COPYRIGHT PROTECTION IN SONG CHINA (960—1279)

by

NIANHUA FENG

B.A., Yantai Teacher’s College, 2001

A THESIS SUBMITTED IN PARTIAL FULFILMENT OF

THE REQUIREMENT FOR THE DEGREE OF

MASTER OF ARTS

in

THE FACULTY OF GRADUATE STUDIES

(Asian Studies)

THE UNIVERSITY OF BRITISH COLUMBIA

March 2005

©Nianhua Feng, 2005
Copyright protection is an important part of modern property right law. Although phenomena resembling present-day copyright law, such as ancient books published in different editions and remuneration for authors are found before the middle of the Tang dynasty (618—907), copyright protection did not come into being in China until the invention of block printing. Copyright protection is a subject that has been studied by few scholars of ancient China.

This thesis is an examination of the conditions of copyright protection in Song China. After researching the historical materials about this subject, I have found that the maturity of printing during the Song dynasty (960—1279) stimulated the emergence of copyright protection; however, it also led to the rise of piracy, which seriously threatened the profits made by the government, bookshops and authors. When the commercial production of books began, the Song government also started to take measures to forbid nongovernmental publications involving heretical or seditious materials that might be dangerous to the rulers. At the same time, some owners of the shufang 书坊 (bookshops which printed and sold books in imperial China) who pursued commercial profit and some authors who sought personal fame joined together to keep their works from being pirated and thus encourage copyright protection during this period.

Owing to the different ways books were published, copyright protection in the Song dynasty presents a complicated picture; however, it has a solid background in the economics, politics and culture of the era. The conflict between copyright protection and
piracy in Song China played an important role that influenced the development of literature. Copyright protection in the Song dynasty was not systematic just as was the case in later periods. Nevertheless, it resembled modern copyright law in many ways.
TABLE OF CONTENTS

Abstract.............................................................................................................. ii
Chronological List of Dynasties......................................................................... v
Chronological List of Emperors Ruling During the Song Dynasty.................. vi
Introduction........................................................................................................ 1
CHAPTER I Copyright Protection before the Invention of the Wood Block........ 9
CHAPTER II Factors Contributing to the Emergence of Copyright Protection in the Song Period................................................................. 21
CHAPTER III Guanke and Its Copyright Protection........................................... 35
CHAPTER IV The Conditions of Family Based Printing and Workshop Printing and Their Copyright Protection.......................................................... 51
CHAPTER V The Characters of Copyright Protection in Song China.............. 62
EPILOGUE .......................................................................................................... 68
Bibliography...................................................................................................... 72
# Chronology of Pre-Qin Periods to Song Dynasties

<table>
<thead>
<tr>
<th>Period</th>
<th>Start—End</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Qin (先秦) Periods</td>
<td></td>
</tr>
<tr>
<td>Qin (秦) Dynasty</td>
<td>221—207BC</td>
</tr>
<tr>
<td>Han (汉) Dynasty</td>
<td>206BC—220AD</td>
</tr>
<tr>
<td><strong>THREE KINGDOMS</strong></td>
<td></td>
</tr>
<tr>
<td>Wu (吴)</td>
<td>222—280</td>
</tr>
<tr>
<td>Shu (蜀)</td>
<td>221—263</td>
</tr>
<tr>
<td>Wei (魏)</td>
<td>220—265</td>
</tr>
<tr>
<td>Western Jin (西晋)</td>
<td>265—317</td>
</tr>
<tr>
<td><strong>PERIOD OF DIVISION</strong></td>
<td></td>
</tr>
<tr>
<td>Southern Dynasties</td>
<td></td>
</tr>
<tr>
<td>Eastern Jin (东晋)</td>
<td>317—420</td>
</tr>
<tr>
<td>Song (宋)</td>
<td>420—479</td>
</tr>
<tr>
<td>Qi (齐)</td>
<td>479—502</td>
</tr>
<tr>
<td>Liang (梁)</td>
<td>502—557</td>
</tr>
<tr>
<td>580</td>
<td></td>
</tr>
<tr>
<td>Chen (陈)</td>
<td>557—589</td>
</tr>
<tr>
<td><strong>Northern Dynasties</strong></td>
<td></td>
</tr>
<tr>
<td>Sixteen Kingdoms</td>
<td>304—386</td>
</tr>
<tr>
<td>Northern Wei (北魏)</td>
<td>386-534</td>
</tr>
<tr>
<td>Western Wei (西魏)</td>
<td>535—556</td>
</tr>
<tr>
<td>Northern Zhou (北周)</td>
<td>557—</td>
</tr>
<tr>
<td>Eastern Wei (东魏)</td>
<td>534—550</td>
</tr>
<tr>
<td>Northern Qi (北齐)</td>
<td>550—577</td>
</tr>
<tr>
<td>Sui (隋) Dynasty</td>
<td>581—618</td>
</tr>
<tr>
<td>Tang (唐) Dynasty</td>
<td>618—907</td>
</tr>
<tr>
<td>Song (宋) Dynasty</td>
<td>960—1279</td>
</tr>
</tbody>
</table>
Chronological List of Emperors Ruling

During the Song Dynasty (960—1279)

<table>
<thead>
<tr>
<th>Imperial Name</th>
<th>Personal Name</th>
<th>Reign</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The Northern Song (北宋) Dynasty</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tai Zu</td>
<td>Zhao Kuangyin (趙匡胤)</td>
<td>960—976</td>
</tr>
<tr>
<td>Tai Zong</td>
<td>Zhao Jiong (趙炅)</td>
<td>976—997</td>
</tr>
<tr>
<td>Zhen Zong</td>
<td>Zhao Heng (趙恆)</td>
<td>998—1022</td>
</tr>
<tr>
<td>Ren Zong</td>
<td>Zhao Zhen (趙禎)</td>
<td>1023—1063</td>
</tr>
<tr>
<td>Ying Zong</td>
<td>Zhao Shu (趙曙)</td>
<td>1064—1067</td>
</tr>
<tr>
<td>Shen Zong</td>
<td>Zhao Xu (趙顼)</td>
<td>1068—1085</td>
</tr>
<tr>
<td>Zhe Zong</td>
<td>Zhao Xu (趙煦)</td>
<td>1086—1100</td>
</tr>
<tr>
<td>Hui Zong</td>
<td>Zhao Ji (趙佶)</td>
<td>1101—1125</td>
</tr>
<tr>
<td>Qin Zong</td>
<td>Zhao Huan (趙桓)</td>
<td>1126—1127</td>
</tr>
<tr>
<td><strong>The Southern Song (南宋) Dynasty</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gao Zong</td>
<td>Zhao Gou (趙構)</td>
<td>1127—1162</td>
</tr>
<tr>
<td>Xiao Zong</td>
<td>Zhao Shen (趙昚)</td>
<td>1163—1189</td>
</tr>
<tr>
<td>Guang Zong</td>
<td>Zhao Dun (趙惇)</td>
<td>1190—1194</td>
</tr>
<tr>
<td>Ning Zong</td>
<td>Zhao Kuo (趙扩)</td>
<td>1195—1224</td>
</tr>
<tr>
<td>Li Zong</td>
<td>Zhao Yun (趙昀)</td>
<td>1225—1264</td>
</tr>
<tr>
<td>姓名</td>
<td>姓名</td>
<td>年份</td>
</tr>
<tr>
<td>-------</td>
<td>-------</td>
<td>---------</td>
</tr>
<tr>
<td>Du Zong</td>
<td>Zhao Qi</td>
<td>(赵禥)</td>
</tr>
<tr>
<td>Gong Di</td>
<td>Zhao Xian</td>
<td>(赵昚)</td>
</tr>
<tr>
<td>Duan Zong</td>
<td>Zhao Shi</td>
<td>(赵昚)</td>
</tr>
<tr>
<td>Di Bing</td>
<td>Zhao Bing</td>
<td>(赵㬎)</td>
</tr>
</tbody>
</table>
Introduction

It is common knowledge to specialists of copyright law that the "Statute of Queen Anne", established in England in 1710, is the world's first nation-wide copyright law. For the first time in history the rights of an author to publish were explicitly acknowledged. Today's copyright system, still built on the foundations of the "Statute of Queen Anne," grants an inventor or author the exclusive right to his creations for a limited time.

The first forms of copyright law, however, had been devised much earlier as a result of the invention of printing which had taken place in China around the year 700 A.D., according to a Korean scholar's research, with the appearance of the block printing. Yet in imperial China, although copyright development was continuously evolving, it never extended beyond local, or at its best, regional boundaries. In fact, it was not until 1910 that the first national copyright law Daqing zhuzuoquan lü (The Copyright Law of the Qing Dynasty) was issued; it had taken China more than 1,210 years after the invention of printing to create a complete national copyright statute.

Before the enacting of any statute, many attempts must have been made; as Light argues, copyright is a beast of substantial historical ancestry. When the famous "Statute

---

2 Ibid., 11.
3 Due to the difference between ideographic writing and alphabet, Europe reckons the date of the invention of printing from the time when typography was invented and considers block printing as merely an important prefatory step. The Far East reckons the invention of printing from the time when block printing began and considers movable type as rather an unimportant later addition. For more details see Thomas Francis Carter, The Invention of Printing in China and Its Spread Westward, (New York: The Ronald Press Company, 1925), 31.
5 Sheldon N. Light, “Parody, Burlesque and Economic Rationale for Copyright”, Connecticut Law Review,
of Queen Anne” was enacted in 1710, it was 233 years after William Caxton had printed the first book *Dictes and sayengis of the Philosophers* in England and 255 years after the invention of the printing press in Europe. The copyright history of China was plagued with the same growing pains. When emperor Tang Wenzong (825—836) issued the edict to command all Circuits and *fu* (Superior Prefectures) not to carve the blocks for printing calendars without authorization in 835, about 135 years had passed since block printing were first used; when Wang Cheng’s *Dongdu shilue* 东都事略 (*Brief Records of the East Capital*) was printed in Meishan (modern Sichuan province) in the Shaoxi reign period (1190—1194) with a *paiji* (proclamation) which protected the rights of publishers, about 494 years had passed; and when Zhu Mu’s *Fangyu shenglan* 方舆胜览 (*Scenic Views of the World*) was first printed with a *lubai* (announcement) which protected the author’s rights in 1238, about 538 years had passed. In this light, it is not surprising that the first nation-wide copyright law — The *Copyright Law of the Qing Dynasty* is actually a product of the early twentieth century.

What is the true story of the phenomenon of copyright protection in imperial China? The origin of the copyright system in China has long been a subject of much debate among scholars. One point of view holds that the copyright protection system in China traces its roots back to the Song dynasty, while others argue that a copyright protection system, in its strictest sense, never existed in imperial China.  

---


The research of copyright protection in imperial China is a relatively unexplored area, although some studies of this subject such as the invention and the development of printing, the emergence of book markets, and the government’s policy for the publishing industry and so on, have recently become available. And by thoroughly researching the related materials such as Song huiyao jigao (A Draft Collection of the Major Song Events), Xu zizhi tongzhi changbian (Continuation of the Comprehensive Mirror for Aiding Government), Qingyuan tiao fashi lei (Collections of Legal Affairs during the Qingyuan Period, 1195—1200), Shulin qinghua (Discourses on Chinese Books) and some other works, I have drawn the conclusion that a form of copyright protection, not unlike today’s standard copyright, was undoubtedly in place in China during the Song period. The purpose of this thesis is, first, to discuss the rudimentary stages of copyright protection preceding the Song dynasty’s own developments, secondly, to lay out the causalities and contributing reasons which brought on the maturing of its characteristic protection laws and finally to outline the complex forms of Song copyright as compared to the contemporary universal laws in effect today.

Why did copyright protection come into being during the Song dynasty? Numerous results of research prove that a long period of flourishing economics, politics, and law in a relatively stable society inadvertently brought about the need for regulation. In his Commercial Development and Urban Change in Song China, Laurence J. C. Ma describes the extraordinary growth of commerce and the rapid pace of urban evolution, which consequently contributed to the declining of the millennium-old fang (urban ward system) and other related market systems, ultimately rendering the significance of
the urban guild spatial system redundant. As a result, spatial and temporal regulations on urban trade were relaxed, the urban landscape took on a strong tone of commercialism and the urban atmosphere was much freer than in previous ages. Because urban trade was more specialized in the Song dynasty, more guilds emerged in the cities than ever did in Tang cities. Moreover, in return for monopoly over trade protection by the government, the guilds were required to serve the state in different ways. Since copyright protection cases were the exception rather than the rule, and all these cases appeared in the south—the new heartland of the Chinese civilization from this period on—perhaps there existed a definite relationship between literary rights and the flourishing of commerce.

Brian E. McKnight presents us his research on Song law in his Law and Order in Song China. In this work he analyses the law-enforcement and penal institutions, practices and policies used by the Chinese of Song times to maintain social order, a study which will undoubtedly help us to understand the status of copyright protection cases appearing during this period. Literary rights, as a branch of law, never existed as an independent branch outside of the penal code characteristic of imperial China.

Copyright was translated as banquan 版权 ("the rights of the publisher") or zhuzuo quan 著作权 ("the rights of the author") during the period of Western countries' invasion of China during the late Qing dynasty. Banquan and zhuzuo quan, are Western terms translated into Sino-Japanese by Japanese linguists, and the meaning of these terms has generated much debate in China. For example, one scholar writes: "These two definitions

8 "Monopolies for the printing of books were rare and, as a rule, not granted by the Song government except on special case." For extended discussion, see Ming-Sun Poon, "The Printer’s Colophon in Song China, 960—1279", Library Quarterly 43: 1 (January 1973), 47.
9 Zhong Chongshan 仲崇山 argues that the concept of copyright had not been widely used until the late Qing dynasty. For a specific discussion, see Zhong Chongshan, “Woguo banquan zhidu fazhan xulue” 我国版权制度发展序略 ("Brief preface of the development of copyright system in China"), Bianji xuekan 著作编写, Volume 5 (1997).
have evident differences from the point of the history of copyright protection.\textsuperscript{10} If we use the theory of copyright law today to analyze and investigate the phenomenon of copyright protection in imperial China, we should first distinguish these two concepts, though according to the present copyright law of the People's Republic of China, they now share the same interpretation.\textsuperscript{11}

\textit{Banquan} (the concept before being redefined in 1991 in the People's Republic of China) mainly refers to the right of publishers to copy and vend their productions; it was only concerned with publishers. It is equal to the right of publishing, and it belongs to the category of "rights related to copyright", or neighboring rights, in copyright law today. \textit{Zhuzuo quan} is the author's total property rights and his personal rights that include the exclusive rights of publishing, signing, revising, and protecting the wholeness of his works, and using and getting remuneration from his works, etc. In my view, the debate over these two terms was caused by Chinese scholars' reference to different aspects of the original copyright system. The original copyright system created in Europe was divided into common law copyright, with its emphasis on protection of a work with a view to encouraging authors to create and disseminate their works, and the author's right in civil law which protects the rights of the author as a form of property rights (the United Kingdom belongs to the common law countries and France and Germany belong to the civil law countries). These two types of copyright laws exist today, but both of these traditional copyright law trends also existed in imperial China.

\textsuperscript{10} Huang Qinnan 黄勤南, \textit{Zhishi chanquan fa} 知识产权法 (Intellectual Property Law), (Beijing: Falü chuban she 法律出版社, 2000), 291.

Actually, it is very difficult to distinguish between the two concepts of *banquan* and *zhuzuo quan* in imperial China because the authors’ master status in the case of copyright protection was usually ignored, a case which I will explain in chapter 3. In fact, the copyright protection of the productions printed by the imperial government rarely paid attention to the authors’ rights of copyright. What the government was mainly interested in was only the government’s exclusive right to publish. Owners of bookshops, however, pursued commercial interests; what they cared about was solely the exclusive right of publishing. This parallels what happened in England before the enactment of “Statute of Queen Anne”; the members of the Stationers Company only cared about their rights to publish books. 12 Because some ancient Chinese authors were the publishers of their works, their copyrights were protected under certain conditions. In these cases, what they cared about was not only the right to publish but also the authors’ own rights.

Owing to different means of publishing, copyright protection in the Song dynasty presents a complicated picture. Therefore, the publishing industry is classified into three categories: governmental publications, *fangke* (bookshop printing) and *jiake* (family based printing). Bookshop printing and family based printing belonged to the category of nongovernmental publication, and were the main commercial publishing industry. The policies the government carried out regarding the publishing industry sometimes overlapped with its policy of *shujin* (forbidden books), or a policy of cultural control. In this light, we should distinguish copyright protection from the policy of forbidden books.

---

There are two trends we should pay attention to: one is that some foreign scholars think that copyright protection during the Song China just belongs to the category of the emperors' control over ideas or patents granted to publishers, in other words, the protection did not concern the authors. Some Chinese scholars agree with this point of view.  

Another trend is that some nationalistic Chinese scholars maintain that China was the earliest country in the world to set up a system of copyright protection. Without enough proof, however, this point of view is a relatively subjective assertion; we cannot say that the earliest nation-wide copyright statute emerged in China.  

I first became interested in this subject when I wrote a report on Discourses on Chinese Books two years ago. Discourses on Chinese Books is the representative work of Ye Dehui 叶德辉 (1864—1927), a famous book collector of the late Qing dynasty and the early Republic period, and is a very important reference work for studying the editions of ancient Chinese books. Ye's book is also the first work by a Chinese scholar to consciously begin researching copyright protection in imperial China.  

At the time I was gathering materials for this thesis, I found that there are many similarities and differences between Song China and the period before the enactment of the “Statute of Queen Anne” in Europe. These are two different historical periods: China entered the Song dynasty when Europe was in its Middle Ages; in Europe book printing did not yet emerge until fifteenth century. Technological development in different parts of the world was largely independent at that time.

The biggest problem in comparing these historical periods is that they were not at the same historical stage of development. There are, however, similar factors in the copyright history of early modern Europe and Song China. Although the comparisons I list below are not exhaustive, they are not without significance. In any case, my analysis is an attempt to shed some light on the subject, or “to cast a brick to attract a jade”.
Chapter One

Copyright Protection before the Invention of the Block Printing

The “Statute of Queen Anne” announces the appearance of a nation-wide law to protect the rights of authors and does not necessarily indicate the lack of copyright elements earlier. As we have mentioned before, it is well known that copyright protection existed after the invention of printing because it was only after its invention that the rate of books reproduction and circulation was accelerated and the piracies which damaged authors' benefits began to occur, and thus the application of copyright law became necessary. This process may be summarized as follows: invention of printing → emergence of book market → piracies → copyright protection. A thorough research of the European history of copyright shows that this formula is applicable in this case, as Arlene Bielefield and Lawrence Cheeseman argue,

Before the invention of the printing press there was little need for a copyright statute. There were few legal problems because of the small number of copies available then. The opportunity to make illegal copies was limited and it was easy to determine who had stolen or plagiarized a copy. Thus, the same laws that were applied to real and personal property easily served for manuscripts and copies, without any undesirable consequences to the community or to local economies.¹

The principle of applying the laws of personal property to literary cases is illustrated for the first time in Western history when in the year 567, Saint Columba (521–597), an Irish monk, during a visit to a neighboring monastery, made an unauthorized copy of the abbot’s Psalter. When the abbot found out, he demanded that Columba immediately return the copy. When Columba refused, the abbot sought the help of a local king, who

¹ Arlene Bielefield and Lawrence Cheeseman, Technology and Copyright Law, 4–5.
ordered the return of Columba’s copy to the abbot under the principle “To every cow her calf.”  

In spite of this early example, Augustine Birrell thinks manuscripts were of no significance to the development of copyright law, because they could produce no profit.  

George H. Putnam also thinks that “control over the number and quality of copies was also easy to maintain without the invention of law.”

It often takes a long time to issue any kind of law. Although copyright law in Europe and China appeared under different historical backgrounds, they shared some similar elements throughout their development. I will first begin with the discussion of copyright protection in China before the Song period.

Right of Signing

Some Chinese scholars hold the view that the authors of *zhuzi baijia* (the Hundred Schools) had begun to sign their signatures to their works during the Spring and Autumn and the Warring States periods (770—221 B.C.). But Qian Cunxun holds a different view:

It is generally supposed that Chinese writing prior to the time of Confucius consisted primarily of official documents and collected works with no private authorship. None of the writings mentioned in works of Pre-Qin philosophers or quoted in early historical works surviving today are found to have contained information concerning private

---

4 George H. Putnam, *Books and Their Makers During the Middle Ages*, 484—485.
writings before the Warring States period. Even in this period the concept of authorship was not as clear as in later times. A book bearing the name of a certain person was not necessarily "written" by this person. It might be a record of his "sayings" written by his followers or a collection of writings by many persons of a similar school of thought but attributed to the most famous name of the school. Since most of the pre-Qin books transmitted today have been revised by Han scholars, it is often difficult to know what part of a book is original and what part is latter addition.

Yu Jiaxi 余嘉锡 (1884—1955) also thinks that all the books produced in the Zhou (about 11 Century —256 B.C.) and Qin (221—207 B.C.) dynasties were not signed by their authors. The authors' names found in popular editions today were probably added by later generations because private works never existed before the Spring and Autumn period (770 —476 B.C.). The books which were disseminated to later generations were works from the government collections of that time, and were not authored by a single person at one time and therefore could not bear an author's name.

According to the research of Chen Zekui 陈泽奎, signatures are found on Buddhist manuscripts from Dun Huang dating as early as 265. Chen also thinks that although there were more private works that emerged from the Spring and Autumn period to the beginning of the Han dynasty, the authors still did not sign their names on them, though a new phenomenon appeared; Sima Qian 司马迁 (145? 135?—87 B.C.) signed his title *Taishigong* 太史公 (The Grand Historian) to the preface of his *Shiji* 史记 (*Records of the Grand Historian*).
With the preparagraph, we learn that until the Qin and Han dynasties (221 B.C.—220), the practice of signing books had not become common. However, after the Jin dynasty (265—420), it became the convention for authors to sign their own names on their works. 10

According to copyright law today, the statute of signing is one part of the exclusive rights of authors which indicates the recognition of their own creation. Putting their signature on their works indicates the acknowledgement of the authors’ real and personal ownership of their works. The omission of the author rights of signing before the Jin dynasty may be interpreted as the absence of the authors’ intent to attain copyrights at that time.

In Europe, authors have signed names in their works since ancient Rome times; however, this right was limited only to the authors of an original manuscript. 11

Authors’ Remuneration

The authors’ remuneration from their works is the property right of the authors. Before mass publishing began how did authors get their income? The situation was similar in China and Western countries. It is clear that authors had difficulty earning a steady income through publishing, and dissemination of their works was hindered without the protection of rights.

11 See Richard Rogers Bowker, Copyright: Its History and Its Law, 8. Arlene Bielefield and Lawrence Cheeseman argue that this right extended only to the original manuscript. Prior to the enactment of the Statute of Queen Anne in 1710, without the protection of the law, authors also could not receive acknowledgement as the creator of the work. For extended discussion, see Arlene Bielefield and Lawrence Cheeseman, Technology and Copyright Law, 3.
We have no detailed knowledge of how Chinese authors earned their income from their works except for some examples that we hear about before the Tang and Song dynasties. For examples, Lü Buwei 吕不韦 (a Counsellor in Chief of the kingdom of Qin, 290?—235 B.C.) compensated his retainers well to write the Lüshi chunqiu 吕氏春秋 (Spring and Autumn Annals of Mr. Lü) for him; empress Chen paid a huge sum of money to Sima Xiangru 司马相如 (179—117 B.C.) for writing “Changmen fu” 长门赋 (“The Rhapsody of the Long Gate”) for her; 12 and emperor Han Zhangdi of the Eastern Han dynasty (25—220) bestowed Jiakui 贾逵 (30—101) with 500 bolts of silk and a suit of clothes when he submitted a memorial. 13

Still, this does not mean that a law or convention of protecting the property rights of authors existed at that time. The rewards obtained for the author’s efforts which were recorded fragmentarily in historical documents were not writers’ fees in the modern sense and do not fall under the category of authors’ property rights as defined today.

If we look at the situation in Europe, we know that before the enactment of the world’s first national copyright statute in 1710, authors could not legally make and sell copies of their own works. As Arlene Bielefield and Lawrence Cheeseman say,

At best, they could only market a manuscript for a one-time fee. Once the original manuscript was sold, an author was not legally entitled to receive royalties or other compensation for the number of copies sold. 14

During the Middle Ages, however, authors had to find rewards that were not monetary for their writings. This situation was not difficult to accept because large profits

---

14 Arlene Bielefield and Lawrence Cheeseman, Technology and Copyright Law, 3.
were never really available anyway. Truly popular authors who became celebrities often found rich patrons to support them. Occasionally a truly resourceful author could find ways around the law to garner monetary rewards—for example, Boccaccio (1313—1375) rented his manuscripts to copyists. 15 Authors still looked to patronage as their chief source of income during the period of privileges. 16

The Reproduction of Books

Some scholars maintain that the reproduction of books occurred before the Pre-Qin periods. When a work appeared, different copies written by hand were made. 17 In ancient China, it was very popular to transcribe a book by hand before the invention of block printing; it was an important way of circulating and preserving ancient books. It would not be unrealistic to say that the authors of ancient China did not oppose their books being copied because they wanted their works to be widely read. Until the Five Dynasties, the *jiujing* (Nine Classics) could not be reprinted without authorization from the government, but for the most part copiers’ activities were relatively unrestricted. 18 For example, when Zuo Si (250?—305?) finished his “Sandu fu” (Rhapsody of Three Cities”), so many people copied and circulated it that the price of paper rose in Luoyang. 19

---

15 Ibid., 5—6.
18 For extended information, see Luo Bi, *Shiyi* (Gleaning), ed. Wang Yunwu, *Siku quanshu zhenben shiyiji* (Volume 1, 5).
19 See Fang Xuanling, *Jinshu Zuosi zhu* (Biography of Zuo Si of the History of the
As we have mentioned, in Europe before the introduction of printing, authors had no special rights to copy their works, or even sell their copies. Unlike China, during the early Middle Ages, western monasteries had a complex set of rules that governed which works could be copied, who could copy them and for whom they could be copied. “Monks went about their work with exceptional religious fervor, painstakingly copying and illuminating their works. Copying a long text could take as long as a full year. Scriptoriums were holy ground”, and copying was a sacred task.

From the case of Saint Columba, we know that authors in the sixth century had a legal right to prevent anyone from copying their original manuscripts without their permission, but once the manuscript was legally purchased, the new owner could allow another person to copy the manuscript without any compensation to the author.

The Ancient Chinese Scholars’ Editing Activities

Before the invention of printing books were copied by hand, so the copies were often different. Mistakes such as missing characters, redundancy, and transposing sentences were common. What is more, some copyists falsified the original contents and signed their names to the copies. It is interesting to point out that different versions of transcripts were edited by scholars before the invention of printing in imperial China. For instance, Prince Xian of Hejian 河间献王 (Liu De 刘德, ?—130 B.C.) appreciated good editions of works:

20 George H. Putnam, Books and Their Makers During the Middle Ages, 484—485.
21 Arlene Bielefield and Lawrence Cheeseman, Technology and Copyright Law, 4—5.
22 George H. Putnam, Books and their Makers During the Middle Ages, 484—485.
[He] studied hard and was very fond of the ancients. He always sought the truth from historical facts. If he received a good book from commoners, he would give them back a well-written copy with a gift of gold and silk and keep the original.

Another example is Liu Xiang 刘向 (77?—6 B.C.) who was authorized to arrange the books collected by the government in the third year of Hanping (26 B.C.); he collected all the editions (here editions still refers to hand-written editions), assessed the differences among them, deleted the duplicates, and revised the errors. 24 A third example is the meticulous distinction of editions in the “Shuzheng pian” 书证篇 (“Chapter of Doing Textual Research of Books”) of Yan Zhitui’s 颜之推 (531—591) *Yanshi jiaxun* 颜氏家训 (Family Precepts of the Yan Clan) such as the “Jiangnan edition 江南本”, the “Hebei edition 河北本”, the “popularized edition 俗本”, the “old Jiangnan edition 江南旧本”, the “Jiangnan transcript edition 江南书本”, etc. 25

In Europe, even after the invention of the printing press, early printers often needed to compare several copies to determine the authentic text because numerous mistakes were often made in the process of copying by hand. 26

When ancient scholars collected different copies and differentiated the true from the spurious, they were initiating the science of collation, a methodology still used by modern publishers of ancient books. 27 Modern theories of copyright law recognize the ancient scholars’ activities such as collecting, proofreading and correcting as the scholars’ mental

---

25 For more, see Yan Zhitui 颜之推, *Yanshi jiaxun* 颜氏家训 (Family Precepts of the Yan Clan), ed. Wang Yunwu, (Shanghai: Shangwu yinshuguan 商务印书馆, 1938), Vol. 6, 139—170.
27 Song Yuanfang and Li Baijian, *Zhongguo chubanshi*, 22.
work and protect them as secondary creations. However, we do not find any copyright law or decree to protect the editors' activities and achievements until the "lubai" was attached to *Scenic Views of the World*, first printed by Zhu Mu in 1238.

**The Emergence of Book Markets**

According to Xue Zhongying's research, although commodity economy and books with the function of teaching knowledge were commonplace, book markets did not exist before the Han dynasty (206 B.C.—220 A.D.). The earliest book market seems to have come into being in the Western Han dynasty (206 B.C.—25) as recorded in *Sanfu huangtu* 三辅黄图 and *Sanfu jiushi* 三辅旧事:

When Wang Mang 王莽 [45 B.C.—23 A.D.] took the post of Steward-regulator of State [4 A.D.], he ordered ten thousand residences to be built for students [in the Imperial Academy]...and thirty for Erudites...To the east there was an *Always Full Granary*. To the north of *Always Full Granary* there was the *Locust Market*. Chinese locust trees were arranged in rows of several hundreds without walls and houses. All the students gathered together in the market on the first day and the fifteenth day of every lunar month, carrying goods from their Commanderies and classics, commentaries, notes, *sheng* 竿 [reed pipes], and other musical instruments for trade...

*Huaishi* (the locust market) was indeed the earliest book market recorded in Chinese history; according to the contemporary Chinese scholar, Xiao Dongfa 肖东发, the commercial circulation of Chinese books had began during the Western Han Dynasty. ²⁹

²⁸ Ouyang Xun 欧阳询 etc., *Yiwen leiju* 艺文类聚 (Shanghai: Shanghai guji chubanshe 上海古籍出版, 1965), Vol. 38, 693. See also Xue Zhongying 薛钟英, "Woguo gudai tushu maoyi shiye lishi chutan (han zhi manbeichao shiqi)" 我国古代图书贸易事业历史初探 (汉至南北朝时期) ("Research on the trade of ancient Chinese books from the Han to Southern and Northern Dynasties"), collected in *Chuban keyan lunwen xuancui* 出版科研论文选萃 (Anthology of Theses on Publication), ed. Zhongguo chuban kesue yanjiusuo 中国出版科学研究所 (Hangzhou: Zhejiang jiaoyu chubanshe 浙江教育出版社, 1992), 1082—1096.
Another kind of book market was the *shusī* 书肆 (bookshop), which was a rudimentary kind of bookstall set up outside mentioned as early as the Western Han dynasty in Yang Xiong’s *Fayan* 法言:

> The bookshops are fond of books but are not limited to the Confucian classics. 好书而不多诸私，书肆也。33

Wang Rongbao 汪荣宝 argues in his *Fayan yishu* 法言义疏 that *shusī* was perhaps the most ancient type of Chinese book market. We do not know when the *shusī* really did appear, but according to Lu Kanru’s 陆侃如 research, 31 Yang Xiong wrote *Fayan* in the second year of Yanshi (A.D.2), and so we can conclude that the *shusī* have existed for at least 2000 years.

During the Eastern Han dynasty, the study of Confucian classics was revived by the government, a move which stimulated the circulation of books so that *shusī* developed further. The wealthy and the poor alike frequented the book markets. One record states that:

> Chong [27—97?] was an orphan...He was poor and could not afford any books, but he often strolled about in the *shusī* of Luoyang... 充少孤...家贫无书，常游洛阳书肆…… 32

Another passage states:

> The descendants of the Liang imperial clan, some who were orphans and poor when young, sold books in the market for a living. 梁宗室子孙，而少孤贫，卖书于市以自负能。33

---

31 Lu Kanru 陆侃如, *Zhonggu wenxue jinian* 中古文学系年 (Chronological History of Medieval Chinese Literature), (Beijing: Renmin wenxue chubanshe 人民文学出版社, 1985), Volume 1, 26—27.
33 Ibid., Volume 80, 2635.
During this period, according to Xue Zhongying, *shusi* was only a basic form of book trading and not the more evolved type of bookshops managed by tradesmen later.

It should be noted that professional copyists, those who made their living by means of copying and selling book transcriptions, also appeared during the Eastern Han dynasty. For instance, in the biography of Ban Chao one passage states:

Ban Chao, accompanying Ban Gu [his brother] and his mother to relocate in Luoyang, often copied books by hand for the government to make a living because his family was poor.  
与母追随（班固）至洛阳，家贫，常为官写书以自资。

Another example of someone supporting himself by copying books is Wang Pu 王溥，

During the reign of emperor An, Wang Pu could not take a post in the government because his family was poor; therefore he bought bamboo slips and brushes and copied books by hand for *shusi* in Luoyang.  
及安帝时，家贫不得仕，乃买竹简笔于洛阳书肆佣书。

Copying books by hand was an important process in the history of book distribution before the invention of the block printing for it sped up the reproduction and circulation of books. However, it is unclear whether there were any laws or regulations governing the copiers' activities at the time.

Before the invention of printing, the commercial publishing industry, which mainly consisted of workshop printing and family based printing, did not exist. All the manuscripts and characters were written on wooden or bamboo slips, and later transferred onto silk or paper. Because the cost of transcribing books was high, the return of any investment was meager. Without a high economic incentive, according to some scholars, the proliferation of book circulation was stunted.

34 Ibid., 1571.
However, the historical material just cited reveals that the interest in transcribing books was relatively high and some scholars or even commoners could make their livings through copying books by hand, Ban Chao and Wang Pu being only two examples.

Because paper was invented in China, book markets emerged more easily in that country, while in Europe, this only took place about a 1000 years later. Since the book markets had existed for a long time before the invention of the block printing, the disputes between authors and reproducers which arose after the invention of the block printing were inevitable. However, the reasons why the phenomenon of copyright protection did not appear right after the emergence of book markets will be the topic of discussion in later chapters.
Chapter 2

Factors Contributing to the Emergence of Copyright Protection in the Song Period

Why did copyright protection arise in Song China and not after the emergence of book markets in the Han dynasty, or even around the time of the invention of block printing in the Tang dynasty? The reasons, I think, lie not only in the technology of printing and papermaking, but in the flourishing book trade and rampant piracy which were characteristic of Song society. I will analyze this problem in the following sections.

Invention of Printing

The invention of printing—the early stage of which was block printing—accelerated the speed of printing and circulation of books as we have mentioned in Chapter one. Only after the invention of printing, which made the mass production of copies for commercial purposes possible, did copyright as a property right become important and therefore begin to require protection. This might explain why copyright protection did not come into being after the emergence of book markets in the Han dynasty. Although book markets emerged in the Han dynasty, they were in an early stage; the quantity of book selling at that time could not match that of the Song period. In other words, without the benefits of printing technology, book markets before the Song dynasty had no role in accelerating the emergence of copyright protection.
When block printing emerged in imperial China is still a subject of much debate.¹ Ye Dehui argues that, although there is a common view that the emergence of books in wood block editions had not taken place until the period 882—954, it already existed during the years from 881 to 884.² The Korean scholar Ra Kyungjun argues that block printing was first used around the year 700 in China.

From the historical materials available today, for instance, the Jingangjing (Diamond Sutra) printed in 868, calendars printed in 877, and Jiannan Sichuan Chengdu Fanshang Jiali (The Family Calendar of Fanshang in Chengdu, Jiannan and Sichuan Circuits) printed in 882, we can learn that block printing was a method which was highly developed by the late Tang dynasty.

The invention of moveable type was a great revolution in the history of Chinese technology, although, it did not have as momentous consequences as it did in Europe.³ Movable type was, according to Shen Kuo’s Mengxi bitan (Writer Conversations from the Dream Stream), invented by Bi Sheng (1031—1095):

Under the Tang dynasty block printing, though carried out, was not fully developed. Under Feng Yingwan [Feng Dao], first the Five Classics and then all the Confucian Classics were printed. During the Qingli reign period [1041—1048], the commoner Bi Sheng invented moveable type...

¹ For detailed information, see Wei Yinru Zhongguo gujiyinshua shi (History of the Printing of Ancient Chinese Books), (Beijing: Yinshua gongye chubanshe, 1988), 32—35.
² Ye, Discourses on Chinese Books, Volume 1.
⁴ Shen kuo, Mengxi bitan (Writer Conversations from the Dream Stream), (Taipei: shijie shuju 世界书局, 1962), Vol. 18.
There were three basic procedures in the use of movable type—making characters, typesetting, and printing. This technology also involved the methods of making a large number of the characters in common use and making rare characters. According to our records, the material Bi Sheng used to make the characters was ceramic, so his method is known as ceramic type printing.

Movable type was developed and became widely used during the Song dynasty. For example, in 1193, Zhou Mi 周密 of Lu Ling 庐陵 printed his own works *Yutang zaji* 玉堂杂记 (Miscellanies of Jade Hall) with the technology of movable type, an event recorded in his “Yu Cheng Yuancheng geishi zhazi” 与程元成给事札子 (“Letter to Cheng Yuancheng”):

> Recently I applied the method that was recorded by Shen Kuo, shifting and arranging the ceramic types on the copperplates in order to copy and print; today I happened to have finished *Miscellanies of Jade Hall* [in 28 volumes]; may I bother you to inspect it...

According to Ra Kyungjun’s research, after ink, paper and block printing technology were introduced from China to Korea, Korea became the earliest country in the world to invent metal type printing. Metal type printing appeared in Korea in the first half of the thirteenth century during the peaceful period of military rule prior to the Mongol invasions i.e., during the years from 1200 to 1231.

According to some Chinese scholars, however, copperplates had also appeared in the printing industry of Song China at the same or on earlier time. For instance, Yue Ke 岳珂 wrote in one of his works *Jiujing sanzhuan yange li* 九经三传沿革例 (The History of

---

5 Zhou Bida 周必大, *Zhou yi wenzhonggong ji* 周益文忠公集 (Collected Works of Zhou Bida), Volume 198.
the Nine Classics and Their Three Commentaries) that his family had in its possession a collection of copperplates made in the Late Jin dynasty (936—946).  

Furthermore, the paper currency, the huizi 会子, which was circulated during the Song period was printed with copperplates (examples of which can still be found in the Shanghai Museum today).  

In addition, Ma Duanlin 马端临 (1254－1323) also mentions copperplates in his Wenxian tongkao 文献通考 (A Comprehensive Study of Historical Literature).  

What we are certain about is that printing technology itself was invented during the Tang dynasty and that it further developed during the Five Dynasties and reached its full potential under the Song dynasty, its quality being improved by the use of copperplates.  

Advanced Papermaking

The development of papermaking technology during the Song dynasty also accelerated the maturation of printing and book printing. Firstly, the materials for papermaking were abundant—as far as we know, all kinds of flax, bamboo, mulberry bark, rattan, bryophyte, wheat straw, and rice straw were raw materials for papermaking; secondly, the production of papermaking increased considerably; and thirdly, the paper was of good quality and of many different varieties.

---


7 See Yan Yiquan 燕义权, "Tongban he taoseban yinshua de faming he fazhan" 桐版和套色版印刷的发明和发展("The invention and development of copperplate and chromatography"), in Zhongguo kexue jishu he keji renwu lunji 中国科学技术发明和科技人物论集 (Shanghai: Sanlian shudian 三联书店, 1955).

8 Ma Duanlin 马端临. Wenxian tongkao 文献通考 (A Comprehensive Study of Historical Literature), (printed by Guanwu zhai 贯吾斋, 1902), Volume 9, 26.

Paper was categorized into different standards depending on the material it was made of as well as its place of production: Guangdu paper from Guangdu (Sichuan Province), Youquan paper from Hangzhou (Zhejiang Province), Baichao paper from Fuzhou (Jiangxi Province), Puqi paper from Hubei Province, pepper paper from Jianyang (Fujian Province), tribute paper from Xin’an (Huizhou, Anhui Province) and so forth.

It is important to note that bamboo paper was popularly used in the publishing industry because of its weight and texture. As Jiatai kuaiji zhi (Gazetteer of Kuaiji in the Jiatai Reign Period) records, bamboo paper has five advantages:

Firstly, it is smooth; secondly, it enhances the color of the ink; thirdly, it is suitable for brush writing; fourthly, it keeps the ink from fading, enduring much folding and unfolding of the paper; fifthly, it is moth-proof.

The wide availability of paper made it possible for book printing to achieve even wider success. From then on, with the development of the new technology, the cost of producing and disseminating books was greatly reduced. The commercial publishing industry enjoyed high profits, and many book workshops were set up to print and vend books.

**Flourishing Bookshops**

---

10 Shen Zuobin 沈作宾 and Shi Xiu 施修, Jiatai kuaiji zhi 嘉泰会稽志 (Gazetteer of Kuaiji in Jiatai Reign Period), (Taipei: Dahua shuju 大化书局, 1987), Volume 1. More records of the development of papermaking in Song China can also be found in Xu Song 徐松, Song huiyao jigao 宋会要辑稿 (A Draft Collection of the Major Song Events), (Beijing: Zhonghua Book, 1957), 18—33 (The Thirty-third Article of Economy 27).
Bookshops filled the streets of cities during the Song dynasty, especially in the commercial districts of such cities as Jianyang, Meishan and Hangzhou, where books had become important commodities. In Jianyang, for instance, where many bookshops had already been established during the Tang dynasty, the book trade flourished even more during the Song dynasty. The books printed in Jianyang were called "Jianben" ("Jian editions") and were mainly manufactured in the two workshops of Masha and Chonghua. Jianyang was also known as "The Capital of Books." 11

Hangzhou was another city known for bookshops, according to the records in such books as Nai Deweng’s 邵殿增 Du cheng ji sheng 都城记胜 (Beauties of the Capital), Wu Zimu’s 吴自牧 Meng liang lu 梦梁录 (Records of the Dreams of Past Splendors), Xihu Laoren’s 西湖老人 Fan sheng lu 繁胜录 (Records of the Grandeur) and Zhou Mi’s 周密 Wulin jiushi 武林旧事 (Old Stories of Hangzhou). With the development of the economy, a private ownership mentality came into being during the Song dynasty. It is not surprising, then, that copyright protection emerged and that it was granted to some bookshop owners who had rights to certain books.

The contemporary scholar Chu Chuan-yu sums up the significance of movable type and book printing for Song society in his “A History of Chinese Journalism in the Song Dynasty”: “The collected prose and poetry of respected authors, volumes of sample examination answers, collections of edicts and memorials, histories—the whole

---

foundation of a scholar’s or an official’s education—were now to be had, if not always quite legally, as objects of commerce.”

**Rampant Piracies**

A contemporary Chinese scholar, Kong Zhengyi, of Anhui University, has done research on the conditions of copyright protection for both governmental and non-governmental publications and suggests the following reasons for the emergence of copyright protection in Song China: (1) the development of the whole publishing industry; (2) the invention of block printing; and (3) the government’s policy of forbidden books. In my view, both technology and economic factors were responsible for the emergence of copyright protection in Song China. However, the rampant piracy which had taken place at this time was the most vital factor, for piracy had at that time raised the author’s awareness of rights protection.

Through examining some famous writers’ collected works in Song China, we see that it was not uncommon that authors were victims of piracy. One example was Li Gou 李觊 (1009—1059), a famous thinker in the early period of the Northern Song dynasty. He said in his “Huangyou xugao xu” (Preface to a Continuation of Works of the Huangyou Reign Period) that:

> In the autumn of the third year of Qingli [1043], I collected together what I had written and named my book *Tuiju leigao* 退居类稿 [Works after My Retirement, in 12 volumes].

---


years later, more than a hundred of articles were added to it. I do not know who reprinted it without my authorization. It was printed with many errors and entitled Waiji [Extra Works], something which risked universal condemnation. I resent what they did but I am unable to change it.

Another example is the historian Sima Guang 司马光 (1019—1083). In 1145 Sima Ji 司马伋, Sima Guang’s great-grandson and an administrator of the Military Commission in Liangzhedong Circuit, wrote:

Sima wengong jiwen 司马温公纪闻 [Records of What We Heard from Sima Guang] was printed in Jianzhou recently; it relates political affairs which took place during the former reign period. I have privately compared it to my [paternal] great grandfather’s daily writings, but, there is no mention of these affairs in my grandfather’s version; his signature was forged to facilitate the sale of the pirates’ books.

Zhu Xi 朱熹, one of the most famous neo-Confucian thinkers of the Southern Song dynasty, was perhaps the worse victim of piracy in his age, since four of his books were printed without his authorization. The first one is Sishu huowen 四书或问 (Questions on the Four Books), which was pirated before the year 1177. Zhu Xi wrote:

I had not disclosed my manuscript to anyone, but, some bookshops had already published their version. I urgently requested the County Magistrate to confiscate the blocks, the book had been secretly circulated and copied by some scholars.

未尝出以示人。时书肆有窃刊行者，亟请于县官追索其板，故惟学者私传录之。16

The second work is Lunyu jizhu 论语集注 (Collected Commentaries on the Analects),

15 Xu Song, “Punishment and Law 2”.
I wrote it ten years ago, and it only circulated among my friends. The local people then printed it without my authorization. When I learned of this, it had already been distributed in faraway places and could not be withdrawn."

The third book was *Lunmeng jingyi* 论孟精义 (*Succinct Principles of the Analects and Mencius*). This book was originally printed and sold by Zhu Xi himself, but due to its popularity, it was reprinted by a stationer in Yiwu, Zhejiang Province. In a letter to Lu Zuqian 吕祖谦 (1137—1181) Zhu Xi wrote:

I will write as briefly as in my last letter. I asked you for help before the end of last year, but I don't know whether my letter reached you. I mentioned that my *Succinct Principles* had been pirated by a man in Yiwu without my authorization. I wonder what's happening. It is said that the man is from Yiwu. Someone urged me to write to the man and stop him in accordance with precedent. I really do not want to do that. But the book's publication had already cost me a huge sum of money, and many friends have helped me. The book has just begun enjoying popularity and it suddenly has been pirated, which is most unfair to me. I must bother you to look into this case for me; if you could ask him to desist, he will certainly heed you. If he still does not agree, I will bring a plaint and bother you to send it to Shen Zhang’s [洪大全] office. I wish you would act as soon as possible. If we stop the man before he invests a lot of money, it will cause less harm to both him and me. I also wanted to write to Shen Zhang, but I was afraid this matter would not be resolved as promptly as it should. I do not wish to bother him many times, so would you write to him to communicate my concerns? I may seem petty in asking you to do so, but I cannot help this for it is a matter of my own survival. May my intentions be forgiven.

The fourth pirated book is *Lunmeng jie* 论孟解 (*Commentary on the Analects and Mencius*) according to what Zhu wrote in “Da Su Jinsou” 答苏晋叟 (“Reply to Su Jinsou”):

---

17 Ibid.
Commentary on the Analects and Mencius was then printed by people in Jianyang without my authorization. When I just wanted to destroy [the pirated version], I heard that the vendors had begun to sell the book everywhere.

The fourth author whose works were the target of piracy was Fan Jun 范浚 (1102—1151), a famous Confucian scholar from Zhejiang. At the beginning of the Southern Song dynasty, he brought a lawsuit against a bookshop in Jianyang, which had printed a book named He yuanyou fu 和元祐赋 under his name. This book was circulated everywhere without his authorization. Fan Jun wrote in “Da Yao Lingsheng shu” 大姚令声书 (“Letter in Reply to Yao Lingsheng”) that:

He yuanyou fu was carved into wood blocks and sold everywhere under my name.

And that he

Registered a complaint with the officials of Jianyang and [the officials] issued an order to destroy the [pirate's] blocks.

The fifth author whose works were pirated was Hong Mai 洪迈 (1123—1202). He did not know that until the emperor Xiaozong informed him at court that his Rongzhai suibi 容斋随笔 (Essays of Rong Study) had been pirated by printers in the book market;

A sixth example is Su Shi 苏轼 (1037—1101), whose poems and prose works were frequently reprinted illegally by bookshops. It is said that more than twenty of his writings were targets of piracy. There were also some craftsmen whose livelihood

---

19 Zhu Xi 朱熹, Zhuwengong daquan wenji 朱文公大全文集 (Complete Collected Works of Zhu Xi), volume 55.
21 Hong Mai 洪迈, Rongzhai suibi wuji 容斋随笔五集 (Five Continuations of Rong Studies), (Beijing: shangwu yinshuguan 北京商务印书馆, 1959), Volume 5, 1.
depended mainly on carving the blocks for printing the collected works of Huang Tingjian (1045–1105) and Su Shi.\textsuperscript{22}

Under these circumstances, the owners to the rights of certain books tried to apply to the government to grant them copyright protection and to guard their own interests, examples being Zhu Xi and Zhu Mu’s family (These have been mentioned in the introduction and will be discussed in more detail in chapter 4).

In the above examples of piracy, some authors worried that the integrity of their works and their academic reputation would be harmed if the piracies were ignored. This situation is clear in Su Shi’s “Da Chen Chuandao” \textit{答陈传道} (“Letter in Reply to Chen Chuandao”):

\begin{quote}
At the time I was worried that people in the cities are running after profit and are fond of printing my humble creations; I wish to destroy their wood blocks, but, I am afraid that this may result in more people printing them. Therefore I decided that I will select a few better ones from all my old poems and other literary writings and compile them into an anthology when I am a bit free… there are not only many errors in them, but there are omissions, as well as works written by others in my style which are circulating in book markets.
\end{quote}

In summary, we can conclude that the examples of piracy can be divided into five categories: (1) printing or reprinting books without the author’s authorization; (2) deleting contents from an original work; (3) adding some contents to the original work; (4) changing the title of a book; and (5) reprinting a book under the name of a famous author to increase sales.

\textsuperscript{22} Guo Mengliang, “Zhongguo banquan wenti tanyuan”, 31.
It is interesting to note that the Song law books were also vulnerable to piracy, although the Song government strictly prohibited such practices. (I will analyze this in chapter 3). On the twenty-eighth of the first lunar month of 1042, an official of Hangzhou Prefecture wrote in a memorial that:

Zhai Zhaoying, the County Magistrate of Renhe County, changed the name of Xinlong lushi [Commentary on Criminal Law] to Jingke zhengyi 金科正义. He carved Jingke zhengyi into wood blocks and printed it to sell.

At last the county magistrate “was interrogated and was found guilty by the Fiscal Commissioner; and his blocks were destroyed.” This county magistrate was so audacious that he dared to distort and reprint the books on law for profit without authorization, an unusual form of the rampant piracy of the age.

Ye Dehui noticed that:

Public morals had worsened day by day; if a good edition become popular, it would certainly be reprinted and circulated.

He concluded that:

It truly does harm to scholars if the bookshops recarve the wood blocks of others.

In summary, the reasons why the owners of copyrights applied to the government for protection of their works were: (1) for their economic interest, as in the case of Zhu Xi; (2) for their academic reputation, as with Li Gou, Su Shi and Fan Jun; (3) for political reasons, as in the case of Sima Guang. Copyright protection of legitimate publications became an inevitable trend.

\[24\] Xu Song, “Punishment and Law 2”.
If one looks at the conditions of copyright in early Europe after printing was introduced, one can learn that as the new industry grew, the competition between booksellers became fierce and manuscripts became harder to acquire. To gain an edge, booksellers sought the support and patronage of the Crown. At the same time the Crown feared the press’ power to encourage insurrection; and thus it granted to its chosen favorites the sole right to print a special title. These grants were the letters patent which are very similar to today’s intellectual property law.

In early modern European countries, because of the competition among the printers, the exclusive right to publish was granted to the publishers, while in Song China, due to piracy, the authors and the publishers had to apply to the government for copyright protection.

Therefore Ye Dehui argues that:

It can be seen that only a few individuals who printed books applied to the local government to forbid their books from being reprinted by other bookshops at that time and had not become common practice or something that everyone had to follow. Only some powerful families who collaborated with one another realized their aspirations.

We are not certain whether these “powerful families” had been organized into guilds by this time. The Chinese imperial government was stricter than those of early modern Europe, and the Western guilds had more functions and powers than those of Song China. Although some results of research on the guilds of Song China are available now, the relationship between guilds in the printing industry and the Song government are still unclear; we are not sure that the copyright protection of nongovernmental...
publications (to be discussed in chapter 4) was the result of the Song government's interest in controlling the nongovernmental publishing industries or not.
Chapter Three

Guanke and Its Copyright Protection

Introduction

Book printing became highly developed in the Song dynasty. On one hand, imperial governmental offices on all levels printed books (i.e. guanke 官刻, government-printed books), on the other hand, fangke 坊刻 (workshop-printed books) and jiake 家刻 (family-printed books) increased as well. These three were like the legs of the tripod of the printing industries, which was also stimulated by Bi Sheng’s invention of movable type during the period.

In order to deal with the external troubles on its northern and northwestern frontiers, the Song government enforced its rule over the nongovernmental printing industries that were mainly made up of the jiake and fangke. In this period, some authors of commercial publications and owners of bookshops began to apply to the government for copyright protection of their publications. But the protection granted by the government at that time placed more emphasis on governmental publications rather than nongovernmental publications, as recorded materials indicate. However, whether the copyright protection granted to governmental publications is, in the strictest sense, like the copyright law of the modern age remains unclear. Unlike governmental publications, nongovernmental publications enjoyed protection rights similar to those known to us today.
**Guanke**

*Guanke* refers to books printed by the imperial governmental offices on all levels. The main central governmental offices which published books, besides the *guozijian* 国子监 (the Directorate of Education), were the *mishujian* 秘书监 (the Director of the Palace Library), the *sitianjian* 司天监 (the Director of Astronomy) and the *chongwenyuan* 崇文院 (the Institute for Veneration of Literature). Each had its own character, usually related to its governmental functions. Some organizations maintained their own printing workshops. During the Song dynasty, the Directorate of Education was in charge of publication affairs and it was the most important organ for publication at that time. It set up the *yinshu qianwusuo* 印书钱物所 (the Publications Office), a special office to print all kinds of books. The books the Directorate of Education printed were called “jianben” 监本 (“the Directorate of Education editions”).

The local governmental offices which printed books were the *chayansi* 茶盐司 (the Tea and Salt Supervisorate), the Tax Transport Bureau, the *tixingsi* 提刑司 (the Judicial Commission), the *anfusi* 安抚司 (the Military Commission) etc. *Zhouyi zhushu* 周易注疏 (*The Annotation and Subcommentary on the Book of Changes*) and *Shangshu zhengyi* 尚书正义 (*The Rectified Interpretation of the Classic of History*) are two books (still found in the Beijing Library) which the Tea and Salt Supervisorate printed in Liangzhedong Circuit during the Song dynasty. *Fu* 府 (Prefectures), *xian* 县 (Districts), schools in

---

1 The Institute for Veneration of Literature had become the editing centre of publications during the Song dynasty. For extended discussion, see Zhang Hongwei’s 章宏伟, “Liangsong bianji chuban shiye yanjiu” 两宋编纂出版事业研究 (“Research on publications during the Northern Song and Southern dynasties”), *Journal of Shandong University (Philosophy and Social Sciences)*, Vol. 4 (1997): 33—38.
Superior Prefectures, *jun* 军 (Military Prefectures) and academies of classical learning in local areas also printed their own books.²

It is important to note that when the Jin (1115—1234) army invaded and destroyed the Northern Song dynasty, all the wood blocks and type letters used for printing in the Directorate of Education were destroyed. When the Southern Song dynasty was founded in 1127, neither the Directorate of Education nor other central organs were able to reprint books. So the government searched for the old Directorate of Education edition books and asked the local governmental offices in Lin'an Superior Prefecture and Liangzhe, Lianghuai and Jiangdong Circuits to carve new wood blocks and submit them to the Directorate of Education for reprinting. Consequently, large numbers of books that were found were reprinted and then sold in the local areas mentioned above. Thereby, the local governmental offices' printing industry was renewed and actually prospered.

At the beginning of the Northern Song dynasty, the government promoted cultural affairs and education while restraining military activities. The Song government's national policy was to "influence the world with its advanced civilization 以文化天下". The Northern Song government reproduced almost all the books of Confucianism, Taoism and Buddhism. During this period, many *leishu* 类书 (encyclopedia) ³ and *congshu* 丛书 (a series of books) were compiled by the Song government.

The Song government’s regulations regarding publishing can be divided into two groups: one group forbade nongovernmental printing firms from reprinting books which

---

² Wei Yinru 魏隐儒, *Zhongguo gujiyinshu shi*, 47.
³ A class of works combining to some extent the characteristics of encyclopaedias and concordances—embracing the whole field of literature, methodically arranged according to subjects and each heading giving extracts from former works on the subject in question; e.g. *Taiping yulan* 太平御览, *Wenyuan yinghua* 文苑英华 and *Cefu yuan'gui* 册府元龟.
had been previously granted governmental printing patents; these governmental offices monopolized the exclusive rights to print certain kinds of books. The second strictly banned the production and the dissemination of books which might threaten the government’s authority.

Debate over Whether the Books Printed by Governmental Offices Were Banned from Being Reprinted

Chinese scholars have held conflicting views over whether the books printed by governmental offices were absolutely banned from being reprinted.

Ye Dehui states that:

Of all the books printed by the governmental offices, prohibition of their reprinting never existed.

He further argues that:

During the Song dynasty, scholars were permitted to use the blocks carved by the Directorate of Education to print but had to buy their own paper and ink.

To prove his point of view, Ye Dehui cites a proclamation issued by zhongshu menxia 中书门下 (the Secretariat-Chancellery) which was attached to an edict issued in the third year of Yongxi (986) granting scholars rights to print Xu Shen’s Shuowen jiezi (Etymological Dictionary of Chinese Characters), which states:

*Shuowen jiezi* written by Xu Shen in the Eastern Han dynasty appeared with numerous errors owing to its being copied many times over the ages, so we cannot take it as a source for studying “Liushu” [The six classes of Chinese characters] now. If we do not collate it again, I am afraid it will lose its original appearance gradually. Therefore I commanded Confucian scholars to explain the origin and development of “zhuanzhou” (seal characters and

---

2 Ibid., Volume 6.
another style of calligraphy, used in the Zhou dynasty (c. 11th century–256 BC) and to put these together in detailed footnotes. People like the minister Xu Xuan [sānqì chángshì 散騎常侍 (a Policy Adviser), 916—991], are proficient in the history and have in depth knowledge of former scholars' ideas; indeed they can deliberate about the disputes, supply the omissions and correct the errors. I am satisfied with what they memorialized after finishing the book which should be printed and circulated, since the book will be used as a manual for scholars from our dynasty, and so on forever. The book should be handed to the Historiography Institute, and I also command that the Directorate of Education carve it into blocks for printing following the stylistic rules of the Nine Classics. Grant scholars funds for paper and ink to obtain the book. Simultaneously appoint scholars such as Xu Xuan to collate and carve the blocks to avoid errors that will adversely affect later generations.

Besides this example, Ye Dehui also cites proclamations attached to books such as Houhan zhi 后汉志 (Annals of the Later Han Dynasty) issued by the Secretariat-Chancellery, printed in 1022, Liujing shuyi 六经疏议 (Annotations of the Six Classics) printed by yuṣì 府司 (alternative name of 提举常平司 or 司仓, the Supply Commission) in Fujian Circuit in 1132, and Wujing 五经 (Five Classics) printed by the academy of Xing Guo Military Prefecture in 1216 to prove his point of view.

Furthermore, Ye also cites the proclamations attached to the five medical books, Qianjin yifang 千金翼方, Jinkui yaolue fang 金匮要略方, Wangshi maijing 王氏脉经, Buzhu bencao 补注本草, and Tujing bencao 图经本草, produced by the Directorate of Education in 1096, to support his contention. Lastly, he draws the conclusion that the books printed by the governmental offices were not all prohibited from being reprinted.

From what was written in Discourses on Chinese Books, one may be inclined to adopt the view that books printed by the governmental offices could be reproduced. But many prohibitions of reprinting books printed by the government are found in the Tang

\footnote{Ibid., Volume 2.}
Dynasty, although they were not acknowledged by Ye Dehui. For instance, in the year 835, the jiedushi 节度使 (the Imperial Commissioner) of Eastern Sichuan, Feng Xiu 冯宿 (767－837), proposed in a memorial that an imperial edict forbid the printing of calendars by wood block.

Jiannan [modern Sichuan], the Two Chuan and Huainan [lower Yangtze valley] printed all calendars by means of wood block and sold them in the market places. Each year, before the Bureau of Astronomy memorialized the Throne suggesting the promulgation of the new calendar, these printed calendars had already been disseminated all over the country. That is contrary to the rule of respectfully handing over the new calendar for approval by the emperor. 每岁司天台未奏颁下新历，其印历已满天下，有乖敬授之道。7

This was ratified by the emperor Tang Wenzong:

Instruct all Circuits and Superior Prefectures not to carve the blocks for printing calendars without authorization.

This is the first prohibition of printing books issued by the government, recorded among the existing historical documents of imperial China.

On the second lunar month of 1071, the emperor Song Shenzong issued an edict:

Instruct the common people not to print calendars without authorization; all calendars should be printed and vended by governmental offices themselves appointed by the Director of Astronomy, and all the profits they earn shall go to support the organizations under the Director of Astronomy.

The printing of Confucian classics in the Song dynasty was also the monopoly of the imperial government which carried out the policy of granting the printing patents. For instance, the Nine Classics, carved during the Five Dynasties (907－960) by the

7 Wang Qiruo 王钦若 etc., Cefu wuyang diwangbu gebi er《册府元龟》卷一六零《帝王部·革弊二》 (Eliminate the maladministration in contents of Emperors in Cefu wuyang), (Beijing: Zhonghua Book, 1960), volume 160, 1932.
8 Liu Xu 刘昫, Jiutangshu wenzong benji 《旧唐书》卷十七《文宗本纪》 (Basic annals of emperor Wenzong in the Old History of the Tang Dynasty), (Beijing: Zhonghua Book, 1975), volume 17, 563.
9 Xu Song, A Draft Mollection of the Majors Song Events, Zhiguan 职官十八之八十四 (“The Eighty-fourth Article of Government 18”).
Directorate of Education, could not be reprinted as recorded by Lo Bi 罗璧 (a Southern Song scholar):

Before the years of the Zhiping reign period [1064–1068], the Nine Classics were still prohibited from being reprinted without authorization; anyone who wants to reprint them must apply to the Directorate of Education for authorization. This policy was in effect until the years of Xi’ning [1068–1077].

治平以前，犹禁榷雕，必须申请国子监，熙宁后方弛此禁。10

Reasons for not Banning the Reprinting of Materials

From today’s perspective, calendars and medical books are intellectual as well as cultural information accumulated over many generations.11 The way of expressing calendars is fixed and there is no possibility of expressing them in any other way, in other words, astrology are in the realm of science. If we grant exclusive rights to these kinds of cultural or intellectual byproducts, their dissemination will be hindered. Creations such as calendars should not be granted exclusive copyrights.

Ye Dehui explains in Discourses on Chinese Books that medical books had been an exception in the Song dynasty. Because medical books are indispensable to doctors, medical book collections such as Qianjin yifang fell into this category. Ye argues that:

Because the books were printed in big characters, the doctors could hardly afford them. Another reason is that they were rarely available, especially in the remote superior prefectures and military prefectures. So the government promulgated them by carving them into blocks with small characters, proofread them and made them available for sale. This policy was to be carried out in the remote superior prefectures and military prefectures.12

10 Luo Bi, Gleaning, Vol. 1, 5.
11 Some scholars might agree with the view of medical books as a category of intellectual property of fixed expression.
12 Ye, Discourses on Chinese Books, Vol. 6
Although medical books were reprinted by governmental organizations, reprinting by individuals and the owners of bookshops did not violate the books' copyrights.

The issuing of calendars, however, was the prerogative of the emperor whose power was granted by heaven. Reprinting calendars without authorization was prohibited because it violated the prestige of the imperial authority. In addition, owing to the financial benefits gained by printing calendars, the imperial government wanted to grant the patents of calendars to the organizations under its direct control.

In my view, the prohibitions of reprinting calendars and Confucian classics were more the result of the Song government's strict policy of *shujin* (the prohibition of book reproduction); limiting the reproduction had little to do with the government's intentions to enact a copyright law.

*The Strict Policy of Shujin in the Song Dynasty*

At the beginning of the Song dynasty, the control of the printing industry was more relaxed. With the development of the nongovernmental publishing industry, some owners of *shufang* were constantly expanding the scope of publication rights, which unfortunately conflicted with the government's policies in the area of culture and education. At that time, the long confrontation with the Liao (907—1125), Xixia (1032—1227) and Jin states increased the Song dynasty's concern for keeping military intelligence secret. Therefore, the government's press policies changed during the Northern Song, and there was a tightening of its rules regarding nongovernmental publishers.
After the “Chanyuan zhimeng” 漢淩之盟 (“Treaty of Chanyuan”, 1005) was signed, the exchange of culture and trade between the Song and Liao governments developed, and books became important commodities in “Quechang” 置場 (“government monopolized markets”). However, since some books being sold at the time contained the Song government’s military secrets, the Song government issued a regulation in 1006 which states:

Commoners are forbidden to take and sell books which are not in the list of Nine Classics and their annotations to the monopolized markets in the borders; if anyone is found violating the rule, he shall be sentenced and his books shall be confiscated. 民以书籍赴沿边榷场货易者，自非九经书疏，悉禁之，违者案罪，其书没官。 13

Although the government rigorously forbade the trade of books with Liao, owing to the huge interests and revenues generated through the vending of books at the borders, many books recording national and military secrets were circulated and eventually some managed to make their way to the Liao state. During the years of the Tiansheng reign period (1023–1031), this situation became more serious. One passage reads:

Ever since the Treaty of Chanyuan was signed, the Liao state has been dispatching its diplomatic envoys to our country every year. And in the monopolized market in Xiongzhou 雄州, trade and tourism contacts with the Liao state are numerous. Therefore, the collected works written by the ministers in our dynasty which included some materials related to our defense and other kinds of confidentialities, were spread and circulated to the Liao state. 北戎和好以来，岁遣入使不绝，及雄州榷场，商旅往来，因此将皇朝臣僚所撰文集印本传布往还，其中多有论说朝廷防边御敌事宜。 14

This condition forced the Song government to amend its policy concerning the exportation of books to one of a tighter control of book production within the country. According to the research of Zhou Baorong 周宝荣, a contemporary scholar in Henan Province, the Song government therefore established a censorship system in which the

---

13 Li Tao 李焘, Xu zizhi tongjian changbian (Continuation of the Complete Mirror for the Aid of Government), ed. Yang Jialuo 杨家骆, (Taipei: shijie shuju 世界书局, 1962), Article one of Volume 64.
14 Xu Song, A Draft Collection of Major Song Events, Xingfa 刑法二之十六 (“The Sixteenth Article of Punishment and Law 2”).
nongovernmental publishing industries had to submit their work for scrutiny in order to prevent the country's intelligence from being leaked.\(^{15}\)

Emperor Renzong of the Northern Song dynasty issued an edict in 1027 which states:

> From now on, anyone who prints collected works shall apply to the government for permission, submit a sample of works which are to be printed, and await for the result of the detailed review of the assigned official examiner. If the works are not inappropriate, then they will be permitted to be carved into blocks and printed. Anyone who violates the rule shall be punished according to the law and the printing blocks shall be forfeited and smashed in the presence of officials.

From this edict we can learn that the censorship system during the reign period of emperor Renzong was in its formative stage. The range of books which had to be submitted for examination was limited to collections and the procedure for scrutiny was relatively simple. Although it played the important role of preventing the divulging of the Song government's national military secrets, it was unable to block completely the increasingly dynamic book trade between the Liao and Song areas during that time. Some ministers noticed this condition and paid more attention to these violations; for instance, Ouyang Xiu 欧阳修 (1007—1072) pointed out that:

> Your servant acknowledges that our government has accumulated many strict prohibition orders regarding printing which are indeed in place. Yet the fact that books are still being printed, particularly more recently, is perhaps because the book tradesmen do not operate within the boundaries of regulations.

\(^{16}\) Xu Song, "The Sixteenth Article of Punishment and Law 2".

\(^{17}\) Ouyang Xiu 欧阳修, Ouyang wenzhonggong (Collections of Ouyang Xiu), (Shanghai: Shanghai shudian 上海书店, 1989), Volume 108.

---

\(^{15}\) Zhou Baorong 周宝荣, "Beisong guanfang dui minjian chuban de guanzhi" 北宋官方对民间出版的管制 ("Control over nongovernmental publication during the Northern Song Dynasty"), Zhongnan minzu daxue xuebao 中南民族大学学报, (November 2002): 73—75. As for the censorship system, it is translated from "shugao shencha zhidu" 书稿审查制度.

\(^{16}\) Xu Song, "The Sixteenth Article of Punishment and Law 2".

\(^{17}\) Ouyang Xiu 欧阳修, Ouyang wenzhonggong (Collections of Ouyang Xiu), (Shanghai: Shanghai shudian 上海书店, 1989), Volume 108.
Therefore, Ouyang Xiu sent a memorial to emperor Renzong to request that the collection *Songwen* (Works of the Song Dynasty) be banned from reproduction. He said in the conclusion of his statement that:

An edict should be issued to the Commanders and the Superior Prefecture of Kaifeng that blocks and books printed ought to be confiscated and be burned and smashed. Afterward, if anyone shall print any collected works without authorization, copies cannot be sold. If bookshops or anyone exposes a violation, the denouncers will be awarded two hundred guan wen which would be paid by the violator’s family. The perpetrator who sells the books shall be severely punished. It is worthwhile to know that this is a [crime] that can be stopped.

Ouyang Xiu’s suggestion was adopted by the court; emperor Renzong issued an edict in 1040 to the Superior Prefecture of Kaifeng which resulted in the arrest of all (which included the owners of *shufang* in the capital without licenses) who carved blocks and sold books related to military secrets.  

Su Zhe (1039—1112) was another person who made as great a contribution as Ouyang Xiu to the establishment of the censorship system of the Song dynasty. In the eighth lunar month of 1089, soon after his return from Liao as an envoy, Su Zhe stated in his memorial to emperor Zhezong that:

Your servant is afraid that all the writings printed by the common people in our country are widely disseminated to the Liao...Among them there are many memorials by your subjects and essays on current affairs by our scholars, which relate the success and failure of our government or the advantages and disadvantages of military affairs. The ignorant people intent on nothing but profit, print jokes and obscenities and they reach everywhere. If all of them are spread and circulating in the Liao, these prints not only divulge our secrets, but they have become also a laughing matter for those barbarians. This is absolutely inappropriate.

He suggested that:

---

18 Ibid.
19 Xu Song, “The Fourth Article of Punishment and Law 2".
Forbid the commoners to carve blocks for printing. Command them to submit the books to be printed for government approval. The Superior Prefectures should authorize two literary officials to examine the material and decide whether it should be published or not; these officials should have a time limit set for them in accordance with the number of words, during which they can examine and decide [about the books]. If the book does not violate the above rule, it shall be granted the right to print.

In his memorial, Su Zhe emphasized that:

Re-enact the regulations concerning printing without authorization and careless approval of materials. The books which have been published now should be re-examined by authorized officials to decide if they have violated rules, and if so, the blocks of books shall be destroyed and disposed.

After emperor Zhezong read Su Zhe’s memorial he responded with his approval, which stated that:

All the articles which discuss the success and failure of political situations of current time, military secrets and what occurs in our frontiers should not be recorded and circulated; the collected essentials and veritable records of our dynasty should not be carved into blocks for printing either. Anyone who violates the rule will be imprisoned for two years. Anyone who lodges an accusation against the perpetrator will be awarded a hundred thousand copper cash. The internal dynastic history and veritable records should not be recorded and circulated either. Books which are permitted to be printed should be certified by the selected officials. And only those which really benefit scholars can be carved into blocks for printing. After obtaining approval, the printer must submit the sample to the Palace Library. If the selected official does not examine it in an appropriate manner, the book will be examined again. All the books with jokes and obscenities shall not to be printed; anyone who violates the rule will be subjected to a hundred blows. I authorize the Superior Prefectures and Districts, jiansi [Circuit Supervisor], Directorate of Education to supervise and to investigate these matters.

Thus the so-called censorship system of the Song dynasty was established. If we compare this more evolved system to the preceding Tiansheng period, it is quite rigorous and more complete. Firstly, the government broadened the range of books which should be examined before production. The regulation now required that all the publishers

---

21 Xu Song, “The Thirty-eighth Article of Punishment and Law 2”.
submit book samples for government approval prior to printing. Secondly, the government toughened its punishment for violators; lastly, the government strengthened the function of Superior Prefectures and Districts, Circuit Supervisors, Directorate of Education to investigate illegal behavior.

During the Song dynasty, besides criminal laws, articles about the political situation of the period, confidential information about the frontier, shiwen (a prescribed essay form for the civil service examinations) and poetry relating to political controversies were also in the list of prohibited printing. In the sixth lunar month, 1193, some ministers submitted a statement that:

The memorials of ministers, the regulations and membranes of Taijian [i.e. the Censorate], the offering of official posts, the stylized essays of the scholars, stratagems and confidential plans which cannot be revealed, now are circulated in the markets and streets. They were printed by shufang and circulated everywhere, which caused inconvenience, so we beg to prohibit this strictly. If the books have been carved into blocks or printed, they should be investigated and confiscated, and be burnt and destroyed at once in the presence of the officials. The names and numbers of books that have been burnt and destroyed should be submitted to the shumiyuan [the Bureau of Military Affairs]. From now on, if anyone wants to carve blocks for printing books, the books should be examined by the officials authorized by the Superior Prefectures and Districts before being printed. Still authorize tongpan [the Controller-generals] in all Superior Prefectures to examine closely if anyone violates the rule; he will be punished according to the decrees.

The basic reason for prohibiting the printing of such books is also because the government was concerned with national secrets. What is more, early in the seventh year of Xi’ning (1074) the production of books printed in the markets was closely controlled by the Song government. Meng Shou’an 孟寿安, a kongmu guan (Clerk) in the Institute for Veneration of Literature, reported to the government that:

22 Xu Song, "The Fifteenth Article of Punishment and Law 2".

47
The books printed by the commoners should be recorded and examined, if any is valuable, four copies should be submitted to the Institute for Veneration of Literature. 

Meng’s purpose was not only to collect the books but also to learn about the condition of book publication and book markets.

From a historical perspective, it is not unusual to find that books which deal with materials damaging a government’s reputation and defying its rules are banned from publication. Western countries are no exception. For instance, the Licensing Act of 1662 in England, a country with an established church, stated the prohibition of printing any heretical, seditious, schematical, or offensive books or pamphlets, wherein any doctrine or opinion shall be asserted or maintained which is contrary to the Christian faith, or the doctrine or discipline of the Church of England, or which shall, or may tend to be to the scandal of religion or the church, or the government or governors of the church, state, or commonwealth, or of any corporation or any particular person or persons whatsoever.

In England, it was not until the 1641 Act that the government required that “copies of a work be deposited at the King’s Library and at each of the universities”, although the primary reason for the deposit was to prevent fraud. In case of infringement, the copy of record deposited in the Library should serve as a proof of originality.

Through researching the memorials of ministers and imperial edicts in Song China, we know how the Song government made efforts to strengthen its rule over the publishing industry. After the Song dynasty, all later dynasties enforced their rules governing the fields of culture and education; Shujin policy, or the policy of forbidden books, became a convention. However, to what extent this policy affected the rights of copyright in Song

---

21 Xu Song, “The Fourth Article of Government I”.
25 In Song China, all the emperor’s edicts belong to the category of shi 式, one type of law. For a general discussion, see Brian E. McKnight, Law and Order in Sung China, (New York: Cambridge University Press, 1992), 61—66.
China is not very clear yet. With the exception of some ministers' memorials and several emperors' edicts, we cannot find any copyright law granted to authors or even to nongovernmental publishers by the Song court which can be compared to the universal copyright as we know it today.

Generally speaking, if a commoner requested the printing right of a book published by government offices (such as a medical treatise), its permission and approval to reprint depended on the interests of the Song government. The government did not take the view of protecting the rights of authors or publishers. Even the printing patent granted to the government offices was not the copyright protection of authors' rights; at best, it was only a protection of the publishers' rights. The so called censorship system of the Song dynasty does not belong to the category of copyright law today in the strictest sense; it was only the government's policy in the fields of culture and education.

Although Song dynasty's historical records show that the concept of copyright had been introduced, it was only rudimentary at best. *Etymological Dictionary of Chinese Characters*, for instance, which was thoroughly revised and arranged by Xu Xuan, could not obtain property rights from the government. The relevant proclamation indicated the imperial's government power over the whole country, but it ignored the authors' exclusive rights under copyright law. Because intellectuals in imperial China observed the Confucian idea of “Regarding righteousness as being more important than profit 重义轻利”, it was difficult for them to accept the idea of profiting from copyright rights for their own works.

“The idea of copyright and intellectual property protection was non-existent at that time. But the government policy reacted with a copyright protection law unconsciously,
which resulted in the embodiment of the first pattern of copyright protection in imperial China."  

26 The government’s decrees required compliance not only by nongovernmental printers but also by governmental offices. Indirectly, argues Kong Zhengyi, this model of copyright exclusivity owned by the government, guanke, accelerated the emergence of copyright protection of nongovernmental publications.  

27

---

26 Guo Mengliang, “Zhongguo banquan wenti tanyuan”, 32.
Chapter Four

The Conditions of Family-based Printing and Workshop Printing and Their Copyright Protection

Copyright protection for nongovernmental publications was granted 359 years after the emergence of publication patents for governmental publications, if we regard emperor Tang Wenzong’s edict, to command all Circuits and Superior Prefectures not to carve wood blocks for printing calendars without authorization, as the earliest initial form of copyright protection in imperial China.

The nongovernmental publishing industry consisted mainly of family-based printing and workshop printing. Comparatively speaking, the nongovernmental publishing industry lacked the economic strength and political power of its governmental counterpart. Extensive materials prove that, in fact, the copyright protection granted to nongovernmental publications was merely an offshoot of the copyright protection granted to governmental publications. However, in my view, it is the copyright protection granted to nongovernmental publications which helped to shape copyrights in imperial China.

Family-based Printing

During the Song dynasty, not only governmental offices and schools on all levels, but also some landlords, officials and scholars who were wealthy carved many wood blocks and printed books. The books they produced are classified under the categories of “jiakeben” 家刻本 (“family editions”) and “jiashuben” 家塾本 (“family school
editions”). They were also known as “sike” 私刻 (“private printed editions”) or nongovernmental publications.

“Family editions” involved to authors or families who printed their ancestors’ or their own works by commissioning craftsmen for the carving of the wood blocks, sometimes, paying a bookstore for the actual printing. The purpose of production was to gain fame by circulating their works, or to commemorate and honor their ancestors. Such books were frequently given to others as gifts, and often were sold to recover the owners’ publishing costs.

“Family school editions” refer to books printed by family-operated schools. The contents of such books mainly consisted of the Confucian classics, children primers’ materials or the poetry of famous authors of former dynasties. These books were usually used as texts for the students of their own clans, and this kind of publication was sometimes sold to fund family schools.

Numerous books of privately printed editions produced during the Song dynasty can be found today. Examples are Ouyang wenzhonggong ji 欧阳文忠公集 (Collections of Ouyang Xiu, in 153 volumes and with an appendix in 5 volumes) printed by Zhou Mi 周密 (1126-1207) in Ji’an in 1196, Luyou’s 陆游 (1125-1210) Weinan wenji 渭南文集 (Collected Works of Weinan) printed by his son Lu Zirou 陆子遹 in 1220, Han Yu’s 韩愈 (768—824) Changli wenji 昌黎文集 (Collected Works of Han Yu, in 40 volumes) and Liu Zongyuan’s 柳宗元 (773—819) Hedong xiansheng ji 河东先生集 (Collections of Master Liu Zongyuan, in 44 volumes) printed by Liao Yingzhong 廖莹中 during the Xianchun reign period (1265-1274) and the Nine Classics and Sanzhuan 三传 (Three
Commentaries on the Spring and Autumn Annals) printed by Yue Ke 岳珂 (1183—1243) who was a famous publisher at that time.

**Workshop Printing**

Workshop printing refers to the printing industry that was developed by the owners of shufang (book workshops) who printed books for gain. Workshop printing emerged after the invention of wood block technology in the middle of the Tang dynasty. During the Song dynasty, because the government encouraged commoners to print Confucian and Buddhist classics, workshop printing became popular and profitable.

During the Song dynasty, the most famous places for workshop printing were Lin'an (Hangzhou, the capital of Zhejiang Province), Meishan in Sichuan, Jianyang and Jian'an in Fujian. The famous workshops at that time were Yu Renzhong’s 余仁仲 Wanjuantang 万卷堂 (Ten Thousand Volumes Hall) in Jian’an 建安 and Mr. Chen’s 陈氏 Jingjipu 经籍铺 (Confucian Classics Shop) in Lin’an 临安. Ye Dehui recorded in detail the books printed by these two workshops and other workshops in his *Discourses on Chinese Books*. Generally speaking, the printers usually had their own workshops and employed a certain number of craftsmen for carving blocks, printing and bookbinding, depending on their workshops’ productivity and market demand.

Historians of ancient Chinese printing know that the workshop was the main commercial vehicle of non-governmental printing industry during the Song dynasty.

---

1 For a discussion of this see Ye, *Discourses on Chinese Books*, volume 2 and volume 3.
However, the owners of workshops were not considered important, and little is recorded about them in the historical materials.

*The Conditions of Copyright Protection of Family-based Printing and Workshop Printing*

One of the biggest challenges for researchers of copyright protection in Song China is sorting out the relevant materials from the numerous documents recorded in Chinese historical texts. Pre-Song historical materials and records on copyright protection are rare, but a few more are found for the Song period, such as those concerning the books printed by families and workshops recorded in Ye’s *Discourses on Chinese Books*. These precious records are the basic sources available to students whose research field is copyright protection in imperial China. I list them below.

The first record is Wang Cheng’s 王偁 *Dongdu shilue* 《都都事略》 (*Brief Records of the East Capital*) printed in the Shaoxi reign period (1190—1194). There is a *paiji* 牌记 (bulletin) attached on the page setting out the table of contents, which states:

Published by the home of Clerk Cheng in Meishan [Sichuan Province], registered with the government authorities; reproduction forbidden.

This bulletin has been considered as the first record in imperial China of copyright protection declared by an author or publisher. Feng Cuiyin, a contemporary scholar in the Zaozhuang Teacher’s College, argues that it is the earliest document on copyright

---

protection printed (in the form of an attachment) in a book in China, and perhaps in the world. 3

The second one is 祝穆 Zhu Mu’s Scenic Views of the World. There is a declaration

录白 (Lubai) issued by Liangzhe zhuyun si 两浙转运司 (the Tax Transport Bureau in
Zhuxi and Zhedong Circuits) stating:

According to legal cases submitted by 吴吉 Wu Ji, the butler of Grand Mentor Zhu Mu’s family: “Several books including Scenic Views of the World, Siliu baoyuan 四六宝苑, and Shiwen leiju 事文类聚 have been printed by our own family; these books were all edited by Passed Scholar [Zhu Mu] himself. They took him many years and much energy to finish, and it cost us vast amounts of money to print them. We are afraid that opportunists in the book markets will reprint the above books; some may change the titles of the books, others may edit them, and rename them with titles such as Yudijisheng 奥地纪胜 [The Scenery of the World Recorded]. If these books are reprinted without our authorization, not only will our mental and physical efforts have been stolen from us, but also our investments and profits will be lost. Therefore I bid your Excellency to prevent the piracy of these books. I also request that a proclamation be put up in the book workshops in the Qu and Wu Prefectures, declaring that all reproduction of these books is prohibited unless authorized, and that anyone found guilty of violating this regulation shall be punished and their printing equipment destroyed.”

After acting in accordance with the superiors, this proclamation should be filed with the Zhihui 指挥 [Commanders].

This proclamation must be hung outside the book workshops in the Qu and Wu Prefectures. If anyone is found guilty of violating this regulation, the prosecutor will investigate him and destroy his printing equipment. Issued on the twelfth lunar month of the 2nd year of Jiaxi [1238].

Hang the proclamation in book workshops in the Qu and Wu Prefectures.

This document is signed by Zhuanyun fushi 转运副使 [the Vice Fiscal Commissioner] Zeng 曾 [a surname].

The Tax Transport Bureau in Fujian Circuit also issued the proclamation forbidding the reprinting of the above books to be hung up, but because the content of this proclamation is the same as that mentioned above, it is not repeated.

据祝太傅宅佣人吴吉状, 本宅见开《方舆胜览》及《四六宝苑》、《事文类聚》凡数书, 并系本宅贡士私自编辑, 累岁辛勤。今来雕版, 所费浩瀚, 窃恐书市嗜利之徒, 既将上件书版翻开, 或改换名目, 或以节略《舆地纪胜》等书为名, 翻开搅夺, 致本宅徒劳辛苦, 任费钱本, 委实切害。照得雕书合经使台申明, 乞行约束, 庶绝翻版之患, 乞给榜, 下颁婺州雕书籍处张挂晓示; 如有此色, 容本宅陈告, 乞追包毁版, 断治施行。奉台判备榜, 须至指挥。 4

This record has been studied by many contemporary scholars. Wang Yongshun argues that it is the earliest proof of copyright protection in China, but I do not agree with his point of view, since we have already examined the proof that the house of Clerk Cheng had been granted copyright protection at least 44 years before this proclamation appeared. A *Lubai* of this sort should be categorized as a law of the Song government, as Feng Cuiyin argues, but, in my view, the proclamation issued by the local government offices also indicates that copyright protection in Song China never extended beyond local or regional boundaries.

This proclamation adumbrates modern copyright law, for there were concerns then, as now, in the areas of the ownership of copyright, the subject of copyright, the reasons why books should be granted copyright protection, and penalties inflicted by law in cases of violation. Therefore I think that, although the majority of scholars believes that the Statute of Queen Anne was the first law to secure the rights of an author, I have no doubt that the author's exclusive rights to publish his books had already been acknowledged by the Song government in 1238, as seen in the declaration attached to *Scenic Views of the World*.

6 Feng Cuiyin, “Zhongguo gudai banquan baohu lishi yanjin”, 96—98.
The third record is Duan Changwu’s *Conggui maoshi jijie* (Collected Commentaries on Mao’s Book of Songs). In its title page, there is a gongju (proclamation) issued by the Directorate of Education of the Song government, stating:

According to the plaint submitted by Digonglang [Gentleman for Meritorious Achievement] Duan Weiqing, who is the assistant County Magistrate of Huichang in New Ganzhou Prefecture: ‘My venerable uncle Changwu was a Chaofeng [Grand Master for Court Service]. He had title of champion twice in the autumn imperial examinations on the *Book of Songs* held in the capital of Jiangxi Province. He was promoted eventually to the post of Chunguan [Spring Officer, one of five seasonal offices for specialists in the Astrological Service]. All the scholars considered him a great master [of great learning and integrity]. Luo Ying 罗瀛, who lived in Angshan, had dispatched his son and nephew here to study [under the guidance of my uncle]. My venerable uncle taught them Mao’s Book of Songs, by oral and written methods. Eventually he finished writing this book. This book is based on Donglai’s [i.e., Lu Benzhong 1084—1145] *Shiji* [Records of the Book of Songs], refers to Huian’s [i.e., 1130—1200] *Shizhuan* [Commentaries on the Book of Songs] and the works written by the various Confucian scholars of modern times—in which all the words or characters [if they need to be elaborated] were generally written down under the name of *Conggui maoshi jiji*. Only master Luo attained reliable texts which had been accurately proofread. And now his nephew, Luo Yue, has carved the wood blocks and wants to circulate it widely. I think that my venerable uncle worked very hard and devoted almost all his life to this book; if other workshops reprint it for profits without our authorization, they probably would alter the beginning and the end and add or delete some contents of the book. Their behavior will not only let down Passed Scholar Luo’s original intention of printing this book but also stain my venerable uncle’s reputation, as a Mingjing [Classicist, one of several degrees awarded to men nominated by local authorities to participate in the regular civil service recruitment examination system].’

Now issue the proclamation according to the plaint; petition for putting it on the record and thereby restrain piracy in the Circuits of Liangzhe and Fujian. Simultaneously, grant a license to Luo Yue for printing the book. We do not dare make arbitrary decisions; we wait for the supervisor’s approval. If the proclamation is approved, please return it to the Directorate of Education. We have applied to the Yunsi 运司 [abbreviation for Fiscal Commission] in Zhexi, Zhedong and Fujian Circuits to administer the bookshops under their jurisdiction. If anyone is found guilty of violating this regulation, we authorize the prosecutor who holds the license to bring a case to the court. The pirater’s printing equipment shall be destroyed and the pirater shall be sentenced. Grant Passed Scholar Luo Yue the license for printing the book *Conggui maoshi jijie*. Issued on the seventh lunar month of the eighth year of Chunyou reign period (1249).

行在国子监据迪功郎新赣州会昌县丞段维清状：“维清先叔朝奉昌武，以《诗经》而两魁秋贡，以积誉而擢第春官，学者咸宗师之。印山罗史君瀛尝诲其子侄来学，先叔以《毛氏诗》口讲指画，笔以成篇。本之东莱《诗记》，参以晦庵《诗传》，以至近世诸儒，一言一音，苟足发明，率以录焉，名曰《从桂毛诗集解》。独罗氏得其绪末，校勘最为精密，今其侄藻贡揭锓梓以广流传。维清窃
This proclamation included both the transfer of copyright and the inheritance of ownership. Furthermore, from the above material we learn that copyright protection at that time protected not only an author’s economic but also his moral rights. That copyright protection included not only economic rights but also moral rights suggests that copyright protection was relatively progressive in Song China.

In imperial China, as we have mentioned in chapter one, books printed by individuals were usually proofread by themselves or by other editors; proofreading is the result of a scholars’ intellectual labor, and the edited book should be acknowledged as the editor’s creation. From the material above, we learn that such creation was protected.

After the Song dynasty, more documents on copyright protection granted to nongovernmental publications become available. It was relatively common for authors and owners of bookshops to apply to the government for copyright protection for their books. Ye Dehui indicates in Volume 2 of Discourses on Chinese Books that:

Once this trend was established, carving blocks for printing books by the sishu [old-style private schools] has since the Yuan dynasty become a statute.

Although copyright protection after the Song dynasty is not the subject of this thesis, a general comprehension of it will benefit our understanding of the history of copyright protection in imperial China.

7 Ye, Discourses on Chinese Books, Volume 2.
8 Ibid.
According to Ye’s *Discourses on Chinese Books*, there is a notice attached to Huang Gongshao’s (from Zhaowu, Fujian Province, a state-level scholar in 1265) *Gujin yunhui juyao* 古今韵会举要 (*Main Factors of Rhyme in Ancient and Modern Times*, in 30 volumes) published by Chen Shi 陈思 during the Yuan dynasty (1206—1368), which states:

Previously I was entrusted by my venerable tutor Huang Zaixuan in 華祖安 in 華[黄 Gongshao’s literary name], who was a Jiage 架阁 [Archivist], to print *Main Factors of Rhyme in Ancient and Modern Times*. This book establishes clear rules about the writing, pronunciation and meaning of characters in ancient and modern times which includes 30 chapters. It is considered to be a truly rare treasure of the last centuries. It has been proofread three times, and there are no errors. And now it has been carved into blocks for printing. I hope it will be shared with all the scholars under heaven. But it is an individual work written by my venerable tutor himself; moreover, it differs greatly from the existing books printed in the book markets. I am afraid some people who only pursue their own profits will change its name and extract or delete its contents for reprinting. Even if a little error appears, it will affect scholars in a negative way. I have applied to the government to prohibit piracy; the gentlemen who collect this book should also be aware of these conditions.

We can list a series of similar examples of copyright protection granted to non-governmental publications after the Yuan dynasty. For instance, there is a notice in 曹士珩 Cao Shiheng’s (a Taoist of the Ming dynasty) *Daoyuan yiqi* 道元一气, a wood block edition from the Chongzhen reign period (1628—1644) which says:

If there is an ignorant man who would copy and reprint it without my authorization, I vow to appeal to the officials by legal means and resolve this case.

If you have any question, please ask me. I am glad to help.
The second example is 李汝珍 Li Ruzhen’s (ca.1763—1830) Jinghua yuan 镜花缘 (Flowers in the Mirror), which was published in 1821. There is a notice attached to the book which states:

Recently printed during the reign period of Daoguang [1821—1850], anyone found guilty of reprinting shall be punished.

However, what role did such copyright protection play under the imperial government? And what impact did it have on publishing in China? The answers to these questions are not clear yet. The contemporary scholar Zheng Chengsi argues that the range of protection rights for publishing included not only books printed by the governmental publishing industry, but also books printed by commoners, and that these rights are very similar to the provisions of civil law and the interpretations of copyright law today.  

Under imperial China’s government, ideal conditions for the emergence of a nationwide copyright statute never existed. As we have seen, protection of copyright existed in the form of declarations of prohibition issued by the government; this form did not change until the late Qing dynasty, circa 1903, when the Guangxu emperor (1875—1909) issued an edict protecting the exclusive right of printing, the Jiutong fenlei zongzhuan 九通分类总纂. International treaties between China and other countries during the Qing dynasty also provided for copyright protection. Nevertheless, no formal

---

11 Li Ruzhen 李汝珍, Jinghua yuan 镜花缘 (Flowers in the Mirror), printed in 1821, copy in the collection of the National Library of China.
12 Zheng Chengsi 郑成思, Banquan fa 版权法 (Copyright Law), (Beijing: Renmin daxue chubanshe 人民大学出版社, 1990), 1—27.
copyright law was adopted until the beginning of the last century. This uncertain condition changed in 1910, when the first copyright law in Chinese history, *The Copyright Law of the Qing Dynasty*, was issued, indicating that the age of no written law of copyright protection in imperial China had come to an end.

---

13 For an extended discussion, see [http://www.isinolaw.com/jsp/ip/copyright/CP_evolution.jsp?LangID=0](http://www.isinolaw.com/jsp/ip/copyright/CP_evolution.jsp?LangID=0)

[2004-07-07]
Chapter Five
The Characters of Copyright Protection in Song China

The phenomena of copyright protection which appeared in Song China already displayed certain similarities to contemporary copyright law. The copyright notices, copyright ownership, copyright transfer and licenses, for instance, were very similar to modern copyright law; however, the elements of duration of copyright and transnational considerations were still absent in that era.

Copyright Notices

The elements of required copyright notice in the Universal Copyright Convention of 1952 (UCC) are ordinarily three: (1) a signal of a copyright claim; (2) the year when the work was first published; and (3) the name of the owner of copyright. 1

The paiji attached to Brief Records of the East Capital ("published by Cheng Sheren’s family in Meishan, registered with the government authorities; reproduction forbidden.") claims registry with the government authorities, that reproduction of the book is forbidden and that the name of the owner of the rights of copyright is Cheng Sheren’s family, and it is clearly a copyright notice of the sort we find today. Other example, such as the Luba attached to Zhu Mu’s Scenic Views of the World, or the gongju 公据 issued by the Directorate of Education found attached to Conggui maoshi jijie were

also clear notices of the period. All meet the requirements of 1952 (UCC), and thus we can say that the copyright notices of Song China were very similar to those in use today.

Copyright Ownership, Transfer and Licenses

From such materials as Scenic Views of the World, Brief Records of the East Capital, and Conggui maoshi jijie, we also learn that copyright protection during the Song dynasty was already concerned with copyright ownership, transfer, and licenses.

According to the 1976 Copyright Act’s standards of U.S., the author of an original work of authorship is the initial owner of the copyright of the work and thus starts out as the owner of the exclusive right of copyright. As in the examples we listed in chapter 4, Cheng Shenren’s family, Zhumu and Duan Changwu were undoubtedly the initial owners of the copyright of their work and had been granted the exclusive rights of copyright. The first legal attribution of private copyright ownership was, thus, established in the Song dynasty.

The initial owner of a copyright may transfer all of the rights, or some of them, or parts of some of them to others. We are told that the initial owner of the copyright of the book Conggui maoshi jijie was Duan Changwu. After he died, the right was inherited by his nephew Duan Weiqing as a family property, and since Passed Scholar Luo was once a pupil who studied under the instruction of Duan Changwu, he was granted the copyright to print by the permission of the transferee Duan Weiqing. It was Duan

---

2 Ibid., 52.
3 Ibid., 56.
Weiqing who applied to the government to issue a license to Passed Scholar Luo to publish his uncle's book.

The applicants for copyright protection were usually individuals who applied on their own or as inheritors of property. The application was often limited to only one book, and a copyright protection was never granted to joint works or works made on hire. For example, Xu Xuan and his colleagues were not granted the rights of copyright for their final version of *Etymological Dictionary of Chinese Characters*. Until the Guangxu reign period in the late Qing dynasty, no group of partners had ever applied for a publication's copyright protection from the government.

Among extant Song editions existing today, there are no further clearly authorized ownerships of copyright protection except for those listed in chapter 4. The acquisition of copyright ownership was at best in an embryonic stage during that period.

In fact, in Song or even later ages in imperial China, the initial ownership of copyright, or the transfer of ownership of rights of a book was mainly embodied in the person who held the ownership of the book's blocks. Anyone who held the blocks of a book was provided with the basic right and the fundamental conditions to produce the book. When a copyright violation occurred, the owner of the book usually requested the pirate's blocks to be destroyed. Therefore, the book block acted as the license; the owner of the blocks could reprint books as he liked. This is the distinctive characteristic of copyright protection in imperial China.

Because copyright protection was at an early stage in Song China, other copyright issues such as copyright duration and transnational considerations, the standard practices we know today, had not been dealt with yet.
Copyright Duration

Today’s copyright law in the U.S. establishes that the duration of copyright protection is 50 years after the author’s death—the life-plus-50 rule—which is a fairly standard duration period under the laws of many other countries. Current Chinese copyright law also uses this standard of duration. However, in the Song dynasty, copyright duration was still inconsistently enforced.

According to the research of Xu Feng, a contemporary Chinese scholar, in the year 1266, twenty-eight years after Scenic Views of the World, Siliu ban yuan and Shiwen leiju were first printed, the notices that the books had been granted copyrights and that reproductions were forbidden, appeared in editions of the books again.

Although the copyright of the second edition of Scenic Views of the World was still in effect, we cannot say that the owners of copyright in Song China knew about the application of duration of copyright protection; clearly, the extent of protection was an unresolved problem yet. Nine Classics, which was first printed in the third year of Changxing (932), had been granted a patent for the governmental offices for printing until the Xining reign period (1068—1077). The duration granted by the government was more than 100 years, perhaps due to the fact that the owner of the rights of copyright protection was the government itself.

Transnational Considerations

---

4 Ibid., 30—31.
According to the copyright law of today, a book which is granted copyright protection within a particular country may not have protection in another one, unless that country has copyright treaty relations with the original one.  

Due to difficulties in communication and transportation or the policies of different countries, copyright protection in Song China was hardly concerned with the subject of transnationalism. However, through researching Shen Kuo’s *Writter Conversations from the Dream Stream*, we can find a piece of relevant information dealing with trans-border rights:

Xing Jun 行均, a monk in Youzhou, collected all the words in Buddhist scriptures for the sake of phonology and exegesis, giving [his book] the name *Longkan shoujing* [160,000 words in 4 volumes]. The Liao monk Zhi Guang 智光 wrote the preface to it, in which there were many arguments regarding diction. It was printed in the second year of Chongxi [1033]. The law of forbidding books being transmitted from the Qidan [the former name of the Liao dynasty] is very strict; if anyone brings a book to China [here refering to the Song], he will be sentenced to death according to the law of the Qidan. During the years of Xining [1068—1077], someone had taken *Longkan shoujing* from the Liao and thereafter it was rediscovered, in the home of Fu Qin 虢钦. At that time Pu Chuanzheng 薛传正, the commander in Zhexi Circuit, took it and carved it into blocks and printed it. The preface was written in the fifth lunar month, the second year of Chongxi according to the old Liao version, which was deleted by Pu. The order of its phonological treatment was in accordance with proper standards; later generations would hardly recognize the author as a person from Liao.

*Longkan shoujing*, which the Liao Monk Xin Jun wrote, was printed in 1033. Although the Liao government strictly forbade books to be exported to the Song government territory, Pu Chuanzheng successfully took *Longkan shoujing* and carved it into blocks for printing during the years of the late Yuanfeng and early Yuanyou reign periods. This book belonged to the category of government editions. It was not until the

---

7 Shen Kuo, *Writter Conversations from the Dream Stream*, volume 15, 513.
early years of the southern Song dynasty that *Longkan shoujian* was reprinted based on the edition of Pu Chuanzheng in Hangzhou. Now only one volume is extant in the Beijing Library.

The above example illustrates how the government in the Song dynasty did not enforce trans-border copyrights. The people of the Song China, however, could freely reproduce any material originating from outside its boundaries. This implies that the Song people did not consider the regional characteristics of copyright law.
Epilogue

This paper has discussed copyright protection in Song China in four sections. The first part has considered the legacy of copyright protection before the Song dynasty; the second studies the contributing factors which brought about the emergence of copyright protection during the Song dynasty; the third section gives an account of the true story behind copyright protection of the age, and the fourth part provides an overall evaluation of the historical status of copyright in Song China.

In the first section, I have shown that the phenomenon of authors' signing their own names to their works indicates the rise of the authors' ownership of literary rights. By studying how the ancient authors obtained remuneration for their works, I have shown that, under the influence of the Confucian ideal of "Regarding righteousness higher than self profit," authors could not accept the concept of profiting from copyrights on their own works at that time. Ancient Chinese scholars' editing activities should be categorized as intellectual labor and their secondary creation, but, we could not find any copyright law or decree which protected editors' activities and achievements until the Song dynasty, and this may be interpreted as the absence of authors' desire to attain copyrights at that time. I have also given some attention to book production and the emergence of book markets before the Song dynasty. The evidence recorded in historical materials available today indicates that it remains unclear whether any laws or regulations governing the copyists' activities at the time existed, unlike what had taken place in Europe during the Middle Ages. We are surprised that the emergence of book markets did not accelerate the creation of copyright protection before the Song period, which strongly
supports the view that copyright protection in Song China emerged against a solid background of economics, politics and culture.

In the second section on why copyright protection appeared in Song China, I have demonstrated that the reasons rest not only in the technology of printing and paper making, but in the flourishing bookshops and the widespread piracy of the age. The unprecedented development which took place in Song society was not only manifested in its economy, politics, culture and technology but also in the creation and in the practice of a legal system which attained a greater complexity than earlier Chinese empires.\(^1\) Therefore I concluded that the emergence of copyright protection is an inevitable achievement of the Song legal system.

In chapters 3 and 4, I analyzed the conditions of the publishing industry during the Song dynasty and its copyright protection. Owing to the complicated conditions of the publishing industry, the copyright protection of Song China was not systematic. Therefore I divided the industry into two categories: the governmental publishing industry and the nongovernmental industry (mainly made up of family-based printing and workshop printing). This classification helps me to understand the wide scope of copyright protection among the Song government’s numerous policies and laws more accurately. I have found that the policies and laws which the Song government carried out concerning publication may be summarized as follows. First of all, it forbade the nongovernmental printing industry from reprinting books which had been previously granted governmental printing patents, and governmental offices monopolized the

---

\(^1\) Yang Weisheng 杨昭生 and Ji Shengqing 季盛清 etc., Liangsong wenhuashi yanjiu (Research on the History of Song Culture), (Hangzhou: Hangzhou daxue chubanshe 杭州大学出版社, 1998), 287—341.
exclusive rights to print certain kinds of books. Second, the laws also strictly banned the production and dissemination of books which might defy the rules of the government. Third, the protection granted by the government for nongovernmental publications was similar to the protection provided today. The former two categories were more the results of the Song government's strict policies regarding publication; limiting reproduction of works had little to do with the government's intentions in enacting the copyright law, but was more likely a form of governmental policy of control in the fields of culture and education. However, we cannot be sure that the copyright protection of nongovernmental publications was the result of the Song government's interest in controlling the nongovernmental publishing industry.

In the last section, I have shown that the phenomena of copyright protection which appeared in Song China had characteristics similar to what we find in contemporary copyright law. Copyright notices, copyright ownership, copyright transfer and licenses, for instance, were present at the time; however, the elements of copyright duration and transnational considerations were still absent in that era. This is very important for us in evaluating the status of the Song dynasty in the history of copyright protection in imperial China. According to the research of Poon Ming-sun, copyright protection cases "were the exception rather than the rule. Monopolies for the printing of books were rare and, as a rule, not granted by the Sung government except in special cases. Many books, furthermore, were reprints of classics and older works to which no one could claim copyright." In my view, some copyright protection had taken place in Song China and even achieved a high degree of complexity; but these cases occurred under special circumstances, and were not the common practice of the Song China.

Every national copyright law which is enacted attempts to maintain a balance between providing protection for authors against unauthorised publication for a limited period and maximizing the public good. Protecting the author’s copyright will encourage and promote learning and progress; however, if only the author’s rights are taken into consideration, the dissemination of learning in a society will be hampered. Because copyright protection in Song China was in an early stage, the Song government had not or could not address this problem adequately; it is understandable that the conflict between authors and pirates was the main issue afflicting writers of that time.
Bibliography:

Western:


Putnam, George H. Books and Their Makers During the Middle Ages: A Study of the Conditions of the Production and Distribution of Literature from the Fall of the Roman Empire to the Close of the Seventeenth Century. New York: Hillary House, 1962.


Chinese:


Luo Bi 罗壁. Shiyi 识遗 (Gleaning). Edited by Wang Yunwu 王云五. Siku quanshu 四库全书珍本十一集.


Wang Jia 王嘉. Shiyi ji 拾遗记 (Records of Gleanings). Edited by Qi Zhiping 齐治平.
Taipei: Muduo chubanshe 木铎出版社, 1983.


Xue Zhongying 薛钟英. “Woguo gudai tushu maoyi shiyi lishi chutan (han zhi nanbeichao shiqi)” 我国古代图书贸易事业历史初探（汉至南北朝时期） (“Research on the Trade of Ancient Chinese Books from the Han to Southern and Northern Dynasties”). Collected in Chuban keyan lunwen xuancui 出版科研论文选萃 (Anthology


Yang Xiong 扬雄. Fayan 法言. Edited by Wang Yunwu 王云五. Shangwu yinshuguan 商务印书馆, 1940.


