

CHALLENGES AND INNOVATIONS OF INHERITANCE LAW IN THE DIGITAL AGE

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I. INTRODUCTION

Inheritance is not a simple transfer and continuation of estate and property, but a legal act involving citizens' basic survival and personal dignity.¹ Inheritance law that adapts to social development and responds to individual needs can not only protect the rights and interests of the living and the deceased but also help safeguard human dignity. China's former *Succession Law* was formulated in the early stage of reform and opening up, when the accumulation of social wealth was limited, and the types of estate were relatively single; after more than four decades, private wealth has grown substantially in volume and diversified considerably in form. These changes have had a practical impact on the inheritance rules that mainly regulate traditional property forms.²

However, this law and its supporting judicial interpretations have not been revised for more than 30 years. Although the Succession Book of the *Civil Code* has improved the former *Succession Law* to a certain extent, demonstrating the characteristics of the times and national elements, compared with general property laws such as property law and contract law, inheritance law, as a status property law, tends to be conservative in system innovation and shows a certain degree of lag. This is directly reflected in the fact that the Succession Book of the *Civil Code* has made limited substantive adjustments to the number of articles and normative content. With individuals' lives becoming increasingly deeply integrated into electronic transactions and digital interactions, digital assets have brought complex challenges to the effective management of estate.³ Continued adherence to a

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1 See Wang Geya, *The Succession Book of the Civil Code: Humanistic Care and Institutional Guarantee*, 2 *Law Science Magazine* 47, 48 (2020).

2 See Ma Xinyan, *The Maintenance and Innovation of China's Independent Knowledge System of Succession Law*, 2 *China Legal Science* 105, 112 (2024).

3 See Jeehyeon Lee, *Death and Live Feeds: Privacy Protection in Fiduciary Access to Digital Assets*, 2015(2) *Columbia Business Law Review* 659, 659-660 (2015).

property rights system and research paradigm grounded in the physical world will give rise to interpretive difficulties in explaining the emerging new types of property forms. The diversification of property forms in the digital age and the reshaping of inheritance methods by digital technology urgently require inheritance law to make a systematic response in theory.⁴

At present, due to the limited number of actual cases, relevant issues have not yet fully emerged, but each such case may arouse controversy.⁵ With the increasing popularity of Internet applications, when holders of cryptocurrencies, owners of high-value social accounts or game accounts, and other right holders of digital assets pass away, the possibility of disputes among their potential heirs will increase significantly.⁶ Due to the essential attributes of digital property such as intangibility, strong correlation with personal interests, structural characteristics beyond the traditional dichotomy of real rights and obligations, and non-exclusivity, it is difficult to fully incorporate it into the traditional property rights interpretation framework centered on tangible objects.⁷ In this regard, academic circles have gradually launched reflections, and relevant discussions mainly focus on whether and how new property forms such as digital estate should be included in the regulatory scope of inheritance law.⁸ However, few scholars have systematically reflected on the reform direction of inheritance law in the digital age from an overall perspective. To adapt to the development of science and technology and the update and transformation of property forms, this paper will, based on an overall perspective, sort out the development trend of inheritance law in the digital age, explore the in-depth challenges brought by digital technology to inheritance law, and then analyze the possible reform direction of inheritance law in the digital age.

4 See Zhang Yang, 'Digital Heritage' Has Become a Dilemma, People's Daily, June 3, 2014, at 21; Li Qiang, *Who Will Inherit Our Digital Heritage?*, People's Daily, October 29, 2018, at 21.

5 See KONG DEQI, WHAT IS THE CONTROVERSY OVER THE 'RECYCLING OF DECEASED FATHER'S SOCIAL MEDIA ACCOUNT'?, at https://m.gmw.cn/2025-02/11/content_37844157.htm (Last visited on May 18, 2026); THE FIRST NATIONWIDE CASE: A STUDENT FROM THE ECUPL FILED A LAWSUIT AGAINST TENCENT CONCERNING THE INHERITANCE RIGHTS OF A WECHAT OFFICIAL ACCOUNT, WHICH WAS ACCEPTED FOR FILING, at https://news.sohu.com/a/920349829_122493686 (Last visited on May 18, 2026); Bundesgerichtshof (BGH), Judgment of July 12, 2018 — III ZR 183/17 (Facebook case).

6 See Aleksei Aleksandrovich Volos, *Digitalization of Society and Objects of Hereditary Succession*, 3(3) Legal Issues in the Digital Age 68, 69 (2022).

7 See Wang Liming, *Civil Law in the Digital Age*, 4 Journal of Comparative Law 17, 17-18 (2022).

8 See Tan Zuocai, *Theoretical Construction and Basic Framework for Digital Heritage Inheritance*, 4 Oriental Law 153, 153 (2025); Wang Qi, *The Digital Heritage · Privacy of Correspondence · Personality Right in the Internet Epoch: Focus on the Inheritance of Social and Communication Internet Accounts*, 6 Law and Economy 84 (2018).

II. PRACTICAL CHALLENGES AND VALUE RECONSTRUCTION OF INHERITANCE LAW IN THE DIGITAL AGE

Under the profound impact of digital technology, the traditional foundation on which inheritance law relies is facing systematic challenges. This not only reflects that digital estate carrying personal and emotional values can hardly be accommodated by existing rules centered on economic value but also fundamentally touches on the balance of values that the law must strike between family inheritance and individual autonomy. At the same time, the will formalism paradigm rooted in the paper media era is also facing increasingly severe challenges as digital technology deeply penetrates daily life.

A. Dilemma of Inheritance Value Concept

The inheritance issue in the digital age has transcended the traditional private law field, constituting a complex legal relationship that integrates elements of inheritance law, contract law, and public law. In terms of value basis, traditional inheritance law takes family intergenerational connection as the core, emphasizing property as a tool for family maintenance, support, and intergenerational inheritance; while quite a number of digital assets precisely lack such intergenerational connection, and their essence is closer to the carrier of personal digital personality and social relations. Their value is also reflected in identity construction and emotional expression, rather than family economic support. For example, digital assets such as cryptocurrency private keys, personal social media accounts, and game accounts often have strong personal attachment and privacy, reflecting personal interests, social networks, and digital identities, which are far from the function of family property traditionally intended to maintain family survival and support future generations. In terms of asset nature, traditional estate usually has clear property attributes and divisibility, while digital assets generally show a high degree of personal connection, privacy, and indivisibility. Therefore, inheriting real estate is completely different from inheriting digital assets, such as social media accounts, in both legal characterization and social impact.

The above conflicts reveal the dilemma of value conception that inheritance law faces in the digital age. First, the tension between the primacy of family

ethics and the principle of individual digital autonomy. Traditional inheritance law takes the family community as its preset scenario and regards the transmission of property as a natural extension of family functions. However, the highly personal nature of digital assets may separate the testator's individual will from family interests. The extent to which the law should respect an individual's autonomous decision-making power over his or her digital personality, digital identity, and social relations has become an urgent question to be addressed.⁹

Second, the dislocation between the function of property distribution and the demand for personality continuation. Traditional inheritance law focuses on the economic value of property. Yet succession in the digital age is no longer confined to the transfer of tangible objects and the intergenerational transmission of property interests; the renewal of social relations involved is even more significant.¹⁰ There is still no clear solution as to how inheritance law should treat these interests that cannot be monetarily measured but are of great importance to the living.

Third, the tension between the simple final distribution of property and the need for continuous maintenance and management. Traditional succession ends with the division of the estate. Property is transferred to successors upon the death of the decedent, and the succession relationship is thereby terminated. Nevertheless, the value of a considerable portion of digital assets relies precisely on continuous operation, maintenance, and renewal. The mere application of the traditional one-off division rule may lead to the devaluation or even complete loss of such assets due to a lack of management. Under such circumstances, it is necessary to coordinate the complex relations among the wishes of the deceased, the emotions of the living, social memory, and the interests of platforms, so as to realize the humanistic concern of 'letting the deceased rest in peace and comforting the living'.

B. Complex and Diverse Forms of Estate

To ensure that all legal property of natural persons can be inherited, how to stipulate the scope of estate has always been an important issue in the

9 See Pawel Szwajdler, *Digital Assets and Inheritance Law: How to Create Fundamental Principles of Digital Succession System?*, 31(2) *International Journal of Law and Information Technology* 144, 158 (2023).

10 See Liu Zhihui, *On the Inheritability of Online Digital Heritage in China in the Era of Big Data*, 6 *Jiang-Huai Tribune* 112, 117 (2014).

revision of inheritance law, including debates on whether new property forms should be included in the scope of inheritance.¹¹ With the transformation of the property form of family departments from materialization and financialization to digitalization,¹² the category of estate has undergone profound changes. Traditional inheritance law takes economic value and privacy as the core judgment criteria, aiming to maximize the protection of private property rights. Although this standard has expanded the scope of estate to a certain extent, it still fails to directly address the particularity of inheritance objects in the digital age. The emergence of digital assets has revealed the limitations of this standard in dealing with new types of property, leading to a complex and diverse dilemma in defining the scope of estate.

First, digital assets have expanded the forms of estate, but their nature is quite different from traditional property. Digital assets have become an important part of personal property, carrying economic, emotional, and social relational values. Their essential attributes are fundamentally different from traditional property. To begin with, digital assets are not purely private property independently created by users, but products jointly generated by individuals and network platforms, which constitutes an important feature of their ownership structure.¹³ In addition, the value of digital assets is composite, which is not only reflected in potential economic interests but also attached to personal identity, social memory, and emotional sustenance. This complexity makes it difficult to evaluate their market value publicly and objectively like company equity, and thus it is difficult to clarify and realize property rights during inheritance. Property interests and personal interests are deeply intertwined and difficult to separate. Inheriting an account may involve the transfer of economic value, private communications, and social networks at the same time, and may even violate users' wish that their digital footprints disappear with them. Therefore, it is difficult to directly make a simple judgment on whether such property interests with significant personal attributes can be part of the estate in accordance with article 1122 of the *Civil Code*.¹⁴ Lastly, social

11 See Chen Wei & Cao Xianyu, *A General Review of the Seminar of the Hot Points and Difficult Points in Amending Succession Law*, 5 *Journal of Southwest University of Political Science & Law* 131, 132 (2012).

12 See Zhou Hong, *Evolutionary Logic of the Virtualization of China's Household Wealth*, *Chinese Social Sciences Today*, January 23, 2025, at A05.

13 See Robert P. Merges, *The Concept of Property in the Digital Era*, 45(4) *Houston Law Review* 1239, 1249 (2008).

14 See Tang Botao, *Identification of Inheritability of Personal Property Interest*, 4 *Law Science* 111, 112 (2025).

networks built by individuals on digital platforms have traditionally not been regarded as inheritable assets. These personal, professional, political, and other relational networks developed or cultivated by individuals can offer transaction opportunities to beneficiaries. With the widespread adoption and consolidation of social networks, the proposition that such networks should be entirely excluded from the scope of inheritance has been challenged.¹⁵ However, if the inheritance of social accounts containing a complete list of contacts is allowed, it may violate legal provisions that protect citizens' freedom of communication, communication secrets, and privacy. Therefore, inheritance rules of digital estate should take such characteristics into account.¹⁶

Second, the inheritance of digital assets is subject to external constraints. The inheritability of digital assets not only depends on the law but also is strongly restricted by external factors. For one thing, there are pre-existing restrictions imposed by platform contracts. Digital assets usually take the form of intangible rights such as email accounts, social media accounts, reward points, and electronic media. Although they have the characteristics of property rights, they are essentially products of contracts. Platform user agreements not only directly determine the use or disposal of assets but also usually exclude their inheritability.¹⁷ This actually excludes the possibility of statutory inheritance in the name of contractual freedom, leaving a large number of digital assets in the gray area of inheritance. For another, there is the in-depth involvement of third parties. The transfer of traditional estate mainly occurs as a one-way transmission between the deceased and heirs, while the inheritance of digital assets inevitably entails the in-depth involvement of third parties, especially Internet service providers, who rely on them to fulfill cooperative obligations such as identity verification and access authorization. However, Internet service providers often refuse to cooperate on the grounds of user privacy protection, technical burden, and operational costs, hindering the realization of inheritance. In addition, the transfer of digital estate may also involve communication secrets and privacy rights of other contacts, triggering complex rights conflicts and 'spillover costs'. Besides, there is a potential conflict with

15 Jeehyeon Lee, *supra* note 3, 661-662.

16 See Ma Changhua, *The Scope of the Heritage and the Ways to Legislate*, 8 Law Science 26, 30 (2012).

17 See David Horton, *Contractual Indescendibility*, 66(4) Hastings Law Journal 1047, 1059 (2015).

statutory inheritance rules. If digital accounts with strong personal attributes are simply included in the scope of estate, and the statutory inheritance share rules aimed at balancing family economic interests are mechanically applied, it may not only violate the wishes of the deceased and infringe on their personal dignity, but also induce emotional and ethical conflicts among family members. Finally, the object characteristics of digital estate determine that its inheritance cannot be completely solved by relying on general rules in the inheritance law. Its content composition and legal relations also involve multiple legal fields such as personal rights law, cybersecurity law, and intellectual property law.

C. Technological Impacts on the Modes of Inheritance

Over centuries, the concept of wills has continuously evolved and developed. Before the last century, wills could only be made orally or in writing. With the progress of technology, the form of wills has expanded to audio or video wills. Today, considering that paper wills can easily be damaged, it is logical to store wills in electronic format. Since the establishment of inheritance rules in Roman law, legal systems in various countries have generally set strict formal requirements for wills. Courts strictly abide by these provisions, forming a large number of precedents known for their harshness and rigidity.¹⁸ This strict formalist stance is facing a stronger impact in the digital age. The widespread use of computers, smartphones, the Internet, and trusts has changed or will change the way people express their last wishes, and at the same time, put forward new questions about the function of formalism in property disposal documents.¹⁹

Digital technology has not changed the core purpose of the will system to ensure the true wishes of the deceased, but has completely changed the way wishes are generated, expressed, and fixed. On the one hand, strict formal requirements are difficult to meet the expression habits of the digital age. To ensure the authenticity of wills and prevent fraud, traditional law has set strict formal requirements. However, this requirement is in conflict with the current mainstream communication and recording methods. First, individuals'

18 See John H. Langbein, *Substantial Compliance with the Wills Act*, 88(3) Harvard Law Review 489, 489 (1975).

19 See David Horton, *Tomorrow's Inheritance: The Frontiers of Estate Planning Formalism*, 58(2) Boston College Law Review 539, 597 (2017).

important declarations of will are increasingly generated and stored through digital methods such as emails, instant messaging, and electronic documents. Insisting that wills must be physically signed paper documents is out of touch with the social trend of a paperless office. Second, the original intention of formalism is to prevent the risk of falsification and fraud, but in the digital environment, it may itself constitute the primary obstacle to realizing the true wishes of the deceased. For example, an email or digital memo that clearly expresses the last wishes, if declared invalid only because it does not meet the statutory form, is equivalent to sacrificing substance for form. On the other hand, technology has expanded the normative connotation of ‘written form’ and ‘signature’. Digital technology has not only provided new carriers but also spawned new authentication methods, which requires the law to reinterpret core concepts. The ‘written form’ in the legal sense should no longer be limited to paper carriers, but should cover any data message that can stably and permanently record declarations of will. Technologies such as electronic signatures, biometrics, and specific passwords or keys can already provide identity authentication and will confirmation functions equivalent to or even higher than traditional handwritten signatures. There is no sufficient reason to continue to exclude these methods. In the context that the inheritance law has not yet systematically recognized the legal effect of electronic wills or data message wills, it is urgent to explore an interpretive framework that takes into account both the current law and the needs of the times.

III. DETERMINATION AND TYPED INHERITANCE OF INHERITANCE OBJECTS

Article 1122 of the *Civil Code* generally defines estate as ‘the property lawfully owned by a natural person upon death’. Although this provision abandons the enumerative expression of the former *Succession Law* in the legislative model, its substantive connotation of ‘property’ is no different from the catch-all clause of ‘other property of citizens’ in the former law. This means that the mere transformation of the legislative model has not taken the initiative to respond to and expand the extension of estate. On the premise that expanding the scope of estate has reached consensus, the conservative attitude toward legislation urgently requires interpretive theory to play a corrective role.

A. Property Legal Status as the Inheritance Object

There has been considerable theoretical controversy regarding the object of inheritance. One view holds that since estate is conceptually classified as property, only rights with monetary value can be included in it, while non-property rights are not part of it and should be extinguished upon the death of the decedent.²⁰ A different opinion argues that the occurrence of inheritance does not depend on the deceased having property; even the tattered clothes of a homeless person are considered estate. Therefore, in the context of estate, ‘it is inappropriate to distinguish between objects with property value and other interests related to the deceased. Distinguishing based on the value of estate must be rejected in any case.’²¹ Undoubtedly, many digital assets have limited market value, but they are relevant or important to the living or carry indispensable emotional and personal interests. If measured by economic value, they will be excluded from estate, which is contrary to the pursuit of spiritual emotions in modern society and the original intention of the inheritance system to comfort the living. Therefore, online digital estate without economic value becomes inheritable property due to its inheritance value. With the development of the times, the renewal of concepts, and the progress of technology, the form of property has also changed. The expansion of the concept of property is not only a trend of the times but also recognized by other chapters of the *Civil Code*. The primary obstacle to the protection of virtual property stems from the contracts between Internet service providers and users, which often strictly restrict the circulation of digital assets. In the digital age, contractual freedom should not weaken the basic protection of property. ‘If we do not recognize property interests in digital assets, we will create a brand new digital world, but with traces of the ancient feudal system.’²²

On this basis, it is necessary to return to the essence of the inheritance system to provide a theoretical basis for the inheritance of digital estate. Digital life can usually be properly handled with legal norms originally designed for the real world, and the existing legal framework can adapt to new problems in the digital

20 See DIETER LEIPOLD, ERBRECHT (22. AUFLAGE), at 21 (Lin Jiaye & Ji Hongming trans., Law Press • China, 2023).

21 See MATHIAS SCHMOECKEL, ERBRECHT (5. AUFLAGE), at 14 (Wu Yiyue trans., China Renmin University Press, 2020).

22 See Natalie M. Banta, *Property Interests in Digital Assets: The Rise of Digital Feudalism*, 38(3) Cardozo Law Review 1099, 1156 (2017).

environment. Therefore, there is no need to create new concepts and norms. Since the Succession Book of the *Civil Code* does not distinguish between the real world and the digital world, the inheritance of digital estate should also construct an interpretive theory within the framework of the *Civil Code*. In fact, the inheritability of a subject matter should not depend on its carrier form or property attributes, but on the nature of the legal status it carries. The underlying logic of inheritance lies in the value contained in the object: ‘property’ is only an external form, not the essence of inheritance. In primitive society, since property belonged to family units rather than individuals, there was no concept of wills. However, status inheritance involving honor, respect, authority, and accompanying rights already existed. Modern personal inheritable property rights originated from such status inheritance.²³ In inheritance law, the general succession of rights and obligations in property law has become a common view. ‘Therefore, inheritance in the *Civil Code* can be said to be the inheritance of the status of the deceased.’²⁴ This view was already recognized during the Roman law period.²⁵ It can be seen that heirs not only inherit the ownership of the deceased’s property but also take over all legal statuses that can be transferred through inheritance. However, the legal system also stipulates certain legal statuses that terminate upon death, but these are only a few exceptions, mainly the personal rights of the deceased,²⁶ which do not affect the general principle of inheritance of property legal status. Therefore, it is inappropriate to define the scope of estate only from the narrow concept of property, but it should be based on the position of protecting the reasonable expectations of the deceased and the living. Therefore, judges do not need to simplify the determination of the non-inheritability of a contract by ‘whether something is consumer property’, but should thoroughly examine whether the Internet service provider has made users reasonably believe that their digital assets are inheritable.

In accordance with the legislative purposes of article 1122 of the *Civil*

23 See Gerry W. Beyer & Claire G. Hargrove, *Digital Wills: Has the Time Come for Wills to Join the Digital Revolution?*, 33(1) Ohio Northern University Law Review 865, 866 (2007).

24 See SHI SHANGKUAN, *TREATISE ON THE LAW OF SUCCESSION*, at 2 (China University of Political Science and Law Press, 2000).

25 See PIETRO BONFANTE, *TEXTBOOK ON ROMAN LAW*, at 425 (Huang Feng trans., China University of Political Science and Law Press, 1992).

26 See Tiina Mikk & Karin Sein, *Digital Inheritance: Heirs’ Right to Claim Access to Online Accounts Under Estonian Law*, 27 Juridica International 117, 120 (2018).

Code to protect private property rights, guarantee testamentary freedom, and enable proper disposition of post-mortem affairs, the right to access and control cloud-based data, as well as continuing entitlements arising from service contracts, albeit not explicitly subsumed under the literal definition of ‘lawful property’, represent novel legal statuses formed in the digital age. Should such entitlements be categorically excluded from the scope of inheritance solely on account of literal interpretive constraints, substantial lawful rights and interests carrying economic value or personality interests would remain unenforceable, which is contrary to the institutional rationale underlying inheritance law. Methodologically, a legal gap arises when a factual circumstance ought plainly to be regulated pursuant to legislative intent yet is not captured by statutory wording due to being an unforeseen new category at the time of enactment. Such gaps may be remedied by means of teleological extension. On this basis, the inheritance of digital assets may be integrated within the normative framework of existing inheritance law and acquire a positive-law grounding.

B. Typological Inheritance of Internet Accounts

As a typical form of digital assets, the inheritance of Internet accounts requires urgent clarification. Existing discussions mostly center on the binary dispute over whether the object of inheritance is the entire Internet account or merely its stored content,²⁷ yet such dichotomy is actually a false proposition. In fact, the value of an account derives from its integration of specific content, data, goodwill, and social relationships into an organic whole. Fragments of content separated from the account are admittedly of limited value, while the account identifier alone carries no independent property significance. Therefore, the focus of inheritance law should not lie in an either-or choice. Instead, on the premise of recognizing the inheritable nature of the entire account in principle, differentiated rules that balance the interests of multiple parties shall be formulated for various types of accounts. Legal grounds for this can be derived from the right structure of Internet accounts. In the pre-Internet era, right holders often obtained factual control over information content by possessing physical carriers such as letters and diaries, where rights over information carriers and

27 See Mateusz Grochowski, *Inheritance of the Social Media Accounts in Poland*, 27(5) *European Review of Private Law* 1195, 1199 (2019).

information content were integrated as a single entity. In the digital age, however, information carriers are controlled by Internet service providers, resulting in a separation between users' rights to information content and their mere creditor's rights to information carriers.²⁸ Although an Internet account itself is not an information carrier, it serves as the bond connecting the aforementioned two separated rights. It functions as the sole credential for users to access cloud-based content and embodies the continuing legal relationship between users and platforms. Precisely by virtue of its function linking content rights and access rights, an account acts as a carrier of a comprehensive legal status interwoven with contractual, privacy, property, and other interests. Given the objectively marked disparities in the proportion of personality interests and property interests among different types of Internet accounts, inheritance rules grounded in such legal logic cannot be uniform but must adopt a typological approach.

Based on the above analysis, typological treatment may be conducted as follows according to differences in the core functions and values of accounts. First, personality/sentiment-oriented Internet accounts. The core function of such accounts lies in recording personal life, expressing emotions, or maintaining social relationships, with their value manifested primarily in spiritual continuity and emotional memories rather than economic gains. For such accounts, the focus of inheritance rests on access to account content and privacy protection. Heirs shall have the right to access, back up, or preserve sentimental content such as photos and messages stored in the account. But in principle, heirs shall not continue social activities under the original user's identity, so as to avoid infringement upon the privacy of the deceased and the secrecy of correspondence with third parties. The right to use the account itself terminates upon the user's death, unless the deceased has made explicit arrangements during their lifetime via a will or digital estate tools provided by platforms.

Second, property/business-oriented Internet accounts. The core function of such accounts is to generate economic benefits, build business goodwill, or provide continuous services. The accounts themselves carry independent property value, which may be objectively measured through market transactions, advertising revenue, fan economy, and other means. For these accounts, not only may account content be inherited, but also the right to use and operate the

28 See COMMENTARY ON THE CIVIL CODE: SUCCESSION BOOK, at 28-30 (Chen Su & Xie Hongfei eds., China Legal Publishing House, 2020).

accounts shall devolve to heirs as part of the estate to sustain their economic value. Standard-form clauses stipulating ‘non-inheritability and non-transferability’ in platform service agreements shall be subject to strict judicial review in such circumstances. Unless platforms can prove that such restrictions are necessary to protect major public interests, inheritance shall not be excluded. Existing practice also indicates that where internal agreements governing account ownership exist, courts tend to rule that they prevail over platform standard-form clauses.²⁹

Third, hybrid Internet accounts. For individually operated accounts with significant commercial value, their dominant attribute shall be determined on a case-by-case basis by comprehensively considering factors including primary sources of income, operation modes, and the nature of fan interactions. Where an account is dominated by commercial operation, the rules applicable to property/business-oriented accounts shall prevail. Where it mainly serves for personal life sharing with only incidental commercial activities, the rules for personality/sentiment-oriented accounts shall primarily apply, while provisions for property-oriented accounts may be exceptionally referenced in relation to commercial interests. This approach respects the reality of accounts as integral property assets, maintains a balance of interests among all parties, and avoids the rigidity of the all-or-nothing mindset in inheritance.

IV. MITIGATION PATH OF STRICT FORMAL REQUIREMENTS FOR WILLS

Based on the decisive value of the formal requirements of wills, there is a tendency toward rigid application in theory and practice. That is, if the formal requirements are not met and there are disputes among heirs, the validity of the will is denied.³⁰ ‘The form of a will is a legal phenomenon, and whether to recognize the validity of a certain form of will in practice also represents the legislature’s permission and protection of certain real economic activities.’³¹ Today, when digital technology has profoundly changed the way

29 The court held that the internal agreement between the parties regarding the ownership of the account shall take precedence over the standard form terms of the platform, and accordingly ruled that the ownership of the account vests in the company. See Civil Second-Instance Judgment No.19618 of the Intermediate People’s Court of Guangzhou, Guangdong Province (2020).

30 See YANG LIXIN, INTERPRETATION AND COMMENTARY ON THE CIVIL CODE OF THE PEOPLE’S REPUBLIC OF CHINA · SUCCESSION BOOK, at 130, 133-139 (China Renmin University Press, 2020).

31 *Supra* note 28, 136.

of expression and evidence preservation, this strict formalism has become relatively rigid, which may not only hinder the realization of true wishes, but also be incompatible with the management needs of digital estate. Therefore, it is necessary for inheritance law to explore an approach to mitigating formal requirements, shifting from overemphasizing formal completeness to prioritizing the protection of the authenticity of declarations of will.

A. Breakthrough of Strict Formal Requirements for Wills

Inheritance law is essentially a private law and should respect the dispositive freedom of the deceased to the greatest extent. Excessively imposing formal requirements may make behavioral models that conform to people's daily life habits unrecognizable by law, which restricts the space for autonomy of wills due to legal paternalism.³² Therefore, as long as the authenticity of the will content can be determined, formal defects should not be an absolute reason to deny its validity. The legacy possession system formed in the field of inheritance in Roman law also showed that even if a will was invalid under civil law due to formal defects, as long as it could be proved that it truly reflected the wishes of the deceased, the praetor would grant the heir designated therein the right to possess the legacy.³³ The 'harmless error rule' established by legislative examples represented by the *Uniform Probate Code* reflects this spirit: when there is clear and convincing evidence that a document is indeed the true wish of the testator, the court may exempt it from minor defects in formal requirements. Digital technology provides new possibilities for verifying the authenticity of wills. For example, platform login passwords and biometric verification such as fingerprints or facial recognition may be more reliable than the physical signature and witness of traditional paper documents for identity locking and tamper-proofing. The security pursued by strict formal requirements is not irreplaceable in the digital environment. Therefore, in an era when many tangible assets have been digitized, it is particularly inappropriate to insist that wills must be paper documents witnessed by two people.

Strict adherence to strict formalities entails a series of negative

32 See Ren Jiang, *On Legal Effect of the Formal Elements of the Will in the Succession of China's Civil Code*, 6 Study in Law and Business 61, 72 (2020).

33 See HUANG FENG, *ROMAN LAW (3RD EDITION)*, at 201 (China Renmin University Press, 2019).

consequences, underscoring the urgency of reform. Since ordinary people find it difficult to be familiar with complex will form rules, and article 24 of the *Interpretation (I) of the Supreme People's Court on the Application of the Succession Book of the Civil Code of the People's Republic of China* broadly defines the scope of 'interested parties' to be excluded, it is difficult to satisfy the qualifications for competent witnesses. Defects such as failure to adopt statutory forms will render many true wishes invalid, which would violate the original intention of the will system. The formal requirements such as witnesses are intended to protect fraud, but in the context of an acquaintance society or family, witnesses may have an interest relationship with heirs, which instead makes them a mere formality, or even a tool for manipulating wills, failing to achieve the intended function to protect the system. The inheritance of digital estate often faces the refusal of platforms to cooperate on the grounds of 'no will meeting formal requirements'. If the disposal of digital assets is also required to follow traditional will forms, it will be quite inconvenient. It ignores the characteristic that in such inheritance, disputes mostly occur between heirs and platforms rather than among heirs themselves.

Accordingly, in the inheritance of digital estate, it is necessary to distinguish between internal disputes among heirs and external disputes between heirs and platforms. Specifically, the review of the formal requirements of wills usually only involves the interests of heirs and legatees, rather than the public interest. For this reason, if the parties have no dispute over the form of the will, no matter whether the form of the will complies with the provisions, others, especially platforms, have no right to claim its invalidity, and the court should not take the initiative to review it.³⁴ Instead, the will should have consensual enforceability. The platform should perform its assisting obligations in accordance with the law and agreements. In addition, even if there are disputes among heirs, it is inappropriate to adhere to the position of strict formal requirements. A validity determination path centered on respecting the wishes of the deceased should be constructed.

In short, the formal requirements of traditional wills are means serving specific functions, not ends in themselves. Therefore, we should abandon the strict formalist stance on the mandatory nature of will forms, adopt a

34 See Guo Mingrui, *Influence of Flaw in Form of Will on Its Potency — Also on the Legal Perfection of Form of Will*, 40(2) Qiushi Journal 86, 87 (2013).

mitigationist approach, and complete the conceptual transformation from emphasizing the completeness of will forms to emphasizing the authenticity of declarations of will.³⁵ In the context of the diversification of will forms, as long as the general effective requirements of will acts can be met, their validity should be recognized. The core of will validity lies in verifying the authenticity, not adhering to the specific tools or forms of making wills.³⁶

B. Will Forms Adapting to Technological Changes

To adapt to the innovation of wills by new technologies, comparative law has begun to recognize electronic wills as a new type of will form.³⁷ However, the convenience brought by electronic wills is not sufficient to completely offset their potential defects in preventing fraud, ensuring security, and realizing traditional legal functions.³⁸ Their forms may be far from the provisions of the current law, making it difficult to obtain support from positive law in the short term. Therefore, rather than directly legislating special electronic wills, a more operable path is to learn from the ‘harmless error rule’ in the *Uniform Probate Code*, and under the framework of the current law, allow courts to focus on exploring and respecting the true wishes of the testator when evidence is conclusive, regardless of their form of expression.

In specific application, on the one hand, teleological interpretation should be applied to the formal requirements of wills to preserve their validity.³⁹ The requirements such as ‘written form’, ‘signature’, and ‘witness’ should be interpreted substantively from a functionalist perspective. Its legislative purpose is to realize the functions of evidence, warning, protection, and guidance.⁴⁰ As long as electronic forms such as emails, encrypted documents, and trusted timestamps can equally or even better realize the above functions through technical means

35 See Sun Yi, *A Mitigating Way Concerning the Will — Focus on Conceptual Reformation in the Modification of Inheritance Law*, 39(4) *Qishi Journal* 75, 82 (2012).

36 See Wang Lei, *Three Kinds of Relationship Should be Coordinated During the Revision of Succession Law*, 1 *Journal of Soochow University (Law Edition)* 26, 28 (2014).

37 NEV. REV. STAT. § 133.085(1)(2006); Tiina Mikk & Karin Sein, *supra* note 26, 120.

38 See Scott S. Bodderly, *Electronic Wills: Drawing a Line in the Sand Against Their Validity*, 47(1) *Real Property, Trust and Estate Law Journal* 197 (2012).

39 See Zhang Pinghua, *Innovation of Succession Book in Civil Code and Analysis on Inheritance Law*, 6 *Journal of Gansu University of Political Science and Law* 1, 5 (2020).

40 See Ashbel G. Gulliver & Catherine J. Tilson, *Classification of Gratuitous Transfers*, 51(1) *The Yale Law Journal* 1, 5-13 (1941); John H. Langbein, *Substantial Compliance with the Wills Act*, 88(3) *Harvard Law Review* 489, 492-497 (1975).

such as reliable electronic signatures, real-name authentication, and timestamps, they can be interpreted as meeting the statutory formal requirements. For example, the witness is not limited to on-site witness; the validity of witness completed through real-time video communication and other methods should also be recognized.⁴¹ Even digital estate plans that do not meet the strict form of wills should be recognized, as exemplified by existing digital estate management tools at home and abroad.⁴² On the other hand, the provisions on the validity of civil juristic acts in the General Part of the *Civil Code* can be applied to the Succession Book. The authenticity of the declaration of will is the core element of the validity of a civil juristic act, which provides a basis for determining the validity of a will as a unilateral legal act. In addition, article 27 of the *Interpretation (I) of the Supreme People's Court on the Application of the Succession Book of the Civil Code of the People's Republic of China* stipulates: 'If the content involving the disposal of personal property upon his death in a natural person's legacy is indeed his true declaration of will, signed by himself and dated with year, month, and day, and there is no contrary evidence, it may be treated as a holographic will.' This clause provides an important entry point for mitigating the strict formal requirements of wills. Although its literal meaning mainly applies to holographic wills, the method of analogical application for loophole filling can extend the normative purpose and specific rules of this clause to the validity determination of wills made through other new digital media with formal defects.

V. THEORETICAL CONSTRUCTION OF DIGITAL ESTATE MANAGEMENT RULES

The virtuality, concealment, platform-dependency, and compositional complexity of digital assets pose obstacles to the application of established rules governing the identification, partition, and final disposal of estates under traditional inheritance regimes. Therefore, it is necessary to explore and construct a normative system for digital estate administration that safeguards inheritance rights and interests, respects the decedent's will, and balances platform liabilities, individual privacy, and public interest.

41 See Guo Mingrui, *On the Factors to Be Considered in the Revision of the Inheritance Law*, 1 Journal of Sichuan University (Philosophy and Social Science Edition) 158, 165 (2018).

42 For example, Google offers Inactive Account Manager, Facebook offers Legacy Contact, and iCloud offers Digital Legacy Contact, among others.

A. Identification of Estate Scope

When the former *Succession Law* was formulated, the personal property forms of natural persons were single, mainly in the form of physical objects or currency, which usually had typical publicity, and there was generally no difficulty in checking and managing estate. In the digital age, private property is not only large in quantity but also complex in form. In addition, estate is a general property with a high degree of concealment and dispersion, leading to the widespread problem of ‘invisible estate’.⁴³ ‘In many cases, people don’t even know which data they own.’⁴⁴ This means that merely recognizing the inheritability of digital estate in law is not sufficient to fully solve its inheritance problem. According to article 1147 of the *Civil Code*, estate administrators are obligated to ‘verify and make an inventory of the estate’. However, they lack effective channels to discover unknown digital assets, and there is a serious information asymmetry between them, the deceased, and network platforms. This not only damages the rights and interests of heirs but also may lead to the failure of the repayment of estate debts and the assertion of rights. When the deceased is a debtor, creditors can still obtain repayment through the estate debt system. Some scholars argue that, with reference to the provisions of foreign jurisdictions on the public notice and claim procedure for hereditary claims and the relevant provisions governing China’s bankruptcy claim filing procedure, the estate administrator shall apply to the people’s court for the issuance of a public notice for the filing of hereditary claims to urge creditors to exercise their rights. However, when the deceased is a creditor, due to the unknown status of the estate, heirs are very likely unable to claim rights against the debtor. In this regard, the following optimization paths can be explored.

First, the reporting and temporary custody obligations of Internet service providers should be clarified. After the opening of succession, the possessor of the estate is obligated to properly keep it, report to the estate administrator, and hand over the estate. Upon receiving notice, the platform shall freeze relevant Internet accounts, report an overview of assets to the estate administrator, and

43 See Anne Kelley Russell & Tom Zamadics, *Profiles in Digital Assets: A Primer on Estate Planning for Crypto, NFTs, and Social Media*, 34(5) South Carolina Lawyer 50, 50-52 (2023).

44 DANIEL J. SOLOVE, ON PRIVACY AND TECHNOLOGY, at 47 (Cao Bo & Jin Yao trans., Shanghai People’s Publishing House Co., Ltd., 2025).

perform temporary custodial obligations. In this process, paid services related to digital estate inheritance can be explored, such as estate safe deposit boxes, final email services, online memorial spaces, etc.⁴⁵ This can enable Internet service providers to obtain reasonable returns as a cost-sharing and incentive mechanism, and also help promote them to take the initiative to cooperate in estate disposal, which is a balanced and operable plan for all parties.

Second, the establishment of a centralized inheritance inquiry mechanism should be explored. In the long run, drawing on the centralized inquiry model for bank deposits, an inquiry mechanism authorized through statutory procedures may be developed under the leadership of competent national authorities on the premise of strictly protecting privacy and data security, so as to assist in identifying the core digital assets of deceased natural persons. The key work of the Ministry of Industry and Information Technology in the field of telecommunications services includes: ‘Guiding basic telecommunications enterprises and Internet enterprises to jointly provide the ‘secondary number’ renewal service, which enables one-click unbinding of historical Internet accounts and now covers more than 200 major mainstream Internet applications.’ Thus, it can be seen that the relevant national departments have launched explorations into the one-click inquiry function for Internet accounts. Admittedly, how to balance high operational costs, potential privacy risks, and the protection of property circulation remains to be further explored in practice.

Third, the scope of estate identification should be defined. The law neither needs nor is capable of tracing all digital traces. Digital assets with trivial value, without inheritance instructions, or where the right holder has no disposition intention may be deemed as matters not intended for arrangement by the decedent. The principle of *de minimis non curat lex* shall apply, allowing platforms to conduct regular cleanup in accordance with agreements, so as to avoid excessive institutional costs and waste of social resources.

B. Division and Transfer of Estate

Different from monetary and tangible property, digital assets typically represented by Internet accounts cannot be physically divided functionally or

45 Pawel Szwajdler, *supra* note 9, 160.

technically. Forcible division would result in the loss of function or substantial depreciation in value. Furthermore, the division and transfer of digital assets rely not only on the consent of heirs but also on platform policies and technical feasibility, while facing difficulties in value assessment. Therefore, it is necessary to move beyond the traditional mindset of ownership transfer and establish diversified mechanisms for the realization of inheritance.

First, the co-ownership and trusteeship model for digital assets should be explored. For indivisible assets capable of generating continuous returns, heirs may be permitted to establish an internal co-ownership relationship, with one heir responsible for the operation and management and the others sharing proceeds pursuant to internal agreements or smart contracts, so as to achieve sustainable utilization and benefit-sharing.

Second, for digital estate with strong personal attributes and family commemorative sentimental value, reference may be made to the disposal rules for indivisible co-owned property such as heirlooms and sacrificial articles. Without the unanimous consent of all heirs, such estate shall not be monetized, auctioned, or otherwise removed from the family sphere, so as to prevent irreversible damage to the shared family sentimental interests embedded therein.⁴⁶

Third, an interest-coordination and distribution mechanism among the state, platforms, and individuals should be established. The value creation of digital assets involves contributions from individual labor, platform technologies, and public infrastructure, and thus multiple stakeholders' interests shall be taken into consideration.⁴⁷ With regard to assets that cannot be transferred under policy constraints yet possess market value, platforms may be subject to a reasonable consideration repurchase obligation. Heirs shall inherit the monetary compensation, and platforms shall reclaim the assets to maintain ecological balance. The inheritance of high-value digital assets may still be subject to inheritance tax for the redistribution of social wealth. Where no heir exists or platforms have paid the consideration, digital assets may devolve to the state and platforms without compulsory transfer to heirs.

46 Yang Lixin & Yang Zhen, *Draft Proposal for the Revised Succession Law of the People's Republic of China*, 27(5) *Journal of Henan University of Economics and Law* 14, 15 (2012).

47 See Xie Hongfei, *The Publicity of Property Rights*, 37(5) *Journal of Shanghai University of Political Science and Law* 1, 16 (2022).

C. Disposal of Unclaimed Digital Estate

Article 1160 of the *Civil Code* stipulates that escheated estates shall vest in the state. However, the disposal of digital assets also involves personal data protection, utilization of social resources, and platform operational liabilities. Neither simple nationalization nor blanket deletion constitutes a legitimate and feasible solution. A reasonable approach lies in typological classification based on the nature and value of estates, as well as the formulation of procedural rules centered on platform liabilities while balancing the public interest and data security.

The justifications are as follows. First, the state lacks institutional incentives to manage massive heterogeneous digital assets, and forced nationalization may render such digital assets valueless. Second, digital estate often contains personal data and the secrecy of correspondence of the deceased and third parties. If the state fails to conduct compliant and effective utilization or deletion after acquiring such assets, continuous risks of data security breaches and privacy leakage will arise, which contravenes the fundamental principles of the *Personal Information Protection Law*. Third, digital assets rely on platform services and infrastructure for existence, and may contain platforms' intellectual property rights or trade secrets. General nationalization would improperly infringe upon platforms' legitimate business rights and interests and is also impracticable.

In fact, the key to handling escheated digital assets lies in establishing classification criteria and disposal subjects in accordance with their nature. Specifically, first, estate with strong personal privacy and purely sentimental attributes, such as private diaries, family chat records, and personal cloud-stored photographs, carries personally attached value with no market circulation significance. Upon completion of statutory notification procedures, platforms shall fulfill their obligation of secure and thorough deletion. This not only respects the post-mortem tranquility of the deceased but also serves as a core measure to prevent data risks. Second, estate with potential public cultural, scientific research, or historical value, such as unpublished academic blogs of scholars, social media content with epoch-recording significance, and original artistic works, shall not be simply deleted. Special procedures may be designed: upon assessment by professional institutions and completion

of anonymization and desensitization, such estate may be donated to public archives, libraries, or research institutions and transformed into public digital cultural estate. Third, virtual property with definite economic value, such as game virtual currency, high-value equipment, and revenue-generating accounts, shall be disposed of with a focus on realizing its property value.

Given that platforms are the actual controllers of digital assets, they shall be designated as the primary liable subjects for disposing of escheated estates, and an incentive-compatible mechanism shall be established. After learning of a user's death and the absence of heir claims, platforms shall take temporary custody and issue a public notice. Upon the expiration of a reasonable period, platforms may be statutorily granted disposal authority. Among such assets, valueless data shall be deleted, while economically valuable assets may be reclaimed, monetized, or incorporated into the platform's operational ecological cycle in accordance with the law. For instance, game equipment may be converted into platform currency at a discounted value and refunded to an estate liquidation account or donated for public welfare. In short, the core function of the state in cases of escheated digital assets shall be defined as supervision and ultimate guarantee, rather than direct acquisition of ownership.

VI. CONCLUSION

Human society has evolved from the printing press era, the typewriter era, to the current era centered on computers and digital information. Technology has been deeply embedded in the fields of death, property, and privacy, and this intersection has become a persistent concern in academic circles and society. In this regard, it is necessary to review and respect traditions, as well as to innovate for the future without being completely constrained by the past.⁴⁸ The conservative legislative stance adopted by China's inheritance law shall adapt to the development needs of digital society and the reasonable expectations of the public. All chapters of the *Civil Code* are actively responding to new legal issues brought about by scientific and technological development; the inheritance law, by contrast, tends to be cautious and conservative. Although the impact of digital technology on

48 See Joseph Karl Grant, *Shattering and Moving Beyond the Gutenberg Paradigm: The Dawn of the Electronic Will*, 42(1) University of Michigan Journal of Law Reform 105, 112-113 (2008).

this field has been limited so far, it cannot be completely outside the global digital wave. As the basic law for handling posthumous affairs, inheritance law should, while adhering to the bottom line of family ethics and protecting the basic rights and interests of relatives, carefully leave space for new social relations and lifestyles caused by the digitalization and technological advancement in terms of its basic values and rule application.

Therefore, at the level of value philosophy, inheritance is no longer merely the transfer of tangible property within families but also involves the continuation of an individual's digital personality, digital identity, and social relationships. The law must strike a new balance between family ethics and individual autonomy. At the level of objects of inheritance, digital assets feature both property value and personality interests and are highly dependent on platform user agreements. This determines that the definition of the scope of estate should no longer adhere rigidly to the narrow concept of 'property', but be based on the inheritability of legal status, with typological treatment conducted according to the functional attributes of Internet accounts — personality/sentiment-oriented, property/business-oriented, and hybrid. At the level of modes of inheritance, digital expression and evidence preservation methods have profoundly transformed the creation and fixation of wills. The law should shift from strict formal review to functional substantive review, taking the decedent's true intent as the core criterion of judgment, and ease the rigid application of formal requirements for wills through approaches such as the harmless error rule and teleological interpretation. At the level of estate administration, the concealment, indivisibility, and platform-dependency of digital assets urgently call for a new rule framework covering platforms' obligations for reporting and temporary custody, centralized inquiry mechanisms, diversified means of partition and transfer, and typological disposal of escheated estates. In the future, it is necessary not only to provide normative grounds for inheritance law issues adapted to the digital era within the framework of interpretive theory, but also to actively conduct beneficial practical explorations. This does not weaken the value of families, but enables the law to better serve the diversified post-mortem intentions of the deceased and achieve optimal efficiency in asset disposal in the digital era.

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