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Zhejiang Province Library v. He Huwei et al.

Citation: The Supreme People's Court's Civil Notification No. Minsanjianzi 35/ 2004

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Procedural history

The Zhejiang Province Library requested this Court for retrial of the case out of dissatisfaction with the Judgment made by the Hunan Higher People's Court that the Hengyang City Intermediate People's Court had the jurisdiction over the case of dispute arising from the online copyright infringement between the Zhejiang Province Library and He Huwei, He haiquan and Tang Ying.

Issue

The pre-condition for determining the jurisdiction of the court of the place where the equipment was placed, such as computer terminals in which infringing contents were found.

Reasoning

Article 1 of the Supreme People's Court's Interpretation of Several Issues Relating to Application of Law to the Adjudication of Cases of Disputes over Copyright on Computer Network provides that cases of disputes over copyright on computer network are under the jurisdiction of the people's court of the place where the infringing act takes place or where the defendant has his or its domicile. The places where the infringing act takes place include the place of equipment used to carry on the accused infringement, such as network servers and computer terminals. Where it is difficult to determine the place where the infringing act takes place and where the defendant has his or its domicile, the place of the equipment, such as a computer terminal in which the plaintiff has found the contents of infringement may be deemed to be the place where the infringement

takes place. Only if it is difficult to determine the place where the infringing act takes place and where the defendant has his or its domicile is the place of the equipment, such as a computer terminal in which the plaintiff has found the infringing contents, may be deemed to be the place where the infringement takes place. In the present case, there did not exist the pre-condition for deeming the place where the equipment, such as computer terminals in which the plaintiff had found the infringing contents to be the place where the infringement took place, and the jurisdiction over the case should rest with the court of the place where the infringement took place or where the defendants had their domicile; hence the former court erred in the application of law in its judgment that the Hengyang City Intermediate People's Court had the jurisdiction over the case, and the error should be rectified.