

Research on Originality of Live Broadcast Program of Sports Events

Jiahui LIU

Civil and Commercial Law School, Southwest University of Political Science and Law, Chongqing, 401120, China

Abstract: In the background of the rapid development of Internet sports industry, the competition of various subjects is extremely fierce, but the legal protection is relatively lacking. This article intends to interpret the nature and the protection model of live sports programs in combination with comparative studies and economics, and demonstrate the legitimacy of the properties of sports live broadcast programs.

Keywords: Sports events live broadcast; Originality; Protection model; Providing behavior

1. Introduction

In 2014, the State Council issued the document on speeding up the development of sports industry and promoting sports consumption, so as to encourage the innovative development of sports industry and sports consumption. In 2015, the people's Court of Beijing held that the nature of the live broadcast picture of the sports event was a work, which immediately aroused heated debate on the related topics of sports events. At the same time, the industry reacted very quickly. At the beginning of 2015, Tencent obtained the exclusive copyright of NBA in China for the next 5 years at a price of \$500 million; In August, PPTV took 250 million euros for the Spanish copyright in the next 5 years in china; October, the Austrian power to the price of 8 billion yuan won the Super League copyright for the next 5 years. (Data from the cpmlive big data monitoring platform.) There is no doubt that the "golden age" of sports copyright has arrived, but there is no corresponding legal protection, which undoubtedly restricts the development of sports industry.

2. Protection Model of Live Sports Program

Shenzhen city of Futian District in the trial court that live sports program is a video recording, but the right to network dissemination of information to the network real-time playback behavior should be adjusted by the anti-unfair competition law to protect it. (Please refer to the specific case of Futian District people's Court of Shenzhen city of Guangdong province (2015) Law No. 174th Fu minchuzi civil judgment.) And the court of Beijing, Chaoyang District has characterized the live broadcast of sports events as works. (Specific case, please refer to Beijing Chaoyang District people's Court (2014) north people (know) initial word 40334th civil judgment.) Therefore, it is the key to solve the copyright infringement problem which should be adopted to protect the copyright of sports events. Review of intellectual property law and anti-unfair competition law of value

orientation, we find that the former is delineated by the scope of rights and unfair behavior protection, while the latter is the provisions of competition order and stop unfair behavior protection; The former focuses on the protection of private rights, while the latter focuses on the maintenance of the order of market competition [1]. This is only a protection mode identified by anti-unfair competition law to protect the rights and interests of non-negative civil rights protection in the case of positive weights, but it can not meet the sports industry license market to the right to demand the premise of the establishment of authorization mechanism, is not conducive to sports programs broadcast market order [2]. Sports events live broadcast because of its immediacy, so the biggest source of its economic benefits is the acquisition of real-time traffic. The anti-unfair competition law, as an ex post remedy way, is difficult to reflect on such violations in a timely manner. Therefore, it is only suitable for supplementary protection rather than the main protection mode.

3. Discussion on the Attribute of Sports Live Broadcast Program

How to determine the quality of the live sports program is related to its intensity of protection. The dominant view now is that sports events are fixation on video. The idea is that audio-visual programs are just more objective records of sports events, and their programs do not include originality, so it belongs to video rather than to work [3]. In contrast to the definition ("Copyright law" Regulations for the implementation of article fourth (ten): cinematographic works and created in a way similar to cinematography works, refers to the production in some medium, by a series of sound or no sound pictures, and with the appropriate devices screened or transmitted by other means works.) of the copyright law and the fourth definition ("Copyright law" Regulations for the implementation of article fifth (three): video recording which is other than cinematographic works and created in a way

similar to cinematography of any works with or without accompanying sound recordings of a series of related images, image.)of the film and fifth definitions of the video products, it can be seen that the legislation does not provide an operable method for the distinction between the two items. The substantial difference between video and film works is reflected in the originality. The product said that the originality of the live sports program was lower than the originality shown in the work, and this view was affirmed in the earlier trial, which will be refuted later. (For example, CCTV International Network Co., Ltd. v. 21 dragon information network copyright infringement case as well as the previously mentioned CCTV International Network Co. v. China city network television Limited by Share Ltd copyright infringement and unfair competition case, the two sentence will be qualitative sporting event programs for audio and video products, only the network real-time playback behavior the former that can be incorporated into the category of the right to network dissemination of information and the latter believes that we should use the anti-unfair competition law to adjust.)

The main reason why the nature of live sports shows is difficult to determine is that there is no consensus on the extent of their originality. However, the second regulations on the implementation of copyright law in China have not further explained the "originality", so the judgment of originality falls into the category of judge discretion. (The second provisions of the regulations on the implementation of the copyright law states that "works" refers to the intellectual achievements that are original in literary, artistic and scientific fields and can be reproduced in some tangible form.) The main reason is that sports events should be regarded as products to protect. The main reason is that the originality of sports events is still controversial.

3.1. The Limitation of Creative Space-Premise

Most people think that the reason why sports live programs do not belong to the works is that the basic goal of live sports programs is to restore the scene situation. Therefore, the creative space for the live subject is very limited, so the creativity among them can not be compared with the movie work. "For different pieces of work, the chances of creation are entirely different" [4]. I think it is biased to compare movie works with live sports programs. There are less creative space for the live sports programs, and the creative space for the film directors and actors is great, so the objective restrictions and goals are different when the two writers are creative. Then, the evaluation of the originality of the live sports program should be based on the reserved creative space. The main goal of the live program of sports events is to add original expressions on the basis of the reproduction of the actual events. Therefore, we can not take the live sports

program as the basis for refuting its originality, but the limitation of creative space is the starting point of its consideration, not the end point.

3.2. Embodiment of Originality of Live Sports Program-Content level

Some scholars have pointed out that, for sports events, viewers usually have a steady expectation of what angle they will see at a particular time^[5]. But the final decision is in the hands of the director. For the director selected pictures and the angle is varied, the choice arrangement still reflects the personality. Even if the final picture does not meet the expectations of the audience, it can not be denied the fact that such a personalized choice.

3.3. Market Mechanism and Legal Anticipation - the Main Body of Inspection

The copyright law focuses on the question of whether there is originality, not the degree [6]. As a country with a copyright law system, China has stipulated that something with high originality is a work, while something less original belongs to the protection of neighboring rights. In addition to being completed independently, both quantity and quality requirements are required. Because of individual differences, we can not test it subjectively. We can only rely on an objective and quantifiable factor, that is, the market. For sports live broadcast, the market is determined by the immediacy of the live broadcast, which explains why there is such a phenomenon as "sports copyright enclosure movement". Therefore, when we inspect the market of sports broadcast programs, we can not judge the time of existence, but we should analyze the market share from live broadcast. Some people may say that such "enclosure movements" will lead to many issues of exclusive right to broadcast. However, if there is no effective competition, the audience will have no choice, so there is no direct cause and effect relationship between the market share and the quality of the program. If there is a non-exclusive broadcast rights, then contrast each broadcast platform hits or viewing rate can intuitively reflect the differences in the creation of the creator, and then confirmed the live sports programming the originality of the differences.

3.4. Differences Between Copyright and Neighboring Rights Protection Objects

Studying the copyright law of our country is not difficult to draw a conclusion: the protection of neighboring rights is often the interests of the disseminators, while the copyright focuses on the protection of the interests of the creators. Events broadcast on live sports platforms may be exclusively broadcast or may be produced and distributed exclusively by their own production team. In the case of only broadcasters, the protection of neighboring rights can only be granted. But in the case of both the creator

and the disseminator, is it biased to give the neighboring right only? But further, copyright protection is more than just authors. Copyright protection is the creative chain, which protects others by creating and creating a thriving industry. To protect sports program as a work, which not only respect the work of the producers of the program, but also promote the development of China's sports industry and sports consumption.

3.5. The advantages of neighboring rights protection methods are not prominent

The objection is based on the fact that in the current copyright law, the types and rights of the works are not found. As a type of right that is similar to the property right and has strong exclusive effect, it seems inappropriate if the law does not expressly provide for it.

4. Right of Broadcasting

According to the eleventh articles in the tenth copyright law of China and the provisions of the eleventh two articles of the Berne Convention, broadcasting rights include works transmitted in a wireless way; The dissemination or transmission of broadcast works; the right to disseminate works by means of loudspeakers or other tools^[7]. According to the answer of the experts, the "wire broadcasting" in broadcasting rights only refers to the behavior of transmitting radio broadcast by wire, which does not include the direct dissemination of the work by wire means^[8]. As a result, broadcasting rights can not be protected.

5. The Right of Communication of Information Network

According to the definition of network dissemination right, we can see that the right of our country only stipulates the interactive information network dissemination behavior, and there is no regulation that viewers can not choose when to watch live programs. On the other hand, it seems difficult to justify the use of neighboring rights for protection without barriers:

First, whether the network media belongs to the broadcasting organization is still inconclusive. The regulations on the production, operation and management of radio and television programs in China do not specify the broadcasting organization, but the expression of the legislative language is usually broadcast radio and television stations, which does not include network media. Moreover, the provisions of the forty-sixth provisions of the copyright law limit the legal licensing of radio stations, (China's "copyright law" forty-sixth stipulates: television movies and others in a way similar to cinematography works, video recording producer or video recordings shall obtain the license and pay remuneration;

video products of others shall acquire the license of the copyright owner and pay remuneration.) Whether the broadcast is included in the live broadcast is not clear. Even if the television station has been given the position of the broadcasting organization by the law, then it is more difficult to determine whether or not the actual broadcast behavior of the network media is included in the scope of regulation.

Secondly, if the sports live program is characterized as a video product, its function still includes the right of information network dissemination, then this will also be faced with the above analysis of the right to information network dissemination.

We can see that neither side has obvious advantages compared with the other party, because the right of information network broadcasting and broadcasting right has its special legislative background, so these obstacles are not insurmountable.

6. Conclusions

The originality of the live sports program has important theoretical and practical significance for the protection of sports industry. Under the trend of the integration of the copyright law system and the author's right system, the originality embodied in it has reached the height required by the work, so it is not appropriate to define it as a recording or recording product. Regardless of the way to control live sports programs, the premise is the attribute must admit their works, which is the key to stimulating the development of the sports industry and sports consumption, which is China's "copyright law" is an opportunity to perfect.

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