

**My Partner, the Pirate:  
An American Publisher, its Chinese Counterpart, and Their Copyright War**

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Abstract

In the spring of 1911, Ginn & Co., a Boston and New York based textbook publisher, filed a copyright infringement lawsuit against Commercial Press, the leading publishing establishment in China, at the International Mixed Court at Shanghai. This was the first Sino-American copyright infringement case in China and its outcome would become a precedent for the similar copyright infringement cases between foreigners and the Chinese in the decades to come. Yet, the particular clause on copyright in the Renewed Sino-American Treaty of Commercial and Navigation of 1903, the only binding rule applicable to Sino-American copyright disputes before 1949, was constructed in such a strange manner that it did not outlaw the unauthorized reprinting of most foreign books in China, but only acknowledged and protected copyright of literary and artistic works which were “especially prepared for the use and education of the Chinese people.” Therefore, although Commercial Press admitted their republishing of Ginn & Co.’s textbooks, the charges against them were dismissed by the Mixed Court simply because the titles they reprinted were prepared for American general readers rather than for Chinese especially. As the result, the copyright clause in the 1903 Sino-American trade treaty turned out to be an unequal clause against the Americans. Chinese pirates, contrary to expectation, became the actual beneficiaries of this clause. What happened afterward was even more intriguing: Instead of carrying on suing Commercial Press, Ginn & Co. decided to collaborate with their Chinese pirate. The head of Ginn & Co., George A. Plimpton, traveled to China to make peace with Commercial Press in 1920: Commercial Press agreed to stop reprinting in exchange for Ginn & Co.’s consignment privilege, and Ginn & Co. hoped Commercial Press’s extensive sales channels and local connections would help them to enter the promising Chinese market. These two firms even planned to launch some join-publishing projects in China.

By tracing the decade-long wrestling between Ginn & Co. and Commercial Press inside and beyond the courtroom, this paper explores how copyright case became the field where American publishers and their Chinese counterparts competing over the emerging foreign books market of China, and how an unusual business partnership was formed to settle a legal dispute that the trade treaties could not solve. It suggests that the lawsuit at the court was not the only battle of these two companies' copyright war, but just an episode in the long process of working out a solution that would satisfy both parties in the era when markets of copyright works expanded beyond national limits.