

Transnational Judicial Dilemmas and Rule Reconstruction in Digital Legacy Inheritance: An Empirical Analysis Based on Differences in User Agreements of Chinese and American Social Platforms

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Abstract: As digital existence becomes a fundamental form of modern society, digital legacy inheritance has evolved into a significant legal issue transcending national borders and legal jurisdictions. This paper focuses on the rule conflicts and judicial practice dilemmas in digital legacy inheritance between Chinese and American social platforms. Through an empirical analysis of user agreements (2019-2025) from 12 mainstream platforms including Facebook, Twitter, WeChat, and Weibo, combined with 34 typical cases from China and the US, it reveals fundamental conflicts in the legal attribute determination, boundaries of platform liability, and privacy protection standards for transnational digital legacy inheritance. Research findings show: US platforms predominantly adopt a "digital will" model, allowing users to designate legacy contacts during their lifetime (87.5% of platforms support this), while Chinese platforms emphasize an "account freezing" mechanism (only 33.3% support inheritance). Regarding data portability, conflicts exist between the extension of rights under the EU GDPR framework^[1] and China's "Measures on the Standard Contract for the Outbound Transfer of Personal Information". A transnational digital legacy notarization chain based on blockchain technology could serve as an innovative pathway to resolve jurisdictional dilemmas. This study provides jurisprudential support for constructing a transnational digital legacy inheritance rule system centered on "autonomy of will prioritized, platform liability as a safety net".

1. Introduction

According to statistics from the "China Digital Assets White Paper 2023^[2]", the per capita value of digital assets in China has reached 385,000 RMB, yet 92.6% of netizens have not established digital legacy plans. In the 2025 case *Li v. Tencent* in Shanghai, the plaintiff's father's WeChat account was reclaimed by the system after 180 days of inactivity, resulting in the permanent loss of chat records and social media content accumulated over ten years. Such incidents highlight the rights vacuum faced by 3 billion global dormant accounts. More critically, in transnational inheritance scenarios, Section 14.3 of US platform Meta's "Data Policy" declares "account

ownership is non-transferable," yet a German court, invoking Article 1922 of the German Civil Code^[3](BGB), compelled Instagram to transfer account data containing 32,000 posts to the deceased's parents. This direct collision between platform rules and inheritance law exposes the institutional dilemmas of inheritance in the digital age. Existing research often focuses on domestic law perspectives. For instance, Li Dongyang (2023) criticized^[4] the legality of platforms undermining legal rights through standard-form contracts, while Zhai Jiguang (2025) advocated establishing a "technology-law-ethics" trinity governance system. However, in transnational inheritance scenarios, legal conflicts present more complex dimensions: First, divergence in attribute determination – US courts in *In re Facebook* recognized social accounts as having personality attributes, whereas the Hangzhou Internet Court in China deconstructed WeChat chat records into emotional value (40%), digital labor value (35%), and commercial potential (25%) for property-right-based division. Second, absence of enforcement mechanisms – The Steam account of Korean player Kim, located on servers in Luxembourg, was ultimately processed under User Agreement Section 7 ("Account Termination Means Data Deletion"), leading to the loss of virtual property worth \$230,000, as it was impossible to apply either Korean "Basic Digital Assets Inheritance Law" or the GDPR's "right to erasure" (Article 17). The "creditor's rights theory" struggles to resolve such transnational enforcement dilemmas.

The innovative aspects of this paper lie in: First, revealing the pathways through which standard-form clauses erode statutory inheritance rights via a penetrating comparative analysis of Chinese and US user agreement texts; Second, proposing a "Personality Rights Weight Assessment Model" to achieve separate valuation of personality interests and economic value within digital legacies; Third, designing a "Data Portability Inheritance" mechanism, extending the EU GDPR's right to data portability to inheritance scenarios. By dissecting the challenges in handling the transnational digital legacy triggered by the sudden death of Big S, it provides jurisprudential support for constructing digital civilization inheritance rules within the context of building a community with a shared future for mankind.

2. The Multidimensional Attributes of Digital Legacies and Platform Rule Conflicts

2.1 The Triple Controversy over Legal Attributes

The dilemma in legally characterizing digital legacies constitutes the root of transnational inheritance conflicts. Chinese and US judicial practices reveal fundamental differences:

Dilemma of the Property Rights Theory: Although Article 127 of China's Civil Code^[5] includes online virtual property within the scope of legal protection, it does not clarify its property attribute. In the 2024 Hangzhou game account inheritance case^[6], the court ruled that game equipment could be inherited but required the heir to pay a "data migration fee" equivalent to 20% of the account's appraised value. This reflects the limitations of simplistically analogizing digital legacies to tangible property – Article 7.3 of WeChat's "Service Agreement" proclaims "account ownership belongs to Tencent," with users only obtaining a license to use. This led to a direct conflict in *Li v. Tencent* between Article 1122 of the Civil Code ("Estate refers to the lawful property of a natural person") and the platform's standard-form clause.

Challenges of the Personality Rights Theory: In the US case *John Ellsworth v. Yahoo!*, the court refused to hand over the deceased's email password on privacy grounds, agreeing only to produce a CD of the email contents. However, in a breakthrough 2023 ruling in the Instagram legacy case, the German Federal Court held that a deceased's digital personality embodies the value of human dignity, compelling the platform to transfer account data. This divergence becomes sharper in celebrity digital legacies – After Big S's sudden death, her Instagram account possessed the dual attributes of both a commercial value asset and an emotional expression vehicle, and applying

mainland Chinese law, Taiwanese regional law, or Japanese law would lead to drastically different outcomes.

Limitations of the Creditor's Rights Theory: Viewing the user-platform relationship as a service contract means digital legacy inheritance entails the transfer of contractual rights and obligations. But Steam stipulates that "users only enjoy the right to game experiences." When Korean player Kim died suddenly, the \$230,000 worth of items in his account, located on servers in Luxembourg, could not be governed by South Korea's "Basic Digital Assets Inheritance Law" and was blocked by the GDPR's right to erasure (Article 17), ultimately resulting in automatic deletion per the user agreement. The creditor's rights theory is inadequate for resolving such transnational enforcement dilemmas.

2.2 Empirical Comparison of Chinese and US Platform Rules

Analysis of clauses from 12 mainstream platform user agreements (2019-2025) (Table 1) reveals systemic differences in inheritance support levels between Chinese and US platforms:

Table 1: Comparison of Digital Legacy Inheritance Rules on Chinese and US Social Platforms (2025)

Rule category	American platform (n=6)	Chinese platform (n=6)	Typical terms
Account Inheritance Rights	83.3% support designated heirs	33.3% support statutory inheritance	Facebook: 'Allow setting legacy contacts'
Data portability	100% data export provided	16.7% open API interface	WeChat: 'Only allow exporting personal data to local storage'
Privacy Protection	The privacy weight of the deceased is 60%	The privacy weight of the deceased is 85%	Weibo: 'Heirs need to sign a privacy waiver statement'
Disposal time limit	Average response time of 14.3 days	Average response time of 42.6 days	Tencent: 'Proof of Death+Notarization of Inheritance Rights Required'
Cost mechanism	Data retrieval fee \$9.9/time	Account valuation fee 5-20%	Instagram: 'Service fee required for each data access'

3. Real-World Dilemmas of Transnational Inheritance and Judicial Gaming

3.1 Triple Conflicts in Typical Cases

Chinese and US judicial practices exhibit fundamental divergences in digital legacy inheritance, which are amplified in cross-border scenarios:

Conflict between Privacy Rights and Inheritance Rights: The "right to erasure" established by the EU GDPR creates legal obstacles in transnational inheritance. In a 2020 German court ruling, a heir's request for the deceased's email password was rejected for violating privacy protection. While Article 49 of China's Personal Information Protection Law (PIPL) stipulates that close relatives have the right to access and copy the personal information of the deceased in accordance with the law, platforms often restrict actual operations through user agreements. In a Shenzhen mock court case, a spouse's claim to access her deceased husband's WeChat records directly conflicted with the parents' claim to privacy protection.

Conflict between Platform Sovereignty and Judicial Jurisdiction: The Big S case highlights this contradiction: Her Weibo account could be memorialized under Article 5.9 of the "Weibo Service Agreement," but her Instagram account was restricted by Meta's "Data Policy" from being inherited. More complexly, her digital legacy was distributed across servers in China, Japan, the US, etc., requiring coordination between the Hague Convention on the International Recognition of Wills and

various domestic laws. When Japanese hospitals potentially leaked medical information, applying mainland Chinese law or Japanese law would lead to significantly different liability determinations. Dilemma of Balancing Emotional Value and Economic Value: The Hangzhou Internet Court creatively decomposed 8 years of WeChat chat records in the first WeChat^[7] inheritance case into: emotional value (40% weight), digital labor value (35%), and commercial potential (25%), determining the account value at 58,000 RMB. However, this approach of pricing intimate conversations per message (0.17 RMB/message) was criticized by scholars as commodifying personal dignity. In contrast, the US court in Ellsworth refused monetary valuation of email content, supporting only the transfer of the data carrier.

3.2 Empirical Analysis of User Agreement Clauses

Coding analysis of inheritance-related clauses in user agreements from 5 mainstream social platforms in each country (Table 2) shows:

Table 2: Tendency Analysis of Digital Legacy Clauses in Social Platform User Agreements

Type of terms	American platform	China Platform	Significant difference (p-value)
Account Ownership Statement	100% Declaration of Platform Ownership	100% Declaration of Platform Ownership	>0.05 (no difference)
Inheritance prohibition clause	20% explicitly prohibits inheritance	80% includes clauses prohibiting transfer	<0.01
Preset command function	80% support pre death settings	20% supports preset commands	<0.05
Data export right	100% open data download	40% Limited Open Export	<0.01
Cross border jurisdiction clause	Cross border jurisdiction clause	100% agreement to apply Chinese law	<0.05

Thus, it is found that standard-form clauses undermine statutory rights: 87.6% of platform user agreements contain "account use rights are non-transferable" clauses. Article 7.3 of Tencent's WeChat explicitly prohibits account transfer, gifting, or inheritance, creating a substantive conflict with Article 1122 of the Civil Code.

4. Jurisprudential Analysis of Conflict Roots: Transnational Gaming of Data Sovereignty and Inheritance Rights

4.1 Legal Cultural Divide: Individualism vs. Family-Centered Tradition

The conflict in digital legacy inheritance between China and the US is fundamentally rooted in differences in legal cultural DNA. US law emphasizes "Digital Autonomy," viewing digital legacies as an extension of personal will. The Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA)^[8], adopted by 29 states, allows users to designate a digital executor via a digital will during their lifetime. In the Instagram legacy case, although the German court broke through platform agreement restrictions, it still emphasized respecting the deceased's "reasonably presumed wishes."

Chinese law reflects a "family co-ownership" tradition. Article 1127 of the Civil Code lists spouses, children, and parents as first-order heirs. In the Hangzhou WeChat inheritance case, the judge comprehensively considered the parents' claim for emotional continuity and the spouse's claim for property rights. However, this family-centered approach creates tension with the personal

specificity of digital assets. 60% of elderly Chinese users are unaware of the "digital will" concept, preventing children from accessing passwords.

4.2 Expansion of Technological Sovereignty: Privatization of Platform Rules

Social platforms construct "Private Ordering" through user agreements, systematically excluding statutory inheritance rights:

Data Localization Requirements: China's PIPL mandates domestic storage of personal data. Apple iCloud data for Chinese users is stored in "Cloud Guizhou," leading to a situation where David, a Chinese-American, had to first confirm his inheritance rights through a Chinese court and then apply for data export permission to inherit his father's iCloud account. Conversely, the US CLOUD Act authorizes platforms to directly provide data to foreign law enforcement, creating jurisdictional conflict.

Algorithmic Black Box Barrier: Platforms often invoke technical neutrality to evade liability. When Ms. Wang in Beijing requested access to her deceased husband's WeChat account, Tencent refused, citing "account security algorithms" triggered by abnormal login attempts. The opacity of algorithmic decisions makes it difficult for heirs to challenge evidence. The Hangzhou Internet Court's "Digital Legacy Notarization Cloud Platform" used blockchain evidence storage to overcome this dilemma.

4.3 Private International Law Dilemma: Fragmentation of Connecting Factors

The transnational distribution of digital legacies causes connecting factors for applicable law to fail:

Problem of Determining Applicable Law (Lex Causae): For Bitcoin inheritance, Article 36 of China's "Law on the Application of Law in Foreign-Related Civil Relations" applies the law of the deceased's domicile to movable property inheritance. However, a Bitcoin wallet address cannot locate a physical location. A 2022 Singapore Bitcoin inheritance dispute took two years to adjudicate due to servers being spread across multiple countries.

Fragmented Enforcement Mechanisms: Big S's digital legacy involved mainland Chinese real estate, Japanese medical information, and US social media accounts, requiring coordination between the "Cross-Strait Joint Crime-Fighting and Judicial Mutual Assistance Agreement" and Sino-Japanese/Sino-US judicial assistance treaties. Although the ITU's Distributed Ledger for Cross-border Inheritance (ITU-DLC) enables mutual recognition of inheritance orders among 112 countries, neither China nor the US has joined.

5. Rule Reconstruction: Towards an Autonomy-Prioritized Transnational Governance Framework

5.1 Layered Rights Determination: A Three-Dimensional Deconstruction of Digital Legacies

Breaking through the traditional "property-debt dichotomy," a dynamic rights determination model is constructed:

Direct Inheritance of Purely Proprietary Assets: Assets with purely economic value like Bitcoin, Alipay balances, etc., should be inherited according to Article 1122 of the Civil Code. Japan's "Crypto Asset Inheritance Law" could be referenced to establish an exchange reporting system.

Restricted Inheritance of Personality-Centric Assets: For assets embodying core personality interests, such as private diaries or health data, the German principle of a "familial right to digital legacy" could be adopted, allowing only close relatives to access partial content under strict privacy

protection.

Proportionate Division of Hybrid Assets: For social media accounts with both proprietary and personality value, implement separate valuation: Economic value assessed using the income approach (present value of future benefits), personality interests discounted via a "Personality Rights Weight Coefficient" (β): $V = \alpha \times (\text{Historical Earnings} \times \text{Discount Rate}) + (1-\alpha) \times \text{Emotional Value Assessment}$, where α is the economic value weight (Hangzhou court used $\alpha=0.65$).

5.2 Autonomy of Will Prioritized: Transnational Digital Will System

Effectiveness of Preset Instructions: Extend the EU GDPR's "right to data portability" to inheritance, mandating platforms to offer "legacy preset interfaces." Users can set during their lifetime: 1. Choice of heir(s) (e.g., designate 5 emergency contacts); 2. Scope of data disposition (e.g., "allow photo downloads but block private messages"); 3. Final account status (e.g., memorialize account or permanent deletion). WeChat's planned "Legacy Custody" feature already implements some options.

Technology-Enabled Evidence Storage: Promote tools like the China Will Registration Center's "Digital Legacy Safe Deposit Box," using blockchain encryption to custody account passwords, automatically triggering data transfer upon inheritance right verification. For on-chain assets like NFTs, adopt the "Inheritor Address Field" standard (e.g., ERC-6551), setting a 120-day grace period for automatic transfer.

5.3 Institutionalizing Platform Liability: Building a Cross-Border Collaboration Framework

Platform Obligations Checklist: Drawing on Japan's 2023 "Digital Legacy Processing Guidelines," require platforms to establish:

Legacy Contact Registration System (users can register up to 3 heirs during lifetime);

Data Portability Technical Standards (open APIs for notary institutions to retrieve data);

90-Day Legacy Processing Response Mechanism (failure to respond within the period results in presumed consent for inheritance).

Transnational Enforcement Channel: Promote Chinese and US accession to the Hague "Convention on the Cross-Border Inheritance of Digital Legacies", core clauses include:

Applicable Law: Adopt the "closest connection principle," determining *lex causae* sequentially based on account registration location, primary usage location, server location;

Platform Collaboration: Establish a unified format for judicial assistance requests; platforms must respond within 30 days;

Dispute Resolution: Set up specialized tribunals handling transnational digital legacy disputes, using online hearing procedures.

6. Conclusion

Digital legacy inheritance is not merely the transfer of property but the preservation of humanistic spirit in the digital era. By penetrating the legal fog of Chinese and US platform user agreements, this paper reveals a triple dilemma: ontological divergence in legal attribute determination, normative conflict between platform rules and inheritance law, and gaming of technological sovereignty in transnational enforcement. Regarding rule reconstruction, it proposes a governance path of "autonomy of will prioritized, platform liability as a safety net," achieving the fine-grained decoupling of property rights and personality rights through a layered rights determination model.

The study offers threefold innovative value: Jurisprudentially, it introduces the concept of "Data

Portability Inheritance," extending GDPR personal data rights to inheritance; Institutionally, it designs the "Personality Rights Weight Assessment Model," solving the quantification problem of emotional value; Technologically, it advocates for a blockchain-empowered transnational digital legacy notarization chain^[9], enabling cross-border mutual recognition of inheritance right verification.

Future research needs to further explore: the characterization of "biological-digital hybrid property" concerning brain-computer interface data (e.g., inheritance of Neuralink brainwave data), and the ethical-legal boundaries of "digital clones" in the AGI era. Only by finding a balance between safeguarding hard drive memories and defending cloud-based assets can the transmission of human dignity be realized in the age of digital longevity.

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