

Research on Copyright Law Conflict under the Network Environment

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Keywords: Internet, Environment, Copyright law, Conflict problems, Coping strategies.

Abstract: With the continuous improvement of the network environment, the occurrence of network copyright infringement has led to a greater conflict of legal systems in various countries. Among them, the lack of legislation and the determination of connection points are the key issues in the conflict of copyright law application in the current network environment. According to these conflicts, the specific reasons and solutions can effectively alleviate the conflict of copyright laws in the network environment and optimize the network copyright environment. In view of this, on the basis of fully exploring the specific causes of legal conflicts in the network era, this paper puts forward the root causes of the problem of legal application, and further proposes specific solutions, with a view to providing some reference for the solution of copyright legal conflicts in the network era.

1. Research background

1.1 Literature review

With the increasing complexity of the Internet environment, online copyright infringement cases continue to emerge, and the forms and objects of infringement are more diverse. The occurrence of copyright acts in the network environment not only brings tremendous economic damage to copyright owners, but also raises new issues for copyright protection (Wang, et al, 2005). In the existing literature, some of the literature began to study this phenomenon in depth. Some scholars have pointed out that the network information has the characteristics of instability, easy replication, easy change, etc. in addition to the openness of works, the network works are easy to be pirated by others, which makes it difficult to identify the right subject and the network copyright (Huang, 2016). Some scholars have found that the current network environment copyright legal problems, mainly due to the lack of legislation. The key to solve these problems lies in introducing the principle of party autonomy into legislation, allowing the parties to choose and use the law reasonably and scientifically within a certain range (Tian and Guo, 2019). Moreover, under certain conditions, it is necessary for the law to recognize that copyright is more effective. Some scholars believe that while the network brings convenience to people, it also puts forward higher requirements for network copyright protection (Liang, 2017). When copyright law problems arise in the network environment, it is necessary to protect them from three aspects: civil law, criminal law and administrative law, so as to achieve coordination between legal departments (Zhang, et al, 2017). The legal protection of copyright under the network environment should be based on the characteristics of the information network environment, accurately identify the liability for infringement, and identify it according to the obvious faults of the facts. While cracking down on copyright crimes in the network environment, we should fully safeguard the interests of copyright owners.

1.2 Purposes of research

The maturity of the Internet environment has made many copyright infringements appear “cybernature”, which has broken through the limitations of national boundaries, regions and time. Generally speaking, as a new form of network communication, copyright itself is not the protection of tangible property, but the protection of human thinking. Therefore, the subject, act and source of copyright infringement can not be accurately determined in the network era. Moreover, the

copyright laws between countries have not been unified, resulting in unavoidable conflicts of laws, which leads to a series of legal application problems caused by copyright infringement. At the same time, there is a new trend in the conflicts of laws among countries under the protection of copyright system under the network environment. Influenced by network technology, there are some conflicts in legislative motivation and protection form in various countries. In view of this, it is of great practical significance to explore the causes of conflict of laws in copyright infringement cases in the network era, analyze the application of law and give specific solutions.

2. An analysis of the causes of legal conflicts in copyright infringement cases in the internet age

The globalization of the Internet has determined that there are foreign-related factors in the cases of copyright infringement on the Internet, and this factor is more likely than the general cases. Due to the unbalanced development of laws among countries, the conflict of laws in copyright infringement cases is increasing (Guo, 2018). In the era of internet, the legal conflict of copyright refers to the conflict of laws and regulations concerning copyright in different countries in different space regions. The specific reasons are mainly manifested in three aspects.

2.1 The virtuality of the network itself

At this stage, the network has become one of the most important channels for the dissemination of works, copyright will also be linked with the openness of the network and international. In this case, although copyright is not directly related to the world from the surface, due to the virtuality of the network, network copyright works will point to more than one space, and no longer be limited to a certain space at present. At present, copyright involves many individuals or organizations in countries and regions. From this point of view, the virtuality of the network is a prerequisite for the conflict of copyright laws.

2.2 The differences of copyright legal systems in different countries

In the virtual network environment, the subject and object of copyright, the content of rights and obligations, and the rules of tort determination will change to some extent (Liu, 2018). Due to the insufficient understanding of copyright protection in various countries, the progress of relevant legislation will be quite different. These differences will produce different results for the same copyright legal relationship because of different laws, resulting in legal conflicts. Therefore, the copyright protection rules adapting to the new network characteristics need to be further improved.

2.3 The legal systems of copyright protection in various countries have extraterritorial effects.

The Nepal Convention stipulates that after non-member countries accede to the Convention, they need to protect works that are still protected by other member countries before they accede to the Convention, which is the extraterritorial effect of copyright law. With the deepening of the internationalization of copyright exchange, countries determine the extraterritorial effect according to the principle of sovereignty when making copyright law, but it is this effect that leads to legal conflicts(Liu, 2018).

3. An analysis of the legal application of copyright infringement in the internet era

As the network makes transnational activities increasing, the problem of copyright conflict of laws becomes more obvious because of the network intervention. In the application of law, the application principles of copyright infringement in the network era mainly include three aspects, as shown in Figure 1.

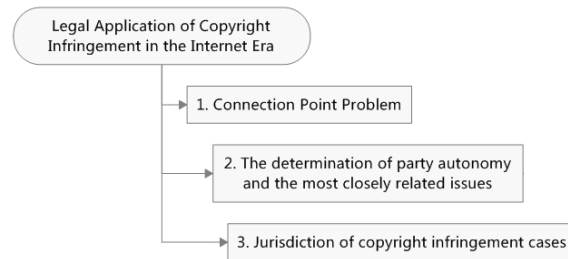


Figure 1. Types of Copyright Infringement Law Application in the Internet Age

3.1 The connection point problem

Copyright is a carrier of cyberspace, which blurs the convenience of reality and makes the occurrence and implementation of infringement uncertain. If the result of computer infringement is determined solely, then all countries in the world may be the place of infringement. At present, in China's judicial interpretation to expand the interpretation of the place of infringement, only the network connection point can confirm the place of infringement, but still unable to solve the specific identification of the place of infringement.

3.2 The determination of the autonomy of the parties and the most closely related issues

If the parties agree to choose the law to settle copyright disputes, the opinions of the parties can be fully respected, but the choice of the parties can not be limited. Whether the parties will abuse the right or violate public order and good customs by evading the law, etc. At the same time, the parties can adopt the closest legal principle to solve the complex copyright infringement and meet the fair demand. Within this principle, the adjudication of copyright infringement cases needs to be more specific (Liu W. Y and Zhang T. Y, 2018). Through the relevant legal provisions of the principle of the closest link, the judge's discretion can be effectively increased, and the fairness and rationality of the case judgment can be realized.

3.3 The jurisdiction of copyright infringement cases

In specific legal provisions, copyright infringement cases are under the jurisdiction of the people's courts of the place where the infringement is committed or where the defendant is located. But in the network environment, it is difficult to determine the subject and object of copyright infringement, the scope and extent of infringement consequences. Therefore, network copyright infringement cases will subvert the principle of territorial jurisdiction of traditional civil infringement cases. Generally speaking, if the traditional territorial jurisdiction principle is applied to the case of network copyright infringement, it will be difficult for the court to confirm because of the ambiguity of network domicile and place of conduct, which will bring great uncertainty to the jurisdiction or judgment.

4. The solution strategies of the legal conflict of network copyright

The network-based copyright infringement is different from the traditional infringement, and the situation is more complex. Therefore, legislation needs to be updated in time to solve the conflict of copyright infringement laws.

4.1 Suggestions on the application of law

Based on the application of copyright infringement law in the current network era, it is necessary to relax certain legal choices for the parties concerned. In this case, the principle of close connection can be used to alleviate conflicts, thus reflecting justice in different cases. At the same time, the parties can freely invoke the law in copyright infringement cases, and they can also choose several appropriate schemes to apply. In other words, according to the express law of the parties, or the law requested to protect, or the courts where the parties choose their common residence, they can meet

the needs of dealing with infringement cases. If the parties do not confirm the situation, then appropriate use of the principle of the closest link to solve the copyright of the parties. Furthermore, in order to prevent the expansion of the discretion of judges, it is necessary to increase trade-offs, so as to provide a good basis for the handling of cases. In addition, in view of the fact that the large-scale development of the Internet has led to the gradual blurring of copyright boundaries, it is possible to recognize the extraterritorial effect of copyright law within a certain range. Although the network copyright infringement is different from the real environment, it ultimately needs the real court to hear, and the execution and judgment also need to be carried out in reality. Therefore, with the help of technical force to identify the geographical location of the parties, the rational use of legal provisions.

4.2 Legislative proposals

When establishing or updating specific copyright protection provisions, due consideration should be given to the protection of international interests. When legislating the conflict of laws in copyright infringement, we need to look at the issue from the perspective of the common interests of our country and other countries. At the same time, in order to solve the conflict of copyright infringement laws in the network era, we need to pay full attention to the international copyright legal system, cooperate with the domestic legal norms, and optimize the legislative work. In view of the fact that the copyright laws of various countries can not be unified in an all-round way, there will be chaos and disorder in the case of copyright disputes. Therefore, in the legislative work, it is necessary to strengthen cooperation with other countries and formulate relatively uniform norms in specific negotiations. In reality, the European Union, the United States and other regions have begun to explore the feasibility of this approach. Therefore, certain conditions can be added to international treaties, such as allowing parties to choose conflict-of-laws norms, guaranteeing the legitimate rights and obligations of the parties, and reducing the legal risks of the parties, so as to ensure that the conflict of laws can be effectively resolved.

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