

Study on the Copyright Law of Short Video "Handling" Phenomenon

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Abstract. As the speed of mobile transmission continues to escalate, in the era of information explosion, the use of short videos as a carrier to record daily life entertainment has gradually become mainstream. However, under the evolution of capital marketization, the economic attributes of short videos have gradually become obvious, and the success of Li Ziqi's video commercial operation has further promoted the rapid development of the short video industry. In this paper, we first analyse whether the disputed short videos meet the criteria of work composition from the perspective of the basis of copyright rights. As China's copyright has not yet made specific provisions for short videos in relation to the classification of works, it is necessary to explore what criteria short videos need to meet in order to constitute "audiovisual" works. Secondly, this article focuses on the main elements of infringement in short-form video infringement disputes, and thus in determining whether a short-form video constitutes a work, more emphasis should be placed on the three characteristics of audience appreciation and response, original expression and specificity of plot. The possible infringement situations of short video works are divided, and the boundaries between the obligations of short video platforms and the fair use of other users are explored from the perspective of the common infringing subjects in infringement disputes. On this basis, we analyse the types and modes of existing regulatory instruments of short-form video copyright law, and provide a theoretical basis for later proposing the standards and obligations of different subjects in determining short-form video infringement. Finally, on the basis of the existing means of regulation, new suggestions for regulation are explored, i.e. the scope of indirect and direct infringement liability of short video platforms should be expanded, and short video infringement should be regulated from the process of production, review, dissemination and reproduction, requiring higher platform liability. As far as other users are concerned, the whole-process fair use standard should be adopted to determine whether infringement of another's work is constituted, with emphasis on the impact caused by the user to the original creator in the actual use.

Keywords: Short video infringement, legal regulation path, originality standard, whole process fair use.

1. Overview of short video infringement

The phenomenon of infringement of short video copyright has also emerged along with the rapid expansion of the short video industry. According to the data of the 2021 China Short Video Copyright Protection White Paper, during the period from early 2019 to mid 2021, among 13 million original short videos and works such as film and TV variety, 12426 Copyright Monitoring Center has monitored a total of 3 million infringement accounts. For example, from September 9, 2018 to February 28, 2022, the Beijing Internet Court received 2,812 copyright disputes involving short videos, with 540, 729 and 1,284 cases received from 2019 to 2021 respectively. The copyright infringement disputes were still mainly of the copying and processing type, with a total of 2,633 cases, mainly using others' short videos as material for cutting and reprocessing. This shows that the phenomenon of short-form video "processing" is particularly prominent and should be a key concern for the healthy development of the short-form video industry. A study of the Short Video Industry Copyright Infringement Report shows that in 2017 alone, pirated videos cost the industry at least RMB 13.64 billion in lost user fees [1].

The phenomenon of short video "porting" is mainly based on other people's video footage, which is selectively copied and processed, disguised as original video for dissemination. Thus, it can be seen

that the short video "transport" is mainly reflected in the video selection and video modification to achieve.

From the specific analysis of the video selection of the case in question, it can be seen that the access channel chosen for infringement is generally chosen from the well-known domestic short video platforms, such as: Jieyin, Beili Beili, ACFUN, Xiaohongshu and other large platforms. Secondly, in the selection of the original creator, generally from the author has released the video activity situation and the author comment interaction to determine, try to choose not to show their faces, not too much language description, less or no Chinese, new release, video shot good small creator. For example, "immersive carpet washing" is a kind of stress relief video that has been on fire since a long time ago, there are many keywords for porters to choose from, such as "fixing a horse's foot", "building a wall", "immersive make-up removal/makeup/skin care", "oil painting celebrities", "healing". Therefore, the target videos are obtained through simultaneous screening in both directions.

2. The legal dilemma of the short video "handling" phenomenon

2.1. Difficulties in defending the rights of short video authors

Firstly, the explosive growth of social media and applications has made it possible for every internet user to become a media outlet, and a large number of self-media workers can create without real names. Secondly, in the process of short video distribution, the cost of short video distribution is extremely low, and the customary distribution method requires only a click on the reproduction to complete the reproduction and distribution of short videos, making it difficult for rights holders to find evidence. In the 2020 China Online Short Video Copyright Monitoring Report from 2019 to October 2020, the infringement rate of exclusive original creators was as high as 92.9%, and each original short video work was infringed at least four times. It is clear that the majority of infringement cases involve small amounts of money, and the high cost and time and effort required by the right holder often leads to a reluctance to defend their rights, which in turn promotes the frequent occurrence of the phenomenon of short video "porting". The complexity and length of the judicial process and the cost of notarisation far exceeds the amount of the claim, which can be a deterrent to infringers. In addition, the limited value of the work has prompted the creator to abandon the right to defend it, further contributing to the viciousness of infringement.

2.2. The risk of whether an infringed work constitutes a work

In many short video infringement cases, it can be seen that as the threshold for creation is not high and the materials are all from life, the quality of creation varies, and in the phenomenon of video "porting", the original video itself does not constitute a work in the sense of copyright, resulting in it not having the basis of rights and cannot be protected by law. At present, China's Copyright Law only has the category of "audiovisual works" [2], and does not clearly state whether short videos are included in it. As to whether short videos are copyrightable, it is still necessary to judge them by the most essential criteria of the composition of the work.

2.3. The liability of short video platforms is unclear

At the stage of high-speed development of 5G, all short video platforms are in fierce competition, and in order to seize market opportunities and interests, many platforms relax the review of the legality of some popular short videos, and at the same time avoid their responsibilities by modifying some video uploading user review rules, and even some platforms use "zombie numbers" to Even when rights holders ask the platform to assist in the investigation, some platforms make it more difficult to obtain evidence on the grounds that it involves trade secrets. Even when short-form video platforms are caught in litigation, they may avoid liability through limited conduct based on the "safe harbour principle". In addition, under the current guidelines on the duty to notify, as long as the platform does not receive notice of infringement from the right holder, even if it is aware of it, it can

acquiesce to the way of inaction to achieve maximum benefit and no liability. Whether the platform is liable for infringement in respect of many short-form video "transfers" is more controversial.

2.4. The boundaries of fair use behaviour are difficult to determine

In many infringement cases, there are a variety of infringement methods for the most prominent components of short videos - subtitles, images and recordings. It is often the case that infringers abuse the fair use provisions of copyright to counter the rights of the right holder. This, coupled with the fact that there is currently no uniform standard for the determination of fair use in short-form video. As a result, the passion of many original creators has been seriously undermined, and the development of China's short video industry faces serious challenges.

3. The path of regulation of the short video "handling" phenomenon

3.1. Criteria for short videos to constitute works

With regard to the dispute over the standards of composition of works in the phenomenon of short video "porting", the following is an introduction to the standards of formal composition and substantive composition of works under the current copyright law.

From the study of the criteria for the formal composition of works under the current copyright law, it is difficult to find appropriate formal support for the short videos in the phenomenon of short video "porting" in the categories of film works and works created by methods similar to the filming of films under the traditional copyright law. However, the newly amended Copyright Law, which will come into force on 1 June 2021, has made three important changes to the most crucial provisions on works. Firstly, the definition of a work is clarified, and it is emphasised that originality and tangibility are at the heart of intellectual output; secondly, the term "cinematographic works and works created by methods similar to those used for filming films" is amended to "audiovisual works"; thirdly, the term "other" works is openly provided for. The third is to provide for "other" works [3]. Such legislative adjustments are of great significance to the protection of copyright in short-form video. The jurisprudence behind this is that in the face of today's increasingly diverse infringement cases, such as music fountain cases, live webcasting infringement, online game live screen infringement, sports event broadcast infringement and short video infringement involving the type of works on the judgment, the traditional classification of the above works can not be fully applied to specific judicial practice, so the legislator, drawing on the Berne Convention and the relevant international treaties based on After three deliberations, a consensus was finally reached to replace the class of electric works with audiovisual works, expanding the scope of objects protected by copyright law and facilitating the provision of formal support for the law. In terms of specific provisions of principle, Article 17 of the newly amended Copyright Law divides audiovisual works into films, TV series works and other audiovisual works, and then directly identifies the copyright ownership of films and TV series works as the producer, while the ownership of other audiovisual works can be agreed by the parties concerned, and if there is no agreement or if the agreement is unclear, it is vested in the producer. By expanding the scope of objects protected by copyright law, the dispute over the attribution of types of works when short videos face infringement is effectively alleviated. From the study of the current copyright law on the substantive composition of works, it is clear that whether a short video is protected by law in the phenomenon of short video "porting" is determined by its originality. Originality is an important criterion in the internationally accepted copyright grant, and is the core concept of China's copyright law, and the key to distinguishing works from other human achievements [4].

For the content of short videos, most of the short video content itself comes from life and is prone to a high degree of repetition. As for the time limit of short videos, the short time limit of short videos itself is short, and how to determine the infringement when being infringed. According to Article 3 of the newly amended Copyright Law, a work needs to satisfy the following four elements: firstly, the content of the work belongs to the field of literature, art and science; secondly, the work should

have originality; again, the work should also be expressed in a certain form, i.e. the basic jurisprudence of copyright law, which protects expressions rather than ideas; finally, the work should be an intellectual achievement, i.e. it contains the intellectual work of the creator. In practice, there is little controversy over the expression and scope of the work, and the core of all disputes over whether a short video constitutes a work lies in the discussion of the issue of originality. In practice, more emphasis has been placed on the question of whether or not the author is personally completed and original. In the case of *Shake Sound Short Video v. Partners Short Video*, the court found that the 13-second "I want to say to you" commemorative short video constituted a work, and that the short video was limited in its creative space, but was completed independently by itself, and that the content of the short video was distinctly different from other short videos on the same topic, and that the work was The short video in question constitutes a work created by a method similar to filming a movie. The requirement for originality in this case is that it reflects the individual expression of the maker. At the same time, in determining the "creativity" of the "I Want to Tell You" video, the court did not consider the length of the video to be necessarily related to its creativity, but rather focused on the differences between it and other short videos, taking into account the public's In considering what constitutes originality, the court focused on the difference from other short videos and the degree of public appreciation of the short video as a specific basis for determining originality.

In summary, in the existing law on short video works, more emphasis is placed on the substantial composition of short video works, and in the specific originality judgment, specific judicial practice is more in favour of the difference between short video and other short video and the degree of popularity among the public, as well as the low threshold of creation, strong social interaction and easy dissemination of short video as a new form of audiovisual expression.

3.2. The path to regulating the right of information network communication

In the current legal regulation, the right of information network dissemination is often used to protect the legitimate rights and interests of creators. Meanwhile, taking the ten typical cases involving short video copyright released by the Beijing Internet Court in 2021 as an example, many short video infringement cases involve the infringement of the right of information network dissemination. According to China's Copyright Law, the elements of the right of information network dissemination are mainly the act of providing wired or wireless means, the unspecified public, the possibility of obtaining works at a specific time and place, and the right holder having control over the dissemination of its works, performances, audio and video recordings on the network, and unauthorized browsing, playing, downloading, etc. Except as otherwise provided by laws and administrative regulations, it is deemed The infringement of the right to disseminate information on the Internet shall be deemed to constitute an infringement of the right to disseminate information on the Internet.

In practice, the infringement of the right of information network dissemination is mainly divided into network users and network service providers, and the mode of conduct is mainly active dissemination or control of the work at a specific time and place for access by unspecified persons. According to Article 3 of the "Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in Civil Dispute Cases Involving Infringement of the Right of Information Network Dissemination", as long as the actor controls the dissemination of the work on the Internet in a certain way (directly or indirectly), it meets the special circumstances of controlling the dissemination of the work as stipulated by law. It can be seen that the elements of direct infringement also include two points: firstly, the subject of the act of providing is not authorised; secondly, the act of providing does not fall under the circumstances of the copyright law concerning fair use. In addition, network service providers are also inevitably liable for joint and several liability as long as they meet the requirement of indirectly helping users to carry out the act of network transmission [5].

3.3. The path of regulation of short video platforms

In judicial practice, short video platforms are often sued directly as defendants. From this, the nature of the conduct of the short-video platform in providing services in a dispute is first judged, i.e. whether it is an online content provider or an online service provider. This is generally judged by the user's registration information and traces of short video production. Only when the platform has no legitimate reason to provide or has no access to real relevant information will the platform generally be deemed to be the direct provider of the video in question. In practice, the "zombie" account scenario described in the text is a disguise used by the platform, and if the evidence submitted by the right holder is not sufficient to meet the high standard of conclusiveness for a "disguise", the platform will not escape liability. Secondly, where the platform is a network service provider, it is necessary to determine whether it is at fault in order to establish its liability. If a short video platform is found to be a network service provider, it is necessary to verify that the user is not at fault in the entire process of uploading the infringing video on the platform.

According to Article 23 of the Regulations on the Protection of the Right to Information Network Dissemination, as a network service provider, it is not obliged to conduct prior censorship and only has the obligation to notify the removal of the infringing video, unless it is at fault. Thus, the standard for fault-based liability is the reasonable obligation of the general public. Further, in the case of short video infringement, the platform must be judged to have fulfilled its obligation to notify of deletion under the safe harbour principle to see if the standard of fault is met. According to the provisions of Article 22 of the Regulations on the Protection of the Right to Information Network Dissemination, it is still necessary to judge whether there is fault in short videos from the actual situation, and there is not yet a unified standard. The famous "safe harbour principle" originated from the 1998 Digital Millennium Copyright Act, which is also known as the "notice-and-delete" rule, and refers to the fact that if a network service provider does its due diligence in a copyright dispute, the network service provider is not required to bear compensation. The due diligence rule refers to the subjective duty of Due diligence means that there is no subjective intent to infringe, and secondly, there is an objective duty to assist at the time of the infringement. The "notice-and-delete" principle in the "safe harbour rule" exempts short-form video platforms from indirect infringement liability and clearly tends to protect the interests of online service providers [6].

In China, the Regulation on the Protection of the Right of Information Network Dissemination also has similar provisions to the principle of safe harbor, mainly in the 2012 version. 2020 also has relevant provisions on safe harbor in the part of the Tort Liability Chapter of the Civil Code, the content of which is generally consistent with the Regulation. Article 22 of which sets out in detail the detailed constituent elements of the exemption from liability for internet service providers. That is, it can be seen that in the phenomenon of short-form video handling, the short-form video platform can only be found to be subjectively at fault and jointly and severally liable for the enlarged part of the damage caused by the infringement when it receives a notice of infringement requiring assistance and fails to act. In the case of Warner, Universal and seven other major record companies suing a search engine company in 2005, the search engine could search for links to download the songs involved in the case without permission, yet the search engine company avoided liability by arguing that it was only providing search engine services and had no malicious intent to infringe and was willing to match removal upon receipt of the notice, which was accepted by the court. In practice, firstly, the right holder was required to provide specific information on the address of the infringing work and prima facie proof of infringement, and secondly, the receipt of the notice by the platform was used as a criterion for the right holder to exercise its rights in the substantive review, and also to indirectly prevent the online service provider from setting additional thresholds to avoid its own liability [7]. Upon receipt of the notice, the platform will, depending on the accuracy of the notice, take appropriate supporting measures, such as basic information about the work in question, prima facie evidence, etc.

The imperfection of the practical process of the "safe harbour rule" has led to the introduction of the "red flag principle", which means that if the claimant has not given notice, the ISP cannot turn a blind eye to the fact of infringement if it is well known, or excuse itself by not knowing about the

infringement. The red flag doctrine is that if the claimant does not give notice, and the fact of infringement is known, then the ISP cannot turn a blind eye to it or shirk its responsibility on the grounds that it did not know of the infringement [8]. In practical dispute resolution, the "safe harbour rule" and the "red flag principle" are often used interchangeably to complement each other.

3.4. The Regulatory Path of the Fair Use System

A fair use system is a restriction on the rights of an exclusive right holder, which is a system that allows the use of a work without the permission of the right holder and without payment to the right holder. The fair use system has the function of promoting freedom of expression, symbolic democracy and the public interest, and is therefore seen as a regulator that balances the interests of copyright owners with the public interest [9].

The fair use system originally originated from the judicial precedents in the United States, in the 1841 *Folsom v. Marsh* case, the former Justice of the United States Supreme Court Joseph Story through the combing and summarizing of the relevant jurisprudence of the English courts in the past 16th-17th centuries. The three main legislative models are abstract, enumerative and comprehensive. China's fair use system is mainly based on the Copyright Law and the Implementing Regulations of the Copyright Law. The twelve circumstances of fair use in China were first established in the Copyright Law in 1990, which adopted the legislative model of closed enumeration. According to Article 22 of the Copyright Law, the twelve statutory circumstances under which a work may be used without the permission of the copyright owner and without payment of remuneration were listed. Subsequently, a partial amendment was made in 2001, mainly to make more specific amendments to the twelve circumstances. Since then, only two amendments were made in 2010, and no changes were made to the fair use provisions, with little overall change.

In practice, the following factors are generally considered in determining whether the infringement being sued is fair use with appropriate citation: (1) the status of the work, whether it has been made public; (2) the use of the work, whether it serves a personal non-interest purpose; (3) judging the proportion of the use or the impact on the status of the work in its own right; and (4) judging the specific impact brought to the original author when using the work from a practical point of view. And when judging the exceptions to fair use, there are three main points that need to be considered when considering a variety of factors. First, if a short video is used commercially but the author has no subjective intent to make a profit, even if there is no vested revenue, as long as there is public knowledge, the "fair use" situation is directly excluded. Secondly, the degree of use of the work is considered, i.e. the degree of similarity is determined by splitting the elements of the work that constitute distinctiveness. Thirdly, the market value of the work being used is taken into account. For example, in the case of short video infringement, if the perpetrator deliberately stigmatises the original creator of the malicious short video and has a serious negative impact on the original creator, then this clearly constitutes an unreasonable use.

In summary, in the practical application of the fair use regime for short videos, it can be seen that the use of short videos without permission is more focused on whether it affects the normal use of the original creator and the personal interests of the work.

3.5. Other legal regulation of short video infringement

Other legal regulation of short-form video infringement in China mainly includes administrative enforcement. The launch of the National Intellectual Property Strategy Outline has clarified two paths for the legal protection of intellectual property, namely judicial protection and administrative enforcement, with judicial protection taking the leading position [10]. It is thus clear that, in addition to the use of judicial protection of IPRs, China has placed greater emphasis on administrative enforcement to protect IPRs, which is a direct manifestation of the comprehensive governance of the rule of law under socialism with Chinese characteristics. Its advantage lies in the use of administrative orders from the executive to balance the interests of individuals and the public interest in response to

the expanding range of IPR objects and application scenarios, where the existing judiciary is inadequate.

However, judicial protection under the Copyright Law has not yet been effectively linked to administrative protection, resulting in significant limitations in the administrative authorities' regulation of short-form video infringement [11]. According to Article 48 of the Copyright Law, the administrative authorities can only intervene when public interest is damaged. However, individual acts of infringement in the field of short-form video often directly infringe on private interests rather than public interests, so the scope of application of administrative regulation under Article 48 of the Copyright Law is very narrow and cannot directly regulate infringement of private rights and interests. Under such circumstances, infringement of private rights and interests has become increasingly rampant, resulting in an industrial ecology where infringing short videos have proliferated, causing great damage to the interests of original rights holders and attracting widespread social concern. In specific administrative practice, the administrative authorities only have the power to regulate infringement by means of interviews, which are not mandatory. In the field of short videos, interviewing has been used by the Central Internet Information Office, the State Administration of Radio and Television and other bodies to regulate short videos with vulgar content, and its legal basis is China's Network Security Law and relevant departmental regulatory documents. The legitimacy of this approach in the context of law-based governance is questionable [12].

4. New Suggestions for the Regulation of Short Video Infringement

4.1. Raising public awareness of copyright protection

In view of the existing widespread problem of short video infringement, the publicity of relevant laws should be increased to raise the legal awareness of all people. The judicial department should join hands with other government departments to popularize the legal knowledge of short video copyright to all people through newspaper and media, online media, radio and television, etc. Through cooperation with short-video platforms, the judicial department should register short-video platform accounts and use algorithmic analysis to target legal publicity and education to short-video creators. It should be realised that legal publicity by the judicial department is very important, and that through legal publicity it is possible to tackle the phenomenon of serious copyright infringement in short videos at source, by publicising typical cases of copyright infringement in short videos and by cultivating their awareness that copyright is valuable, use pays and infringement is illegal. For the protection of the legal rights and interests of creators themselves, this should be achieved through increased training on relevant laws by the relevant authorities. For the public, this can be achieved through exhibitions on copyright law and other relevant legal themes at film festivals and cinemas, and through the setting up of corresponding volunteer lectures to further popularise and increase the interest of the public. For short-form video platforms, they can use their own resource advantages to jointly shoot videos on the popularisation of legal knowledge with some high-quality video bloggers to enhance the promotion and popularisation of copyright law and other related laws.

4.2. Fair use standards for the whole process

In the existing legal regulation path mentioned above, the application of the fair use system in specific judicial practice still focuses on whether the subjective intention of the perpetrator is malicious, which makes it difficult for the infringed author to find evidence to prove when facing infringement, and brings a great challenge to judicial fairness. Therefore, the author proposes the whole process fair use standard, i.e. the two-step method of acquisition and use to determine whether fair use is satisfied.

In the acquisition stage of short video works, the secondary creators of short video works should assume the obligation to reasonably understand the true situation of the use of the works. The authenticity of the information in the short video itself is even more uncertain, and in many cases, it brings bad influence to the original creator or the person involved in the video. Accordingly, the

author of the secondary creation should be required to make a preliminary determination of the authenticity of the work at the stage of acquisition, for example, by searching for information broadcast by official media, and in cases where it is difficult to obtain the authenticity, a statement of the authenticity of the information should be added at the beginning of the secondary short video content to prevent misleading other viewers and to fulfil the obligation to reasonably understand the real situation of the use of the work. Secondly, at the use stage, the user's burden of proof should be increased under certain conditions in order to prove that his or her actions satisfy fair use. This means that if the secondary use of the work by other users has caused serious adverse effects on the parties concerned, and if the user of the work has not fulfilled its obligation to reasonably understand the true circumstances of the use of the work at the access stage, the user should bear the burden of proving its own reasonableness. In turn, this will reduce the difficulty of proof for defenders and achieve further effective regulation of the problem of short video chaos.

4.3. Implementing a higher standard of platform liability

At present, the domestic short-video industry has not yet set a unified industry standard, its short-video chaos is mainly due to the short-video platform management system are to maximize their own interests, the user responsibility system is also confusing [13]. And there is no specific classification of infringement defined in the current norms relating to each platform, leading to a plethora of problems that are not conducive to the long-term development of this industry. The platforms often play an important role in infringement disputes when the information network dissemination rights of short video authors are infringed, and platforms usually use the "safe harbour principle" to avoid their own liability even when faced with allegations of indirect infringement, while the existing "red flag principle" The existing "red flag principle", which requires the right holder to request the platform to cooperate with its performance through itself, has resulted in the platform often becoming more rampant in practice, refusing to cooperate in various ways. Therefore, a higher standard of platform liability should be introduced on the basis of the existing regulatory path. From a balance of interests perspective, the potential commercial value brought to short-form video platforms by users' short-form video traffic is difficult to estimate. Instead, it reflects a dynamic balance between the interests of copyright owners and the public interest, whereby platforms should assume a higher level of responsibility to protect creators' works. From the perspective of realizability, each short video platform today has its own function of producing and disseminating short videos, and each short video platform has its own data repository, which is their own trade secrets, so it is difficult for users to obtain information about infringement through themselves. On the other hand, the short video platform is the most important information carrier and circulation channel in the process of work dissemination, and has direct advantages in the protection of works and control of infringement. The higher responsibility standard means that the platform should clarify the copyright types of short videos, the definition of infringement and the uniform compensation standard for infringement, and clarify the basic process mechanism for review and filtering, copyright monitoring, complaint acceptance and infringement disposal [14]. For example, the Content ID copyright system on the YouTube website can be realized to assist copyright owners to identify the corresponding infringement, while in solving the problem of short video infringement traceability, Alibaba has also adopted the Whale Watch full-link digital copyright service to realize the traceability [15].

Finally, self-media short video platforms should establish the right strategic concept, take the initiative to assume social responsibility, lead by the mainstream social values, continuously strengthen the internal governance of the industry, and improve the level of industry self-regulation.

4.4. Promote the convergence of legal regulation systems

As the protection of copyright law as well as administrative and civil law is not effectively articulated, this has seriously affected hindered the combined force of judicial protection. Therefore, the "three-in-one" reform of trials should be carried out continuously and thoroughly, and the important and difficult points commonly found in copyright trials, such as the identification of

evidence, the ascertainment of facts and the confirmation of damages, should be improved urgently. In addition, the important role of new types of judges in handling copyright trials should be emphasized, with emphasis on selecting judges from intellectual property majors and those with scientific and technical backgrounds to handle new, complex and high-tech cases, cultivating complex intellectual property talents, raising the salaries of professional judges, and strengthening the talent pool and echelon construction. Fully experiment with ADR (Alternative Dispute Resolution) and use conciliation, mediation and arbitration to resolve disputes, save judicial resources and improve the efficiency of rights protection. The relevant departments of the Ministry of Justice will take the lead in setting up a short video infringement settlement and mediation platform on the Internet, which can be used by both parties to avoid litigation as a means of dispute resolution. The Internet mode of settlement and mediation can maximize the convenience of both parties to resolve disputes, and through the confirmation of the judicial department, make the processing results more judicially certain.

5. Conclusion

Short videos have a powerful visual power to build social reality [16]. This article focuses on the analysis of the main infringement elements of short video infringement disputes, and explores the contribution to the composition of a work in terms of short video content, length, and interactivity. Further, in determining whether a work constitutes a work, more emphasis should be placed on the three characteristics of audience appreciation response, original expression, and specificity of plot to determine. Secondly, through the specific study of numerous doctrines on infringement situations, it is proposed that the scope of indirect and direct infringement liability of short-form video platforms should be expanded to require higher platform liability to regulate short-form video infringement from the process of production, review, dissemination and assistance. In addition, for other users, the impact of actual use on the author should be considered from the perspective of balancing interests, and a whole process fair use standard should be proposed to determine whether the infringement of another's work constitutes.

However, this paper has not yet envisaged the specific content of a higher liability standard for short-form video platforms, so there is still much controversy and more practical arguments are needed.

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