

Research on Short Video Infringement Issues and Legal Circumvention Strategies

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Abstract

The rapid development of short videos has led to a series of infringement problems of short videos, which has affected the development progress of the short video industry. The article briefly analyzes short video infringement.

Keywords

Short video, Tort, Copyright Protection.

1. Introduction

In recent years, with the continuous acceleration of the commercialization of short videos on major leading short video platforms, the scale of the short video direct marketing market has maintained rapid growth, but at the same time, the copyright issue of short videos is also facing new difficulties and challenges. On the one hand, high-quality short video works face infringement problems such as being moved and plagiarized, and on the other hand, the development of short videos has brought about great changes in traditional copyright carriers and content, giving birth to many new forms of copyright. If short videos want to develop soundly, relevant platforms need to realize that they need to take action to avoid the emergence of short video infringement, so as to ensure the sustainable development of their short video areas. In addition to strengthening the management of the platform, the copyright awareness of short video users also needs to be strengthened, and the ownership and maintenance of short video copyright in national laws also need to keep pace with the times.

2. Based on the current situation of short videos in terms of copyright

Short video is a kind of Internet content dissemination method, which refers to the video content played on various new media platforms and suitable for viewing in mobile and short-term leisure state, with high-frequency push, ranging from a few seconds to a few minutes. Due to the short content, it can be made into a separate film or a series column. With the popularity of mobile terminals and the acceleration of the network, short, flat and fast large-traffic communication content has gradually won the favor of major platforms, fans and capital. However, in this context, the problem of copyright infringement faced by short videos is also very huge. In order to expand competitive resources, many short video platforms will condone acts such as the removal of works, and even deliberately place infringing videos according to users' preferences according to the popularity of recent content.

By searching the judicial judgment documents on short video copyright in the Alpha case database, the following points can be drawn: the number of short video copyright cases is on the rise, and from the perspective of geographical distribution, the current cases are mainly concentrated in Beijing, Guangdong Province and Shanghai; The causes of short video copyright cases are mainly concentrated in the field of civil infringement, and relatively few are in the administrative and criminal fields; The trial period of short video copyright cases is generally long, with an average time of 164 days; The focus of controversy in short video copyright cases mainly focuses on: Does the short video involved constitute a work under the Copyright Law?

How is the copyright owner of a short video determined? How to determine the originality of short videos? Does the content of someone else's work quoted in a short video constitute fair use? Etc.

3. Types of infringement of short videos

3.1. A third party infringes upon the lawful rights of short video rights holders

The first is the unauthorized removal and use of other people's short videos. In this way, it is more common for the platform to directly carry short videos that others enjoy copyright and broadcast them.

The second is to reprint other people's short videos without authorization. The form of expression is to directly reprint and use short videos produced by others for commercial purposes or advertising purposes.

3.2. Short videos infringe on the lawful rights of third parties

The first is infringement of the copyright of film and television works. This is manifested in the form of performing unauthorized works of others and recording short videos.

The second is to infringe on the copyright of musical and written works. This is manifested in the unauthorized use of other people's music or written works and uploading them for publication.

The third is to infringe on the portrait rights, reputation rights, and privacy rights of others. Specifically, it is manifested in the unauthorized use of other people's portraits or damage in short videos

Harm to others' reputation and privacy, such as secretly taking other people's short films and posting them on video platforms, it is suspected of infringing on others' portrait rights.

4. Causes of Short Video Infringement

Even if it is a short video of a few seconds, it has its own copyright. Copyright is a guarantee of people's creative results, regardless of whether they meet the criteria for evaluating contemporary works. For copyright holders of works, it has become increasingly difficult to protect their rights and interests through existing laws due to the large number of infringers on short video platforms and the difficulty of accurately finding the direct infringers behind the screens. The prevalence of infringing short videos not only infringes on the interests of copyright owners, but also makes it difficult for copyright owners to continuously expand the dissemination of short video creations through their original works, and even seriously discourages copyright owners from creation.

4.1. Short video creators do not have a strong awareness of copyright

Nowadays, the difficulty of shooting and editing short videos has gradually decreased, and there are many platforms for uploading and publishing videos, and the difficulty of publishing them is low, resulting in creators of short videos not having a strong awareness of their own copyright maintenance, believing that their short videos are not considered works and do not need to be protected. Some creators will crop other people's videos or use unauthorized music, written works, etc., and use them in their own short videos. All of the above is because the public's awareness of copyright is not strong.

4.2. Short videos are easy to reprint and "secondary creation" has become the hardest-hit area

The phenomenon of original works being plagiarized at will is endless, not only the phenomenon of short video publishers stealing other people's videos, but also many short videos.

Publishers use other people's original music or art works as materials for secondary production, and even arbitrarily disseminate other people's works on online platforms to obtain traffic and advertising benefits, resulting in "secondary creation" becoming the hardest hit area for short video creation.

4.3. There are deficiencies in china's relevant copyright laws and regulations

The rapid development of short videos poses a serious challenge to copyright laws, and early video websites take advantage of loopholes in the law to spread a lot within the website.

Pirated and infringing film and television works to obtain traffic to attract investment from advertisers. And short videos are developing rapidly, which can be described as changing with each passing day, but the definition and punishment of infringement liability and the legislative process of copyright protection in China's current laws are slow, and there are not many relevant laws introduced.

5. Suggestions on short video infringement based on law

5.1. Speed up legislation and keep pace with the times

For the first time in China, Tudou.com was sued by Xinchuan Online (Beijing) Information Technology Co., Ltd. for illegally disseminating the video website "Crazy Stone".

Infringement cases, and the copyright scuffle in which major video websites represented by the "Kudou" controversy sued each other for infringement, to the spontaneous establishment of the "China Online Video Anti-Piracy Alliance," it can be seen that with the promulgation of relevant laws and regulations, the phenomenon of copyright infringement has been curbed to a certain extent. However, the operability and effectiveness of China's current legal system are not strong enough, and the legislative process lags behind the rapidly developing Internet technology. At the same time, video websites use ever-changing technology to continuously open up new forms and fields of infringement, creating new control blind spots and gray areas.

5.2. Increase the severity of punishments for short video infringement

Nowadays, most of the trials of short video infringement cases in China stay at the stage of civil infringement, and there are few criminal infringement judgments, and China's current laws.

The law has a higher subject matter for short video infringement, higher litigation costs and less punishment, resulting in copyright owners not daring to complain and infringers continuing to infringe.

5.3. Increase publicity of copyright laws and enhance users' awareness of copyright

Short video platforms have a series of problems such as prominent copyright problems, vulgarized content, and lack of qualification licenses. If the industry itself is just an iteration of a new model, it will not be targeted. The platform is just a platform, the real important thing is the user's awareness of copyright, most of us grew up in the era of piracy, from it, so the awareness of copyright is very weak. It is not only the problem of weak copyright awareness of short video audiences, but also the copyright awareness of the whole Chinese, so if the platform suddenly requires users to have this and such awareness with high intensity, users must be opposed, which is a problem left over from the times, but it is not without solutions. The

practices that have been implemented, such as short videos of popular science on copyright knowledge and public service advertisements of copyright reminders, can improve the situation of copyright infringement to a certain extent, but the most effective is that it is a negative case lesson at any time, so the government can force the platform or itself to create some short videos of negative teaching materials of copyright infringement and push them to users.

6. Conclusion

The protection of short video copyright is as important as the production and marketing of short videos, because content will always be the core driving force of China's cultural industry, including short videos. Short video infringement continues to circulate, and for copyright owners who have paid high production and procurement costs, the loss of benefits will eventually lead to the exhaustion of the source of content innovation.

In the practice of short video copyright protection, many parties still need to make efforts, and the first should be the law. With the Copyright Law as the core of the copyright protection legal system, we can escort short video creation, build a good and orderly short video ecology, disseminate more excellent short video works, and better enrich the spiritual life of the public.

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