon such theoretical background, my research attempts to provide an exploratory study on how IP infringements are shaping and shaped by China's emerging influencer economy and how to find solutions at the nexus of market and state.

Chapter 3. Research Design and Methodology

Based upon previously mentioned theoretical frameworks and research questions in mind, I choose to further narrow this project down to a specific terrain - China's emerging influencer economy – with a particular interest in the country's fashion industry. For my research, I have chosen a specific case study using online observation as my main methodology for data collection.

Case study is used in gathering data in different disciplines (Aaltio and Heilmann, 2010). It takes a situation as given and tries to find out what it means, particularly, to its participants. Case studies illuminates quantitative findings by incorporating quantitative data. Also, it is a practical and interesting research method that allows for the employment of many different research techniques simultaneously. A case study typically uses a variety of data collection techniques and can take months or even years to complete. This is a considerable advantage over surveys and experiments, which are typically one-off snap shots (Gagnon, 2010).

I choose to focus on China's influencer economy because of its significance in the Chinese e-commerce market. Currently, China's influencer economy has a high revenue scale and growth rate. In the past year, the foundation of the influencer economy has continued to expand. According to the "2018 China's Influencer Economy Development Report (iResearch & Weibo, 2018)", in May 2018, the total number of Chinese influencers' fans reached 588 million, a year-on-year increase of 25%, with four influencers' online shop transactions volume reaching 100 million in the first hour on the Single's Day. This booming new sector represents the developing trend of China's online economy. However, there are many differences with regards to how China's influencers are operating their business that can be contrasted with what has happened in the Western context. China's influencers make money by selling products while North America's influencers mainly rely on advertisements (Maletzke, 2019). Basically, China's influencers monetize by opening their online store, in which clothing, cosmetics and some other goods and materials are sold. On the other hand, North America influencers make money by advertising products in the content they post on their social media. They do not have to manufacture or even know much about the products that are being advertised. Letting the products have as much exposure as possible is what is always demanded by those advertised brands.

To carry out my case study, I used online observation to collect data. In the new media era, qualitative research methods have been adapted to the new online research environment. There exists a plurality of digital tools that researchers can use to support and enhance their research practice (Caliandro, A., & Gandini, A. 2017). However, the network environment also poses great problems and challenges for qualitative research. The sources of information on the internet are complex. It is difficult to find the original of communicated material because of the countless times of information can be disseminated. To some extent, the authenticity of network information is not very reliable. However, qualitative research needs exact and accurate data and information to discover problems, understand event phenomena, analyze human behaviors and opinions in order to answer social questions. Despite these challenges, I choose online observation as my research method. It is a qualitative research technique that provides the opportunity to study people. It is a form of "field research" in which observations are carried out in real settings and where there is a lack of the kind of control and structure you have in experiments (Berger, 2000). My observation on social media has given me insights into the habits of China's consumers and their consumption. It has also helped to get me familiar with China's influencers' way of promotion and marketing.

During my data collection process, firstly, I identified several accounts and platforms where I can find data about China's influencers and their fans – influencer-owned company's monthly reports posted on their official Weibo accounts, influencers' online shops on Taobao, influencers' own Weibo accounts, influencers' live stream accounts, etc. In examining these data sources I focused on locating the nature of the interaction between influencers and their audiences, their sales volume online, the big brands related with influencers and so on. Drawing from this data, I examined the relationship between influencers, audiences and brands.

In this process I came to terms with the limitations of the method as well as of the selected data collection process. Case studies are often criticized for being superficial as describing a case in detail does not necessarily make it representative, interesting or important, especially if the literature review has not previously identified key themes and issues (Guthrie, 2010). Out of the many issues related to case studies, the biggest potential problem with case studies is the issue of locating representative samples instead of unrepresentative ones. Researchers often establish emotional attachments with 'their' subjects or 'their' community that limit insight. As for me, I am also a customer of the

influencer-owned brands that I conduct research on. On the one hand, I can describe the feeling of getting involved into the influencer economy. On the other hand, after following these influencers for several years, and forming the habit of reading the content they post, it seems that we have become “friends” online even if we have never engaged with each other beyond the relationship of consumer and seller.

The research strategy takes into account that Internet users utilize several sites or services simultaneously and connect to several places (Beneito-Montagut, 2011). Through quantitative research methods like these, I can gain insights into the consumer's mentality of consumption, analyze the repertoires of the influencers' stores, and thus have a deeper understanding of the phenomenal culture.

Most of the information that a researcher collects about a group of people or an event, activity or custom requires additional contextual information before it can be fully comprehended. Within the data analysis and interpretation process, I choose to consider the relevant social context first, which helped to understand that the observations were representations of a group's cultural reality (See Brennen, 2017). Therefore, I will put all the data I collected into the environment of China's new media context and try to understand how people actually engage with media. Also, I will rely on online interactions that I have observed, which do not overtly impact group dynamics. I will separate the descriptions of events from my interpretations and negotiate the involvement required to build rapport (See Berger, 1998).

In my following analysis, I will respond to my research questions using the case study that I conducted as the focal point of that analysis. Based on the collected data, I will analyse how China's social media influencers are operating their online businesses, what platforms they are relying on, how they are getting involved into the intellectual property controversies and what implications such emerging dynamics have for our understanding of changes both within and beyond China.

Chapter 4. China's Influencer Economy and Intellectual Property Protection: Basics, Controversies, and Solutions

In order to get a sense of the intellectual property protections surrounding China's digital platform economy, this chapter will analyze the current state of Chinese social media influencers using a case study methodology. First, it will explore different types of influencers based on the way they monetize their brand. Second, it will analyze the procedure influencers use to build up their brand, categorizing these procedures into three main areas: public self-representation, broadcasting their professional information to the audiences, and online shopping. Finally, this chapter will argue that China's influencer economy is gradually changing from a niche market into an industrial-scale business. This chapter provides a thorough analysis of the dynamics and mechanisms of China's emerging influencer economy: from infrastructural setting to institutional dynamics as well as the monetization model. Infrastructural setting refers to the new media background that influencers are relying on; institutional dynamics refers to the characteristics of the organizations that aim to incubate influencers; monetization model is the strategy and procedure that influencers transfer data into money. This paper's analysis will center on a specific case study of an IP-related controversy in China's online influencer fashion industry. It will examine what the influencer's role is in the debate and how the digital platforms, the influencers themselves and the government should react to IP-related controversies online. It will examine possible solutions to the IP controversy case study at the nexus of market and state.

4.1. A Cartography of Social Media Influencers in China

As mentioned above, changing socio-economic configurations have enabled new economic models as embodied in the influencer economy. Today, there are numerous popular social media influencers in China. On the one hand, one can see how diverse the influencers are in terms of their distinctive persona and particular ways of communicating to their respective audiences. On the other hand, it can be argued that they are all fundamentally the same in terms of their final aims, that is, content monetization. In other words, there are different ways with regards to how Chinese social media influencers

commodify and monetize their virtual relationship with the audience, which are generally categorized as follows:

Blogger/Microblogger: This type of social media influencer is popular because of the daily content they post. Taking “Uncle Tongdao” -- a famous microblogger on Weibo writing mainly about zodiac stories -- for example, his Weibo account has over 30 million followers. His Weibo page has over 3 million daily view counts, and his content gets retweeted over 300,000 times every day. Most of his followers are female, so Uncle Tongdao is regarded as one of the most influential microbloggers for female audiences in China. Uncle Tongdao’s rise to fame started with his widespread creations of 12 cartoon characters that personified the 12 zodiac signs. Later, based on the images of the 12 cartoon characters, Uncle Tongdao and his team started to make animated TV shows and movies which again went viral. In 2017, given his influence, Uncle Tongdao received investments from a number of large media companies and thus entered the film, television and entertainment industries (Chen, 2016).

E-commerce store owner: This type of social media influencers, apart from managing their personas and producing daily content on social media platforms, often have their own ecommerce stores on sites like Taobao. Taobao is the largest online retail platform in the entire Asia-Pacific. Different from the above-mentioned type of influencer, these e-commerce store owners rely substantially on in-store retail sales for money-making purposes. Most of such e-commerce stores sell clothing, cosmetics and some other woman-focused products that are quite often copycatting big brands. Therefore, this type of influencer is often involved in IP-related controversies of China’s fashion industry.

Live Streamer: This new group of social media influencers transplant the idea of direct response television (DRTV) as sales channels onto online and mobile platforms. In their live shows, which are quite often streamed on Taobao’s mobile application, they are generally working as brand marketers and retailers, presenting, testing and evaluating products from big brands. one prominent example of this particular type of influencer is Li Jiaqi, who was originally a representative of L’Oreal and is now a professional online shopping anchor, selling cosmetics, particularly lipsticks. During a sales event in March 2019, Li live streamed for 5 hours, achieving a view count of 189,300, which later converted to 3.53 million RMB in revenue for the products that he sold within that period of time (JianBook, 2019).

4.2. The Mechanisms of China's Emerging "Influencer Economy" in China

The miraculous stories of Dayi "Big Eve" Zhang's success reflect to some extent the circumstantial conditions and developmental trajectories of China's Influencer Economy. In 2004, Dayi Zhang was still a popular fashion model with 300,000 followers on Weibo, casting for quite a lot of TV commercials. In the same year, Zhang established her e-commerce store, which quickly became famous because of her popularity. Over time, the number of Zhang's followers on Weibo has increased to 9.45 million, while her online business has also expanded to include 5 e-commerce stores, selling respectively women's clothing, men's clothing, underwear, beauty, and home utensils. Based on Zhang's success, her partner Min Feng established Ruhnn Holdings as an influencer incubator, which marked the beginning of a new business model that combines social media influencer, incubator, and supply chain. The year of 2016 was considered as the inaugural year of China's influencer economy with the rise of Douyin, Kuaishou, and Xiaohongshu, which extensively enlarged the scale of influencer marketing in China (Ke, 2019).

4.2.1. The Infrastructural Settings of China's "Influencer Economy"

Self-representation: Microblogging websites. China's current new media landscape could be best described as "Weibo and WeChat taking the lead while other platforms play a supporting role" (China Industrial Economic Information Network, 2018). Unlike WeChat, which is mainly a messaging application and platform, Weibo is a microblogging website for information sharing, dissemination, and acquisition among platform users. As of 2018, the platform has over 445 million active users, and surpassed the \$30 billion market valuation mark for the first time (Bylund, 2018; Deagon, 2018). Launched by Sina Corporation on August 14, 2009, this platform has been a huge financial success with an influencer-based business model, as manifested in surging stocks, lucrative advertising sales and diverse streams of revenue (Bylund, 2018). Concerning Weibo's business potential and its decentralized communicative structure, it is widely considered as the "breeding ground" for Chinese social media influencers, upon which almost all of them are dependent for self-representation.

Spectacularization: Live Streaming Channels. Over the past decade, the exponential development of live streaming services in China has provided influencers an enhanced means of establishing and monetizing virtual relationships with their followers (iMediaResearch, 2019). In 2016, “Yizhibo” (Yi Live) -- a former short-format video sharing app, which was then reconfigured into a live streaming platform -- reached a strategic partnership agreement with Weibo, undertaking all the live streaming services for the latter (Gong, 2018). With this newly added live streaming function, influencers are further empowered by real-time interactions with their followers and direct monetary rewards through virtual gifting or donation. According to Sina Corporation’s 2016 annual financial report, the average number of live streaming viewers on Yizhibo was 7.73 million per day, spending on average a total of 387,000 hours on the platform within a day (Miao, 2015). It is statistically demonstrated that Weibo and Yizhibo form a mutually benefiting relationship for attracting more advertisers and key opinion leaders, as 99% of Weibo users watch live streaming shows through the mobile network (Sina Annual Financial Report, 2016).

Monetization: E-commerce platforms: Both self-representation and spectacularization are working towards the ultimate goal of monetization. Therefore, the whole complex of influencer economy is contingent upon online shopping platforms and their mobile applications in particular. According to the National Bureau of Statistics of China, online retail sales reached a total of \$1.33 trillion in 2018, with an increase of 23.90% compared to the year of 2017. This number is expected to exceed retail sales in the United States by 2019 (Melton, 2019). In addition, the number of Chinese online consumers hit 610 million as of December 2018, accounting for 73.6% of China’s total online population (Xinhua, 2019). Taobao in particular stands out in the milieu of China’s burgeoning e-commerce sector. The platform provides an ideal space to have big brand products displayed on social media influencer shops. While some of these brand-influencer partnerships are contracted, Taobao is also a hotbed for intellectual property theft and copycatting.

4.2.2. The Institutional Setting of China’s Influencer Economy

Behind Chinese social media influencers’ increasing visibility and money-making capacity is a maturing industry with an increasing number of influencer incubators, which are quite similar to start-up incubators (Stokel-Walker, 2019). Almost all the famous

Chinese social media influencers -- those who have a fairly large fan base -- have their e-commerce stores operated under the instructions of their “parent company” (Stokel-Walker, 2019). Currently, RuHnn Holding and ChenFan Culture are two remarkable influencer incubators in China.

The chief goal of influencer incubators is to facilitate their affiliated influencers to gain more public attention, which is to a large extent measured quantitatively by the number of followers and the extent to which they successfully monetize their content. One way influencers often monetize their content is to partner with big brands. It’s also quite common for influencer incubators to oversee and manage product design, manufacture and promote the influencer-owned brand and merchandise.

Nowadays, more and more big brands have recognized the capacity of influencers for stimulating consumption and thus established stable cooperation with those influencer incubators. Within this process, it is quite often left to the incubators to assign influencers to specific brand marketing activities. Many big brands, both domestic and international ones, have chosen to cooperate with RuHnn Holdings and Chenfan Culture for influencer marketing. Taking Lancome as an example, in July 2019, the brand cooperated with an influencer from RuHnn and displayed one of their products in the influencer’s make-up tutorial video. The video got a view count of 4 million, with 4586 comments related to the Lancome product (Weibo, 2019).

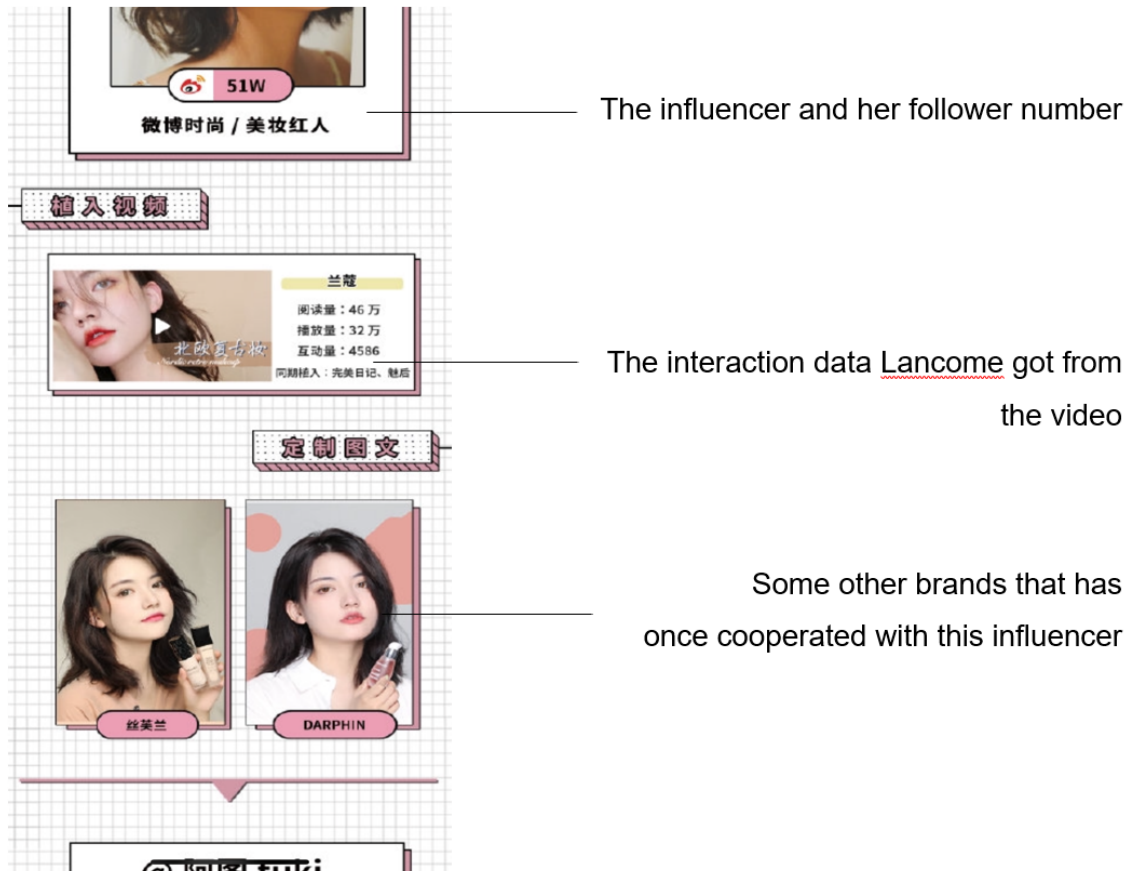


Figure 4-1 The Cooperation between RuHnn and Lancome
 Note. Screenshot from RuHnn's Monthly report for July. (Weibo, 2019)

4.2.3. The Monetization Model of Chinese Social Media Influencers

The maturation of China's influencer economy is embodied in the sophistication and routinization of the monetization model for social media influencers. Influencers' business success is contingent upon their fans, which indicates potential streams of revenue. Therefore, it is crucial in the very first place for influencers to secure their fan base, which leads to the "customization" of their self-portraits. It is argued that the persuasive power of influencer is built upon his/her image as an authentic source of deep product knowledge and original, engaging content as well as a contrasting voice to brands' official social media marketing (Ewen, 2017).

By posting well-staged self-portraits through standardized photo-taking and videotaping, influencers strive to create a strong feeling of authenticity and personality for their followers (Liu, 2017). There are also influencers who set up alternative images and narratives for self-branding and storytelling to make their way out of the intensifying market

competition. A good example of this is Lin Shanshan, an influencer with 7 million followers on Weibo. Her popularity started with a hairstyle tutorial video, in which she was witty, simple, funny, and sometimes even a bit awkward. Her behavior differentiated her from “mainstream” influencers who are always beautiful and elegant (Weibo,2015).

After setting up the tone of their self-portraits, influencers will have to concentrate on maintaining the consistency and attractiveness of their online persona and hence get more followers as their “proprietary assets” (Zhang et al., 2019), the quantity of which is widely considered as the measurement imperative of an influencer’s money-making capacity or market value. Having over 1 million followers is commonly considered as the threshold of becoming a “top” influencer. Influencers with 1 million followers are regarded as the “head influencer” by the netizens (Sohu, 2017).

Finally, influencers must explore specific means, platforms, and most importantly, detailed and systematized procedures for content monetization. Shopping holidays such as Single’s Day are the best timing for Chinese influencers to translate their social influence into retail sales on major domestic e-commerce platforms like Taobao. Taking Dayi Zhang as an example, her entire “Single’s Day Operation” can be dissected into the following phases.

A few hours before the launching of the new products of her brand, when consumers were still looking around to decide what to purchase, Zhang kept promoting her new products to potential customers through her live streaming show, which had already attracted an enormous number of viewers, in a Q&A type of interactive form. A decent discount was also presented and emphasized at the launching show for her new products. In fact, postings and updates about a new product on her social media account started way earlier. For example, Zhang posted images and videos of a new pair of titanium tricolor glasses with the price of 179 yuan 13 months before its actual launch to raise among her followers’ curiosity and desire for that product. In the end, this pair of glasses were sold out within several hours after its launching.

Apart from the promotion strategy, another important factor that will affect consumers’ purchasing decision is the huge price advantage that the influencer-owned brands have over those big brands. Many consumers claim that the reason why they choose products from influencer-owned brands is that they can literally get a product

similar to that of some luxury brands at a much lower price. As demonstrated by the photos below, the price of the original MM6 sweater in physical store for the sweater designed by is 5580 yuan, while the replica one from a social media influencer's online store only costs 250 yuan.



Figure 4-2 Price Comparison between the original and the replica products

Note. The photo of the original product is taken in the big brand's physical store, while that of the replica one is retrieved from the influencer's online store. (Taobao, 2019)

During all of Single's Day, Zhang also kept reminding her followers on Weibo and the viewers of her live show of in-store discounts and the price differences her products have from those of big brands.

The climax came at midnight, when Zhang's followers -- particularly those who knew how Zhang's "pre-order" strategy works with very limited stocks -- threw themselves

into a race for purchasing. Most of the customers participating in this race ended up in a long waiting list for shipping, whereas their purchases added up to the monthly sales of Zhang's e-commerce store. This further reinforced Zhang's image of popularity and great business success. For example, on November 11, 2016, the number of monthly sales of Zhang's Taobao store exceeded 2,000 within one hour (AtPrince, 2016), which serves as an intense stimulation for motivating potential consumers' purchasing behavior.

4.3. Contents and Discontents with IP Infringements in China's Fashion Industry

E-commerce can be said to be one of the weakest spots of intellectual property protection and governance. Information technology has made IPRs difficult to enforce because computerized information can be so easily copied or distributed on networks (Wisdomjobs, 2018). Particularly in the fashion industry, it is quite common for influencer-owned brands to manufacture and sell replicas of the products of big brands. Ironically, the whole process of copycatting is quite often publicly recognizable and accessible. At the beginning of the copycat process, influencers often post images or videos of the target products that they are going to copy on their social media accounts to collect feedback and comments from their followers, who are seen as potential consumers, in terms of their willingness to purchase. Only after receiving positive or affirmative responses would they start manufacturing the replicas.

Chenchen Zhao, an influencer that became famous for selling replicas of products from big brands, epitomizes such copycatting practices. Based upon my calculation, in July 2019, 134 out of the total 137 products in her online store are replicas of other fashion brands' products. The fashion brands that she copied are all very well-known, such as Chanel, MM6, Dior, etc. She even made videos comparing her replica and the original product to show the audience how similar they are. Sometimes she would also modify the design to fit Chinese consumers' taste. There are hundreds of influencers following the same way to develop their online retail businesses. Some other well-known names include Fanfan and XinNi. Their followers or customers sometimes cannot even tell what fashion brands are being copied, because some influencers disclose that kind of information while others do not.

Such copycatting practices are so rampant because, in terms of digital platform governance, Taobao's IPR protection applies strictly to trademarks, copyright, patent infringement and other deceptive practices like intentional covering or blurring of water marks (Alibaba Group, 2019). However, the boundary between plagiarism and appropriation is blurred and problematic particularly in the fashion industry. By just changing a small feature such as a change in the shape of the buttons, the replica item can thus be passed off without being called an infringement. Therefore, the protections only apply to copies of logos and brand names. Under such circumstances, independent designer brands are put in a particularly disadvantaged position. Protecting independent brands' IP comes at a higher cost, both socially and economically, concerning their relatively less public exposure. In addition, the characteristics of the new media terrain have made it more difficult for digital governance, such as identifying accountability deficiencies in the cyberspace. Behind the explosive growth of new media, there are a series of problems including misplaced values, misconduct content, public opinion orientation errors. Among these problems, infringement is one of the most serious (Liu, 2019). As China's social media platforms do not have relevant rules for IP protection (Hu, 2014), influencers can post anything about their copycatting practices, which is considered as their freedom of speech.

Moreover, concerning the broader social context, Chinese consumers have also gradually become accustomed to purchasing replicas with a lower price, which is characterized as a culture of "consumption downgrade" (Yuan, 2018). Long-term factors, such the rise of educational costs and housing prices, are driving down spending among young people in particular (Yuan, 2018). As a result, consumption downgrade was regarded as one of the most popular terms in China in the year of 2018. While values, aesthetics and lifestyles instilled through advertising campaigns with a global reach have fueled people's desire for designer products, which marginalizes concerns over personal savings, family sustainability, and even environmental issues (See Jhally, 2000), many consumers do not have the financial capacity for purchasing those original luxury products. However, it does not mean that their desire for luxury products also diminishes. Instead, it can be easily observed that consumers still want to live a decent middle-class life in a more cost-effective way. Against such a backdrop, it is not difficult to understand the popularity and profitability of cheap replicas in the market.

For years China's influencer economy operated in this fashion with Chinese customers having access to purchasing high-quality replicas at a lower price. However, recently things have begun to change in terms of public awareness and government/platform regulations on IP-related issues. It can be said that Chinese consumers and netizens are becoming more and more aware of and concerned about IP protection (Zhang, 2019), which makes influencers' copycatting practices increasingly controversial. Even Dayi Zhang, despite her popularity and influence, got caught in a huge controversy regarding IP infringement. In 2016, Zhang posted on Weibo photos of one of her new products, which was basically a replica of a facial cleanser manufactured by "Clé de Peau Beauté" (CPB) which is a popular Japanese cosmetics brand owned by the global cosmetic powerhouse -- the Shiseido Company. By displaying details of the whole production procedure, including how she chose the same manufacturer and the same raw materials as what CPB used for the original product, Zhang intended to demonstrate the high quality of her product and make the production process "transparent" for her customers to set up a trustworthy image of her brand. However, although her fans still supported the launching of this replica, Zhang received extensive criticism in terms of her IP infringement, which ended up with a huge debate on Weibo. Over that incident, nearly 90% of the relevant comments were blaming Zhang for copycatting practices. However, Zhang still launched this product in her online store after the controversy, and it quickly became a popular item over the entire Taobao platform. To some extent, the IP controversy around this replica worked as a "free" promotion for it. More ironically, the product even won the prize of "The Best Beauty Product of the Year" given by Alibaba, when the IP infringement and the related controversies had gradually faded from public sight.

4.4. Locating Solutions at the Nexus of Market and State

4.4.1. Market dynamics: Between Platforms, IP owners and Social Media influencers

Chinese e-commerce platforms such as Taobao are fully aware of such IP-related controversies as mentioned above. However, the enforcement of copyright protection can be difficult in real-life situations. Because copyright infringement in creative industries is sometimes difficult to define in practice (Sina Fashion, 2011), Taobao only forbids faking trademarks or brand logos, the relevant policy of which was published on Alibaba's internal

IP protection platform in 2017 (Alibaba, 2017). Thereafter, any online store using other brand's trademarks will be punished according to the rules. The regulatory mechanism consists of both platform supervision and user reports. Once a misuse of trademarks or logos was identified, the product would be compulsorily removed from the platform and the related store's credit rating would be downgraded with regard to the aftermaths of the trademark infringement. For those more blurred issues of intellectual property, such as ideas and styles, Taobao has no clear regulations.

Although these regulatory attempts have not effectively prevented copycatting from happening, more and more Chinese influencers have started to establish formal partnerships with big fashion brands as a consequence of the increasing pressure from the general public on IP-related controversies (Sina Fashion, 2011). In some cases, influencers even ended up setting up successful marketing collaborations with brands that they have been copycatting for a long time. This has enabled a new form of mutually benefiting relationship between influencers and established fashion brands. For example, after shaking off her image as a copycat by establishing formal collaborations with big brands like Marvel and Maybelline, Dayi Zhang was even selected as one of the "25 Most Influential People on the Internet" together with Donald Trump and Ariana Grande by the Time Magazine (Time, 2019). Zhang's case represents a particular way of resolving such IP-related controversies, which has successfully found a way to navigate through the milieu of China's influencer economy.



Figure 4-3 Eve Zhang’s marketing collaboration with famous brands

Note. Screenshots from the video announcement (Weibo, 2019)

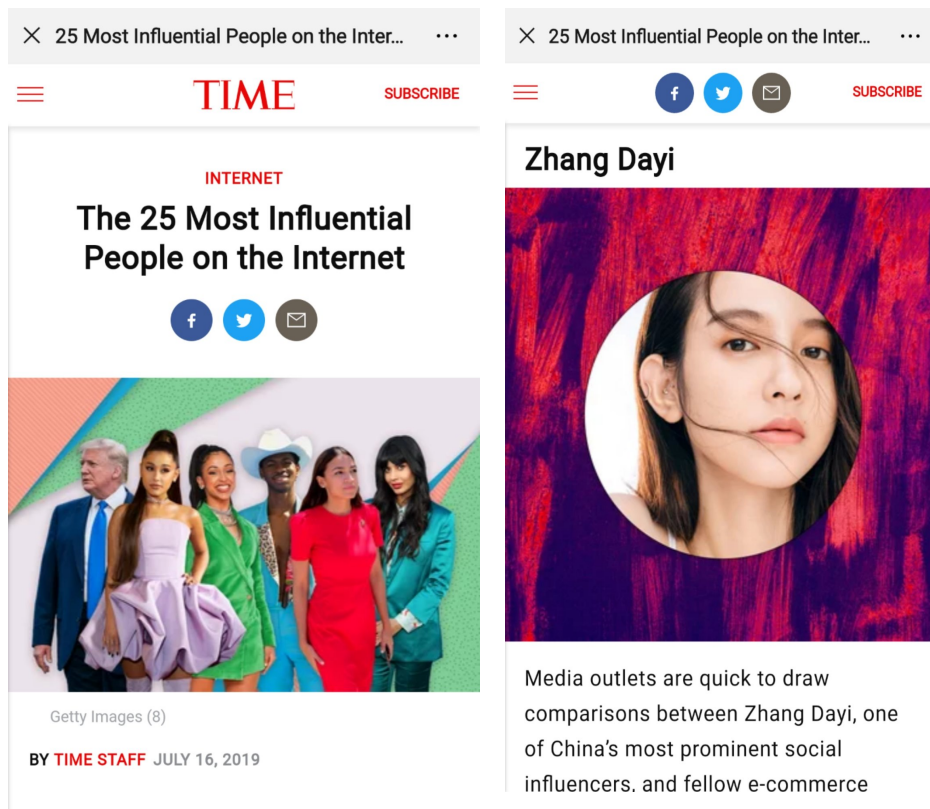


Figure 4-4 Eve Zhang named as one of the 25 Most Influential People on the Internet by Time Magazine

Note. Screenshot from the Time (Time, 2019)

4.4.2. IP Protection still as a Major Challenge for the Chinese State

At the global level, China has stated that as a developing country it will nonetheless commit to all the international IP protection agreements, such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement), the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention and so on and so forth. These agreements cover a wide range of industries, which indicates the integration of China into the international IP regime. Domestically, China also has kept refining its own IP laws, which are divided into 4 different categories -- trademark law, copyright law, patent law and other legislations (CNIPR, 2016). Concerning these international agreements and domestic IP laws, one must admit that China has already formed a mature IP regime. During the G20 Osaka Summit, President Xi said that China would take “major steps” to further liberalize its economy and reduce market restrictions for foreign investors and all victims of IP theft will be compensated (Zhen and Ng, 2019).

However, the actual enforcement of such regulations is still problematic and challenging. A lot of business administrations have problems in their implementation. Of course, there are moments at which some Chinese policy makers demonstrate their ignorance of the international IP regimes. For example, “China’s offer to the world has been straightforward,” a policy maker said in Beijing at a press conference, “foreign companies are allowed to access China’s market but they would need to contribute something in return: their technology” (Wei, 2018). But more importantly, as a consequence of the rampant neoliberal deregulation of China’s private economic sector during the reform era, the power of the Chinese state in regulating market-oriented and capital-intensive industries and corporations has declined dramatically. Furthermore, the state’s IP regime is mainly following a top-down approach, without much support from the bottom up. Aiming at establishing a multidimensional IP regime, the state needs to regulate the capital-driven network environment at the micro level, facilitate the cultivation of public awareness and knowledge of IPRs at the meso level, and reach out as well as listen to various communities and individual citizens at the micro level.

Chapter 5. Conclusion

The dynamic between emerging social platforms, IP regulation and social media influencers in China have created new opportunities and challenges as outlined above. China has not only experienced rapid economic development in recent decades but has established a system of IP laws and joined related international treaties such as TRIPS and PCT. Today applicants from around the world seek patent protection in China and, as a consequence, the number of patent applications at the SIPO (State Intellectual Property Office) has risen tremendously (Liegalsz, 2013). SIPO is China's national institution for IP protection and application. However, things are not as simple as what can be seen on the surface.

For Natalia Wyzyccka (2017), despite the existing IP regulations and central government's commitment to tackle the problem of IP infringements, regulatory measures to date have not only been insufficient to act as an effective deterrent (Lin and Connor, 2008) but also differ greatly among the different regions in China (Alford, 1995; Dimitrov, 2009; Massey, 2006). The factors that undermine the enforcement of central level policies at local level in China include decentralization of the Chinese state, administrative rank and relative power of the provincial governments, weak judicial enforcement, subordination of the courts, under-resourced enforcement agencies, widespread corruption and a different understanding of IP infringement (Wyzyccka, 2017, p.553). Failure to enforce IPRs in China certainly imposes harm on the owners of that intellectual property, including shareholders of many companies based in the United States and elsewhere. However, this failure also allows social media influencers to operate in a lucrative grey area.

Aside from some rare cases, such as that embodied by the work of Ginarte (1997) among others, many scholars take for granted that China will follow a historical path similar to that of the US and other developed economies. They argue that as China's own innovative sector grows, its interest in developing a more effective IPR protection system will increase, reflecting a growing number of stakeholders in its economy who benefit from IPR protection. Logical IP protection is conducive to enhance China's independent innovation capability and build a more innovative country (Tong, 2019). In the Belt and Road Summit 2017, China has actively carried out cooperation to promote the protection

of intellectual property rights of the countries along the Belt and Road. The image of a responsible country has been recognized by the countries along the road. Good national prestige was confirmed by the IPR measures. (Qian, 2016). This will result in a transition from being an IPR violator to a regime with greater respect for IPRs, presumably without the need for pressure from other countries. Pacific Area Communication System (PACS) assert that the United States was a major violator of IPR for most of the 19th century but ultimately adopted relatively strong IPR protection (Brander & Victor, 2017). They also argue that other countries went through similar transitions at various times, including Switzerland, Denmark, Britain, and Japan. Based on these historical examples, PACS conclude that “just like the United States and numerous other countries, China will become respectful of IPR, including foreign IPR (Brander & Victor, 2017).” Following PACS it is important to learn from history. However, without a full understanding of the factors underlying claimed historical regularities (such as the transition to enforcement of IPR), it is not reasonable to claim that past events will be repeated in anything like the same form in a new context. Even relevant historical precedents do not necessarily provide good predictions in complex dynamic environments with high levels of uncertainty.

Before China becomes an IPR protector, if it ever does, the current situation provides an emerging dynamic between new media influencers and IPR. While the current global IPR regime is far from perfect (James, Victor & Ilan, 2017), based on my case study and online observations, IP law is, while present in theory, not applied in practice in many cases in China which may be the perfect situation for some social media influencers. In recent years, China has continuously promoted the transformation and upgrading of its economic structure. As a new form of economy, e-commerce pushes Chinese into a new shopping level. However, China has not yet established a sound intellectual property protection system, especially in the online shopping industry, in terms of actual practical governance. The fashion IP issue that is generated by social media influencers is only one example. Not only are comprehensive and high-level intellectual property protection laws for cultural and creative industries are lacking but theoretical protection cannot fundamentally contain the infringement, and the ambiguity of the provisions in laws that are fundamentally not clear in practice does not equal a strong IP system. The design concept of cultural and creative products and the way of thinking should be protected. At the same time, there is no regulation on the definition standards and value evaluation

methods of creating products. In addition, the current cost of cultural and creative industry infringement is low, and the law cannot exert its deterrent power on the public and related enterprises.

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