

SPC Guiding Case No. 267: Enforcement Case of [X] Culture Media Co., Ltd. and You [X]mei

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Keywords

Enforcement / enforcement implementation / online platform account / delivery of account and password / change of real-name authentication information

Holding

For enforcement involving the delivery of an online platform account and password, full consideration shall be given to the characteristics of online platform accounts and, in accordance with the requirements of real-name authentication under the law, the relevant real-name authentication information shall be changed in accordance with the law at the same time as the account and password are delivered. Where the person subject to enforcement fails to perform the aforesaid obligations, the enforcement applicant may apply to the enforcement court for the issuance of a notice of assistance in enforcement, requiring the relevant online platform to change the real-name authentication information.

Basic Facts

[X] Culture Media Co., Ltd. (“[X] Media Company”) brought a lawsuit over an unfair competition dispute, requesting the court to confirm that an account on a certain platform named “Lang [X]xian” belonged to [X] Media Company, and to order You [X]mei and others to deliver the account and password to [X] Media Company; and to order You [X]mei and others to cease the unfair competition acts and compensate for economic losses of RMB 6.18 million. On June 29, 2022, the Chongqing First Intermediate People's Court rendered the civil judgment (2020) Yu 01 Min Chu No. 1035, confirming that the account on a certain platform named “Lang [X]xian” belonged to [X] Media Company, ordering You [X]mei to deliver the aforesaid platform account and password to [X] Media Company within three days after the judgment took effect, and dismissing [X] Media Company's other claims, including the claim that You [X]mei and others compensate for economic losses of RMB 6.18 million. After the judgment was pronounced, [X] Media Company appealed. On December 26, 2022, the Chongqing High People's Court rendered the civil judgment (2022) Yu Min Zhong No. 859: the appeal was dismissed and the original judgment was affirmed.

After the aforesaid judgment took effect, because You [X]mei failed to perform the obligations determined by the effective legal document, [X] Media Company applied to the Chongqing First Intermediate People's Court for compulsory enforcement. [X] Media Company requested the enforcement court to issue a notice of assistance in enforcement to the operator of the platform, [X] Technology Co., Ltd., and others, requiring those companies to assist in clearing the original real-name authentication information of the account in issue, re-authenticating it with [X] Media Company's identity information, and rebinding the mobile phone number designated by the company. It was also found that You [X]mei had been detained since September 18, 2022 on account of a criminal case, and was later sentenced to eight years of fixed-term imprisonment for the crime of misappropriation of duties.

On March 24, 2023, the Chongqing First Intermediate People's Court rendered the enforcement ruling (2023) Yu 01 Zhi No. 164, clearing the real-name authentication information of You [X]mei in the account on a certain platform named “Lang [X]xian”, and releasing the mobile phone number originally bound to the account and rebinding it to the mobile phone number designated by [X] Media Company. After the ruling took

effect, in accordance with the requirements of the enforcement ruling and the notice of assistance in enforcement, the online platform operating company assisted [X] Media Company in completing the change of the login password, real-name authentication information, and registered mobile phone number of the account in issue.

Judgment

On April 27, 2023, the Chongqing First Intermediate People's Court rendered the case closure notice (2023) Yu 01 Zhi No. 164, and the enforcement of the case was completed.

Reasoning

The focus of the litigation dispute at the trial stage in this case concerned the ownership of the account in issue; the effective judgment found that the rights in the account in issue belonged to [X] Media Company, and the judgment item stated the delivery of the account and password in issue. According to the facts found in the judgment and the reasons therefor, the account in issue was registered upon the decision of [X] Media Company; because an enterprise applying to register and authenticate an account must first register it with a mobile phone number, [X] Media Company had You [X]mei, then the company's legal representative, register it with her mobile phone number, and You [X]mei managed the account in issue on behalf of the company. According to the content of the delivery of the rights in the account confirmed by the effective judgment, all of the account's user permissions, rights, and interests should be delivered to [X] Media Company in their entirety. Therefore, the key to delivering the account and password in issue was for [X] Media Company to exercise the rights in the account and achieve lawful possession, independent control, and the operation, use, and management of the account in issue.

Online platform accounts are highly dependent on real-name authentication and verification of the registered mobile phone number, including the real-name information of the registered identity and the mobile phone number. If the aforesaid complete elements are lacking and only the account and password are held, another person in possession of the registration information can still reset the account and password by means of the registered real-name information and mobile phone number, thereby affecting the lawful holder's rights to possess, control, and dispose of the relevant account. In this case, if You [X]mei only delivered the login account and password without clearing her real-name information and changing the mobile phone number, [X] Media Company could log in with the password and use and manage the account, but You [X]mei could still reset the account and password by means of her identity information and mobile phone number; and [X] Media Company would also have difficulty carrying out matters such as account management, backend operations, and data migration because it lacked verification of the registered user identity and mobile phone number. Thus, merely delivering the account and password could not fully vest the rights in the account in [X] Media Company. Moreover, once another person illegally uses the account to engage in unlawful activities, it would be difficult to verify the identity of the actor, thereby harming the public interest. Therefore, the core content of the delivery of the account in issue should be changing the registered user identity and mobile phone number to those of [X] Media Company.

Paragraph 1 of Article 24 of the Cybersecurity Law of the People's Republic of China provides: "Where a network operator provides users with network access or domain name registration services, handles network access procedures for fixed-line telephones or mobile telephones, or provides users with services such as information release or instant messaging, it shall require users to provide true identity information when signing agreements with users or confirming the provision of services. Where a user fails to provide true identity information, the network operator shall not provide the relevant services to the user." Under normal circumstances, changing the subject information of an online platform account should, in accordance with the relevant provisions, go through procedures such as applying to the platform, the platform conducting authentication verification, and publicizing the subject change information. However, the person subject to enforcement, You [X]mei, objectively faced obstacles to performance. Therefore, the enforcement court, upon the application of the enforcement applicant [X] Media Company, completed the change of the

real-name identity information of the account in issue by notifying the relevant platform to assist in enforcement.

Relevant Legal Provisions

Article 24 of the Cybersecurity Law of the People's Republic of China.

Article 263 of the Civil Procedure Law of the People's Republic of China (this case applied Article 259 of the Civil Procedure Law of the People's Republic of China, 2021 Amendment).

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