

Research on Copyright Protection of Online Games in China under the Background of Information Age

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Abstract. The information age usually relates to the computer age or the digital age. With the rapid development of computer (digital) technology, the online game industry is also growing and expanding, which can be regarded as to be changing with each passing day. The development of online games not only fully reflects people's skillful application of computer technology and network technology, but also clearly reflects the new challenges brought by the rapid advance of information technology to the traditional intellectual property legal system. The purpose of this paper is to interpret the core parts of online games, namely, the copyright issues involved in game engine and game resource library, through in-depth analysis of typical cases, and on this basis, to explore the copyright protection methods of online games in line with China's national conditions under the background of information age, and to open a new chapter in the research of copyright protection of online games in China under the background of information age.

1. INTRODUCTION

In the information age, the online game industry is developing vigorously. The development of online games has brought new challenges to the traditional intellectual property legal system. As an important part of the intellectual property legal system, what role should copyright law play, what changes should be made and what innovations should be made in the vigorous new industry of online games are the problems that we just have to think. This paper will take two typical cases in China as the breakthrough point, focusing on the issues involved in the copyright protection of online games in China under the background of the information age, and on this basis, dig deep into the proper implementation methods of copyright protection of online games.

2. ONLINE GAMES AND COPYRIGHT

2.1. WHAT IS AN ONLINE GAME

Wired games are referred to as "online games" for short, also known as "online games". They mainly talk about the Internet as the media, the game operator server and user computer as the processing terminals, and the game client software as the information interaction window, aiming at realizing communication, leisure and entertainment. Most online game users take virtual achievements as their main goal[1]. The biggest difference between online games and stand-alone games is that users must play multiplayer games through Internet connection. According to different standards,

there are various categories of online games. For example, according to different game platforms, online games can be divided into client games, web games (also known as "web games") and mobile games; According to the different contents of online games, online games can be divided into dozens of kinds, such as RPG, Role Playing Game, MOBA, Multiplayer online battle arena, STG, Shooting Game, SLG, Simulation Game, etc[2]. However, no matter how diverse the forms and contents of online games are, there are only two parts in the core of online games, namely, game engine and game resource library. Game engine refers to computer software that can control the operation of games, which includes computer programs and related documents; Game resource library refers to various materials that computer programs can control and call through instructions, including written works, art works, music works, electric works and so on[3].

2.2. WHAT IS COPYRIGHT

With the birth of book publishing industry, copyright system began to sprout. In 1556, Queen Mary I issued a decree giving members of the printing trade union the privilege of publishing books, stipulating that publishers must submit books to be published to official examination and register with the printing trade union; The law also stipulates that publishing is not allowed without permission[4]. It can be viewed on the above that the law protects the interests of publishers, and it does not mention the status of authors.

After that, with the appearance of bourgeois rule, the interests of the bourgeoisie and the ideas of enlightenment thinkers gradually rose to administrative

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requirements, and private rights began to rise. In 1709, the British Parliament passed the Queen Anne Act, which is a bill for the purpose of defending the rights of authors and recognizes that authors are the origin of copyright protection; The copyright protection period of published works is set at 14 years. Therefore, the theory of copyright law calls this law the first copyright law in human history[5]. Copyright legislation in China began at the end of Qing Dynasty. The Copyright Law of Qing Dynasty promulgated in 1910 is the first copyright law in China, which consists of 5 chapters and 55 articles, and was used by the Provisional Government of the Republic of China[6], which had a far-reaching impact on the copyright legislation in China later. After the founding of the People's Republic of China, in 1990, China passed the first Copyright Law, which was amended three times in 2001, 2010 and 2011. In 2017, the General Principles of Civil Law once again clarified that works are objects of intellectual property rights and covered by civil law. There are 9 categories of protected works, namely (1) written works, (2) oral works, (3) music, drama, folk art, dance works, acrobatic works, (4) art and architectural works, (5) photography works, (6) films and works created by similar methods, (7) graphic works and model works such as engineering design drawings, product design drawings, maps and schematic diagrams, (8) computer software, and (9) folk literature and art works.

It should be noted here that due to different policies and reasons, China's copyright law also stipulates three unprotected objects, namely, the first, official documents and their official translations; Second, current affairs news; Third, calendar, general number table, general table and formula[7].

3. COPYRIGHT INFRINGEMENT CASES IN THE INFORMATION AGE[8]

(a) Plaintiff: Shanghai Yaoyu Culture Media Co., Ltd. (hereinafter referred to as "Yaoyu Company")

(b) Defendant: Guangzhou Betta Network Technology Co., Ltd. (hereinafter referred to as "Betta Company")

(c) Facts of the case:

Perfect World (Beijing) Network Technology Co., Ltd. (referred to as "Perfect Company") is the agent operator of the world-famous e-sports online game "DOTA 2" in Chinese mainland. The Asian Invitational Tournament of DOTA 2 was held from January 5 to February 9, 2015, so the plaintiff entered into an agreement with Perfect Company to jointly hold e-sports events such as DOTA 2 Professional League and DOTA 2 Asian Cup Championship. According to the agreement, Perfect Company exclusively authorized the live video broadcast rights and broadcasting rights of the cooperative events in Chinese mainland to the plaintiff; The plaintiff is responsible for the implementation, management and overall planning of the cooperative events, and is responsible for providing live broadcast and on-demand services of the cooperative events on the

Fire Cat TV website operated by the plaintiff, as well as paying on-demand services.

During the competition, the plaintiff broadcast the whole and real-time video of the competition through Fire Cat TV website. The video contents include: the software pictures of the game intercepted by computer software, the explanation contents of the plaintiff's game anchor to the competition, the pictures taken by the plaintiff to its game live room and game anchor, the pictures taken by the plaintiff to the final scene, the sound effects, subtitles, slow motion playback and lighting made by the plaintiff to the competition, etc. Without any authorization, the defendant broadcast live the video produced by the plaintiff except the explanation content and the pictures taken through its website, which lasted for nearly one month, with a total of 80 live games.

(d). The plaintiff claims: (1) The defendant's above-mentioned behavior violated the plaintiff's right to disseminate information on the Internet; (2) There is a competition relationship between the original defendant and the defendant, and the above-mentioned behavior of the defendant is subjective and malicious, which violates the principle of good faith and recognized business ethics stipulated in China's Anti-Unfair Competition Law and constitutes unfair competition with false propaganda. Therefore, the court is requested to order the defendant to immediately stop the infringement, compensate the plaintiff for economic losses of 8 million yuan, compensate the plaintiff for reasonable rights protection expenses of 211,000 yuan, and publish a statement to eliminate the impact in Xinmin Evening News.

(e). The Defendant argued: (1) The Plaintiff was authorized to obtain the video broadcasting right, not the civilian right stipulated by Chinese law, and the object of this right was the Asian Cup competition and the event involved was the Asian Invitational Tournament. The Plaintiff did not prove that they were the same event, so the so-called right claimed by the Plaintiff had no binding force on the Defendant; (2) The client of the DOTA 2 game involved in the case has the function of watching the game by bystanders, which intercepts 10 game pictures from different perspectives for bystanders to watch through software, and does not limit the outflow of the game pictures. The live broadcast pictures of the defendant and their sources are different from the conscious broadcast pictures of the plaintiff, and the defendant also adds his own explanation and sound effects, so there is no infringement or unfair competition against the plaintiff. At the same time, the defendant only provided a real-time webcast of the events involved, and the network users could not watch the events involved at the time selected by themselves, so the defendant's behavior had nothing to do with the infringement of the right to disseminate information on the Internet; In addition, when the defendant broadcast live, the plaintiff's logo was marked on the webpage, and false information such as the copyright of the event involved was not publicized, so it did not constitute unfair competition for false propaganda; (3) The plaintiff's expenses for hosting the events involved are mainly used to hold the finals, while the defendant only

broadcasted 8 competitions in the preliminaries, and neither party made any profits from the events involved. The number of spectators is not related to the website income, so even if it constitutes infringement, the economic loss compensation claimed by the plaintiff has no basis; After receiving the civil ruling ordered by the court to stop broadcasting the events involved, the defendant stopped broadcasting, and the events involved had already ended. Therefore, even if it constituted infringement, there was no problem of ordering the defendant to cease infringement. Therefore, the court was asked to reject all the plaintiff's claims.

(f). Focus of dispute: (1) Whether the defendant infringes the plaintiff's right to disseminate network information or other copyrights; (2) Whether the defendant constitutes unfair competition against the plaintiff; (3) The civil liability that the defendant should bear under the premise of infringement.

(g). Court's judgment: The Court of First Instance ruled that the defendant compensated the plaintiff for economic losses and reasonable expenses for safeguarding rights totaling 1.1 million yuan, and published a statement in a prominent position on the homepage of Betta website operated by the defendant to eliminate the adverse effects caused by unfair competition on the plaintiff. The defendant did not accept the appeal and appealed to Shanghai Intellectual Property Court. The court of second instance dismissed the appeal and upheld the original judgment.

4. ONLINE GAMES FROM THE PERSPECTIVE OF COPYRIGHT LAW

4.1. ONLINE GAME PICTURES AND THE DEFINITION OF "WORK" IN COPYRIGHT LAW

According to Article 3 of the current Copyright Law of the People's Republic of China (hereinafter referred to as "Chinese Copyright Law"), a work in the sense of copyright law must meet the following three conditions at the same time, namely (1) it belongs to intellectual achievements in the fields of literature, art and science; (2) Being original; (3) It can be expressed in a certain form. Report to the above three elements, online game pictures belong to works in the sense of Chinese copyright law. The specific analysis is as follows:

First, online game pictures belong to scholarly achievements in the fields of literature, art and science. In 2011, the United States officially declared that "video games are just an art form", calling video games "the ninth art"[9]. In addition, as we all know, the research and development, production and operation of online games need to use the cooperation of programming, art design, game planning, technical maintenance, market research, marketing propaganda and other departments. Therefore, online game pictures must belong to the basic requirement of "works" in copyright law[10]. Second, the originality of online game pictures. First of all, the online game picture conveys the unique thoughts, feelings and logic behind the game to the players; Secondly, the composition of online games is realized by

the unique combination and arrangement of various elements such as text description, background music, art design and animation special effects in the picture of game operation; Finally, through the specific instructions input by the player, the computer program calls out the material works in the game resource library to form a dynamic, continuous and interactive picture. Therefore, online game pictures have the "originality" required by copyright law[11]. Third, online game pictures can be expressed in a precise form. First of all, online game pictures can be fixed and stored by certain technical means, and most online game software has the function of "picture playback"; Secondly, the game picture can be fixed through the built-in camera function of online games, and this video product has reproducibility; Finally, although the continuous pictures of the game produced by the player's operation of the game are different, they have certain real-time performance, and the path and data on which the game runs are fixed, so long as the children's operation is strictly followed, the same pictures can be obtained. Therefore, the online game pictures have the third element needed by the copyright law. To sum up, online game pictures belong to works stipulated in Chinese Copyright Law.

4.2. ONLINE GAME LIVE BROADCAST BEHAVIOR AND NETWORK INFORMATION DISSEMINATION RIGHT

The right of network information dissemination refers to the right to provide works to the public by wired or wireless means, so that the public can obtain works at the time and place selected by themselves, for example, reading works, watching movies and listening to music on the Internet. The way of obtaining works through the right of network information dissemination is called interactive, and "wired or wireless mode" limits the scope of adjustment of this right, excluding the network environment under non-electronic environment such as commodity sales network and chain operation network; "The right to enable the public to obtain works at the time and place selected by individuals" highlights the difference between the right to disseminate network information and distribution, that is, the right to disseminate network information has the following three characteristics: (1) Individual access to works is no longer limited by time and place; (2) The public changed from passive to active; (3) There is no need to have a carrier of works[12]. In other words, the right of network information dissemination can only make the author set up and others provide his own works interactively. If others broadcast or broadcast his own works through the Internet, the public cannot use the works by choosing the time and place, and the copyright owner cannot organize this behavior through the right of network information dissemination. Therefore, in the cases decided by the court, similar cases will be solved by the provisions of the copyright law[13]. In this case, the live broadcast behavior of online games is real-time, and the audience can only watch the fixed content in the vital broadcast room at a fixed time, and can carry out interactive

communication activities such as barrage comments, praises and rewards. Because they cannot freely choose the broadcast time of others, they do not belong to "interactive communication", so this behavior is not governed by the right of network communication[14].

4.3. LIVE BROADCAST OF ONLINE GAMES AND FAIR USE OF COPYRIGHT

Fair use refers to the use of works by people other than copyright owners under the conditions stipulated by law without the permission of copyright owners and without paying remuneration to copyright owners. Whether the use of works constitutes fair use, Berne Convention, TRIPs Agreement and WIPO Copyright Treaty stipulate "Three-step Test", that is, fair use needs to meet the following three conditions at the same time: (1) use can only be made under special circumstances; (2) It does not conflict with the normal use of the work; (3) It is unreasonable to damage the legitimate rights and interests of the obligee. China also recognizes the three-step test method[15].As to whether online game live broadcast can become fair use in copyright law, most scholars think that it is unlikely that online game live broadcast will constitute fair use through four elements: (1) the nature and purpose of the use behavior, (2) the nature of the used works, (3) the quantity and quality of the used parts, and (4) the influence of the use behavior on the potential market or value of the works[16].

5. Conclusion

The fourth industrial revolution [17] makes the information industry develop rapidly, which not only injects new vitality into online games, but also brings new challenges to the traditional copyright law. Its content involves copyright objects, copyright property rights, copyright restrictions, legal responsibilities for infringing copyright and other copyright-related rights in copyright law [18]. This is another impact brought by the rapid development of artificial intelligence to the inherent law. Therefore, under the background of information age, how to balance the interests among game developers, operators, live broadcast platforms, game anchors, players and viewers will be a topic that copyright law has to re-focus and need to reflect on. As an important part of intellectual property law, the reform of China's copyright law is still a long way to go.

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