

Analysis of the Infringement of Music Use in Webcasting

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Abstract: Live webcasting has developed very rapidly in recent years, and many people enjoy watching it. The frequency of music in the live broadcast is very high, on the one hand, there are more channels for the dissemination of music, but at the same time, it also involves the issue of music copyright. The main reason why there are a lot of infringement problems in live webcast is that the platform and the anchor are still not paying enough attention to the awareness of copyright, and the supervision of live webcast is still not strong enough, which leads to a lot of infringement phenomena, which is not conducive to the development of live industry and the copyright protection of music works. This article mainly introduces some infringement problems in the network live broadcast and the methods to solve such problems.

Keywords: Webcasting; Music Copyright; Infringement

Introduction

Webcasting has become a new and popular industry, which is liked by young people. In recent years, the development of live streaming has also been quite fast, but at the same time, it has brought a series of problems^[1]. In the process of live webcasting, the anchors often adapt, cover and play music works. The reason why copyright infringement is so prevalent is that the platforms do not realize the importance of copyright and do not provide reasonable supervision and restraint to the anchors. There is no clear regulation of the industry in which they work, and there are problems with regulation. In order to protect the copyright of music, it is necessary to regulate the webcast.

1. Webcast and the use of music

1.1 Concept of webcasting

People usually also call webcasting as Internet live streaming, which by definition refers to the entertainment activities of anchors who release some information to the public in real time in the form of video graphics and other forms. It has a variety of forms. Nowadays, webcasting is different from the past, and now there are many more live streaming platforms, which has become a relatively popular industry.

1.2 The use of music for webcasting

Up to now, China has nearly 1 billion Internet users, the number of users of webcasting is also increasing, webcasting as a new form of entertainment, by the young people like. When the webcast first emerged, the main content was live show, with the era of intelligence, the form of live broadcast also from the original single mode into a variety of.

In the live webcast, the anchors will often use music. At present, the frequency of the use of music is still very high in several major platforms, many anchors will often choose to "cover" other people's songs in order to attract attention. There is also the music as background music, in the process of live, the use of music involves the music copyright issues. So, when using music, you need to get authorization from the relevant people.

2. The problem of music infringement among webcasts

The prerequisite for determining whether music is infringing is whether it is a fair use of another's work.^[2]

2.1 Analysis of the current situation of music infringement in live streaming

Network technology is also becoming more and more mature, and there are many more webcasts both in the form of live platforms and live broadcasts compared to the previous ones^[3]. Now cell phones are available for live webcasting. As the competition in this industry is very fierce, in order to attract users and increase their own traffic, many anchors choose to perform by singing, and this form of performance is more popular among the public. However, singing the works of others without their authorization is actually an infringement. There have been warnings about this behavior^[4]. On the issue of music copyright, the Association of Music Writers has expressed their opinion that if the anchor wants to sing during the live broadcast, they must get the authorization from the copyright owner of the original song and pay them a certain amount of money. A pepper used it during the live broadcast without obtaining the authorization of the person concerned, which triggered the dissatisfaction of the people concerned, and the YPA filed a lawsuit against it.

There are many other cases like this. Previously, there was an anchor called Rabbit Head, who mainly conducted outdoor live broadcasts and had more than 60,000 fans. Since 16 years, when he conducted live broadcasts, he often used Chinese music and also created a corresponding live radio station. He has been playing it on loop during the live broadcast, and this behavior has seriously infringed the copyright of the singer's songs, and finally many music companies as well as record companies have filed lawsuits against him. The process of live webcasting often leads to infringement, and although people's awareness of copyright has improved, it is difficult to defend their rights^[5].

2.2 Legal determination of infringement in live streaming

2.2.1 Performance rights

The right of performance refers to the right to perform a work in public. When using the work of another person for performance, permission must be obtained from the other person and the other person must be paid accordingly.

In the process of live webcast, some anchors sing other people's music works without their own permission, which seriously violates other people's right to perform music works.

On the one hand, singing in a live broadcast is not, in a sense, an infringement of broadcasting rights in the traditional sense and the right of network transmission, etc. The concert of the anchor is played back through the platform, but this playback is not essentially a copy of the work, so the act of singing the song is not considered an infringement of the reproduction right.

The act of the anchor singing another person's song constitutes the act of transmitting a performance of the work to a distant source, and such acts violate the performance right of the work from a legal point of view.

2.2.2 Right to disseminate information on the Internet

The anchor in the webcast, if you want to sing the song then only need to get from the author to the song network dissemination rights, do not need to get the right to perform. Because the right of communication is a comprehensive right, with the maturity and development of network technology, there are more and more ways of information network communication right, so there is a need for some restrictions in this regard, for example, in the process of live webcast, when the anchor uses the music, he should obtain the authorization of the author's information network communication right when the webcast, if the anchor wants to cover the work in the process of live broadcast, or use the music as the background music of the live process, then he needs to separately obtain the authorization of the author's information network communication right.^[5]

2.2.3 Right of reproduction, right of adaptation

There are some differences in the understanding of the concept of reproduction right among professionals. A scholar in the United States believes that all works are interpreted by people, and any work that is not copied should be called an original work. Analyzing from the perspective of live webcasting, the anchors are using their own voices to "copy" other people's works in the process of live broadcasting. Then, before the live broadcast, the anchor must go over the copyright holder's authorization for the right to reproduce the music. Because the live broadcast is performed in real time, it is necessary to obtain authorization for the right to reproduce, which can avoid certain disputes to a certain extent.

In the process of singing, the anchor may make appropriate adaptations to the original song, adding personal style features to the original song, or even create a new work on the original song, which infringes on the right of adaptation, so the live broadcast must be obtained before the copyright holder's right of adaptation and distribution.

3. Composition elements of webcast music copyright infringement

3.1 Music works are copyrighted

If the original author wants to determine that the anchor has violated his rights during the live broadcast, he must first prove that the original author has copyright in the work. In law, copyright is determined on the basis of creation, and once the author has completed a work, the copyright of that work belongs to the author. However, if the original author wants to file a lawsuit, he has to prove that the copyright belongs to him. The existence of copyright, in addition to the above-mentioned objects and scope of rights that should be guaranteed by the written law, the plaintiff must also prove that: (1) when creating this work, it was done independently by himself, without borrowing from others' works. (2) He is a citizen of China or a foreigner or stateless person who enjoys the copyright protection law of China.

3.2 Exclusion of the scope of fair use

To determine the existence of infringement in the live broadcast process, it is necessary to confirm that the use of music in the live broadcast process is not within a reasonable range. Copyright-related laws and regulations exist to protect the public interest, so the live broadcast process in time without the authorization of the author of his works to sing or play, as long as it is within a reasonable range is not infringement. China has its own set of criteria for judging "fair use": the purpose and nature of using other people's works cannot be commercial use or educational use for profit, and copyright-related laws can protect the works of all people; when using other people's works, the quantity and number of uses cannot be excessive, and also cannot be for profit; the use of another person's work cannot have an impact on the entire economic market.

The reason why there are so many infringements in webcasting is that too many anchors use music without a reasonable scope. The purpose of using music is to attract users to reward them, which is no longer within the scope of fair use from the legal point of view, and this is an infringement of music copyright^[6].

3.3 The existence of infringement

The webcasting process has a variety of manifestations of music infringement, of which performance and playback are two of the most common manifestations.

When anchors perform a cover of another person's work, they often do so without the authorisation of the author and sing it without adapting the original song except for its own sound. A lot of anchors are not that musically literate to adapt covers of other people's works.

4. Standardization measures of webcast music use

4.1 Enhance the copyright awareness of live broadcast platform and anchors

The majority of the public, as well as some anchors on the Internet, are not aware of the importance of copyright and believe that the use of another person's work without the authorization of the copyright holder does not harm the interests of others. This is why a lot of platforms and anchors are now receiving lawsuits from copyright owners.

In order to ensure that the copyright of music can be better protected, all platforms and some anchors concerned need to enhance their awareness about copyright, and only when they are aware of the importance of copyright, they will seek the authorization of others when using music, and enhancing the awareness of copyright is beneficial to both the live broadcasters and the authors. When the live broadcast is audited in terms of the content of the anchor, it must be noted whether the anchor has obtained the corresponding authorization when using music, and it must be ensured that the corresponding authorization is obtained before it can pass the audit ^[7].

4.2 Strengthen regulatory efforts

4.2.1 Platform to strengthen supervision

Webcast has a lot of mobility, it is also easy to change, so that before the live broadcast, it is necessary to regulate, to raise the threshold of live broadcast, so that the whole industry does not have the phenomenon of "vulgarity". For the anchor, to strengthen their moral training, so that they learn to respect the writers, to avoid the phenomenon of infringement.

Webcasting involves more and more technology, and more professional and mature compared to the old days. At the same time, the supervision of live technology also needs to be further strengthened. Live broadcast platform should take the initiative to assume this function, can not turn a blind eye, pretend not to see the occurrence of infringement. After all, webcasting is a new media industry for the public, in addition to getting the benefits they want, they also need to assume the corresponding social responsibility, the need for a supervision of the behavior of the anchor, to firmly put an end to the phenomenon of infringement. At the same time, they also need to communicate with some relevant music platforms so that the anchors can apply music in a reasonable range, which is good for both the platform and the anchors ^[8].

4.2.2 Establish a regulatory authority to strengthen social supervision

In addition to the platform needs to be regulated live, the community should also play a regulatory responsibility, the need to set up a corresponding regulatory department to regulate the entire live industry.

The regulatory department should divide the work for supervision, different types of live broadcast to different departments for supervision and management, for the appearance of infringement of the live broadcast, the need for timely investigation and treatment. Live broadcast platform is a 24-hour system, so the regulator also needs to establish a mechanism to facilitate long-term supervision of the platform. Need to set up a special department to be able to monitor the platform in real time, about the supervision of this aspect of the technology should also adopt the latest, so as to reduce the manpower to carry out supervision. Can be appropriate to use some artificial intelligence technology on the side to assist in supervision, so that the efficiency of supervision can be greatly improved. For the anchors who broadcast live on the platform, the supervisory department needs to record them and input their relevant information into the database, so that even if there is an infringement accident, the department can find and stop them in time, and the punishment for them can be appropriately strengthened depending on the situation ^[9].

5. Conclusion

Live webcasting has become a new and popular industry, which is liked by young people. In recent years, the development of live streaming is also quite fast, but at the same time also brings a series of problems. This paper mainly analyzes the relevant laws that may be touched in the process of live broadcasting from the legal point of view, and points out that the main problem of live broadcasting is the lack of corresponding regulatory system, and the platform and anchors are not aware of the importance of copyright.

In order to solve these problems, in addition to strengthening the platform and anchors for music copyright awareness, it is also necessary to strengthen the corresponding legal system and the supervision of the relevant departments.

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