

“中美关于股东查阅权的法律问题比较研究”文献检索报告

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一、引言（Introduction）

（一）主题摘要（Abstract）

股东查阅权是指股东享有的对公司会计账簿、会计文书等会计原始凭证和文书、记录进行查阅的权利，是股东实现知情权，了解公司运行、管理状况的重要手段，直接关系到股东自身权益的实现，由此可见从法律层面上对股东查阅权进行保障具有切实的必要性。但是与此同时，在现代公司制度下，公司所有权与控制权实现分离，股东不再直接参与公司运营，转由董事会等职能部门对生产经营进行管控，因此在保证股东正常行使查阅权，使其有能力监督公司运行、参与重大决策的同时，又有必要防止其过度探知商业内幕、干涉甚至恶意破坏经营活动。在这一背景下，如何界定股东查阅权的语义范围，如何在保障权利实现的同时，限制权利的过度使用就成为亟待讨论的问题。当前，世界各国在进行立法活动时都会对股东查阅权不断进行规范与修改。而我国在修订公司法的过程中，也对股东查阅权的有关内容做了立法层面的完善。股东查阅权制度源于美国公司法，美国各州也都总体上制订了关于股东查阅权方面的成文法规则。本文将从中美两国着眼，利用现有学术文献、法律制度和司法案例，对当前股东查阅权的立法、研究现状进行梳理和总结，为以后进一步的学术探讨打下基础。

（二）5W 分析法

1. WHO: 涉及到的法律主体

股东查阅权的法律主体是什么？此部分主要涉及到与股东查阅权具有利害关系的权利主体。可能的法律主体有：股东、有限责任公司（或股份有限公司）、证监会、银监会、董事会、会计师事务所、法院等。

2. WHAT: 所面对的法律事项

股东查阅权的定义是什么？股东查阅权中的查阅对象有哪些？本部分内容需要对中美法律文献进行检索，涉及到“股东查阅权”、“股东知情权”、“股东权利”等关键词。

3. WHEN: 研究问题涉及的时间性要素

股东何时才会拥有查阅权？股东查阅权在何时会被限制甚至剥夺？本部分主要涉及到股东查阅权获得与丧失的条件问题，往往与股东出资、股权变更等情况联系在一起，关键词有：瑕疵出资、抽逃出资、股权变动等。

4. WHERE: 研究问题涉及的空间性要素

（1）国别：中国、美国

（2）州别（美国）：各州之间的区际差异

（3）管辖权问题：股东查阅权行使涉及到的管辖部门及其级别。

5. WHY: 行使姓名变更权的过程中涉及的主要法律问题

（1）股东行使查阅权所需遵守的程序；

（2）法律条文对股东行使查阅权的实质性限制；

(三) 关键词 (Keywords)

股东 (shareholder)、股东权利 (shareholder's right)、股东知情权 (shareholder's right to be informed)、查阅权 (inspection right)、公司会计账簿 (Company accounting books)、公司原始凭证 (Original certificate of the company)

(四) 检索词句与检索资源 (Boolean Connectors and Sources)

1. 检索词句 (Boolean Connectors)

(1) Shareholder /2 right /3 (inspect! or examine);

(2) shareholder /s right /s inspect /s records;

(3) “股东”、“查阅权”、“知情权”。

2. 检索资源 (Sources)

(1) 中文资源: 北大法宝 V6; 中国裁判文书网; 无讼案例网; 中国知网; 浙江大学图书馆。

(2) 外文资源: Westlaw; Heinonline; Lexis; Library Genesis; wiley online library; 浙江大学图书馆。

(五) 本法律检索报告受众 (Object of Reading)

本法律文献检索报告的主题是就中美两国法律对股东查阅权的规定进行梳理。本报告可以为股东行使查阅权,保障自身合法权益以及相关国家机关处理股东权利纠纷提供智力支持。与此同时,本报告对想要涉猎中国两国股东查阅权法律制度或是对两国法律进行比较研究的法律研究者、法科学生、实务律师也有一定的参考价值。

二、中文法律资源 (Chinese Legal Sources)

(一) 一次资源 (primary sources)

1. 法律 (statutes)

【检索路径】北大法宝 V6—中央法规,检索“股东”、“查阅”,选择“全文”、“同条”,“精确”匹配。

【检索结果】根据相关度进行筛选,保留如下 1 篇。

《中华人民共和国公司法》(2018)

第三十三条 股东有权查阅、复制公司章程、股东会会议记录、董事会会议决议、监事会会议决议和财务会计报告。

股东可以要求查阅公司会计账簿。股东要求查阅公司会计账簿的,应当向公司提出书面请求,说明目的。公司有合理根据认为股东查阅会计账簿有不正当目的,可能损害公司合法利益的,可以拒绝提供查阅,并应当自股东提出书面请求之日起十五日内书面答复股东并说明理由。公司拒绝提供查阅的,股东可以请求人民法院要求公司提供查阅。

第九十七条 股东有权查阅公司章程、股东名册、公司债券存根、股东大会会议记录、董事会会议决议、监事会会议决议、财务会计报告,对公司的经营提出建议或者质询。

第一百六十五条 有限责任公司应当依照公司章程规定的期限将财务会计报告送交各股东。

股份有限公司的财务会计报告应当在召开股东大会年会的二十日前置备于本公司,供股东查阅;公开发行股票股份有限公司必须公告其财务会计报告。

2. 行政法规、部门规章、地方司法文件 (Regulations)

【检索路径】北大法宝 V6—中央法规/地方法规,检索“股东”、“查阅”,选择“全文”、“同条”,“精确”匹配。

【检索结果】根据相关度进行筛选,保留如下 25 篇。

(1) 《优先股试点管理办法》（2014年）

第十二条 优先股股东有权查阅公司章程、股东名册、公司债券存根、股东大会会议记录、董事会会议决议、监事会会议决议、财务会计报告。

(2) 《商业银行信息披露办法》（2007年）

第二十七条 商业银行应确保股东及相关利益人能及时获取年度报告。

商业银行应将年度报告置放在商业银行的主要营业场所，并按银监会相关规定及时登载于互联网网络，确保公众能方便地查阅。中国银行业监督管理委员会鼓励商业银行通过媒体向公众披露年度报告的主要信息。

第二十八条 商业银行董事会负责本行的信息披露。未设立董事会的，由行长（单位主要负责人）负责。

商业银行的董事会、行长（单位主要负责人）应当保证所披露的信息真实、准确、完整，并就其保证承担相应的法律责任。

第二十九条 对在信息披露中提供虚假的或者隐瞒重要事实的财务会计报告的商业银行，由中国银行业监督管理委员会按照《中华人民共和国商业银行法》第七十五条给予行政处罚，对有关责任人按照《中华人民共和国银行业监督管理法》第四十八条采取相应措施。

对出具虚假审计报告的会计师事务所及有关责任人员，按照有关法律、法规采取相应措施。

(3) 《商业银行信息披露暂行办法》（2002年）

第二十六条 商业银行应确保股东及相关利益人能及时获取年度报告。

商业银行应将年度报告置放在商业银行的主要营业场所，确保公众能方便、及时地查阅。中国人民银行鼓励商业银行通过媒体向公众披露年度报告的主要信息。

第二十七条 商业银行董事会负责本行的信息披露。未设立董事会的，由行长（单位主要负责人）负责。

商业银行的董事会、行长（单位主要负责人）应当保证所披露的信息真实、准确、完整，并就其保证承担相应的法律责任。

第二十八条 对在信息披露中提供虚假的或者隐瞒重要事实的财务会计报告的商业银行及有关责任人员，按照《金融违法行为处罚办法》予以处理。

对出具虚假审计报告的会计师事务所及有关责任人员，按照《会计师事务所从事金融相关审计业务暂行办法》予以处理。

(4) 《劳动就业服务企业实行股份合作制规定》（1994年）

第三十七条 股份合作制劳服企业可设监事会。监事会是企业活动的监督机构，由三名以上单数监事组成。其活动方式依照企业章程规定。监事的任期每届不得超过四年，但可连任。监事不得兼任董事、经理及其他高级管理职务。监事会议决议由三分之二以上监事表决同意，方可实行。监事行使下列职权：

（一）监事会的主席或监事代表列席董事会会议；……

（三）查阅企业财务账簿和其它会计资料，要求董事会和经理就相关的问题作出书面报告；

（四）审核企业年度决算和清算的表册，并就审核的结果制作意见书，向股东（职工）大会报告。……

(5) 《上市公司章程指引》（2019年）

第三十二条 公司股东享有下列权利：

（一）依照其所持有的股份份额获得股利和其他形式的利益分配；……

（三）对公司的经营进行监督，提出建议或者质询；……

(五) 查阅本章程、股东名册、公司债券存根、股东大会会议记录、董事会会议决议、监事会会议决议、财务会计报告；……

第三十三条 股东提出查阅前条所述有关信息或者索取资料的，应当向公司提供证明其持有公司股份的种类以及持股数量的书面文件，公司经核实股东身份后按照股东的要求予以提供。

(6) 中国保监会关于印发《保险公司章程指引》的通知

十六、公司章程应载明股东享有的权利。股东的权利至少应包括如下内容：

1. 按照其所持有的股份份额获得股利和其他形式的利益分配；……

4. 对公司的经营进行监督，依法提出建议或者质询；……

6. 查阅本章程、股东名册、公司债券存根、股东大会会议记录、董事会会议决议、监事会会议决议、财务会计报告；……

(7) 《中国人民银行、中国银行业监督管理委员会关于印发农村信用社改革试点专项中央银行票据兑付考核指引的通知》

第十五条 信息披露制度初步建立。

(一) 以县(市)为单位，已建立并实施基本的信息报告和信息披露制度。

(二) 所披露的信息至少包括资本充足率、不良贷款比例、本年利润及费用总额等关键性指标及其年度变动情况；年度内召开“三会”所议定的重大事项及其落实情况。所披露信息真实、准确、完整、可比，符合有关法律、法规、规章和会计制度规定。

(三) 信用社将所披露信息编制成年度书面报告和统一格式的信息披露表，并于每个会计年度终了3个月内进行披露。具体披露范围已报银监会当地派出机构审核同意。披露前已将所披露信息向银监会当地派出机构及人民银行当地分支行报备。信用社经自评认为暂不具备信息披露条件的，可向当地银监会派出机构提出暂不披露信息的书面申请。经省级银监局批准，报银监会和人民银行备案后，信用社可适当推迟信息披露，但在专项票据兑付前至少要进行2个年度的信息披露。

(四) 将所披露信息的年度书面报告和信息披露表置备于信用社的主要营业场所，确保股东(社员)及利益相关者能随时查阅。

(五) 信用社董(理)事长和银监会当地派出机构负责人在信息披露表上亲笔签字并加盖公章。将银发[2004]253号文件附件1中“经审核，××县(市)农村信用社联社200年度信息披露表的内容真实。”修改为“经审核，××县(市)农村信用社联社200年度信息披露表中有关数据与其财务报表一致。”

(8) 财政部关于印发《担保企业会计核算办法》的通知

二、企业应当根据固定资产的性质和消耗方式，合理地确定固定资产的预计使用年限和预计净残值，并根据科技发展、环境及其他因素，选择合理的固定资产折旧方法，按照管理权限，经股东大会或董事会，或经理会议或类似机构批准，作为计提折旧的依据。同时，按照法律、行政法规的规定报送有关各方备案，同时备置于企业所在地，以供股东等有关各方查阅。企业已经确定并对外报送，或备置于企业所在地的有关固定资产预计使用年限和预计净残值、折旧方法等，一经确定不得随意变更，如需变更，仍然应按照上述程序，经批准后报送有关各方备案，并在会计报表附注中予以说明。

(9) 《中国人民银行、中国银行业监督管理委员会关于印发〈农村信用社改革试点专项中央银行票据兑付考核办法〉的通知》

第二十一条 信用社应将所披露的年度书面报告和信息披露表置备于信用社的主要营业场所，确保股东(社员)及其他利益相关者能随时查阅。

(10) 《农村商业银行章程(示范)》

第二十七条 本行股东享有以下权利：

(一) 参加或委派代理人参加股东大会，并依照其所持有的股份份额行使表决权；……

(三) 对本行的经营行为进行监督，提出建议和质询；……

(六) 依照法律法规、本章程的规定获得有关信息，包括：

1、免费索取本章程；

2、缴付成本费用后有权查阅和复印：

(1) 本人持股资料；

(2) 股东大会会议记录；

(3) 年度财务报告；

(4) 管理制度。……

第二十八条 股东提出查阅前条所述有关信息或索取资料的，应向本行提供证明其持有本行股份的书面文件，本行经核实股东身份后按照股东的要求予以提供。

第八十九条 本行会计年度为公历1月1日至12月31日。本行应当在每一会计年度终了时制作财务会计报告，并经有资格的中介机构审查验证。本行的财务会计报告应当在召开股东大会的20日前置备于本行，供股东查阅。

(11) 《农村合作银行章程(示范)》

第三十条 本行股东享有以下权利：

(一) 参加或委派代理人参加股东会议，依照其所持有的股份份额并按有关规定行使表决权；……

(三) 对本行的经营行为进行监督，提出建议和质询；……

(七) 依照法律法规、行政规章和本章程的规定获得有关信息，包括：

1、可免费索取本章程；

2、缴付成本费用后有权查阅和复印：

(1) 本人持股资料；

(2) 股东代表大会会议记录；

(3) 年度财务报告；

(4) 管理制度。……

第八十六条 本行会计年度为公历1月1日至12月31日。本行应当在每一会计年度终了时制作财务会计报告，并经有资格的中介机构审查验证。本行的财务会计报告应当在召开股东代表大会的20日前置备于本行，供股东查阅。

(12) 《财政部关于印发〈国有商业银行年度财务会计报告披露办法(试行)〉的通知》

第五十一条 银行应当披露以下备查文件：

(一) 载有法定代表人、主管财会工作负责人(如设置总会计师，须为总会计师)、财会机构负责人(财会主管人员)签名并盖章的会计报表。

(二) 载有会计师事务所盖章，注册会计师签名并盖章的审计报告原件。

银行应当在办公场所备置上述文件的原件。当主管财政机关要求提供时，或股东依据法规或银行章程要求查阅时，银行应及时提供。

铁道部关于印发铁路公司制企业法人治理结构有关制度的通知

第十四条 董事行使下列职权：

(一) 对董事会所议事项拥有表决权；……

(三) 了解公司的经营情况，查阅有关报表和资料，发现问题，向公司总经理及有关人员提出质询；……

(13) 《中国证监会海外上市部、国家体改委生产体制司关于到香港上市公司对公司章程作补充修改的意见的函》

十、公司在将《必备条款》第一百四十八条要求的内容写入公司章程时，应当在该条内容后，另起段落，写入下列补充内容：

会计师事务所可以用把辞聘书面通知置于公司法定地址的方式辞去其职务。通知在其置于公司法定地址之日或者通知内注明的较迟的日期生效。该通知应当包括下列陈述：

- 1、认为其辞聘并不涉及任何应该向公司股东或者债权人交代情况的声明；或者
- 2、任何应当交代情况的陈述。

公司收到前款所指书面通知的14日内，应当将该通知复印件送出给有关主管机关。如果通知载有前款2项提及的陈述，公司应当将该陈述的副本备置于公司，供股东查阅。公司还应将前述陈述副本以邮资已付的邮件寄给每个境外上市外资股股东，受件人地址以股东的名册登记的地址为准。

如果会计师事务所的辞聘通知载有任何应当交代情况的陈述，会计师事务所可要求董事会召集临时股东大会，听取其就辞聘有关情况作出的解释。

(14) 《到境外上市公司章程必备条款》

第四十五条 公司普通股股东享有下列权利：

(一) 依照其所持有的股份份额领取股利和其他形式的利益分配；……

(五) 依照公司章程的规定获得有关信息，包括：

- 1、在缴付成本费用后得到公司章程；
- 2、在缴付了合理费用后有权查阅和复印：

(1) 所有各部分股东的名册；

(2) 公司董事、监事、经理和其他高级管理人员的个人资料，包括：

- (a) 现在及以前的姓名、别名；
- (b) 主要地址(住所)；
- (c) 国籍；
- (d) 专职及其他全部兼职的职业、职务；
- (e) 身份证明文件及其号码。

(3) 公司股本状况；

(4) 自上一会计年度以来公司购回自己每一类别股份的票面总值、数量、最高价和最低价，以及公司为此支付的全部费用的报告；

(5) 股东会议的会议记录。……

第七十七条 股东可以在公司办公时间免费查阅会议记录复印件。任何股东向公司索取有关会议记录的复印件，公司应当在收到合理费用后七日内把复印件送出。

第一百三十三条 公司的财务报告应当在召开股东大会年会的二十日以前置备于本公司，供股东查阅。公司的每个股东都有权得到本章中所提及的财务报告。

到香港上市的公司至少应当将前述报告以邮资已付的邮件寄给每个境外上市外资股股东，受件人地址以股东的名册登记的地址为准。

第一百四十九条 公司合并或者分立，应当由公司董事会提出方案，按公司章程规定的程序通过后，依法办理有关审批手续。反对公司合并、分立方案的股东，有权要求公司或者同意公司合并、分立方案的股东、以公平价格购买其股份。公司合并、分立决议的内容应当作成专门文件，供股东查阅。

(15) 《到香港上市公司章程必备条款》

3.3 股东获取信息的权利

章程中须载有股东获取信息的条款，至少应包括以下内容：

- (1) 在缴付象征性的费用后有得到公司章程的权利；

- (2) 在缴付了合理的费用后有权查阅和复印：
- (a) 所有各部分股东的名册；
 - (b) 公司董事、监事和高级管理人员的个人资料：
 - I) 现在及以前的姓名、别名；
 - II) 主要的地址（住所）；
 - III) 国籍；
 - IV) 职业、职务及其他全部兼职；及
 - V) 身份证明文件及其号码。
 - (c) 公司股本状况；
 - (d) 自上一财务年度以来公司购回自己每一类别股份的票面总值、数量以及最高和最低价，和公司为此支付的全部费用的报告；及
 - (e) 股东大会的会议记录。

7.5 会议记录

章程须包括具有下列内容的条款：

(1) 如任何会议记录经该会议主席或下次会议的主席签署，即为该会议有效的记录。

(2) 股东可在公司办公时间免费查阅会议记录复印件。任何股东向公司索取有关会议记录的复印件，公司应在收到合理费用后七日内把复印件送出。

公开发行证券公司信息披露内容与格式准则第9号——上市公司股东持股变动报告

第七节 备查文件

第六十四条 报告人在履行相关信息披露义务后，应将下列备查文件备置于其住所或办公地点等方便股东查阅的地点：

- (一) 载有报告人法定代表人（或者主要负责人）签字盖章的持股变动报告；
- (二) 本报告书所提及的所有合同、协议以及其他相关的文件；
- (三) 一致行动人的法人营业执照。

(16) 《中国银监会关于中银金融资产投资有限公司开业的批复》

第二十一条 公司股东享有下列权利：

- (一) 依照其所持有的出资额获得股利和其他形式的利益分配；……
- (三) 对公司的经营进行监督，提出建议或者质询；……
- (五) 查阅章程、股东名册、公司债券存根、董事会会议决议、监事决定书、财务会计报告；……

(17) 《中国保监会关于泰康人寿保险有限责任公司开业的批复》

第二十三条 公司股东享有下列权利：

- (一) 获得股利和其他形式的利益分配；……
- (四) 查阅本章程、公司债券存根、股东决定记录、董事会会议决议、监事会会议决议、财务会计报告；……

第二十四条 股东做出上条所列决定时，应当采用书面形式，并由股东签署后置备于公司。

第一百三十七条 公司在每一会计年度结束之日起4个月内出具年度财务会计报告。

上述财务会计报告按照国家有关法律、行政法规和有关国家主管机构的规定进行编制。

上述财务会计报告应当存于公司，供股东查阅。

(18) 《中国保监会关于长城人寿保险股份有限公司修改章程的批复》(2014)

六、第三十七条第九项修改为：（九）查阅公司章程、股东名册、公司债券存根、股东大会会议记录、董事会会议决议、监事会会议决议、公司财务会计报告（包括年度报告、季度报告和月报告）；

(19) 《中国保险监督管理委员会关于太平人寿保险有限公司修改章程的批复》(2014)

七、第十八条修改为：股东享有如下权利：

（一）参加或推选代表参加股东会并根据其出资份额享有表决权，但本章程另有规定的除外；……

（九）股东有权查阅、复制公司章程、股东会会议记录、董事会会议决议、监事会会议决议和财务会计报告；

（十）股东对法律、行政法规和公司章程规定的公司重大事项，享有知情权和参与权，可依法律法规和本章程获得相关信息；……

(20) 《中国保险监督管理委员会关于信泰人寿保险股份有限公司修改章程的批复(保监发改[2010]1518号)》

第三十条 公司股东享有下列权利：

（一）按照所持股份比例获得股利和其他形式的利益分配；……

（七）依照法律、法规、规章、规范性文件及本章程的规定获得有关信息，包括：查阅公司章程、股东名册、公司债券存根、股东大会会议记录、董事会会议决议、监事会会议决议、财务会计报告；……

第一百七十四条 公司应在每一会计年度终了后一百二十日以内编制公司年度财务报告。财务会计报告应当在召开股东大会年会的二十日前置备于本公司，供股东查阅。公司年度财务报告按照有关法律、法规、规章、规范性文件的规定进行编制，包括下列内容：

（一）资产负债表；

（二）利润表；

（三）利润分配表；

（四）现金流量表；

（五）会计报表附注。

(21) 《中国保险监督管理委员会关于太平人寿保险有限公司修改章程的批复》(2010)

第十八条 股东享有如下权利：

（一）参加或推选代表参加股东会并根据其出资份额享有表决权，但本章程另有规定的除外；……

（九）股东有权查阅、复制公司章程、股东会会议记录、董事会会议决议、监事会会议决议和财务会计报告；

（十）股东对公司重大事项，可依法律法规和本章程获得相关信息；

（十一）股东对法律、行政法规和公司章程规定的公司重大事项，享有知情权和参与权；

（十二）股东有权按照法律、行政法规的规定，通过民事诉讼或其他法律手段保护其合法权利。股东会、董事会的决议违反法律、行政法规的规定，侵犯股东合法权益，股东有权依法提起要求停止上述违法行为或侵害行为的诉讼。董事、监事、高级管理人员执行职务时违反法律、行政法规或者公司章程的规定，给公司造成损害的，股东有权要求公司依法提起要求赔偿的诉讼；

（十三）法律、行政法规、公司章程和股东协议规定的其他权利。

第一百三十五条 公司合并或者分立，应当由董事会提出方案，按公司章程规定的程序通过后，依法办理有关审批手续。合并、分立决议的内容应当做成专门文件，供股东查阅。

(22) 《中国保险监督管理委员会关于中国人民财产保险股份有限公司修改章程的批复》(2010)

八、第三十二条修改为：“公司股东享有下列权利：

(一) 依照其所持有的股份份额获得股利和其他形式的利益分配；……

(四) 对公司的经营行为进行监督，提出建议或者质询；……

(六) 依照法律、行政法规或者公司章程的规定获得有关信息，包括：

1、缴付合理费用后有权查阅、复制公司章程；

2、缴付合理费用后有权查阅和复印：

(1) 本人持股资料；

(2) 公司股本总额、股本结构；

(3) 股东大会会议记录；

(4) 董事会会议决议；

(5) 监事会会议决议；

(6) 财务会计报告。

3、股东可以要求查阅公司会计账簿。股东要求查阅公司会计账簿的，应当向公司提出书面请求，说明目的。公司有合理根据认为股东查阅会计账簿有不正当目的，可能损害公司合法利益的，可以拒绝提供查阅。……

四十二、增加第一百五十二条：“财务会计报告应当在召开股东大会年会的二十日前置备于本公司，供股东查阅。”

(23) 《中国银行业监督管理委员会关于中国建设银行修订章程的批复》

二、第五十三条第(五)款第(二)项中“有权免费查阅并在缴付合理费用后复印：

(1) 所有各部分股东的名册；(2) 银行股本状况；(3) 自上一会计年度以来银行购回自己每一类别股份的票面总值、数量、最高价和最低价，以及银行为此支付的全部费用的报告；(4) 股东大会的会议记录；(5) 银行最近期的经审计的财务报表及董事会、会计师事务所及监事会报告；(6) 已呈交国家工商行政管理机构或其他主管机构备案的最近一期的年度申报表副本。”修订为：

“有权免费查阅并在缴付合理费用后复印：(1) 所有各部分股东的名册；(2) 银行股本状况；(3) 自上一会计年度以来银行购回自己每一类别股份的票面总值、数量、最高价和最低价，以及银行为此支付的全部费用的报告；(4) 股东大会的会议记录、董事会会议决议、监事会会议决议；(5) 银行经审计的财务会计报告及董事会、监事会报告；(6) 已呈交国家工商行政管理机构或其他主管机构备案的最近一期的年度申报表副本。”

(24) 《中国证券监督管理委员会关于广发证券股份有限公司变更公司章程的批复》

八、第三十二条修改为：“公司股东享有下列权利：

(一) 依照其所持有的股份份额获得股利和其他形式的利益分配；……

(四) 对公司的经营行为进行监督，提出建议或者质询；……

(六) 依照法律、行政法规或者公司章程的规定获得有关信息，包括：

1、缴付合理费用后有权查阅、复制公司章程；

2、缴付合理费用后有权查阅和复印：

(1) 本人持股资料；

(2) 公司股本总额、股本结构；

- (3) 股东大会会议记录;
- (4) 董事会会议决议;
- (5) 监事会会议决议;
- (6) 财务会计报告。

3、股东可以要求查阅公司会计账簿。股东要求查阅公司会计账簿的，应当向公司提出书面请求，说明目的。公司有合理根据认为股东查阅会计账簿有不正当目的，可能损害公司合法利益的，可以拒绝提供查阅。……

四十二、增加第一百五十二条：“财务会计报告应当在召开股东大会年会的二十日前置备于本公司，供股东查阅。”

(25) 《中国人民银行关于核准深圳发展银行注册资本及章程的批复》

第三十六条 本行股东享有下列权利：

- (一) 依照其所持有的股份份额获得股利和其他形式的利益分配；……
- (四) 对本行的经营行为进行监督，提出建议或者质询；……
- (六) 依照法律、本行章程的规定获得有关信息，包括：
 - 1. 缴付成本费用后得到本行章程；
 - 2. 缴付合理费用后有权查阅和复印；
 - (1) 本人持股资料；
 - (2) 股东大会会议记录；
 - (3) 中期报告和年度报告；
 - (4) 本行股本总额、股本结构。……

第三十七条 股东提出查阅前条所述有关信息或者索取资料的，应当向本行提供证明其持有本行股份的种类以及持股数量的书面文件，本行经核实股东身份后按照股东的要求予以提供。

3. 法律解释：立法解释、司法解释、行政解释 (Legal Interpretations: legislative, Judicial and administrative Interpretations)

【检索路径】北大法宝 V6—中央法规，检索“股东”、“查阅”，选择“全文”、“同条”，“精确”匹配。

【检索结果】根据相关度进行筛选，保留如下 1 篇。

《最高人民法院关于适用〈中华人民共和国公司法〉若干问题的规定(四)》(2017 年)

第七条 股东依据公司法第三十三条、第九十七条或者公司章程的规定，起诉请求查阅或者复制公司特定文件材料的，人民法院应当依法予以受理。

公司有证据证明前款规定的原告在起诉时不具有公司股东资格的，人民法院应当驳回起诉，但原告有初步证据证明在持股期间其合法权益受到损害，请求依法查阅或者复制其持股期间的公司特定文件材料的除外。

第八条 有限责任公司有证据证明股东存在下列情形之一的，人民法院应当认定股东有公司法第三十三条第二款规定的“不正当目的”：

- (一) 股东自营或者为他人经营与公司主营业务有实质性竞争关系业务的，但公司章程另有规定或者全体股东另有约定的除外；
- (二) 股东为了向他人通报有关信息查阅公司会计账簿，可能损害公司合法利益的；
- (三) 股东在向公司提出查阅请求之日前的三年内，曾通过查阅公司会计账簿，向他人通报有关信息损害公司合法利益的；
- (四) 股东有不正当目的的其他情形。

第九条 公司章程、股东之间的协议等实质性剥夺股东依据公司法第三十三条、第九十七条规定查阅或者复制公司文件材料的权利，公司以此为由拒绝股东查阅或者复制的，人民法院不予支持。

第十条 人民法院审理股东请求查阅或者复制公司特定文件材料的案件，对原告诉讼请求予以支持的，应当在判决中明确查阅或者复制公司特定文件材料的时间、地点和特定文件材料的名录。

股东依据人民法院生效判决查阅公司文件材料的，在该股东在场的情况下，可以由会计师、律师等依法或者依据执业行为规范负有保密义务的中介机构执业人员辅助进行。

第十一条 股东行使知情权后泄露公司商业秘密导致公司合法利益受到损害，公司请求该股东赔偿相关损失的，人民法院应当予以支持。

根据本规定第十条辅助股东查阅公司文件材料的会计师、律师等泄露公司商业秘密导致公司合法利益受到损害，公司请求其赔偿相关损失的，人民法院应当予以支持。

4. 案例 (Cases)

【检索路径】无讼案例—检索“股东”、“查阅”、“知情权”关键词，选择“民事”案由、选择“判决书”文书性质。

【检索结果】根据相关度进行筛选，保留如下 10 篇。

(1) 李淑君、吴湘、孙杰、王国兴诉江苏佳德置业发展有限公司股东知情权纠纷二审案

案号：宿迁市中级人民法院（2009）宿中民二终字第 319 号

基本案情与裁判要点：原告李淑君、吴湘、孙杰、王国兴为被告佳德公司合法股东。因佳德公司在经营形势大好的情况下却拖欠大量债务，四人作为股东对佳德公司情况无法知悉，故依法要求行使股东知情权，了解公司的实际情况，但佳德公司对此进行阻挠，四人认为公司行为严重侵犯了股东的合法权益，故请求判令四人对佳德公司依法行使知情权，查阅、复制佳德公司的会计账簿、议事录、契约书、通信、纳税申报书等(含会计原始凭证、传票、电传、书信、电话记录、电文等)所有公司资料。一审法院认为原告要求行使知情权不仅超出法定范围，且其关于查阅会计账簿的起诉违反法定前置程序故对四原告的诉讼请求不予支持。四人提起上诉。二审法院认为：公司法赋予了股东获知公司运营状况、经营信息的权利，但同时也规定了股东行使知情权的范围。公司法第三十四条第一款将股东有权复制的文件限定于公司章程、股东会会议记录、董事会会议决议、监事会会议决议和财务会计报告。第二款仅规定股东可以要求查阅公司财务会计账簿，但并未规定可以复制，而佳德公司章程亦无相关规定，因此四上诉人要求复制佳德公司会计账簿及其他公司资料的诉讼请求既无法律上的规定，又超出了公司章程的约定，不予支持。故二审法院作出判决：被上诉人佳德公司应向四名上诉人提供自公司成立以来的公司会计账簿(含总账、明细账、日记账、其他辅助性账簿)和会计凭证(含记账凭证、相关原始凭证及作为原始凭证附件入账备查的有关资料)以便查阅，同时驳回上诉人李淑君、吴湘、孙杰、王国兴的其他诉讼请求。

(2) 周明俊、陈蔚诉上海综合开发研究院有限公司股东知情权纠纷一审案

案号：上海市长宁区人民法院（2015）长民二（商）初字第 4302 号

基本案情与裁判要点：两名原告为被告上海综合开发研究院有限公司股东，与此同时原告周明俊还担任被告公司监事。两原告曾分别向被告主张提供有关会计账簿等资料予以查阅、复制等，均遭受阻挠。后被告只提供了 2012 年起至 2014 年度的部分会计资料，拒绝提供 2005 年起至 2011 年间的会计账簿资料。且原告周明俊以监事身份提出查阅会计账簿等要求均被拒绝。两原告认为被告的行为侵害了股东知情权，因此请求判令两名

原告向被告公司行使知情权。法院认为，股东知情权是法律赋予股东了解公司经营状况的重要权利，是股东依法行使资产收益、参与重大决策和选择管理者等权利的基础性权利。其立法价值在于平衡公司、控制股东及小股东之间的利益，保护中小股东合法权益。但是，该权利的行使，必须符合我国《公司法》的规定以及公司章程的约定。从我国《公司法》第三十三条的规定来看，有限责任公司股东可以行使的知情权包括两个方面：一是查阅、复制权，该权利及于公司章程、股东会会议记录、董事会会议决议、监事会会议决议和财务会计报告；二是查阅公司会计账簿权。据此，为规范公司行为，保护公司、股东的合法权益，维护社会经济秩序，促进社会主义市场经济的发展，法院判决被告上海综合开发研究院有限公司应当提供自 2005 年至 2014 年的财务会计报告、会计账簿供原告周明俊、陈蔚查阅。

(3) 王鹏诉北京市祥润通投资管理公司股东知情权纠纷一审案

案号：北京市丰台区人民法院（2017）京 0106 民初 17382 号

基本案情与裁判要点：原告系被告北京市祥润通投资管理公司股东。原告认为被告成立至今，从未按《公司法》及法律法规规定向股东提供公司章程，财务会计报告等供股东查阅，原告作为股东完全不知晓公司经营状况、财务状况及股东的权利和义务内容等。因此请求判令原告向被告公司行使知情权。被告祥润通公司辩称，被告公司根据北京市农村股份合作企业条例成立的，在工商注册的性质是集体所有制（股份合作），不适用于公司法的规定，原告的诉求无法律依据，根据相关法律规定，本案应当根据公司章程行使股东权利。法院认为，被告北京市祥润通投资管理公司属于股份合作制企业，既不同于有限责任公司，也不是合伙企业，审理该类案件的主要依据是企业章程。根据《北京市祥润通投资管理公司企业章程》的相关规定，股东享有了解企业经营状况和财务状况的权利，王鹏据此要求行使股东知情权的请求正当，法院予以支持。关于股东知情权的范围，法院认为，根据股份制企业的运营模式，职工股东大会选举产生董事会，董事会是职工股东大会的常设机构，向职工股东大会负责。而公司章程是股东之间的协议，是公司的组织准则与行为准则，只要不违反法律、行政法规的强制性规定，公司章程即具有法定约束力。根据《北京市祥润通投资管理公司企业章程》的相关规定，企业章程由董事会负责解释。董事会召开董事会，作出《北京市祥润通投资管理公司董事会关于的解释》，细化了股东行使知情权的范围和方式，王鹏应按照该解释行使股东知情权。因此法院最终判决北京市祥润通投资管理公司在公司住所地向王鹏提供公司章程以及二〇〇四年八月二十八日至判决生效之日的年度财务报表进行查阅，同时驳回王鹏的其他诉讼请求。

(4) 汪某与上海某开发有限公司股东知情权纠纷一审案

案号：上海市黄浦区人民法院（2012）黄浦民二（商）初字第 829 号

基本案情与裁判要点：原告是被告公司股东，持有被告 40% 的股份，但未参与公司日常经营管理。被告自 2001 年成立至今，从未向原告披露公司财务状况，也未曾向原告分配红利。原告为维护自身股东权益，两次向被告发函提请召开股东大会，查阅公司财务状况，均遭被告拒绝。后原告再次委托律师致函被告，要求查阅公司财务报告、会计账簿和原始凭证，并说明查账的目的和理由，被告回复称公司处于亏损状态，但未告知原告公司盈亏的详细情况，并拒绝原告查阅公司会计账簿和原始凭证。因此原告请求判令向被告公司行使知情权并要求委托专业人士代为查阅上述会计账簿和原始凭证。被告辩称原告本人可以在法律及公司章程规定范围内行使股东权利，被告允许原告查阅及复印符合法律规定的文件资料，但对原告委托专业人士代为查阅的，无法律依据，被告请求法院驳回原告该项诉讼请求。法院认为股东知情权分为查阅权、检查人选任请求权和质询权。本案中，原告诉请的性质为查阅权。《公司法》对公司股东能否委托专业人士代

为行使知情权并未作出明确规定，但根据公司法原理，有限责任公司基于股东出资及股东之间的相互信赖而成立，对外具有封闭性。公司经营期间产生的会计资料对公司具有一定的价值，除公司股东依法行使查阅权外，公司对股东之外的人员查阅上述会计账簿有权予以拒绝。因此，从保护公司合法利益角度，对原告委托他人代其行使查阅权的诉讼请求，法院不予支持。但原告作为被告股东，在公司成立至今未向股东分红的情况下，要求被告提供自公司成立起至判决生效之日止完整的公司财务会计报告、会计账簿和会计凭证供原告查阅，原告要求查阅的目的具有正当性，法院予以支持。因此法院判决如下：上海某开发有限公司提供自公司成立起至判决生效之日止完整的公司财务会计报告、会计账簿（含总账、明细账、日记账、其他辅助性账簿）和会计凭证（含现金收付凭证、银行收付凭证及转账凭证等相关原始凭证及作为原始凭证附件入账备查的有关资料）给原告汪某查阅，并提供自公司成立起至判决生效之日止公司的财务会计报告给原告汪某复制。同时驳回原告汪某的其他诉讼请求。

（5）沙峰与大丰市舒润床上用品有限公司股东知情权纠纷一审案

案号：盐城市大丰区人民法院（2015）大商初字第 00369 号

基本案情与裁判要点：原告系被告舒润公司股东，未实际参与公司管理，对公司的经营情况和财务状况一概不知。2015 年 1 月，原告向被告舒润公司书面申请了解公司经营情况和财务状况后，被告舒润公司告知不同意查阅公司会计账簿。原告因此请求判令向被告行使知情权。被告公司同意提供财务会计报告中的资产负债表、损益表给其查阅、复制，但因公司运营不规范，其他材料都未制作因此无法提供。与此同时，原告沙峰与其妻先后将自己设立的与被告舒润公司存在竞争关系的中豪公司、大洋公司股份转让给岳父孙某，而且中豪公司、大洋公司正与舒润公司进行合同官司，因此原告沙峰与中豪公司、大洋公司实际上有利害关系，如被告舒润公司将公司会计账簿和会计凭证提供给原告沙峰查阅，可能对公司利益造成损害。法院认为，关于原告要求查阅股东会会议记录、财务会计报告（含资产负债表、损益表、财务状况变动表、财务情况说明表、利润分配表或未分配利润的说明）的诉讼请求，根据公司法第三十四条第一款的规定，股东行使该项权利无限制条件。原告沙峰要求查阅、复制上述资料，只要资料客观存在，依法应予支持。被告舒润公司辩称公司没有制作财务状况变动表、财务情况说明表等材料，根据公司章程规定，公司应当制作上述材料，如没有制作应当及时予以补办，故该抗辩意见法院不予采信。关于原告沙峰要求查阅、复制被告舒润公司会计账簿和会计凭证的诉讼请求。根据公司法第三十四条第二款的规定，股东有权查阅公司会计账簿，但应当先向公司书面申请，说明目的，公司有合理根据认为股东有不正当目的，可能损害公司权益的，可以拒绝提供查阅。在衡量“股东查阅权”与“公司拒绝查阅权”之权利冲突时，核心标准在于股东一旦行使上述权利是否可能损害公司权益。本案中，首先，原告沙峰仅向被告舒润公司书面申请查阅财务状况资料，未明确申请对会计账簿进行查阅，其直接向法院诉请查阅公司会计账簿不符合程序要求；其次，原告沙峰与大洋公司、中豪公司实际存有利害关系。大洋公司、中豪公司及被告舒润公司存在竞争的可能，且三家公司已因往来款结算产生纠纷，如被告舒润公司将会计账簿提供给原告沙峰查阅，会计账簿所含客户资料等具有商业秘密性质的信息可能会因此被大洋公司、中豪公司知悉，损害被告舒润公司权益。故原告沙峰要求查阅、复制被告舒润公司会计账簿和会计凭证的诉讼请求，本院不予支持。因此法院判决被告大丰市舒润床上用品有限公司将股东会会议记录、财务会计报告（含资产负债表、损益表、财务状况变动表、财务情况说明表、利润分配表或未分配利润的说明）备于公司办公场所，供原告沙峰查阅、复制。同时驳回原告沙峰的其他诉讼请求。

（6）林炳春与上海高科阀门制造有限公司股东知情权纠纷一审案

案号：上海市青浦区人民法院（2016）沪 0118 民初 5801 号

基本案情与裁判要点：原告林某是被告上海高科阀门制造有限公司股东。原告认为，被告公司无视章程规定实际并未进行审计工作，也未将相关资料交于股东查阅。后被告公司召开临时股东会，审议公司出售子公司股权事宜。原告提议对被告及其子公司财务进行查阅审计，但会议未达成决议。后被告法定代表人以短信形式拒绝。因此原告以被告公司处置重大资产，在财务信息未经查阅、审计的情况下转让会损害原告作为股东的合法权益，请求判令原告对被告公司行使知情权。法院认为，被告上海高科阀门制造有限公司系股份有限公司，知情权是公司法赋予股东基于其股东身份而享有的专属性权利，股东作为知情权的享有主体，可以委托代理人代为行使该权利，故对于该项诉讼请求，法院亦予以支持。故判决被告上海高科阀门制造有限公司应于判决生效之日起十日内提供 2003 年 5 月 26 日起至判决生效之日止的财务会计报告、会计账簿及原始凭证供原告林炳春及其委托的注册会计师查阅。

（7）洪谦与宁波明州大药房有限公司股东知情权纠纷一审案

案号：宁波市鄞州区人民法院（2015）甬鄞商初字第 1482 号

基本案情与裁判要点：原告系被告宁波明州大药房公司的股东，持有该公司 3.5% 的股权。为了解公司运营情况及公司资产现状，原告向被告公司提出书面申请，请求查阅、复制被告公司自 1994 年 12 月 12 日起至 2015 年 2 月 28 日止的股东会会议记录、董事会会议决议、监事会会议决议和财务会计报告，并请求查阅被告公司在上述期间内的会计账簿（含总账、明细账、日记账、其他辅助性账簿），查阅、复制时间暂定于 2015 年 3 月 27 日，查阅、复制时间累计不少于六十日，并将委托专业会计人员代为查阅、复制。2015 年 4 月 1 日，被告公司以原告具有不正当目的而予以拒绝。故诉至法院，请求判令原告对被告行使知情权。被告公司答辩称：洪谦行使股东知情权应以不滥用股东权利损害明州大药房公司或公司股东利益为前提，若有合理依据认为洪谦存在损害公司或股东利益的，则洪谦不得行使该项权利。根据公司法的规定精神，股东行使股东知情权的不正当目的，只是根据现有事实、依据进行推断，而非是根据已发生的事实来认定。纵观各种事实，已足以推断洪谦行使股东知情权的目的不正当，可能损害公司合法利益。法律规定在不滥用权利损害公司或者其他股东利益的情况下，股东可以查阅、复制有关资料，但法律并未规定股东可以委托他人查阅、复制，故即使法院判决支持洪谦行使股东知情权，亦不能判决洪谦可以委托他人代为行使。法院认为：公司法第三十三条第二款对股东行使股东知情权中的会计账簿查阅权设置了目的正当性这个限制性条件和相应的前置程序要求。关于洪谦行使会计账簿查阅权的目的正当性问题。根据公司法第三十三条第二款之规定，股东对其要求查阅会计账簿的正当性目的仅负有说明义务。“说明”通常为解释清楚的意思，与证据法或诉讼法上的提供证据加以证明的举证责任应属不同概念。从文意上理解，公司法并没有要求股东对其查阅会计账簿的目的正当性负担证明责任。相反，公司法规定，公司以股东查阅会计账簿有不正当目的为由予以拒绝的，必须要有合理根据。“合理根据”通常理解为合乎事理地把某种事物作为结论的前提的意思，应该具有提供相应证据证明结论正确的含义。因此，公司应对股东查阅会计账簿有不正当目的承担举证责任。现洪谦已就其查阅会计账簿的目的作了一般性的说明，即为了解明州大药房公司的运营情况及资产现状。明州大药房公司以洪谦查阅会计账簿有不正当目的为由予以拒绝，但其提供的证据并不足以证明洪谦查阅会计账簿有不正当目的。故法院判决被告宁波明州大药房有限公司于判决生效之日起十日内提供自 1994 年 12 月 12 日起至本判决生效之日止的股东会会议记录、董事会会议决议和财务会计报告供原告洪谦查阅、复制，并提供自 1994 年 12 月 12 日起至 2015 年 2 月 28

日止的公司会计账簿（含总账、明细账、日记账、其他辅助性账簿）供原告洪谦及其委托的注册会计师查阅。

（8）郑祖才、王家彬与象山县食品公司股东知情权纠纷一审案

案号：象山县人民法院（2014）甬象商初字第 532 号

基本案情与裁判要点：两原告系被告公司的股东。两原告于 2014 年 1 月 21 日通过邮政挂号信形式向被告提出书面申请，要求其提交公司自 2009 年度至今的财务会计报告、会计账簿供两原告查阅。但被告未在法定期限内回复。两原告认为，两原告依法享有股东知情权，因此请求判令被告提供完整的自 2009 年度至今的财务会计报告、会计账簿（含总账、明细账、日记账、其他辅助性账簿）和会计凭证（含记账凭证、相关原始凭证及作为原始凭证附件入账备查的有关资料）供两原告和两原告委托的注册会计师查阅和复制。法院认为：首先，《中华人民共和国会计法》对财务会计报告、会计账簿、会计凭证等概念作了明确的区分，会计凭证包括记账凭证和原始凭证，而显然原告援引的相关条文并未包括会计凭证，故股东要求查阅、复制会计凭证没有法律依据。其次，会计凭证尤其是原始凭证可能直接体现了公司的商业秘密，允许任意一名股东查阅、复制原始凭证，可能会损害公司的整体利益和其他股东的利益。再次，《中华人民共和国会计法》要求财务会计报告、会计账簿、会计凭证三者的内容必须相符，故理论上股东可以通过查阅财务会计报告、会计账簿行使知情权，没有直接查阅会计凭证的必要，股东若认为公司财务会计报告、会计账簿不真实，可以通过其他途径向有关部门反映。综上，法院认为股东行使知情权的范围不包括会计凭证（含记账凭证、相关原始凭证及作为原始凭证附件入账备查的有关资料）。故法院判决被告象山县食品公司于判决生效后十日内向原告郑祖才、王家彬及其委托的具有执业资格的注册会计师提供被告象山县食品公司自 2009 年度至今的财务会计报告供其查阅和复制以及提供被告象山县食品公司自 2009 年度至今的会计账簿（含总账、明细账、日记账和其他辅助性账簿）供其查阅，并驳回原告郑祖才、王家彬的其他诉讼请求。

（9）原告周太胜诉被告四川省艺美影视文化发展有限公司股东知情权纠纷一审案

案号：营山县人民法院（2017）川 1322 民初 2144 号

基本案情与裁判要点：原告系被告公司股东。公司开业至今一直盈利，原告应分得利润约 70 余万元，原告已于 2017 年 6 月 22 日向被告提出书面申请，要求其提供会计账簿、盈余分配表等会计资料，但被告至今未予答复，根据法律规定，被告应当提供会计账簿等会计资料以供原告查阅。为维护原告的合法权益，遂诉至法院。被告公司辩称，被告公司成立于 2014 年 1 月 14 日，当时的股东有原告、林杰、李中于，后林杰将自己的股份转让给李彬，同时公司为了增资，增加了吴昆、候清光、秦豫光等五人为股东，后因原告未履行实际出资义务在股东大会上被解除了股东资格。法院认为：虽被告公司法人代表 2015 年 4 月 15 日在工商信息登记中进行了变更，但原告一直系被告公司登记注册的股东，工商信息登记对外具有公示效力，应以工商登记为准。被告出示的董事会会议记录存疑，不能证明原告在被告公司不具有股东资格，若原、被告双方对原告的股东身份存在争议，双方均可另行提起股东资格确认纠纷，在未经法定程序或生效法律文书解除原告股东资格前，法院认可原告系被告公司股东，与本案有直接利害关系，故原告提起股东知情权纠纷的诉讼主体适格。因此法院判决被告四川省艺美影视文化发展有限公司于判决生效之日起十日内提供自公司成立以来的公司会计资料（含会计账簿、盈余分配表、会计记账凭证等）供原告周太胜查阅。

（10）绥宁县龙林水泥有限公司与湖南长隆置业有限公司股东知情权纠纷一审案

案号：邵阳市大祥区人民法院（2018）湘 0503 民初 572 号

基本案情与裁判要点：原告系被告公司 40%股权的合法股东，被告从成立至今从没有按公司法的相关规定向原告提供过会计账簿供原告查询，并且在原告多次提出要求行使股东知情权的情况下，被告仍拒不向原告提供公司成立至今的会计账簿。原告为维护自己的合法权利，于 2018 年 3 月 28 日在邵阳市大祥区人民法院三号审判庭向被告的法定代表人朱密当面送达了《查阅公司财务会计账务申请书》，但至今被告仍不给原告任何答复。原告为维护合法权益特提起诉讼。被告长隆公司辩称：被告没有收到原告提交的查阅账簿的书面申请书，请法院驳回原告的诉请。法院认为：依据公司法第三十四条第二款的规定，股东提起账簿查阅权诉讼的前置条件是股东向公司提出了查阅的书面请求且公司拒绝提供查阅。这一前置条件设定的目的在于既保障股东在其查阅权受侵犯时有相应的救济途径，也防止股东滥用诉权，维护公司正常的经营。本案中，原告主张其于 2018 年 3 月 28 日向长隆公司提出要求查阅公司财务会计账务的书面申请书，并由原告委托代理人李永跃送达给长隆公司原法定代表人朱密，但长隆公司对此不予认可。原告就该事实提供了两份证据：《查阅公司财务会计账务申请书》和视频光盘。《查阅公司财务会计账务申请书》上虽然加注有送达时间、送达地点、送达人，但没有被告方签字。视频证据只能看到原被告在庭审现场，不能充分证明原告向被告送达了书面申请。因此，仅凭这两份证据不足以证明原告向被告送达了要求查阅公司账簿的书面申请。原告在没有充分的证据证明其已经向被告提出书面请求的情况下提起知情权诉讼违反法定前置程序，故对原告的诉讼请求不予支持。因此驳回原告绥宁县龙林水泥有限公司的诉讼请求。

5. 相关的政府主管部门 (Government Agencies in charge)

《中华人民共和国公司法》第三十三条规定：股东可以要求查阅公司会计账簿。股东要求查阅公司会计账簿的，应当向公司提出书面请求，说明目的。公司有合理根据认为股东查阅会计账簿有不正当目的，可能损害公司合法利益的，可以拒绝提供查阅，并应当自股东提出书面请求之日起十五日内书面答复股东并说明理由。公司拒绝提供查阅的，股东可以请求人民法院要求公司提供查阅。

《商业银行信息披露办法》第二十七条规定：商业银行应确保股东及相关利益人能及时获取年度报告；第二十九条规定：对在信息披露中提供虚假的或者隐瞒重要事实的财务会计报告的商业银行，由中国银行业监督管理委员会按照《中华人民共和国商业银行法》第七十五条给予行政处罚，对有关责任人按照《中华人民共和国银行业监督管理法》第四十八条采取相应措施。

(二) 二次资源 (Secondary Sources)

1. 图书：学术与实务 (books: scholarly and practicing materials)

【检索路径】浙江大学图书馆一检索“股东”、“查阅”。由于以“查阅”为关键词，并无匹配书目。因此扩大关键词概念的外延，以“知情权”为关键词进行检索。

【检索结果】根据相关度进行筛选，保留如下 3 部。

(1) 李建伟：《股东知情权研究：理论体系与裁判经验》，北京：法律出版社，2018 年版。

(2) 丁俊峰：《股东知情权理论与制度研究：以合同为视角》，北京：北京大学出版社，2012 年版。

(3) 蓝寿荣：《上市公司股东知情权研究》，北京：中国检察出版社，2006 年版。

2. 学位论文 (Dissertations)

【检索路径】中国知网一检索“股东”、“查阅权”、“知情权”等关键词，选择“博硕”论文选项，选择分组浏览中的“股东查阅权”主题。

【检索结果】根据相关度进行筛选，保留如下 15 篇。

题目	作者	院校	时间	学位
股东查阅权制度研究	周建伟	浙江工商大学	2006 年	硕士
股东查阅权研究	王德丽	南京理工大学	2008 年	硕士
股份有限公司 股东查阅权研究	蔡昭文	南昌大学	2008 年	硕士
有限责任公司 股东查阅权若干问题研究	闫勇	内蒙古大学	2017 年	硕士
论股东查阅权	周娜	对外经济贸易 大学	2007 年	硕士
股东查阅权与 公司商业秘密 权的冲突及立 法建议	郭雪静	外交学院	2017 年	硕士
股东知情权研究	周海涛	华侨大学	2016 年	硕士
论我国股东知 情权制度的完 善	田野	河北经贸大学	2017 年	硕士
论有限责任公 司股东查阅权	张建伟	黑龙江大学	2018 年	硕士
我国公司法股 东知情权研究	冯琳	上海师范大学	2016 年	硕士
股东查阅权若 干问题探析	李知博	吉林大学	2015 年	硕士
试论有限责任 公司股东知情 权——以股东	王莉	华东政法大学	2007 年	硕士

查阅权为中心				
论有限责任公司股东查阅权的客体范围和正当目的	刘苍	沈阳师范大学	2014 年	硕士
中国股东查阅权制度实证研究	许晓琪	中国政法大学	2013 年	硕士
股东查阅权穿越行使法律问题研究	李雁枫	上海师范大学	2018 年	硕士

3. 法学评论文章 (Law Review Articles)

【检索路径】中国知网—检索“股东”、“查阅权”、“知情权”等关键词。选择“期刊”、“报纸”、“会议”选项，选择分组浏览中的“股东查阅权”主题。

【检索结果】根据相关度进行筛选，保留期刊 15 篇（1-15），报纸 4 篇（16-19），会议论文 1 篇（20），共 20 篇。

(1) 彭真明、方妙：股东知情权的限制与保障——以股东查阅权为例

《法商研究》2010 年 03 期

摘要：2005 年修订后的《中华人民共和国公司法》对股东知情权制度进行了大刀阔斧的改革，增强了股东知情权保障与救济的可操作性。然而，《中华人民共和国公司法》的相关规定并非尽善尽美。就股东知情权中的股东查阅权而言，行使查阅权须受三个方面的限制：不应泄露公司的商业秘密，不应影响公司的运营效率，不应损害公共利益。考虑到我国法治的本土资源因素，我国股东查阅权制度的完善应以引入英国的检查人制度为主，即建立公司检查人制度。既对大股东权利进行限制，又对中小股东的查阅权予以保障，以完善我国的公司治理结构；同时，还应完善相关具体制度，以限制与保障股东查阅权。

(2) 李建伟：股东查阅权行使机制的司法政策选择

《法律科学(西北政法大学学报)》2009 年 03 期

摘要：股东查阅权作为一种工具性、救济性权利，其行使规则蕴含股东和公司之间某种恰当尺度的利益平衡，但立法过于原则化使得这一尺度趋于模糊。意在增强查阅权行使的可操作性、可救济性而制订的司法解释，关于诸环节的具体规范不全然是技术性的，而是包含了若干价值判断和对于当前司法救济现实需求的判断。为此，须在肯定我国现行公司法所确立的价值选择和基本法理框架的范围内作出正确的司法政策选择，并在此基础上明确有关股东查阅权行使与救济的诸具体规范。

(3) 李建伟：股东知情权诉讼研究

《中国法学》2013 年 02 期

摘要：存在疏漏的法律文本为司法审判供给的裁判规则不足，会导致审判在诉讼的基本层面上都面临争议，也造成不同法院的裁决立场的差异。弥补手段主要来自审判机关体系内的努力，包括最高人民法院颁布司法解释、高级人民法院发布司法政策文本与个案审判法官的创造性适用法律的裁判活动等三条路径。在有疏漏的法律文本规定获致司法

实现的过程中,这三条路径各自扮演的角色以及相互间的互动关系,可以通过对各地法院近年来的股东知情权诉讼裁决样本的实证分析得以观察与总结。存在疏漏的商事法律文本要最终获致符合立法本意的实现,除了需要出台更具权威性、规范性与精当性的司法解释、司法政策文本外,还要寄望于司法审判人员对裁判规范文本的判读与应用能力的提高。

(4) 吴高臣: 股东查阅权研究

《当代法学》2007年01期

摘要:我国修订后的公司法完善了股东查阅权制度,但还是十分粗陋。国外股东查阅权制度也经历了从无到有不断完善的过程,并且这一过程还在继续。借鉴国外先进的公司立法,剖析查阅权的主体、行使查阅权的条件、查阅权的客体及查阅权的限制等,有助于进一步增强我国股东查阅权制度的可操作性。

(5) 袁达松、王喜平: 股东查阅权穿越: 母公司股东权益保护的利器——相关美国法理论、实践及我国制度的构建

《东方法学》2010年04期

摘要:按照现行立法,在企业集团中,母公司股东尚无法律依据查阅子公司账簿记录,由此母公司股东因信息不对称而难以保护其合法权益。为解决这一问题,美国法许可母公司股东查阅子公司账簿记录,使得母公司股东的查阅权穿越母公司而对子公司产生效力。公司结构的变化给股东权益的保护提出了新的挑战,而我国现有股东查阅权的规定,难以应对这种挑战。我国在上市公司和国有企业中均已存在穿越制度的应用,将这一立法经验推广应用于股东查阅权,使母公司股东能够穿越母公司去查阅子公司的账簿记录,是我国可行的选择。

(6) 于莹: 股东查阅权法律问题研究

《吉林大学社会科学学报》2008年02期

摘要:股东查阅权可能引发的利益冲突模式有:股东与公司之间、个体股东与整体股东之间、股东与控股股东之间、股东与公司管理层之间的利益冲突。要解决这些利益冲突,主要是实现股东利益的保护和公司正常独立经营之间的平衡。从股东查阅权的主体、对象、行使程序以及对股东查阅权的限制等方面设计利益冲突解决的具体规则,应为解决之道。

(7) 张平: 有限责任公司股东查阅权对象的界定与完善

《法学杂志》2011年04期

摘要:我国《公司法》对有限责任公司股东查阅权对象进行分类的规定具有其合理性,但过于狭窄和简单。可以适当借鉴域外立法经验,采取概括式和列举相结合的方式,原则上将股东查阅权对象无限扩展到公司的所有信息资料,同时又具体列举常见的公司信息资料,并根据信息披露程度不同以“正当目的”说明义务进行合理限制。

(8) 周建伟: 美国公司法股东查阅权制度演变初探

《北京政法职业学院学报》2005年04期

摘要:股东查阅权制度,是确保股东表决权和诉权的重要公司法律制度。我国公司法及其司法实践尚没有规定完善的股东查阅权制度。本文对美国公司法股东查阅权制度的演变过程,包括其理论基础、历史渊源(判例法渊源和制定法渊源)、特拉华州公司法股东查阅制度的发展、判例法股东查阅权和制定法股东查阅权的关系等作了初步探索。藉以此为我国当前正在修订的《公司法》提供借鉴。

(9) 牛彬彬: 我国股东查阅权诉讼制度的完善——以“正当目的”为视角

《西南政法大学学报》2018年06期

摘要：查阅权是股东知情权的重要组成部分，但是我国的股东查阅权诉讼制度出现了价值取向上的失衡、规则设置上的疏漏和裁判上的乱象，其原因在于对股东行使查阅权的“正当目的”概念的价值中空。通过对“正当目的”概念的文义解释，并借助域外立法例对“正当目的”的内涵进行价值填充，并通过司法实践的类型化分析划定“正当目的”的外延范围；通过对“正当目的”的目的解释，证成“正当目的”不仅是股东的说明义务，在诉讼中也应当作为证明对象，由股东承担相应的举证责任。根据不同查阅权诉讼类型设计举证责任分配方案，最后由法官在正确适用规范的基础上，根据“正当目的”之内涵和比例原则作出公正的裁判。通过对股东查阅权诉讼制度的完善，以期能够在股东利益和公司自治之间寻求一条适当的裁判路径，更好地平衡两者之间的利益。

（10）晏芳：股东查阅权的范围及其代理人行使方式

《人民司法》2014年02期

摘要：〈正〉【裁判要旨】股东查阅权的裁判应以充分保障股东权利以激励股东投资、维持公司运转、平衡股东之间利益为法律价值目标，应将会计凭证纳入股东查阅范围，并在司法实践中严格把握股东查阅权的行使要件及举证责任，特别是正当目的的界定标准。同时，应从检查人制度的原理出发对股东查阅权的代理人行使方式予以司法宽容。

（11）吴高臣：股东查阅权之正当目的研究

《中国青年政治学院学报》2009年02期

摘要：正当目的是股东行使查阅权的主观要件，关系股东查阅权的实现。如何界定正当目的和合理分配正当目的之举证责任为各国立法所重视，我国应当借鉴其他国家相关立法和司法经验，完善正当目的立法。

（12）郭春宏：浅议股东查阅权的边界

《中国律师》2017年11期

摘要：〈正〉查阅权作为股东的一项固有权，具有不可侵犯和不可剥夺性，但并不意味着其行使没有限制。公司经营信息范围广泛，如果对股东查阅权不加以适当限制，则易发生股东查阅权的滥用，从而影响公司的正常运营和妨碍公司商业秘密的保护。因此，在规范股东查阅权时，一方面要保护股东查阅权，另一方面也要防止股东滥用查阅权损害公司正当利益。一、股东查阅权的保护与限制为了平衡股东查阅权与公司经营权的冲突，法律需对股东查阅权既保护又合理限制。

（13）肖信平：“正当目的性”视角下的股东查阅权的法律适用与司法价值

《齐齐哈尔大学学报(哲学社会科学版)》2017年11期

摘要：股东查阅权是股东知情权的重要权利之一。对股东查阅权“正当目的”的考量，应该将股东的固有权利与公司的利益平衡结合起来进行考量。在司法适用过程中，应将“正当目的”的适用作为股东行使查阅权的最低标准，在此基础上，还需考查股东行使查阅权是否对公司造成实质性损害。

（14）李建伟、姚晋升：论股东知情权的权利结构及其立法命题

《暨南学报(哲学社会科学版)》2009年03期

摘要：作为一项独立的集合型股东权利，股东知情权的权利构成包括积极权能（查阅权、质询权）和消极权能（信息接收权，与公司信息披露义务相对应）。相应地，股东知情权制度体系包括公司法上的股东查阅权、质询权制度和公司法、证券法上的信息披露制度。合理的股东知情权制度设计能够为解决股东与公司之间的信息不对称提供有效的公法、私法上的双重制约机制。我国股东知情权的立法架构应当体现公司信息披露与股东查阅权、质询权制度在内容上和救济上的协调，并区分公开公司、封闭公司进行区别立法，安排与公司性质相适应的、内容协调的股东知情权制度体系。

（15）孙箫：股东查阅权的范围及拓展

《河北法学》2010年08期

摘要：我国修改后的《公司法》仍未完全褪去浓厚的管制色彩，强制性条款的大量使用导致了司法实践对法律条文的规避与背叛。在实践中，公司法条文存在失范的现象已不在少数。条文的僵化无疑与商事领域追求制度创新及制度改进的需求相左。《公司法》中规定的股东查阅权宜变更为例示型条款，从而为司法适用预留必要的裁量空间。在现有法律规定的框架下，则应注重灵活运用法律解释方法达至立法文本与现实生活的协调与和谐。

(16) 史君哲：司法介入对股东权利保护的法律思考

《发展导报》2016年10月25日

正文快照：司法介入，是指与行政监管介入和公司自治相对应的概念，是在承认公司自治的前提下，在公司无法正常运行，纠纷无法解决的情况下，为治理公司的各方当事人提供救济措施，以使其恢复到最初的公司自治状态，同时也会在特定条件下，采取其他具体措施提前介入到公司的治理过程中……

(17) 胡菲菲、张红强：浅议股东查阅权之“正当目的”

《江苏法制报》2013年8月29日

正文快照：股东行使查阅权是股东了解公司真实信息的重要途径，是股东其他权利得以充分行使的基础。我国公司法规定了股东查阅权，特别是明文规定了股东享有查阅公司财务账簿的权利。一般情况下，公司的股东想了解公司的经营状况，看看公司财务账簿，是无可厚非的。事实上，法律对……

(18) 杜晓强：浅析股东知情权的实现路径

《法制日报》2012年11月7日

正文快照：股东知情权是股东对公司经营状况进行了解的权利，是股东实现其他股东权利的前提与基础。为了保障股东知情权的实现，各国往往通过立法加以保障。首先，各国立法均规定了股东知情权的消极实现方式即公司负有信息披露义务。其次，在公司不履行信息披露义务时，股东对涉及公……

(19) 王文明：有限责任公司股东查阅会计账簿权利的实现途径

《天津政法报》2012年5月21日

正文快照：一、问题的提出 我国《公司法》赋予了有限责任公司股东查阅公司会计账簿的权利(下称“查阅权”)，为股东实现知情权提供了司法保护和救济渠道。但在现实生活中，鉴于提出上述权利的股东主要是中小股东和没有参与公司经营管理的股东，股东查阅权的行使往往受到很多限制……

(20) 王晓艳、王艳华：有限公司股东查阅权之查阅对象的实证分析与法律重构——以《公司法》第34条之扩张解释为中心

全国法院系统第二十三届学术讨论会 2011年12月26日

摘要：公众公司股东主要依靠公司信息披露制度来获取公司信息，知晓公司情况，而有限公司股东则不同，由于公司具有较强的封闭性，股东主要通过查阅公司信息的方式来知晓公司情况，维护自身权益。根据现行《公司法》第34条的规定，有限公司股东有权查阅公司章程、股东会会议记录、财务会计报告和会计账簿等六种公司资料……

三、United States Legal Sources (美国法律资源)

(一) Primary Source (原始资源)

1. Statutes (法律)

(1) Federal Statutes (联邦立法)

【检索路径】 Westlaw—Home > Statutes & Court Rules > United States Code Annotated (USCA) > adv: Shareholder /2 right /3 (inspect! or examine)

【检索结果】 共检索到 4 个结果，根据相关度进行筛选，保留 2 篇联邦立法。

(1) 12 U.S.C.A. § 62. List of shareholders

The president and cashier of every national banking association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the association, and the officers authorized to assess taxes under State authority, during business hours of each day in which business may be legally transacted. A copy of such list, verified by the oath of such president or cashier, shall be transmitted to the Comptroller of the Currency within ten days of any demand therefor made by him.

(2) 12 U.S.C.A. § 4617. Authority over critically undercapitalized regulated entities (2008)

(14) Accounting and recordkeeping requirements

(A) In general

The Agency as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Agency, maintain a full accounting of each conservatorship and receivership or other disposition of a regulated entity in default.

(B) Annual accounting or report

With respect to each conservatorship or receivership, the Agency shall make an annual accounting or report available to the Board, the Comptroller General of the United States, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(C) Availability of reports

Any report prepared under subparagraph (B) shall be made available by the Agency upon request to any shareholder of a regulated entity or any member of the public.

(2) State Statutes (特拉华、纽约州立法)

【检索路径】 Westlaw—Delaware & New York >adv: shareholder /s right /s inspect /s records > Statutes & Court Rules

【检索结果】 共检索到 7 个结果，根据相关度进行筛选，保留如下 6 篇州立法。

(1) McKinney's Business Corporation Law § 624. Books and records; right of inspection, prima facie evidence

(a) Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its shareholders, board and executive committee, if any, and shall keep at the office of the corporation in this state or at the office of its transfer agent or registrar in this state, a record containing the names and addresses of all shareholders, the number and class of shares held by each and the dates when they respectively became the owners of record thereof. Any of the foregoing books, minutes or records may be in written form or in any other form capable of being converted into written form within a reasonable time.

(b) Any person who shall have been a shareholder of record of a corporation upon at least five days' written demand shall have the right to examine in person or by agent or attorney, during usual business hours, its minutes of the proceedings of its shareholders and record of

shareholders and to make extracts therefrom for any purpose reasonably related to such person's interest as a shareholder. Holders of voting trust certificates representing shares of the corporation shall be regarded as shareholders for the purpose of this section. Any such agent or attorney shall be authorized in a writing that satisfies the requirements of a writing under paragraph (b) of section 609 (Proxies). A corporation requested to provide information pursuant to this paragraph shall make available such information in written form and in any other format in which such information is maintained by the corporation and shall not be required to provide such information in any other format. If a request made pursuant to this paragraph includes a request to furnish information regarding beneficial owners, the corporation shall make available such information in its possession regarding beneficial owners as is provided to the corporation by a registered broker or dealer or a bank, association or other entity that exercises fiduciary powers in connection with the forwarding of information to such owners. The corporation shall not be required to obtain information about beneficial owners not in its possession.

(c) An inspection authorized by paragraph (b) may be denied to such shareholder or other person upon his refusal to furnish to the corporation, its transfer agent or registrar an affidavit that such inspection is not desired for a purpose which is in the interest of a business or object other than the business of the corporation and that he has not within five years sold or offered for sale any list of shareholders of any corporation of any type or kind, whether or not formed under the laws of this state, or aided or abetted any person in procuring any such record of shareholders for any such purpose.

(d) Upon refusal by the corporation or by an officer or agent of the corporation to permit an inspection of the minutes of the proceedings of its shareholders or of the record of shareholders as herein provided, the person making the demand for inspection may apply to the supreme court in the judicial district where the office of the corporation is located, upon such notice as the court may direct, for an order directing the corporation, its officer or agent to show cause why an order should not be granted permitting such inspection by the applicant. Upon the return day of the order to show cause, the court shall hear the parties summarily, by affidavit or otherwise, and if it appears that the applicant is qualified and entitled to such inspection, the court shall grant an order compelling such inspection and awarding such further relief as to the court may seem just and proper.

(e) Upon the written request of any shareholder, the corporation shall give or mail to such shareholder an annual balance sheet and profit and loss statement for the preceding fiscal year, and, if any interim balance sheet or profit and loss statement has been distributed to its shareholders or otherwise made available to the public, the most recent such interim balance sheet or profit and loss statement. The corporation shall be allowed a reasonable time to prepare such annual balance sheet and profit and loss statement.

(f) Nothing herein contained shall impair the power of courts to compel the production for examination of the books and records of a corporation.

(g) The books and records specified in paragraph (a) shall be prima facie evidence of the facts therein stated in favor of the plaintiff in any action or special proceeding against such corporation or any of its officers, directors or shareholders.

(2) 8 Del. C. § 220. Inspection of books and records (2010)

(b) Any stockholder, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose, and to make copies and extracts from:

(1) The corporation's stock ledger, a list of its stockholders, and its other books and records; and

(2) A subsidiary's books and records, to the extent that:

a. The corporation has actual possession and control of such records of such subsidiary; or

b. The corporation could obtain such records through the exercise of control over such subsidiary, provided that as of the date of the making of the demand:

1. The stockholder inspection of such books and records of the subsidiary would not constitute a breach of an agreement between the corporation or the subsidiary and a person or persons not affiliated with the corporation; and

2. The subsidiary would not have the right under the law applicable to it to deny the corporation access to such books and records upon demand by the corporation.

In every instance where the stockholder is other than a record holder of stock in a stock corporation, or a member of a nonstock corporation, the demand under oath shall state the person's status as a stockholder, be accompanied by documentary evidence of beneficial ownership of the stock, and state that such documentary evidence is a true and correct copy of what it purports to be. A proper purpose shall mean a purpose reasonably related to such person's interest as a stockholder. In every instance where an attorney or other agent shall be the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing which authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the corporation at its registered office in this State or at its principal place of business.

(c) If the corporation, or an officer or agent thereof, refuses to permit an inspection sought by a stockholder or attorney or other agent acting for the stockholder pursuant to subsection (b) of this section or does not reply to the demand within 5 business days after the demand has been made, the stockholder may apply to the Court of Chancery for an order to compel such inspection. The Court of Chancery is hereby vested with exclusive jurisdiction to determine whether or not the person seeking inspection is entitled to the inspection sought. The Court may summarily order the corporation to permit the stockholder to inspect the corporation's stock ledger, an existing list of stockholders, and its other books and records, and to make copies or extracts therefrom; or the Court may order the corporation to furnish to the stockholder a list of its stockholders as of a specific date on condition that the stockholder first pay to the corporation the reasonable cost of obtaining and furnishing such list and on such other conditions as the Court deems appropriate. Where the stockholder seeks to inspect the corporation's books and records, other than its stock ledger or list of stockholders, such stockholder shall first establish that:

(1) Such stockholder is a stockholder;

(2) Such stockholder has complied with this section respecting the form and manner of making demand for inspection of such documents; and

(3) The inspection such stockholder seeks is for a proper purpose.

Where the stockholder seeks to inspect the corporation's stock ledger or list of stockholders and establishes that such stockholder is a stockholder and has complied with this section

respecting the form and manner of making demand for inspection of such documents, the burden of proof shall be upon the corporation to establish that the inspection such stockholder seeks is for an improper purpose. The Court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other or further relief as the Court may deem just and proper. The Court may order books, documents and records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within this State and kept in this State upon such terms and conditions as the order may prescribe.

(d) Any director shall have the right to examine the corporation's stock ledger, a list of its stockholders and its other books and records for a purpose reasonably related to the director's position as a director. The Court of Chancery is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The Court may summarily order the corporation to permit the director to inspect any and all books and records, the stock ledger and the list of stockholders and to make copies or extracts therefrom. The burden of proof shall be upon the corporation to establish that the inspection such director seeks is for an improper purpose. The Court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the Court may deem just and proper.

(3) McKinney's N-PCL § 1316. Record of members (2014)

(a) Any resident of this state who shall have been a member of record, for at least six months immediately preceding his demand, of a foreign corporation conducting activities in this state, or any resident of this state authorized in writing by at least five percent of the members, entitled to vote, of the foreign corporation, upon at least five days' written demand may require such foreign corporation to produce a record of its members setting forth the names and addresses of all members, the number and class of capital certificates held by each and the dates when they respectively became the owners of record thereof, and shall have the right to examine in person or by agent or attorney at the office of the foreign corporation in this state or at the office of its transfer agent or registrar in this state or at such other place in any county in this state in which the foreign corporation is conducting activities as may be designated by the foreign corporation during the usual business hours, a record of members or an exact copy of the record of members certified as correct by the corporate officer or agent responsible for keeping or producing such record and to make extracts therefrom. In the case of a foreign corporation having shares, a record of shareholders shall for the purpose of this section be regarded as a record of members, and holders of voting trust certificates representing such shares shall for the purpose of this section be regarded as members.

(b) An examination authorized by paragraph (a) may be denied to such member or other person upon his refusal to furnish to the foreign corporation or its transfer agent or registrar an affidavit that such inspection is not desired for a purpose which is in the interests of a business or object other than the activities of the foreign corporation and that such member or other person has not within five years sold or offered for sale any list or record of members of any corporation of any kind, whether or not formed under the laws of this state, or aided or abetted any person in procuring any such list or record of members for any such purpose.

(c) Upon refusal by the foreign corporation or by an officer or agent of the foreign corporation to produce for examination or to permit an examination of the record of members as herein provided, the person making the demand for production and examination may apply

to the supreme court in the judicial district where the office of the foreign corporation within this state is located, upon such notice as the court may direct, for an order directing the foreign corporation, its officer or agent, to show cause why an order should not be granted directing such production and permitting such examination by the applicant. Upon the return day of the order to show cause, the court shall hear the parties summarily, by affidavit or otherwise, and if it appears that the applicant is qualified and entitled to such examination, the court shall grant an order compelling such production for examination and awarding such further relief as to the court may seem just and proper.

(d) Nothing herein contained shall impair the power of courts to compel the production for examination of the books of a foreign corporation. The record of members specified in paragraph (a) shall be prima facie evidence of the facts therein stated in favor of the plaintiff in any action or special proceeding against such foreign corporation or any of its officers, directors or members.

(4) McKinney's N-PCL § 621. Books and records; right of inspection; prima facie evidence (2017)

(a) Except as otherwise provided herein, every corporation shall keep, at the office of the corporation, correct and complete books and records of account and minutes of the proceedings of its members, board and executive committee, if any, and shall keep at such office or at the office of its transfer agent or registrar in this state, a list or record containing the names and addresses of all members, the class or classes of membership or capital certificates and the number of capital certificates held by each and the dates when they respectively became the holders of record thereof. A corporation may keep its books and records of account in an office of the corporation without the state, as specified in its certificate of incorporation. Any of the foregoing books, minutes and records may be in written form or in any other form capable of being converted into written form within a reasonable time.

(b) Any person who shall have been a member of record of a corporation for at least six months immediately preceding his demand, or any person holding, or thereunto authorized in writing by the holders of, at least five percent of any class of the outstanding capital certificates, upon at least five days written demand shall have the right to examine in person or by agent or attorney, during usual business hours, its minutes of the proceedings of its members and list or record of members and to make extracts therefrom.

(c) An inspection authorized by paragraph (b) may be denied to such member or other person upon his refusal to furnish to the corporation, its transfer agent or registrar an affidavit that such inspection is not desired and will not be used for a purpose which is in the interest of a business or object other than the business of the corporation and that he has not within five years given, sold or offered for sale any list or record of members of any domestic or foreign corporation or aided or abetted, or attempted or offered to aid or abet, any person in procuring any such list or record of members for any such purpose.

(d) Upon refusal by the corporation or by an officer or agent of the corporation to permit an inspection of the minutes of the proceedings of its members or of the list or record of members, as herein provided, the person making the demand for inspection may apply to the supreme court in the judicial district where the office of the corporation is located, upon such notice as the court may direct, for an order directing the corporation, its officer or agent to

show cause why an order should not be granted permitting such inspection by the applicant. Upon the return day of the order to show cause, the court shall hear the parties summarily, by affidavit or otherwise, and if it appears that the applicant is qualified and entitled to such inspection, the court shall grant an order compelling such inspection and awarding such further relief as to the court may seem just and proper.

(e) Upon the written request of any person who shall have been a member of record for at least six months immediately preceding his request, or of any person holding, or thereunto authorized in writing by the holders of, at least five percent of any class of the outstanding capital certificates, the corporation shall provide to such member an annual balance sheet and profit and loss statement or a financial statement performing a similar function for the preceding fiscal year, and, if any interim balance sheet or profit and loss or similar financial statement has been distributed to its members or otherwise made available to the public, the most recent such interim balance sheet or profit and loss or similar financial statement. The corporation shall be allowed a reasonable time to prepare such annual balance sheet and profit and loss or similar financial statement.

(e-1) In addition to those documents described in paragraph (e) of this section, members of a homeowners association incorporated pursuant to the provisions of this chapter shall also be entitled to review, upon request to the homeowners association's governing board, invoices, ledgers, bank accounts, reconciliations, contracts, and any documents related to the expenditure of homeowners association dues.

(f) Nothing herein contained shall impair the power of courts to compel the production for examination of the books and records of a corporation.

(g) The books and records specified in paragraph (a) shall be prima facie evidence of the facts therein stated in favor of the plaintiff in any action or special proceeding against such corporation or any of its officers, directors or members.

(h) Nothing in this chapter shall require an employee organization certified or recognized for any collective negotiating unit of an employer pursuant to article fourteen of the civil service law to disclose the home address of any member or former member of such organization.

(5) McKinney's Business Corporation Law § 1315. Record of shareholders

(a) Any resident of this state who shall have been a shareholder of record of a foreign corporation doing business in this state upon at least five days' written demand may require such foreign corporation to produce a record of its shareholders setting forth the names and addresses of all shareholders, the number and class of shares held by each and the dates when they respectively became the owners of record thereof and shall have the right to examine in person or by agent or attorney at the office of the foreign corporation in this state or at the office of its transfer agent or registrar in this state or at such other place in the county in this state in which the foreign corporation is doing business as may be designated by the foreign corporation, during the usual business hours, the record of shareholders or an exact copy thereof certified as correct by the corporate officer or agent responsible for keeping or producing such record and to make extracts therefrom. Resident holders of voting trust certificates representing shares of the foreign corporation shall for the purpose of this section be regarded as shareholders. Any such agent or authority shall be authorized in a writing that satisfies the requirements of a writing under paragraph (b) of section 609 (proxies). A corporation requested to provide information pursuant to this paragraph shall make available

such information in the format in which such information is maintained by the corporation and shall not be required to provide such information in any other format. If a request made pursuant to this paragraph includes a request to furnish information regarding beneficial owners, the corporation shall make available such information in its possession regarding beneficial owners as is provided to the corporation by a registered broker or dealer or a bank, association or other entity that exercises fiduciary powers in connection with the forwarding of information to such owners. The corporation shall not be required to obtain information about beneficial owners not in its possession.

(b) An examination authorized by paragraph (a) may be denied to such shareholder or other person upon his refusal to furnish to the foreign corporation or its transfer agent or registrar an affidavit that such inspection is not desired for a purpose which is in the interest of a business or object other than the business of the foreign corporation and that such shareholder or other person has not within five years sold or offered for sale any list of shareholders of any corporation of any type or kind, whether or not formed under the laws of this state, or aided or abetted any person in procuring any such record of shareholders for any such purpose.

(c) Upon refusal by the foreign corporation or by an officer or agent of the foreign corporation to produce for examination or to permit an examination of the record of shareholders as herein provided, the person making the demand for production and examination may apply to the supreme court in the judicial district where the office of the foreign corporation within this state is located, upon such notice as the court may direct, for an order directing the foreign corporation, its officer or agent, to show cause why an order should not be granted directing such production and permitting such examination by the applicant. Upon the return day of the order to show cause, the court shall hear the parties summarily, by affidavit or otherwise, and if it appears that the applicant is qualified and entitled to such examination, the court shall grant an order compelling such production for examination and awarding such further relief as to the court may seem just and proper.

(d) Nothing herein contained shall impair the power of courts to compel the production for examination of the books of a foreign corporation. The record of shareholders specified in paragraph (a) shall be prima facie evidence of the facts therein stated in favor of the plaintiff in any action or special proceeding against such foreign corporation or any of its officers, directors or shareholders.

(6) McKinney's Business Corporation Law § 518. Corporate bonds

(c) A corporation may, in its certificate of incorporation, confer upon the holders of any bonds issued or to be issued by the corporation, rights to inspect the corporate books and records and to vote in the election of directors and on any other matters on which shareholders of the corporation may vote.

2. Regulations (行政法规)

(1) Federal Regulations (联邦法规)

【检索路径】 Westlaw—Regulations > Code Of Federal Regulations > adv: shareholder /s right /s inspect /s records

【检索结果】 没有相应检索结果，无符合条件选项。

(2) State Regulations (各州法规)

【检索路径】Westlaw—Regulations > Code Of Federal Regulations > adv: shareholder /s right /s inspect /s records

【检索结果】没有相应检索结果，无符合条件选项。

3. Cases (判例)

【检索路径】Westlaw—Cases > All Federal Cases > adv: shareholder /s right /s inspect /s records

【检索结果】共 617 个检索结果，其中联邦判例 131 个，各州判例 482 个，根据相关度进行筛选，保留如下 10 篇。

(1) **State ex rel. Brown v. III Investments, Inc., 80 S.W.3d 855 (Mo. Ct. App. 2002)**

Background: Shareholder and former director of corporation filed petition and application for writ of mandamus after corporation refused to allow inspection of corporate books and records. The Circuit Court, Jackson County, Thomas C. Clark, J., ordered corporation to produce various federal income tax returns and annual reports, and fined corporation for failing to comply with statute governing the inspection of records. Shareholder and corporation both appealed.

Holdings: The Court of Appeals, Joseph M. Ellis, J., held that:

1 statute governing shareholder's right to inspect books and records did not preempt common law right of inspection;

2 shareholder's right to inspect books and records was not limited to documents that corporation was required to maintain at its registered office or principal place of business; and
3 preponderance of the evidence standard applied to assessment of whether shareholder had improper purpose for seeking to inspect corporate documents.

Reversed and remanded.

当公司股东和前任董事查阅公司账簿和记录的要求被公司拒绝后，他们提交了请求强制执行令的请愿书和申请书。杰克逊县巡回法院法官 Thomas C. Clark 命令公司提交各种联邦所得税申报表和年度报告，并因公司未能遵守有关检查材料的法规而对公司处以罚款。股东和公司都提出上诉。

上诉法院法官 Joseph M. Ellis 认为：首先，有关股东查阅账簿和记录的权利的法规并不优先于普通法的检查权；其次，股东查阅账簿和记录的权利并不限于公司需要在其注册办事处或主要营业场所保存的文件；适用于评估股东是否有不当目的查阅公司文件的证据标准对一方具有倾向优势。

因此撤销原判，并将案件发回。

(2) **Parsons v. Jefferson-Pilot Corp., 333 N.C. 420, 426 S.E.2d 685 (1993)**

Background: Shareholder filed motion for preliminary injunction seeking order directing corporation to give her access to its accounting records and to give her a list of non-objecting beneficial owners (NOBO) of its stock. The Superior Court, Guilford County, Steven W. Allen, Sr., J., ruled that shareholder be allowed to inspect accounting records and records of shareholder and director action, but that shareholder was not entitled to NOBO list. Both parties appealed. The Court of Appeals, 106 N.C. App. 307, 416 S.E.2d 914, affirmed in part, reversed in part and remanded. Both parties petitioned for discretionary review.

Holdings: The Supreme Court, Mitchell, J., held that:

1 section of the Business Corporation Act providing shareholders of corporations other than “public corporations” statutory right to expedited inspection of corporation's accounting

records within five business days after making proper demand does not abrogate shareholder's common-law right to inspect accounting records of public corporation;

2 corporation was not required to provide shareholder with NOBO list, where corporation did not have in its possession names of its nonobjecting beneficial owners and did not use such information to solicit shareholders;

3 assuming that section of the Business Corporation Act requiring that shareholder wishing to inspect corporate records describe both purpose and records with “reasonable particularity” applies to common-law right of inspection, shareholder in instant case described both her purpose and desired records with the “reasonable particularity” required by statute.

Affirmed in part; reversed in part and remanded.

股东提出初步禁令申请，要求公司允许她查阅其会计记录，并给她一份 NOBO 受益人名单。吉尔福德县高级法院判决允许股东查阅股东和董事诉讼的会计记录，但该股东无权获得 NOBO 名单。双方都提起上诉。

最高法院的 Mitchell 法官认为：首先，《商业公司法》第 1 节规定“上市公司”之外的其他公司股东在提出合理请求的五个营业日内有权加快检查公司会计记录，但这不意味其丧失了作为股东享有的普通法所规定的检查公司会计记录的权利；其次，公司无需向股东提供 NOBO 名单，因为公司并不知道这些受益所有人的姓名，也没有使用这些信息来招揽股东；假设《商业公司法》中要求希望检查公司记录的股东同时描述其申请目的以及适用于普通法检查权的具有“合理特殊性”的记录，那么在本案中，股东已经进行了此项操作。

因此部分确认；部分撤销并将案件发回。

(3) Pederson v. Arctic Slope Reg'l Corp., 331 P.3d 384 (Alaska 2014)

Background: Shareholder brought suit against corporation and its corporate secretary claiming that he had submitted a written demand to for copies of minutes and books and records of account, and that the Corporation had sought to impose unreasonable conditions on release of the information he sought and later improperly denied his request by releasing less than what was required under the shareholder inspection statute. Following a bench trial, the Superior Court, Third Judicial District, Anchorage, Sen K. Tan, J., entered judgment for defendants. Shareholder appealed.

Holdings: The Supreme Court, Fabe, C.J., held that, as matters of first impression:

1 under shareholder inspection statute, phrase “books and records of account” includes electronically maintained books and records of account;

2 phrase “books and records of account” goes beyond mere annual reports and proxy statements;

3 phrase “books and records of account” includes records of individual executive compensation and transfers of corporate assets or interests to executives;

4 term “minutes,” under shareholder inspection statute, requires a record of items addressed and actions taken at the board meeting;

5 corporation may demand that a shareholder sign a confidentiality agreement imposing reasonable conditions on release of information; and

6 corporation's proffered confidentiality agreements were unreasonably restrictive.

Reversed, vacated, and remanded.

股东对公司及其公司秘书提起诉讼，声称他已向公司提交了书面申请，要求公司提供会议记录、账簿和会计记录的副本，而公司试图对披露股东所需信息设置不合理的条件。

后来公司故意使披露信息的程度低于股东查阅权立法设置的标准，以此拒绝他提出的请求。庭审之后，安克雷奇第三司法区的高级法院对被告作出判决。股东提出上诉。最高法院的首席法官 Fabe 认为，就第一印象而言：根据股东查阅权的相关立法，术语“账簿和账户记录”包括电子保存的账簿和账户记录，其语义范围超越了年度报告和委托书，包括个人高管薪酬记录以及公司资产或利益转移给高管的记录；与此同时，根据《股东检查法》，术语“会议记录”要求将董事会会议上提及的事项和进行的活动记录下来；公司可以要求股东签署保密协议，对信息的披露施加合理条件；而本案中公司提供的保密协议受到了不合理的限制。因此撤销原判并将案件发回。

(4) Ales v. Sewell, 2000-2017 (La. App. 4 Cir. 10/17/01), 800 So. 2d 36

Background: Putative shareholder filed suit for writ of mandamus to require corporations to allow him to inspect their records and accounts. The Civil District Court, Orleans Parish, Nos. 99-12004, 99-12005, Robin M. Giarrusso, J., granted plaintiff's motion to compel discovery and awarded him attorney fees and costs, plus costs of the proceedings and legal interest from date of judgment. Corporations appealed.

Holdings: The Court of Appeal, Waltzer, J., held that:

- 1 trial court order enforcing shareholder's inspection rights adequately protected corporations' proprietary and confidential information;
- 2 plaintiff was “shareholder of record” entitled to inspect corporate records, even though he did not have a stock certificate;
- 3 corporations acted in bad faith in connection with inspection request, warranting award of attorney fees; and
- 4 plaintiff was not a “business competitor,” within meaning of inspection statute.

Affirmed.

推定的股东提起诉讼，要求公司允许他检查公司记录和账目。新奥尔良民事法院法官 Robin M. Giarrusso 批准了原告要求开示的请求，并判给他律师费和诉讼费，以及自判决之日起的诉讼费和法定利息。公司提出上诉。

上诉法院法官 Waltzer 认为：初审法院判决在维护股东查阅权的同时，也充分保护了公司的专有、机密信息；原告虽然没有股票证书，但其也是有权查阅公司记录的“股东”，公司在审查请求、保证支付律师费方面并不诚实；最后，原告并非查阅权立法中所指的“商业竞争对手”。

因此维持原判。

(5) Panitz v. F. Perlman & Co., 173 S.W.3d 421 (Tenn. Ct. App. 2004)

Background: Shareholders filed action seeking to compel corporation, and corporation's subsidiaries, to produce records for shareholders' inspection. Following a hearing, the Chancery Court for Shelby County, Walter Evans, Chancellor, entered order requiring defendants to produce certain records, subject to a protective order. Shareholders appealed.

Holdings: The Court of Appeals, W. Frank Crawford, P.J., W.S., held that:

- 1 shareholders did not have a right to inspect records of corporation's wholly owned subsidiary corporations;
- 2 shareholders had right to inspect all of the records of corporation they owned shares in, without limitation as to the age of the records or any discretion on the part of the corporation;

3 confidentiality agreement Chancery Court required shareholders to execute as a condition of inspecting the corporate records was unreasonable, to the extent it suggested non-confidential information was subject to it; and

4 shareholders were not entitled to findings of fact.

Affirmed as modified.

股东提起诉讼，要求公司及其子公司提供记录供股东查阅。在听证会之后，谢尔比郡衡平法院大法官 Walter Evans 判令被告在一项保护令的保护下出示某些记录。股东提起上诉。

上诉法院法官 W. Frank Crawford 认为：首先，股东无权查阅公司全资子公司的记录；其次，股东有权查阅其持有股份的公司的所有记录，并不受记录的年限或公司的任何酌情决定权的限制；同时，衡平法院要求股东签署保密协议，作为审查公司记录的条件是不合理的，在一定程度上暗示非保密信息受其约束；最后，股东无权获得事实调查结果。因此法官对稍作修改的判决进行了确认。

(6) Melzer v. CNET Networks, Inc., 934 A.2d 912 (Del. Ch. 2007)

Background: In order to establish demand futility in a breach of fiduciary duty derivative action commenced in another state, shareholders brought Delaware action seeking inspection of books and records relating to stock option backdating. Shareholders moved to compel discovery of documents regarding options granted before shareholders owned stock.

Holdings: The Court of Chancery, Chandler, Chancellor, held that shareholders would be granted access to documents regarding stock options issued before they owned stock, as such documents could establish a sustained or systematic failure of the board to exercise oversight and thus establish demand futility.

Motion granted.

为了能够在另一个州提起的违反受托责任衍生品诉讼中确立索取权无效，股东们在特拉华州提起诉讼，要求查阅与股票期权回溯有关的账簿和记录。他们采取行动，要求披露在股东持有股票之前授予的期权的相关文件。

衡平法院的大法官 Chandler 认为，股东将被允许查阅在他们拥有股票之前发行的有关股票期权的文件，因为这些文件可能证明董事会持续或系统性地疏于行使监督权，从而导致索取权无效。

因此法官判决准许请求。

(7) Sec. First Corp. v. U.S. Die Casting & Dev. Co., 687 A.2d 563 (Del. 1997)

Background: Shareholder brought action seeking right to inspect all records and books of corporation and subsidiaries which related to proposed merger and subsequent termination. The Chancery Court, New Castle County, granted shareholder relief. Corporation appealed.

Holdings: The Supreme Court, Veasey, C.J., held that:

1 evidence established credible basis to find corporate mismanagement, as required for shareholder to inspect corporation's books and records;

2 shareholder failed to meet burden of proof that each category of corporation's books and records requested was essential and sufficient to purpose of investigating mismanagement related to terminated merger;

3 fact that shareholder admitted in deposition and at trial that he had no idea what he would do with corporation's shareholder list was sufficient to prove that demand for such list was not made for proper purpose.

Affirmed in part, reversed in part, and remanded.

股东提起诉讼,要求确认其有权查阅与拟议合并以及随后终止有关的公司及其子公司的所有记录和账簿。纽卡斯尔衡平法院给予股东救济。公司提出上诉。

最高法院的首席法官 Veasey 认为: 首先, 当股东诉请查阅公司账簿和记录时, 相关证据已经为发现公司管理不善提供了可信依据; 其次, 股东未能履行举证责任, 证明其所要求查阅的各类公司账簿和记录对于调查与终止合并有关的管理不善是必要和充分的; 最后, 股东在证词和庭审中承认, 他不知道如何处理公司的股东名单, 这足以证明其对该名单的查阅要求并非出于正当目的。

因此部分肯定, 部分推翻, 并将案件发回。

(8) Schoon v. Troy Corp., No. CIV.A. 1677-N, 2006 WL 1851481 (Del. Ch. June 27, 2006), clarified on denial of reargument, No. CIV.A. 1677-N, 2006 WL 2162036 (Del. Ch. July 24, 2006)

Background: Minority shareholder in privately-held corporation, and director it appointed to the board, brought action to compel inspection of books and records guaranteed by statute.

Holdings: The Chancery Court, New Castle County, Lamb, Vice Chancellor, held that:

- 1 director's request to inspect books and records was for improper purpose;
- 2 minority shareholder did not waive its inspection rights in stock purchase agreement;
- 3 shareholder's request to inspect books and records was for a proper purpose to value its shares for sale; and
- 4 corporation's proposed confidentiality agreement was unreasonable.

Ordered accordingly.

私人控股公司的少数股东及董事会指定的董事, 诉请法院判令其依法查阅担保的账簿和记录。

纽卡斯尔衡平法院法官 Lamb 认为: 董事检查账簿、记录的请求有不当目的; 少数股东并未放弃其在股权收购协议中的查阅权; 股东要求查阅账簿和记录的目的是对其股票进行估值; 公司提出的保密协议不合理。

(9) Nat'l Consumers Union v. Nat'l Tea Co., 14 Ill. App. 3d 186, 302 N.E.2d 118 (1973)

Background: Shareholders (a consumers' organization and an individual who owned one share of stock each) sought writ of mandamus to enable them to examine corporation's books and records. The Circuit Court of Cook County, Edward Egan, J., granted defendants' motion for summary judgment, and shareholders appealed.

Holdings: The Appellate Court, Lorenz, J., held that in light of evidence as to, inter alia, picketing of corporation's stores by plaintiffs, there was no error in ruling that plaintiffs had no proper purpose for examining corporation's books and records. The court further held that consideration of such picketing in relation to existence of proper purpose did not result in penalizing plaintiffs for exercising their First Amendment rights.

Affirmed.

背景: 股东(一个消费者组织和一个拥有一股股票的个人)请求法院下达强制令, 使其能够检查公司的账簿和记录。库克县巡回法院法官 Edward Egan 同意了被告进行简易判决的提议, 股东上诉。

控股: 上诉法院的 Lorenz 法官认为, 根据原告对公司商店进行纠察等证据, 之前判定原告审查公司的账簿和记录不具有正当目的是正确的。法院还认为, 对这种与是否存在正当目的的纠察行为的考虑, 并不会导致原告因行使第一修正案所赋予的权利而受到惩罚。

因此维持原判。

(10) Celina Mut. Ins. Co. v. Am. Druggists Ins. Co., 52 Ohio App. 2d 304, 369 N.E.2d 1066 (Ohio Ct. App. 1977)

Background: Shareholder sought mandatory injunction ordering domestic insurance corporation to permit inspection and copying of corporation's shareholder record. The Court of Common Pleas, Hamilton County, refused to issue such injunction, and shareholder appealed.

Holdings: The Court of Appeals, Hamilton County, Bettman, J., held that: (1) shareholder's right to inspect such record is governed by general corporation law rather than by statutes dealing with domestic insurance corporations, and (2) fact that shareholder may have interest in acquiring corporation does not make his request for shareholder record unreasonable or improper.

Reversed and remanded.

Keefe, J., dissented and filed opinion.

股东请求法院下达强制令，使辖区内的保险公司允许其检查和复制公司股东记录。汉密尔顿普通民事法院拒绝发布这样的命令，股东们提出了上诉。

汉密尔顿上诉法院的 Bettman 法官认为：(1) 股东查阅股东名册的权利受一般公司法管辖，而不受有关辖区内保险公司的法律管辖；(2) 股东可能因收购公司而获利的事实，并不会使查阅股东名册的要求不合理或不正当。

因此撤销原判并发回。

(二) Secondary Sources (二次资源)

1. Books: scholarly and practicing materials (图书: 学术与实务)

【检索路径】浙江大学图书馆—检索“shareholder's inspection right”，没有相关检索结果，改为检索“shareholder's right”，仍没有相应检索结果，因此改为检索“shareholder”。

【检索结果】共检索到 132 个结果，保留如下 1 部。

Jennifer G. Hill, Randall S. Thomas, Research Handbook on Shareholder Power, Edward Elgar Publishing, 2015.

Much of the history of corporate law has concerned itself not with shareholder power, but rather with its absence. Yet, as this Handbook shows, there have been major shifts in capital market structure that require a reassessment of the role and power of shareholders. This book provides a contemporary analysis of shareholder power and considers the regulatory consequences of changing ownership patterns around the world. Leading international scholars in corporate law, governance and financial economics address these central issues from a range of different perspectives including historical, contemporary, legal, economic, political and comparative.

2. Law review articles (法学评论文章)

【检索路径】Heionline—Law journal library>adv: “shareholder” and “inspection”，选择“articles”。

【检索结果】共检索文章 6552 篇，根据相关度进行筛选，保留如下 10 篇。

(1) Faul, Michael J. Jr.; DiPasquale, Robert. “Minority's Shareholder's Inspection Rights under N.J.S.A. 14A:5-28, A,” New Jersey Lawyer, Vol. 2000, Issue 4 (August 2000), pp. 8-16.

Statutory Inspection Rights - An Overview Controlling shareholders, officers and directors in a closely held corporation stand in a fiduciary relationship with the corporation and its

minority shareholders. ...N.J.S.A. 14A:5-28 affords a shareholder the right to demand inspection of a corporation's "books and records of account" and minutes of the proceedings of its shareholders, board and executive committee, if any a shareholder may employ an accountant or other qualified financial expert or professional deemed appropriate by the court to assist in executing his or her inspection rights. ...This right is afforded irrespective of the number of shares owned by the shareholder or the period of time during which the shareholder owned his or her shares." The right to a broader category of books and records, however, is not absolute, but is specifically conditioned on the shareholder establishing good cause and proof of a proper purpose for the inspection. Proper purposes have generally been defined to include those reasonably related to the shareholder's interest or status as a shareholder. ...To say that they have the right, but that it can be enforced only when they have ascertained, in some way without the books, that their affairs have been mismanaged or that their interests are in danger, is practically to deny the right in the majority of cases.

(2) Campos, Maria Clara L. "The Stockholder's Right of Inspection - Its Significance, Extent and Limitations," Philippine Law Journal, Vol. 53, Issue 2 (June 1978), pp. 170-192.

Thus, despite the apparently liberal provisions of sections 51 and 52, perhaps some changes should be introduced in our statute aimed, on the one hand, at deterring corporations from refusing -any and all demands for inspection, and on the other, discouraging demands in bad faith. As noted earlier, statutes in some jurisdictions impose a penalty of 10% of the value of the stocks of the shareholder on the officer or corporation improperly denying inspection. This penalty clause however, many times defeats its purpose because a corporate officer who is faced with an inspection demand from a large shareholder with questionable purposes, may choose to grant the demand rather than expose himself to heavy personal liability. On the other hand, it does not encourage the small shareholder because the cost of judicial proceedings may be entirely disproportional to 10% of his holdings. ...To discourage a corporation from adopting a policy of uniform denial of inspection demands, reasonable attorney's fees should be granted as of right to a successful plaintiff-stockholder, although the corporation's refusal to allow inspection may have been in good faith. ...On the other hand, it will encourage honest demands by a small-stockholder as his right to damages will not be measured by his holdings, unlike the 10% penalty clause found in some statutes. ...For example, a provision may be inserted to the effect that a shareholder shall not have the right to examine or receive information on patents, inventions, formulas, processes and the like.

(3) Chandler, Carlton N. "A Minority Stockholder's Inspection of the Books and records of a Massachusetts Corporation," Law Society Journal, Vol. 6, Issue 7 (August 1935), pp. 738-746.

The stockholder also is very apt to believe, possibly from the general tone of the continuous letters he has been receiving on dividend dates, instead of checks, that there is something wrong or lacking in the management of the company. It is natural under these circumstances that he would be desirous of ascertaining what his rights as a stockholder are in determining more about the affairs of the company and his right to make an inspection of the books and records of the company. ...In this commonwealth, the rights of a stockholder are derived both from the common law and from the statutes under which business corporations are organized. ...Mines Corp., Ltd., 205 Mass. 121, the Court said in relation to common law

right of a stockholder -"The right to examine the books of a corporation is one of general, if not universal recognition from early times. ...In another case- in 221 Mass. 38, the statement was made that "A stockholder ordinarily will be permitted to examine the books and accounts when he is seeking information as to the condition of the corporation in good faith and for the purpose of protecting his own rights or advancing the interests of the corporation." These references are in relation to the common-law rights of the stockholder. The statutory right of inspection of certain named books and records of the corporation is contained in Section 22 of Chapter 155 of the General Laws (Ter. Ed.) and in general is to the #12.

(4) Massey, Marshal M. "Rights of Minority Stockholder, "Michigan State Bar Journal, Vol. 32, Issue 8 (August 1953), pp. 12-19.

Forcing Inspection of Corporate Records A minority shareholder may feel inadequately informed of the condition of the corporation and wish to obtain a financial report or inspect some or all of the company's books and records. ...Proper Purpose Is Important to Inspection The "proper purpose" required to enforce the right is, in general, a purpose to protect the interests of the corporation or the shareholder's own personal interest as a holder of corporate stock. Where the shareholder demanding inspection admitted, in effect, that he desired information for use by a competitor to cripple the corporation, a writ of mandamus was denied. Where it was clear that the real purpose of the demanding shareholder was to prepare a case against two of the corporate officers, the writ was granted. At common law it was the demanding shareholder's duty, and it may be again under the present statute, to make his proper motives clear to the corporate officers at the time of his request for inspection. The present statute mentions only "the books of account and stock books" as being subject to inspection, but the Michigan court has in fact granted inspection of the minute book as well under common law principles, and it is the general rule that the common law right of inspection obtains as to the other books and records of the corpora- 36.

(5) Kales, Albert M. "Stockholder's Right to Inspect Books of the Corporation, " Illinois Law Review, Vol. 7, Issue 3, pp. 155-159.

To this end the inspection should be made by the court or its deputy privately, and the parts which, if inspected, would reveal trade secrets and are not pertinent to the issues may be excluded from the inspection, or if the inspection is only demanded with reference to matters concerning definite issues, then the judicial officer by a private examination may determine what parts are relevant to that inquiry and allow inspection of them and them alone. ...The same thing may be said of a number of cases where courts have held that the mere fact that the applicant was connected with a rival concern was not enough to prevent inspection. In *Cobb v. Lagardie*⁹ the court specifically found that this fact alone was not enough and that there was nothing else.

(6) Blades, Lawrence E. "Inspecting Corporate Books and Records: The Stockholder's Uncertain Right" Journal of the Bar Association of the State of Kansas, Vol. 35, Issue 4 (Winter 1966), pp. 293-337.

In its *Ralston Purina* opinion, however, the Missouri high court took care to point out that it was not considering "any question with reference to relator's common-law right of inspection, there being no such issue in the case." Thus, it appears that a stockholder in a Missouri corporation might yet be able to demand and obtain a more comprehensive search of the corporate books and records than is allowed by statute by exercising his common-law

right. ...STAT. § 351.215 (1949), in pertinent part, provides that each stockholder is to have access "to the books of the company." The first sentence of Mo. ... But because of limitations on the power of a Kansas corporation to make bylaws or adopt charter provisions which are inconsistent with other laws of the state, it is highly unlikely that the stockholder's right of inspection could be compromised effectively by any kind of contract between the stockholder and his Kansas corporation. It has been suggested that instead of limiting the inspection right, drafters of charters and by laws of closely held corporations should expand the stockholder's right of inspection. When it is considered that closely held corporations, unlike publicly held corporations subject to Securities and Exchange Commission Regulations, are not obliged to disclose certain important information for the guidance of present (and prospective) stockholders, it can be seen that this suggestion has some merit. Then, too, any inconvenience to management caused by granting an expanded right of inspection should be minimal in a corporation with only a few stockholders. A "reasonable time" for a stockholder inspection has been construed to mean any time during regular business hours. ...CONE § 3003, which states in particular that the right of inspection may not be limited by the articles or bylaws.

(7) Hamermesh, Lawrence A. "Twenty Years after Smith v. Van Gorkom: An Essay on the Limits of Civil Liability of Corporate Directors and the Role of Shareholder Inspection Rights , " Washburn Law Journal, Vol. 45, Issue 2 (Winter 2006), pp. 283-306.

Van Gorkom longed or delayed [the] litigation' or knowingly asserted frivolous claims." It is not my purpose, however, to urge that such fee awards be granted more liberally; the important lesson for present purposes is that enforcement of stockholder inspection rights is only rarely a financially rewarding activity for the stockholder and the stockholder's litigation counsel. The other salient shortcoming of the inspection process-and the aspect most relevant to this article-relates to the handling of records once they are made available in response to a statutory demand for inspection. Historically, the Delaware courts have conditioned inspection of corporate records upon an undertaking by the inspecting stockholder to keep the records confidential and to use them only for the proper purpose justifying the inspection. These restrictions are generally invoked to protect the corporation's proprietary interest in the value of its own information. Such restrictions, however, while undoubtedly salutary in many cases, collide forcefully with the ultimate purpose of inspection demands that seek to investigate corporate waste or mismanagement. Most obviously, a stockholder who concludes from the documents inspected that gross mismanagement has occurred will seek to include information derived from the documents in a publicly filed complaint. ...The Disney Inspection Litigation The antagonists in this litigation were well known to each other, and their antagonism was long standing. ...Both men resigned as directors in late 2003 and thereafter sought to encourage Disney stockholders to withhold proxies from CEO Michael Eisner in the forthcoming 2004 annual stockholder meeting. To that end, Roy Disney made a formal.

(8) Starr, Kenneth Winston. "Inspection Rights of Corporate Stockholders: Toward a More Effective Statutory Model," University of Florida Law Review, Vol. 26, Issue 2 (Winter 1974), pp. 173-190.

Moreover, the coercive nature of a demand by a large stockholder may be compounded by the aggregation of shares by members of a shareholders' committee, as was the case in Wood,

Walker. Under statutes that establish a fixed penalty for a wrongful refusal, courts have, with one exception, limited recovery to a single penalty regardless of the number of refusals experienced by a shareholder before filing suit. Although it might be assumed that courts would similarly limit aggregation of penalties under a ten percent penalty statute where shareholders have organized in making an inspection demand, at least one decision has failed to do so. Admittedly, the exercise of proper discretion by a trial court would reduce the effect of such aggregation; nevertheless, the coercive effect of extensive potential liability could conceivably result in an officer's imprudently granting access to the books, thereby preventing the controversy from ever reaching the courts. More fundamentally, the ten percent penalty, whether mandatory or discretionary in nature, provides virtually no assistance to the small shareholder seeking inspection who may have a strong interest in protecting his investment despite his modest holdings.

(9) Young, James L. "Texas Law on Stockholders' Inspection Rights: How Does It Stack Up against Delaware Law and the Model Business Corporation Act," *Southwestern Law Journal*, Vol. 40, Issue 2 (June 1986), pp. 845-878.

The Timing of the Inspection after a stockholder receives permission or a court order to make an inspection of corporate records, issues arise concerning when the stockholder may conduct the inspection and whether the stockholder must conduct the inspection continuously until its conclusion. 1. ...Texas statutory law provides only that a stockholder shall conduct the inspection of corporate records at a reasonable time or times. Case law adds that a stockholder's inspection should be conducted in a manner calculated not to interfere with the business of the corporation. The inspection does not have to take place within a single day or be continuous in order to be reasonable. 2. ...The Delaware statute provides that a stockholder's examination of corporate records is to take place during normal business hours and gives the courts broad discretion to limit the inspection. The courts have held that an inspection must be conducted at a reasonable time so as not to unreasonably interfere with corporate business. In addition, the Delaware Supreme Court has held that when a stockholder seeks an inspection for the purpose of placing a value on his stock, the stockholder may be entitled to periodically update his information until the need for such information has passed. 160. ...When the stockholder returned the corporation refused further access to the corporate books. The stockholder brought suit for mandamus. The court held that although a stockholder's right of inspection is limited to reasonable times the right is not limited to any one occasion. ...-Amarillo 1930, writ ref'd) (lower court's requirement that stockholders continuously conduct inspection until finished more than law justifies).

(10) Chairez, Jose Luis. "A Partner's Right of Inspection under Section 19 of the Uniform Partnership Act: The Case for a Reasonable Restrictions Amendment," *U.C. Davis Law Review*, Vol. 13, Issue 3 (Spring 1980), pp. 887-902.

This freedom of selection unnecessarily risks the disclosure of partnership trade secrets. Trade secrets may take the form of specialized customer lists, methods of bookkeeping, rebates or concessions in a price list or catalogue, and other information which is readily found in the partnership books. Inspection by "outsiders" increases the risk of disclosure. Thus, a restriction, such as a requirement that partners gain their partner's approval before employing a particular agent, is both reasonable and necessary to safeguard the secrecy of partnership trade secrets. Because of the impracticality and unreasonableness of an ab-

right of inspection, some authorities have imposed reasonable restrictions. In Alabama, for example, when the state legislature adopted section 19 of the U.P.A. they amended it by limiting the right of inspection to "reasonable times." The most current treatise on the law of partnership recognizes the same limitation, stating that partners, like corporate shareholders, are only entitled to examine the partnership books at "reasonable times." Although neither the treatise's authors nor the effectively without the aid of an agent, carries with it the right to employ an agent. ...Although the treatise authors do not cite any authority for their comparison of a shareholders' and partners' right of inspection, the analogy is a valid one. As stated by the Comment, Corporations - Right of Stockholder to Compel Leave to Inspect Books of a Delaware Corporation, 30 MICH.

四、初步结论（PRELIMINARY CONCLUSIONS）

股东查阅权是股东知情权的重要组成部分。本文对中美相关法律文献进行检索，并将检索结果初步整合梳理、分析总结，最终得到初步结论如下：

在美国法律资源层面：首先，美国法律中查阅权的渊源主要为普通法，制定法在其中仅起补充作用，美国联邦立法并未对股东查阅权进行详细规定；其次，适用普通法的各州在判断股东是否具有查阅权时，往往以“适当目的”作为评判标准。而判断“适当目的”的原则通常如下：第一，除公司应当对外公开的信息外，股东行使查阅权需具备特定目的，一般目的应被排除；第二，针对特定信息，如果股东具备明显的正当目的，则无需对正当目的进行证明；第三，正当目的并不以是否有利于公司为判断标准，但不得损害公司利益；第四，一些目的应当被认定为是不正当的，例如试图获取公司秘密借以资助竞争对手等。与此同时，美国各州制定法对股东行使查阅权的相关条件基本都做了一般性规定：第一，需要具备合格的股东身份；第二，需要提交书面要求；第三，需要在合理的时间进行查阅；第四，需要具备正当目的。除此之外，在股东查阅权的辐射范围上美国法的规定较为宽泛，股东不仅可以查阅记录和文件，还可以对记录、账簿、收据、凭证、账单和其他一切证明公司财务状况的文件，甚至公司章程、总经理通信进行查阅。最后，在美国法学理论研究层面，并没有针对股东查阅权展开专题论述的学术专著，与专门讨论股东知情权的著作也少之又少对该问题的研究主要囊括在“股东权利”这一语域内，而相关法学评论文章则相对较多。

在中国法律资源层面：首先，与美国不同，我国对股东查阅权的保护形成了以法律、行政法规和部门规章为框架的法律体系，从立法层面对股东知情权进行了确认，《中华人民共和国公司法》第 34 条和第 98 条分别就有限责任公司股东和股份有限公司股东的知情权予以规定。其次，为了避免股东滥用查阅权损害公司利益，公司法对股东行使查阅权设置了前置程序，并进行了相应限制。我国《公司法》第 34 条规定：股东要求查阅公司会计账簿的，应当向公司提出书面请求，说明目的。公司有合理根据认为股东查阅会计账簿有不正当目的，可能损害公司合法利益的，可以拒绝提供查阅，并应当自股东提出书面请求之日起十五日内书面答复股东并说明理由。公司拒绝提供查阅的，股东可以请求人民法院要求公司提供查阅。但是与此同时，我国法律对股东查阅权的规定存在一定缺陷。个别规定缺乏可操作性，例如股东无法复制公司对外公开的章程、财务会计报告等资料，而涉及商业机密的董事会议记录却可以自由查阅；个别问题法律没有明确规定，例如股东是否有权查询子公司或分公司信息，何种查阅目的应视为不合理等。最后，在我国法学理论研究层面，对于股东查阅权尚未出版专门的学术著作，对这一主题的论述往往囊括在对“股东知情权”展开专题研究的著作中。而硕士博士学位论文、法学评论文章对股东查阅权的研究较多，且近年来呈持续增长之势。