

The Work Attributes of Online Game Live Broadcast Images

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Abstract: *The work attributes of online game live broadcast images is a hot issue at present. The work attributes of online game live broadcast images include works (copyright) and work types. At present, when the academic and practical circles identify the works and work types of online game live broadcast images, most of them tend to directly judge whether they constitute works or not, and classify the live game images that constitute works into a certain kind of work type. This method of directly identifying the work attributes and work types of online game live broadcast images is one-sided and does not conform to the actual situations of online game live broadcast. In order to discuss the work attributes of online game live broadcast images, it is necessary to combine it with the specific relationship of online game images. Online game images are the core of online game live broadcast, and there are three main types of relationship between them. Starting from these three main types of relationship, this paper analyzes the situations of online game live broadcast images that constitute works, and classifies them into deductive works or audio-visual works, and at the same time, classifies some live game images that do not constitute works into video products.*

Keywords: Online Game Images, Online Game Live Broadcast Images, Works, Work Types.

1. Introduction

In recent years, with the continuous development of information technology and the widespread popularity of electronic equipment, China's online game industry has flourished rapidly, and it has become an emerging force that can't be ignored in promoting China's economic and social development. Relevant data show that in 2024, the actual sales revenue of China's game market was 325.783 billion yuan, with a growth rate of 7.53%, and the number of game users reached 674 million, with a growth rate of 0.94%, both of which reached new historical highs [1]. The prosperity of the online game industry has also led to the prosperity of the online game live broadcast market. The huge economic benefits contained in the online game live broadcast market have prompted all stakeholders to compete for it. The results of the online game live broadcast are finally presented to users in the form of live game images. Therefore, the online game live broadcast images have become the source of benefits in the online game live broadcast market. Whoever masters the copyright of the online game live broadcast images will be able to occupy an advantage in the market competition.

As a new form of work, the live images of online games are not clearly defined in the current copyright legal system in China. This makes some legal problems arising from competing for the copyright of live video games fall into a dilemma when solving them. For example, broadcasting live online games of others without permission is a question of copyright infringement, fair use or unfair competition? If the legal problems in the live broadcast of online games are not solved promptly and reasonably, it will inevitably endanger the order of the live broadcast market and affect the healthy development of the live broadcast market. Therefore, it is of great significance to solve the legal problems in online game live broadcast to ensure the healthy development of the game live broadcast market. The key to solve the legal problems of online game live broadcast is to clarify the work attributes of online game live broadcast images, that is, whether online game live broadcast images constitute works and what kind of works they constitute. Only by solving the problem of the

work attributes of online game live broadcast images can we further solve the problem of the ownership of its rights and the application of law. This paper intends to discuss the work attributes of online game live broadcast images in order to help solve the copyright problem of online game live broadcast images.

To explore the work attributes of online game live broadcast images, the premise is to characterize online game images, because online game live broadcast images are the live broadcast of online game images, and online game images are the core and essence of online game live broadcast. Online game images are a kind of comprehensive product that integrates words, graphics, music and other elements. It is a "continuous dynamic images" [2] presented on the screen with the continuous operation of the player(s). There is also great controversy in academic and practical circles about the qualitative problem of works of online game images. At present, the mainstream view holds that online game images constitute film-like works [3],[4]. This paper also adopts this view when discussing the properties of online game live broadcast images, and holds that online game images constitute film-like works. However, because the main task of this paper is to solve the problem of the work attributes of the online game live broadcast images, and the length of the article is limited, so this issue is not discussed in detail, and only this point of view is taken as the logical starting point of this paper. On this basis, the relationship between the online game images and the online game live broadcast images is discussed, the specific situations whether the online game live broadcast images constitute works is analyzed, and it is classified reasonably, and finally the work attributes of the online game live broadcast images are clarified.

2. The Work Attributes of Online Game Live Broadcast Images are Disputed

The academic and practical circles mainly focus on two issues about the work attributes of online game live broadcast images: first, whether online game live broadcast images are works, and the views on this issue can be summarized into two

types: the theory of “not constituting works” and the theory of “constituting works”; The second is the question of what kind of works the online game live broadcast images constitute, and the answer to this question will determine which protection rules are applicable to the online game live broadcast images.

2.1 The Controversies of Works of Online Game Live Broadcast Images

2.1.1 They Doesn't Constitute Works

In the theoretical circle, some scholars believe that the live broadcast of online games is the live broadcast of online game images, so the content expressed by the live broadcast images and game images is the same, and the game images are naturally presented by the game players according to the rules and procedures set by the game designers. The naturally presented images are not original, lack originality and do not constitute works. Correspondingly, the live broadcast images of online games cannot constitute works. Some scholars believe that e-sports has been recognized as a sports event by the State Sports General Administration, and there is no difference between live broadcast of e-sports and live broadcast of other sports events. Therefore, live broadcast of online games does not constitute a work like live broadcast of other sports events [5]. In judicial practice, the court in Pudong New Area of Shanghai handled the first disputed case of live broadcast of online game events in China, “Shanghai YaoYu Company v. Guangzhou DouYu Company”. In its judgment, it held that the game images of online live broadcast are a series of dynamic pictures formed by both players through their own independent operations according to the rules of the game, which is an objective embodiment of the game situations, and the game process is random and unrepeatable, and the game result is uncertain. Therefore, the game images of online game live broadcast are not works stipulated by copyright law [6]. In another case, “Guangzhou Aipai Company v. Ku6.com Company's copyright infringement disputed case”, the court ruled that the live video of online games involved in the case is only a mechanical recording of online game images, even though the game process will reflect the thinking and skills of gamers, the recorded video is very simple in terms of pictures and dubbing, and the organization and arrangement of pictures and dubbing do not require original intellectual activities. Therefore, it is difficult to identify the video involved as a work in the sense of copyright law [7].

2.1.2 The Theories of Constituting Works

Scholars who affirm the work properties of online game live broadcast images believe that online game live broadcast images have the requirements of works stipulated in China's Regulations on the Implementation of Copyright Law, that is, online game live broadcast images are original and reproducible, which is the result of intellectual creation and can become works in the sense of copyright law. Among them, according to the provisions and spirit of the Copyright Law on the protection of original works, some scholars argue that the live images of online games should constitute the works stipulated in the Copyright Law and become the objects protected by copyright, and the relevant rights subjects need

to judge according to the specific types of online games. Some scholars believe that the live online video of online games is a work stipulated by the copyright law, and the live game market is the expected market of the owners of online game images. Whether the live broadcast of game images constitute a reasonable use should be subject to the provisions of the current legislation in China [8]. Some scholars also believe that whether the live images of online games constitute works cannot be generalized. If the live broadcast of drama game images has strong story, plot and coherence, the live broadcast game images can constitute a work. On the contrary, the live video of the game is monotonous and lacks the story, so it can't constitute a work, only a video product [9]. In addition, some scholars have affirmed the works of online game live broadcast images from the side through the analysis of copyright issues related to online game live broadcast. Such as some scholars believe that when the online game images are broadcast live, the music works and film and television works in the game are spread to the public, and the behavior of live video games establishes the transformational use of the game images, which is a reasonable use [10]. “Transformational use” often occurs when new works comment on the original works. In fact, the scholar's point of view is put forward on the premise that the live images of online games are works. Similarly, some people directly discuss the copyright ownership of online game live broadcast images, which is also carried out on the premise of affirming the works of online game live broadcast images [11].

2.2 The Controversies of Work Types of Online Game Live Broadcast Images

The disputes over the work types to which online game live broadcast images belong is based on the fact that online game live broadcast images constitute works, and only after online game live broadcast images constitute works will there be further problems about what work types they constitute. Although scholars who hold the theory of “composing works” all believe that online game live broadcast images are works in copyright law, there is a debate on what kind of works they belong to. At present, there are four representative views on the work types of online game live broadcast images: “film-like works”, “compilation works”, “dramatic works” and “independent works”.

According to the theory of film-like works [12], the live broadcast of online games is a continuous dynamic video composed of countless game elements. Like online games themselves, it is an aggregate of game sounds and images, consisting of a series of pictures with or without sound. These characteristics conform to the essential attributes and legal provisions of film-like works. In judicial practice, there is also a precedent that the court applies the protection rules of film-like works to protect the live images of online games [13]. The theory of compilation works holds that the live images of online games are a collection of elements [14], including text, music, pictures and animations, which are the selection and compilation of various elements and can be protected as compilation works. According to the theory of dramatic works [15], the process of presenting the game images to the audience by online game live broadcast is just like performing a drama performance. The drama performer(s) performs according to the script, and the dynamic images of online

games are also presented according to the “script” (the program and rules of the game) set by the game developers in advance, so the online game live broadcast images can be classified as a dramatic work. The theory of independent works holds that [16], as a new form of work, the online game live broadcast images are the inevitable result of the influence of the development of network information technology on the field of traditional works and represents the development trend of future works. Therefore, the law should actively respond to this new trend and protect the online game live broadcast screen as a new independent work type, such as “multimedia works” or “electronic game works”. In addition to the above four main viewpoints [17], there are some viewpoints that live online games are expressed in rich images and colors, which form a three-dimensional or plane picture with high aesthetic significance, so the live online games can be protected as “art works”.

3. Comments on the Controversy of Work Attributes of Online Game Live Broadcast Images

By sorting out the current disputes about the work attributes of online game live broadcast images, this paper finds that when dealing with the issues of the works and work types of online game live broadcast images, the current academic and practical circles mostly directly determine whether online game live broadcast images constitute or not constitute works, and after affirming their works, they all directly attribute them to a certain type of work. Although these practices are simple, they seem to solve the problems well. However, this paper believes that, these methods of identifying the works and work types of online game live broadcast images are one-sided, and they all only analyze a certain problem or one aspect of the problem, but do not give a complete and comprehensive answer to the problems of the works and work types of online game live broadcast images.

First of all, when discussing the works of online game live broadcast images, it is simply considered that whether online game live broadcast images constitute or not constitute works is one-sided, because some types of online game live broadcast images can constitute works, while other types of online game live broadcast images cannot become works. On the one hand, with originality and reproducibility, online game live broadcast images can really constitute works. For example, the live broadcast of the 2019 League of Legends Global Finals has attracted the attention of hundreds of millions of game lovers around the world. Event organizers and live broadcast platforms will naturally not miss such a huge user flow. They carefully organize the live broadcast of game events, which is manifested in hiring professional anchors to explain the process of game events, and inserting subtitles and background music in the live broadcast images to enhance the picture effect. For some particularly wonderful moments, there will be repeated replays in slow motion. After these treatments, the original live broadcast images are quite different from the original game event images, and they have the originality required by the copyright law (at least with the minimum originality). At the same time, under the existing technical conditions, it is completely possible to fix the dynamic images of the game events by live broadcast, form the video of the game events, and make unlimited copies on

this basis, so the live images of the online games have reproducibility and fixity. However, when the live images of game events are original and reproducible, they can certainly become works stipulated by the copyright law. On the other hand, the live broadcast of online games also does not constitute a work in some cases, the most typical of which is “LuoBo”. “LuoBo” refers to the live broadcast of the online game images to the audience without any changes. The live broadcast images are no different from the original game images [18]. For example, the live broadcast of the League of Legends finals does not include anchor commentaries, subtitles and music, which constitutes “LuoBo”. Because “LuoBo” has not changed the original game images, it is not original and cannot constitute a work in copyright law. To sum up, the online game live broadcast images may or may not constitute a work, so it is very one-sided to consider whether it constitutes or does not constitute a work without considering the specific situations of the online game live broadcast.

Secondly, it is one-sided to simply classify the live images of online games as a certain type of work. When judging the work types of online game live broadcast images, the premise is to make clear the problem of its works, because works come first, and then there will be the work types. When solving the problem of the works of online game live broadcast images, concrete analysis is needed, so it is naturally impossible to have only one answer to the questions discussed on this basis, that is, it is one-sided to simply identify online game live broadcast images as “compilation works”, “film-like works” or some other works. There are some works in online game live broadcast images, and there is no problem to classify them as a certain kind of work in such cases. However, in the cases that online game live broadcast images can only constitute video products or even the video products are not available, there is no possible to discuss their work types, because without works, there is no work types. To sum up, it is necessary to identify the work types of online game live broadcast images in combination with the specific situations of its works, and it is extremely one-sided to abandon the objective situations of online game live broadcast and identify it as a certain work type.

Since there is a certain degree of one-sidedness in the current practice of directly determining whether online game live broadcast images constitute works and what kind of works they constitute, what is the correct way to judge the works and work types of online game live broadcast images? This paper holds that the correct way is to determine whether the online game live broadcast images [19] constitute a work and what kind of work it constitute according to the relationship between the online game live broadcast images and the online game images [20], that is, to find out the relationship between the online game live broadcast images and the online game images first, and then analyze the works of the online game live broadcast images based on this relationship, and summarize the situations that the online game live broadcast images constitute a work and do not constitute a work. Then discuss what kind of works are composed by combining these situations. As Judge Zhu Jianjun said, when discussing the copyright issues related to online games, we should combine the specific conditions of online games and apply the innate knowledge of games to all kinds of games indiscriminately,

which is very easy to draw wrong conclusions [21].

4. Exploring the Work Attributes of Online Game Live Broadcast Images

In this paper, the author thinks that to discuss the work attributes of online game live broadcast images, it is necessary to clarify the relationship between online game images and online game live broadcast images, and then analyze the work attributes of online game live broadcast images in detail, so as to determine the work types to which online game live broadcast images belong, and finally achieve the purpose of clarifying the work attributes of online game live broadcast images.

4.1 The Relationships Between Online Game Images and Online Game Live Broadcast Images

The live broadcast of online games is the live broadcast of online games images, which is the core and essence of the live broadcast. Therefore, the basis and premise of exploring the properties of online games live broadcast images is to clarify the relationship between online game images and online game live broadcast images. In the previous article, the author has defined the online game images. The online game live broadcast images refer to the images formed by the real-time live broadcast of the game players' operation of the online games to the audience through some media, such as the online live broadcast platforms. When the audience watches the live broadcast, they can know the real-time contents such as the game progress and the players' game operation strategies. Based on the objective situations of online game live broadcast, the author summarizes the relationship between online game images and online game live broadcast images into three main types.

The first type is that the organizers of e-sports games or online game developers, as live sponsors, use a special live broadcast platform to broadcast the real-time situations of online game images. The most representative case of this kind of live broadcast is "Shanghai YaoYu Company v. Guangzhou DouYu Company for infringing the copyright of online games live broadcast (hereinafter referred to as "DouYu Case")". In the "DouYu", Shanghai YaoYu Company, as the organizer of the game events, won the right to organize the events and exclusive video broadcast of the game DOTA2 in Chinese mainland. YaoYu Company has a special online game live broadcast platform "Fire Cat TV", through which the live broadcast of the game events can be broadcast to the audience. In order to make it easier for the audience to understand and master the live broadcast of the game events, In the live broadcast, YaoYu Company specially hired a professional game anchor to explain the game, and added elements such as subtitles, sound effects and lighting on the basis of the original game images. In the live broadcast, there are also scenes of the games, the live broadcast rooms and anchor pictures, the back-and-forth switching between the players of both sides and the scenes of the audience, and for some wonderful moments, there are repeated replays in slow motion. In this type of live broadcast, the live broadcast party of online games has invested a lot of manpower and financial resources, and added many new elements to the original game images, which greatly enriched the content of the original game

images.

The second type is that an online game live broadcast platform captures the live broadcast images of online games on other platforms by technical means, and after obtaining the live broadcast images of other platforms, on the basis of these images, it inserts image colors, audio subtitles, background music, anchors' commentaries, audiences' comments and other elements for processing, and finally forms live images of the game. This type of live broadcast often constitutes infringement without the permission of the relevant rights holders of the original live broadcast platform, which is why it is more necessary to discuss this kind of live broadcast of games. It is quite representative that the defendant Guangzhou DouYu Company intercepted the live video of YaoYu Company's game in the above-mentioned "DouYu Case". Without the consent of YaoYu Company, DouYu Company adopted technical means to intercept the "DOTA2" game images broadcast live on its website, and hired an anchor to explain on this basis. At the same time, it inserted subtitles, barrages, sound effects, live room pictures and other contents, and broadcast it live to users on its own live broadcast platform. At this time, DouYu Company had also added something new to the game images broadcast by YaoYu Company. Although the input of manpower and material resources and the wonderful degree of the live game images may not be as good as that of YaoYu Company, it is still much richer in content than the original game images.

The third type is to only add the live broadcast of simple elements to the original game images, or directly broadcast the game image as it is without any modification. The live broadcast of online games that live the game image as it is the "LuoBo" mentioned above. "LuoBo" is the intact live broadcast of the game images. At this time, the live broadcast of the online game images is just the game images. There is no difference in content between the two, and they are completely consistent. For example, a gamer downloads a live broadcast software by himself, and broadcasts the game's operating skills, game progress and other live events to the audience through the live broadcast software (if a certain online game has a live broadcast function, the gamer can directly broadcast the game playing process to the audience by using the live broadcast function of the game itself without downloading the live broadcast software); Another example is that when an audience watches an e-sports game competition, he uses his mobile phone or camera equipment to broadcast the events to others in real time. Only live broadcast of simple elements is added on the basis of the original game images. For example, when a gamer plays a live game synchronously, in order to show his pictures, he opens a video window on the live interface to make his pictures into the mirror, so as to facilitate interaction with the audience. This interaction includes the gamer explaining his game playing process to the audience and communicating some simple or unrelated topics with the audience. For example, gamers objectively explain to the audience how far the game is going or describe their feelings of playing the game, and remind the audience to pay attention to themselves or reward themselves from time to time. Some players will also sell some goods to the audience through live broadcast; The response of the audience in the interaction is also relatively simple, and the content of the response is nothing more than the evaluation of the players'

operation level, interpretation level and personal pictures. In addition to the original game screen, the online game live broadcast images with simple elements are also inserted with personal images of players, explanations of players, barrage of audience comments, etc. Because of the additional contents, the live broadcast game images at this time is no longer the same as the original game images in contents.

4.2 The Works of Online Game Live Broadcast Images

In the above article, the author clearly defines the relationship between online game images and online game live broadcast images, and it is necessary to combine the relationship between them when analyzing the works of online game live broadcast images. When analyzing the works of online game live broadcast images, it is necessary to strictly follow the elements of works stipulated in the copyright law, that is, the works should be original and reproducible, and at the same time, the investment (people, money, things, etc.) of the live broadcasters should be considered.

In the first type of online game live broadcast, the organizers of e-sports games or online game developers, as the sponsors of online game live broadcast, invest a lot of manpower, material resources and financial resources in the live broadcast, and add many new elements on the basis of the original game event images. For example, in the above-mentioned "DouYu Case", YaoYu Company hired a professional game anchor to explain the game events when the game event image was broadcast live. At the same time, some elements such as subtitles, background music, lighting, live pictures of games, live rooms and anchors, live pictures of players against both sides, and live audience pictures were inserted, and some wonderful moments were repeatedly played back. The addition of these new elements greatly enriched the content of the original game images. The live broadcast conducted by the sponsors at this time gave the audience the same impression as the same variety show, which was original. Analysis of its originality can be summarized into two aspects: first, the live broadcast image is generated by selectively intercepting the original game image and then arranging it creatively according to the content of the anchor commentaries and the arrangement of the organizers' live interaction link, which is quite different from the original game image; Second, the new elements are carefully selected by the live broadcasters. The purpose of adding these elements is to enrich the contents of the live broadcast, so as to make the live game images more attractive and gain more audiences flow. After being inserted into the background music, carefully selected commentaries, subtitles and other elements by the live broadcasters, the live broadcast images generally have the original elements stipulated by the copyright law. At the same time, using the existing scientific and technological means, the online game live broadcast can be fixed and preserved intact, made into video and copied without restriction, and based on this, the online game live broadcast has the characteristics of fixability and reproducibility. With the three elements and characteristics of originality, fixability and reproducibility, this type of online game live broadcast images can be established as a work in the sense of copyright law.

The second type of online game live broadcast images, that is,

a live broadcast platform uses technical means to grab the game images of another live broadcast platform, and on this basis, it inserts other elements by itself, and finally forms the online game live broadcast images. This paper holds that this type of online game live broadcast images is a work in copyright law. The reason why this paper thinks so is that although this kind of live images are taken from others, the extractors themselves have also invested in the original game images, for example, they have invested heavily in hiring professional game anchors to explain the games, adding their own live room images, matching appropriate lighting and sound effects, increasing audience comments and audience interaction, etc. After a series of reprocessing, the extractors have formed new live images different from the original live images, and the new live images are already available on the whole. For example, in the above-mentioned "DouYu Case", DouYu Company used technical means to intercept the game images of DOTA2 broadcast live on YaoYu Company's website. On this basis, DouYu Company hired a game anchor to explain the game, inserted the images of its own live broadcast room into it, and added elements such as sound effects, subtitles and barrages to broadcast live to users on its own live broadcast platform. At this time, DouYu Company made great contributions to people and money on the basis of the original images. With the addition of new things that the original game images do not have, although the input of manpower and material resources and the wonderful degree of the live game images may not be as good as that of YaoYu Company, the number of viewers attracted in the same period far exceeds that of YaoYu Company. If the live game images formed by DouYu Company based on the intercepted game images are not original, I am afraid it will not attract such a huge audience flow. In addition, even if this type of live broadcast is not original and does not constitute a work, considering that the extractor has also made great investment in the live broadcast process, it can also be identified as a video product and protected by neighboring rights.

As far as the third type of online game live broadcast images is concerned, firstly, the live game formed by the live game images identically do not constitute a work, for two reasons: on the one hand, because this live broadcast is a complete copy of the game images, and no other contents are added except the original game images, the live broadcast online game image is actually an online game image, which is the same as the live TV screen with a mobile phone for others to watch at home. Because it does not add any valuable elements, it is impossible to be original. On the other hand, because this kind of live broadcast is not difficult, it doesn't need special investments of people, money, materials and technology, as long as there is a simple photographic tool (such as mobile phone), almost everyone can operate it, and this kind of live broadcast does not constitute a video product protected by neighboring rights, so it will not constitute a work in copyright law [22]. Secondly, based on the original game images, only the live broadcast of simple elements is added, which does not constitute a work. Take the process of live broadcast of players playing their own games as an example. In this type of live broadcast, gamers add some new things on the basis of the original game images, such as the personal pictures displayed by players through small windows on the game interface, the commentaries of players explaining the game, the personal feelings of players playing the game, the

barrages formed by audience comments, etc. However, these new things are often very simple and random, and do not reflect any choice and arrangement of the live broadcast, nor do they have any original things. However, the author believes that this type of live game has something new after all, the content of the live images is larger than that of the original game images, and the live broadcasters have also made some investments, so it can constitute a video product protected by neighboring rights.

4.3 The Work Types of Online Game Live Broadcast Images

This paper holds that the key to defining the work attributes of online game live broadcast images lie in solving two problems: the works and work types of online game live broadcast images. The problem of the works of the live images of online games has been solved, and the next step is to solve the problem of the work types of them. This paper holds that the live images of online games constitute works, which can be classified as derivative works or audio-visual works.

4.3.1 The Online Game Live Broadcast Images Constitute Deductive Works

Deductive works refer to the use of existing works [23], through annotation, collation, adaptation, translation and other means, to produce new works, which constitute the online game live broadcast images of deductive works, including the first and second types mentioned above. There are three reasons: first, there is deductive behavior. In the first type and the second type of online game live broadcast images, the online game live broadcast party adds valuable new elements to the original game images. This behavior of adding new elements to form the online game live broadcast images is deductive behavior, and this process is deductive process. Secondly, it has formed an original deductive achievement. In the first and second kinds of live game images above, the live broadcasters added a lot of new and valuable elements and invested more money, manpower, technology and equipment in the process of live games. As a result, a new and rich online game live broadcast images were formed, which possessed the requirements of originality and reproducibility stipulated by the copyright law, and a work protected by the copyright law was established, which is the deductive result created by deductive behavior. Finally, this paper has explained the relationship between online game live broadcast images and online game images. Online game live broadcast is a game image, which exists as the core and basic content of live broadcast. Moreover, on the issue of the work attributes of online game images, this paper clearly points out that it is a film-like work at the beginning. Online game image is a kind of film-like work protected by copyright law, and the first and second types of live games in the above article are generated on the basis of the original game images. In this case, these two types of live game images will naturally establish deductive works and be protected by the rules of copyright law of deductive works.

4.3.2 The Online Game Live Broadcast Images Constitute Audio-visual Works

Audio-visual works [24], such as TV series, movies and

works created by similar methods of making movies, are characterized by consisting of a series of continuous images with or without accompanying sound, and these works can be perceived by the audience with the help of technical equipment. In some other countries and regions in the world, the concept of “audio-visual works” has long been used in judicial practice to protect film works, film-like works and other similar works. In the Copyright Law of China (Revised Draft for Review) in June 2014 (the Copyright Law was revised in 2020), the concept of “audio-visual works” began to be formally used in China, and works in the current copyright law, such as film works, film-like works and other similar works, are all included in the category of audio-visual works, and the traditional expressions such as “shooting”, “screening” and “dissemination” are subsequently abolished. As long as the works can be perceived through the technical equipment, it can constitute the audio-visual works. Based on the provisions of the Copyright Law (2020) on audio-visual works, the author thinks that the first and second types of online game live broadcast works can also constitute audio-visual works. There are two reasons: first, the first and second types of online game live broadcast works meet the requirements of “consisting of a series of continuous images with or without sound”. In the first and second types of online game live broadcast, the broadcasters adds anchor commentaries, audience interactive barrages, commentary subtitles, background music, lighting effects, different scene pictures and other elements on the basis of the original game images, which together with the original game images constitute a higher level of original new game live broadcast works, and the effect of these game live broadcast works presented to the audience is a series of continuous dynamic images with or without sound. Secondly, online game live broadcast works “can be perceived with the help of technical equipment”. The live broadcast of online games can be perceived by the audience who enjoy the live broadcast of the games through the live broadcast websites or other live broadcast platforms, and the live broadcast can be made into a video and copied without restriction, so it can also be perceived by the people who watch the video. To sum up, the first and second types of online game live broadcast works also conform to the provisions of the Copyright Law (2020) on audio-visual works, which can constitute audio-visual works and be protected by the relevant rules of audio-visual works.

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- [23] See the First Paragraph of Article 16 of the Copyright Law of China (Revised Draft for Review).
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