

On the Trademark Infringement Liability of Network Broadcast Platform

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Abstract

As the media of live broadcasting, the network broadcast platform bears the corresponding legal responsibility for the illegal acts of trademark infringement. However, due to the particularity of its operation, there are problems with the scope of pre-infringement obligations and the assumption of post-infringement liabilities. The reasons can be seen as the particularity of the nature of the aid-type platform, the lack of any distinction between the platform's reasonable duty of care of the live broadcast mode compared with the traditional e-commerce platform, and the contradictions between the immediate occurrence of network broadcast and the lag of platform supervision, which jointly cause the current dilemma. In this regard, based on the theoretical and legal basis, the liability analysis and regulation of trademark infringement on live broadcasting platforms can be improved from three aspects: the responsibility of assisted live broadcasting platforms, the boundary of reasonable obligations of live broadcasting platforms, and the regulatory system.

Keywords: network broadcast platform, trademark infringement, platform liability

1. Introduction

With the development of the Internet, live delivery of goods has become a new form of sales. As a new form of Internet economy, there are huge differences and differences with the traditional shopping mode. This form is not only more vivid and intuitive but also more prominent in its interaction and immediacy with consumers. In addition, the anchor presents consumers with a sense of reality and trust as if they were in a physical store through visual and auditory hearing. Through online product introduction post-purchase evaluation and other ways, consumers can easily stay at home to buy their favorite preferential products, which greatly facilitates their daily lives. Live with the

goods is a Goods scripture, but good scripture can not be read crooked. At present, live streaming with goods is frequently overturned, of which trademark infringement is one of the serious crises. To absorb traffic and earn profits, the owner of the carrier often sells goods that violate the exclusive right to use the registered trademark and uses the accused infringing mark on the sales page, which causes serious harm to the trademark owner, consumers, and the business environment. In live streaming, a live streaming platform, as an important subject, can be said that without the existence of a live streaming platform, there would be no live streaming of goods. Live streaming platform is closest to the behavior of live streaming of goods,

and can best contact and control the occurrence of trademark rights infringement. Moreover, as an organization full of social responsibility, it should supervise and review the delivery of goods. If the result of trademark infringement is still caused in the end, we should also bear responsibility according to the degree of fault.

2. Practical Dilemma of Liability for Trademark Infringement of Network Broadcast Platforms

When livestream is more and more integrated into our lives, some livestream trademark infringement disputes are inevitable, and whether and how to bear the responsibility of the livestream platform has become one of the main problems in the judgment. By using “live platform” as the keyword in Wolters Kluwer first, a total of 9721 judgment documents were retrieved, including 530 documents of intellectual property infringement liability disputes; With the keyword “live streaming of goods”, a total of 2461 judgment documents were retrieved, of which 200 were intellectual property infringement liability disputes; A total of 220 judgment documents were retrieved, including 212 civil judgment documents. In this paper, repeated uploads, judgments that have not yet been formed and judgments that are not related to the subject of this paper are eliminated, and the basic situation of liability for trademark infringement of online live broadcasting platforms in judgments is sorted out. It is found that disputes over trademark infringement of online live broadcasting platforms have been on the rise in recent years. In addition, the disputes in many cases are focused on “the identification of platform status”, “the scope of platform responsibility” and “the standard of platform knowledge”. In the final judgment, many live streaming platforms as network service providers are judged to have fulfilled the corresponding obligations and do not bear responsibility.

2.1 Typical Cases

Given the main focus of disputes in judicial practice, this paper selects two typical cases to introduce and analyze the basic situation of cases, the focus of disputes and the result of judgment. The first case focuses on the qualitative of the live broadcasting platform. If we want to discuss the liability and obligation of the live broadcasting platform in the live broadcasting trademark infringement dispute,

we must determine its nature otherwise. There will be the risk of the legislative blank. Case 2 explores how the live streaming platform performs its obligations, assumes its responsibilities and whether it is detailed in the delivery of streamers. Some practical problems can also be reflected in the result of the judgment.

One is the Match dispute. Without obtaining trademark authorization, the arts and crafts company carried out livestream activities through its account on the Douyin Livestream platform and sold two handbags carrying the trademark logo involved. The trading company believes that the company’s behavior infringes its trademark right. According to the law, the technology company, as the operator of the Douyin platform, should fulfill its reasonable duty of care, but if it fails to perform its due duty, it should also bear its legal responsibility. Based on comprehensive consideration of factors such as the scope of activities that users of the platform involved in the case can engage in, the details of commodities displayed on the live broadcast interface and the operation process of purchasing commodities, the court determined that although the network platform is a network broadcast platform, the network broadcast marketing service provided by it is a form of e-commerce platform, providing transaction matching, information release and other functions in its service. For its users to carry out trading activities, in line with the definition of an e-commerce platform. Although the live streaming platform brings goods through anchors to demonstrate products and guide people to purchase, with the continuous change of online marketing methods, more and more platforms are integrating social networking, information release, commodity trading and other functions. As long as such services comply with the provisions of the E-commerce Law on e-commerce platform operators, specific situations can be regarded as e-commerce platforms. The other is the Shanghai Love Carry dispute, love carries company claims that the short video and live broadcast of the sale of Daphne women’s shoes opened by Shuanghaoda Shoes on the Kuaishou platform constitutes an infringement of the exclusive right to use registered trademarks. Request fast-hand platform and Shuanghaoda Shoes to jointly assume legal responsibility. Kuaishou platform argued that it only provides online

transaction services, is not a party to the actual transaction, and at the same time, the platform has fulfilled its obligations in fulfilling legal obligations such as security obligations, care obligations, qualification review obligations, and reasonable service termination obligations. In addition, the platform cannot fully audit the quality of goods sold on the platform. The court ruled that Kuaishou Platform has done its best to fulfill the duty of care stipulated in the Civil Code, so it should not bear legal responsibility for the infringement of the platform; Shuanghaoda Shoes shall bear legal responsibility for the infringement. In addition, the court held that the Kuaishou platform, as a network service provider, does not need to examine whether there is an act of fraudulent use of others' qualifications when performing the qualification audit obligation of the platform, but only needs to conduct a formal audit of the qualification of the subject. As for the infringement in the process of live delivery of goods, the Kuaishou platform, as a network service provider, only needs to bear the duty of care stipulated in the Civil Code, and shall not bear legal responsibility for such infringement after fulfilling the obligation.

2.2 Mapping Problems

It is worth noting that the role positioning of the network live delivery platform has a duality, which needs to be judged according to its specific business behavior. The trial result of the stuffing case provides important judicial guidance for the role positioning of the online live delivery platform: The online live delivery platform only publishes information on the platform, does not carry out orders and transactions, and belongs to the general network service providers; If you carry out direct sales on the platform, it can be regarded as an e-commerce platform. The appearance of this judgment is of great significance for the trial of similar cases and the standardized operation of the same type of Internet platform in the future. After clarifying the positioning of the live streaming platform, in the face of possible trademark infringement in live streaming, how the platform know the existence of infringement how to fulfill its obligations before the infringement occurs, and how to assume responsibility given the degree of fault after the infringement occurs, the different approaches in judicial practice are cause for reflection. When investigating liability issues, judicial organs

often focus on the correlation and presumptive relationship between the live-streaming platform and the infringing party, as well as the lack of audit obligations of the live-streaming platform and the company's operation and management system. Due to the individual nature of live broadcasting platforms and the diversity of platform models, there is no specific and perfect applicable scale and standard, which makes it difficult to grasp the identification of responsibility and sentencing choice in practice. Therefore, a more comprehensive and systematic standardized discussion and research on the review, management, system and other aspects of the live streaming platform is also carried out, so that it can better assume responsibility for the issue of trademark infringement, reduce the infringement to a minimum, and provide more secure and efficient services for the platform and users.

3. The Cause of the Problem of Trademark Infringement Liability of Network Broadcast Platform

The network broadcast platform itself has dual attributes. When there is an online transaction on its platform, or even when it is a party to the transaction, the responsibility of the platform cannot be compared with that of a simple general network service provider. In practice, the disputes about the liability of the platform in the event of trademark infringement are also caused by the particularity of the platform's nature, too narrow a view of the platform obligations and the characteristics of the platform.

3.1 Particularity of the Nature of the Auxiliary Platform

The different nature of the network platform of live broadcasting with goods affects the liability of trademark infringement. In the process of live broadcasting, the modes between the platform and the anchor mainly include the form of platform contract anchor and the form of platform service anchor. Under different modes, the responsibility of the live broadcasting platform is also different. If the difference is not made, the responsibility of the platform may be too heavy or too light. "Anchor signing mode" is relatively easy to identify liability, whether it is led by the live broadcast platform or the platform cooperates with the live broadcast platform, the live broadcast platform is involved, if there is any trademark infringement, the live

broadcast platform will bear direct infringement liability. The “platform service mode”, also known as the “assisting mode”, refers to the active application and registration of network users as platform anchors. As anchors, they have independent decision-making rights on live broadcast content, while the network live broadcast platform provides the role of media and does not directly control the live broadcast behavior of anchors. In this case, the network broadcast platform does not actively participate in the sales process of live broadcast products. If the network platform is required to bear infringement liability, it should be found to have “known” or “should have known” fault, that is, it clearly or should have clearly understood the infringement facts or acts involved. However, the determination of fault is difficult because of its subjectivity, especially in the process of proving what should have been known or known. At present, the law has made corresponding provisions on whether the platform should know or know, but considering that the environment of online transactions is changing with each passing day, it has been in a state of change, so the rules of knowing have been unable to adapt. The imperfection of the law also leads to the difficulty of operation in judicial practice, and even the subjective determination of the platform in the judgment is very vague. For example, in the case of Shachi Company and Webo Company, the court only stated that “there is no evidence to prove that Webo Company knew or should have known about the infringement of the network platform it provided before the lawsuit was filed”. How to determine the subjective consciousness of live streaming platforms and thus determine their responsibilities is already a difficult problem. Without a clear basis, it will be detrimental to the rights and interests of trademark owners, the survival of livestreaming anchors and the development of the entire livestreaming industry. In addition, if the platform’s self-operated business and the business of the operator within the platform are not identified and distinguished, it may also lead to negligence of the platform’s responsibility.

3.2 The Reasonable Obligations of the Platform in the Live Broadcast Mode Are Not Differentiated from Those of Traditional E-Commerce Platforms

It is the particularity of network broadcast platforms that their reasonable obligations should also be different from traditional

e-commerce platforms, which can reflect their differences. In the blocking case, the court comprehensively considered whether the platform operators have established a live streaming access mechanism, whether they have formulated and publicized live marketing management norms or platform conventions, whether they have performed an audit on the qualifications and commodities of the direct broadcast operators, whether they have formulated a negative list, whether they have established intellectual property protection rules, and whether they have established a necessary complaint and reporting mechanism. Whether it has taken timely and necessary handling measures, and whether it has actively assisted the right holders in safeguarding their rights and other key aspects, to judge whether the platform operators have fully fulfilled their obligations of reasonable care. In the existing rules, there is no obvious difference between the duty of reasonable care of the platform in the live broadcast mode and that of the traditional e-commerce platform. The court also believes that “platform e-commerce service has its particularity, and the platform should not be given too strict prior review obligation”. However, it is precisely because the live broadcast method is prompt, it is a form of real-time live broadcast, and the live content may be reviewed in advance, but in the process of live broadcast, the content of live broadcast may be reviewed in advance. Live broadcasting is likely to replace the actual trademark infringement goods with audited goods in a way that is stolen, which is more likely to cause infringement. Therefore, the prior audit obligation should be more strict. For live broadcasting marketing beyond the scope of prior reporting, regardless of whether it is infringing, the platform should have subsequent punishment measures to effectively prevent infringement. Rather than just applying the same applicable standards as normal e-commerce platforms. In the trademark infringement dispute between Shanghai Love Carry Information Technology Co., Ltd. and Shandong Legend Food Co., LTD., Love Carry company accused the use of the legendary company registered trademark as a qualified account, in short videos and live broadcast sales of Daphne women’s shoes, this behavior is suspected of violating the exclusive right to use registered trademarks. Therefore, the company

requires the fast-hand platform and Legendary Company to be responsible for the relevant infringement. However, the court held that the platform only undertook the responsibility of reviewing the qualifications of the entered subject, and did not review whether there was any fraudulent use; In addition, in the short video and live delivery of goods in the process of infringement, the platform only needs to perform the duty of care stipulated in the Civil Code, without the need to bear legal responsibility for this. This prior audit obligation should be more stringent, for live marketing beyond the scope of prior reporting, regardless of infringement, the platform should have post-punishment measures to effectively prevent the occurrence of infringement. Rather than just applying the same applicable standards as normal e-commerce platforms. The legal responsibility involved in the network platform is very complicated, which provides the platform operators with formal review and duty of care in the process of live delivery of goods cannot be used as an excuse not to bear legal responsibility. However, the huge profits of network platforms lead to their lax responsibilities, and platforms may not take the initiative to shoulder their social responsibilities.

3.3 The Contradiction Between the Immediacy of Network Broadcast and the Lag of Platform Supervision

Different from the traditional consumption experience, online live broadcasting has the characteristics of virtual instant delivery. In this mode, the transaction is fast and the store and owner of the delivery are not under the touch of the trademark owner, and the supervision of the platform sometimes cannot be carried out at the same time. In most cases, live streaming platforms only serve as network service providers, and the live streaming content is also subject to auxiliary review according to relevant provisions of the law. With the imminent occurrence of livestreaming, trademark infringement may occur when supervision is insufficient. On the one hand, the live streaming of goods is online, and the trademark owner cannot predict whether and when the infringement will occur. When the trademark infringement occurs and the trademark owner finds the infringement, the live streaming of goods is likely to have ended, and an infringement has been completed, and the trademark owner can only seek relief after the

event. On the other hand, even if the trademark owner can timely infringe upon the trademark, the process from the notice of the right holder to the notice of the platform or the necessary measures will inevitably go through a certain review, and the live streaming platform cannot identify the infringement of the goods carrier upon the notice of the right holder, nor can it directly suspend the live streaming upon the notice of the right holder, which will lead to the abuse of the trademark owner's rights. So there can only be an ongoing review. However, the examination in the case may lead to the actual completion of the infringement, and only the relief after the fact, which also makes the settlement of the matter more complicated. For example, in the dispute between Wang Linlin and Xu Zhiyi, due to the rapidity of the completion of live broadcasting transactions, the live broadcasting platform could not stop the occurrence of illegal acts in the process of transactions. This regulatory lag is also a major obstacle to live streaming platforms taking responsibility.

4. Theoretical Proof of Trademark Infringement Liability Borne by Network Broadcast Platforms

To prove the liability of trademark infringement, it is necessary to prove that it is legitimate and necessary at the theoretical level. The controversial basis of the live broadcast platform is demonstrated from the aspects of risk control ability, prevention of obvious infringement and social responsibility.

4.1 Risk Control Theory

The network broadcast platform has a certain control ability to protect the trademark rights and interests from infringement. Although the trademark owner and the consumer cannot predict and manipulate the infringement in the process of live streaming, the live streaming platform should fully understand the operation of the platform and actively take effective measures to avoid the emergence or expansion of dangers. The principle of risk control shows that the closer the actor is to the danger caused by the tort, the more important his responsibility to prevent the danger from occurring, and at the same time, the actor also has a greater advantage in preventing the expansion of the danger. Therefore, when livestream products are put on the platform, the platform should comprehensively identify the goods from the

level of various potential risks and risk factors to assess whether it involves infringement of the rights and interests of the trademark owner. When the live broadcast is opened and the goods are carried out, the platform needs to continuously monitor and evaluate various risk situations, timely detect and deal with potential risks, avoid the expansion and spread of risks, and protect the interests of trademark owners and consumers. When infringement unfortunately occurs, the platform needs to launch emergency plans and measures in time to minimize losses and restore normal order. Under the mode of the platform as the main body carrying goods and the mode of third-party service agency, the platform bears different degrees of responsibility for risk control. The platform as the main body of the cargo should fully control the risk, while the platform as a third-party service organization has the corresponding responsibility to control the risk. At this time, the obligor does not assume the responsibility for the damage results unconditionally but should consider its subjective fault. Through the principle of liability for fault, the freedom of behavior can be guaranteed. As long as the operator of the e-commerce platform pays the necessary attention to the operation of its network platform, there is no need to assume responsibility for the damage caused by all the dangerous factors. Based on the potential of risk control, the operator of an e-commerce platform only needs to assume the obligation to take into account the rights and interests of others within a reasonable range.

4.2 Red Flag Principle

The “red flag” principle can be regarded as a special case of the “safe haven” principle, and its application premise is that the network service provider does not have to carry out active infringement detection, but if the infringement situation is obvious, as obvious as the flying red flag, a “reasonable person” in the same situation can obviously detect its existence, just like a “flag bearer” waving a red flag warning. To tell you that a motor vehicle is coming towards you, you must not ignore it. Therefore, the network operator must not pass the buck, claiming ignorance or pretending not to find out. Under such circumstances, if the platform does not take any necessary measures, it is obviously problematic, and it is beyond reproach to hold it accountable. The core idea of the Red flag

principle is “See the red flag, seize the red flag”. Under the flood of live streaming, many post-live streaming platforms conduct formal reviews of the live content, and many supervision also rely on the notice of the trademark owner to transfer the notice or take necessary measures. However, if the live streaming platform meets obvious infringement in the pre-review or in-process supervision, the platform needs to take the initiative to take measures, which is the platform’s right and obligation.

4.3 Social Responsibility

The theory of social responsibility refers to the fact that the network broadcast platform, as a huge organization, needs to bear certain social responsibilities in addition to the benefits. Based on this responsibility, the corresponding duty of care should also be performed. The theory of social responsibility originates from the theory of the liberal press. However, it transcends the development of liberal thought and emphasizes the complementarity of freedom and responsibility. While media organizations have the right to freedom of speech, they should also assume the obligations and responsibilities of society and the public. The government should not only respect and guarantee individual freedom of expression, but also promote it based of a balance of interests. As an important online transaction channel, the authenticity and accuracy of network broadcast platform content also have an important impact on society. Online live broadcast platforms should pay attention to controlling the authenticity of live broadcast content, not publicize false information, and undertake the mission of expanding positive energy and promoting social development, to gain a wide welcome from the public. As an enterprise entity, the social image and public recognition of webcast platforms are directly related to the stable operation and development of enterprises. Achieve social responsibility, improve corporate social reputation and brand image, gain user trust and support, and promote corporate sustainable development.

5. Improvement of Trademark Infringement Liability System of Network Broadcast Platform

Given the problems existing in the liability for trademark infringement of online live broadcasting platforms, to further improve the liability system for trademark infringement of

online live broadcasting platforms, we can start from the following three aspects, based on the existing system, further clarify responsibilities and expand the scope of obligations, and then strengthen internal and external supervision, to achieve the effect of enabling live broadcasting platforms to better assume responsibility for trademark infringement.

5.1 The Legislation Clarifies the Responsibilities of Assisted Live-Streaming Platforms

On the one hand, for the responsibility of the camp live streaming platform, the first thing is to clarify the “should know and know” through legislation, to facilitate the identification of its subjective situation. The “should know and know” of the live broadcast platform, one case is the notice from the trademark right or the notice from the consumer or other third party; In the other case, the platform finds out after its audit. In the former case, after the notice of others, it should be known that it is clear that the trademark infringement notice sent by the trademark right holder to the platform, including the content of the notice, the time of the notice, the method of notification, etc., can prove whether the platform has received the infringement notice. However, it is difficult to objectively find evidence to prove that the platform should know after fulfilling the audit obligation because the platform should know after fulfilling the audit obligation has a certain platform subjectivity. Therefore, we can learn the targeted legislation of South Korea, clarify the “should know” standard of the live delivery platform through legislation, and clarify in the law that the subjective consciousness of the platform can be proved in an objective external way, especially the “should know” after fulfilling the audit obligation. The law also stipulates that different management can be adopted through different broadcast rooms, the suspicious broadcast rooms can be focused on supervision and special personnel are arranged to inspect and save the live content during the live broadcast. Therefore, after realizing the audit obligation, the live delivery platform needs to clarify its knowledge and responsibility, especially for key broadcast rooms, the platform needs to consider its objective criteria, such as transaction volume, attention and activity, so that its subjectivity can be regarded as objective. Legislation can also clarify that the platform can prove the behavior and attitude of the platform through historical

records and evidence preservation methods, including live content records, internal audit records, cooperation agreements and communication records, legal opinions and processing decisions records. In this way, the platform has developed a targeted “should know” standard, to control the potential risk within a small range.

On the other hand, for the responsibility of the camp-type live-streaming platform, legislation should be passed to increase the punitive responsibility after the event for punishment. Punitive liability can be divided into property punishment liability and personal punishment liability. As a special legal regulation tool to safeguard intellectual property rights, the punitive compensation system for intellectual property infringement aims to implement the strictest intellectual property protection policies and enhance the strategic layout of intellectual property rule of law construction. This system emphasizes the attention to the extent of the wrongdoer’s subjective fault and the seriousness of the behavior and supplements the function of compensatory compensation based on the civil legal system, which has the special attributes of deterring, preventing serious wrongful acts and maintaining the order of the intellectual property industry in public law. If the live broadcasting platform knows that the live broadcasting anchor will carry out trademark infringement through live broadcasting but does not take measures to stop it, it needs to bear some punitive responsibilities in addition to the corresponding infringement liability, because it shows that the platform is also intentional. For the live streaming platform, the payment of high compensation will put pressure on the operation, to effectively reduce the risk and frequency of violations, and urge the live streaming platform to regulate the operation behavior. For example, Korea has a strict punishment system in its laws. To deal with the problem of those live-streaming platforms and network anchors who seriously violate the law, the relevant departments have taken strict measures on regulatory measures, and platforms or anchors who seriously violate the law can face fines of up to 30 million won, and still have to bear other legal responsibilities. The Guidelines on the Application of Punitive Damages in Civil Cases of Infringement of Intellectual Property Rights issued by the Beijing Municipal High People’s Court also provide specific provisions on the substantive and

procedural issues involved in the application of punitive damages, such as the requirements and calculation methods. The “Trial Guide” also makes specific provisions on the application of punitive damages to Internet service providers. Zhang Xiaojin, president of the Third People’s Court of the Beijing High Court, stressed that if an Internet service provider instigated, supported or knew that an Internet user intentionally infringed the intellectual property rights of others by using Internet services, and the circumstances were serious, the right holder had the right to bring a lawsuit to the court and ask for punitive damages against the Internet service provider. It can even set the standard of punitive damages higher than the direct trademark infringer, which has achieved the effect of prevention and punishment. In the “Baidu”, “Xinhua Dictionary”, “Fila” and many other trademark infringement and unfair competition disputes have been applied to punitive damages, from a certain degree of increased responsibility can arouse the platform’s vigilance and attention. The personal punishment responsibility can start from the credibility of the main body. The Opinions on Further Regulating the Profit-Making Behaviors of Network Broadcast and Promoting the Healthy Development of the Industry emphasize the use of rewards and punishments. If the operators of network broadcast platforms are involved in illegal behaviors and have adverse effects on society, they may be included in the list of major untrustworthy targets by relevant departments according to laws and regulations. The addition of personal and property punishment in the legislation can at least urge law-abiding from the outside.

5.2 Expand the Scope of Reasonable Obligations of Live Streaming Platforms

Given the particularity of live broadcasting platforms, the qualification of anchors should be effectively reviewed and the live broadcasting content should be comprehensively reviewed. In judicial practice, considering that laws and regulations only clearly stipulate that the live delivery platform should bear the security obligations, the duty of care, the duty of qualification review, and the duty of reasonably discontinuing service, and do not stipulate that it should have the audit obligation of the live content and the quality of the goods, the judicial people often identify the live delivery platform for the recognition of a loose legal environment

and limited audit obligations. The broadcasting platform has only auxiliary auditing obligations for the live content and commodity quality. However, the content of a single online live broadcast is limited, and the types of goods traded in the live broadcast process are also limited, so the platform has the ability to review a single live broadcast. On the one hand, the qualification should be substantially reviewed to prevent the fraudulent use of others’ legitimate qualifications and ensure that the anchors entering the platform are not only qualified but also have legal qualifications. The current practice is to conduct a written review of the application of anchors, and in the future, a registered trademark input system can be established and updated in real-time, so that the live broadcast platform can check to check whether the applicant’s qualification is legitimate. Shenyang Market Supervision Administration on the issuance of the “Network live marketing activities standardized operation Guide List” notice indicates that the platform should ensure information publicity, and identity verification, should require the main body to provide real, legal and effective trademark registration certificate, brand franchise certificate, brand sales authorization certificate and other documents. On the other hand, auxiliary form review of live content has become one of the main obligations. The live streaming platform needs to review the live content broadcast by the cargo host. When the live streaming platform reviews the live content broadcast by the cargo host, it can ensure the authenticity and accuracy of the commodity information, maintain the reputation of the merchants, reduce the legal risks of the platform and improve the viewing experience of users. And comply with relevant laws regulations and platform policies to promote the healthy development of the industry. In addition, do not put a content review in the process and after the event, it needs to be mentioned in advance, that is, before the live broadcast officially starts, you can review the live content in writing, and inform the anchor in advance of the legal consequences of fraud. This can effectively improve the legal awareness of direct broadcast operators, live broadcast camp anchors, and live broadcast platforms, and to a certain extent, it can also avoid infringements that may occur in the process of live delivery.

5.3 Improve the Supervision System

On the one hand, the establishment of self-regulatory organizations is an effective way to strengthen the supervision of the livestreaming industry. The United Kingdom has a precedent of management based on industry self-discipline and supplemented by government regulation. The British government generally does not take direct measures to regulate various network behaviors but mainly relies on the self-discipline of network service providers and network users to regulate network behaviors. Led by the British government, the network industry and industry organizations jointly launched the “R3 Secure Network Protocol” as a network specification, mainly by network operators and network users to jointly establish an independent organization to deal with routine problems in the network. The reply of Zhengzhou Culture, Radio, Film and Tourism Bureau on Strengthening the supervision proposal of the network broadcast Platform points out that law enforcement personnel should subcontract inspection and special supervision to achieve normal supervision. Therefore, the self-regulatory organization can be composed of live streaming platforms, judicial administrative departments, consumers, etc., to formulate norms and standards for live streaming and supervise all parties in live streaming to abide by the rules. The live streaming platform supervises the behavior of live streamers, while the official organ supervises the behavior of live streaming platforms, forming a methodical supervision method. From the perspective of live carriers, self-regulatory organizations can organize live training, exchange activities, and law popularization projects to enhance the professional level and legal awareness of carriers in a relatively easy way and promote the healthy development of the industry. From the perspective of consumers, self-regulatory organizations can carry out user education activities, improve users’ ability to identify false information and fake goods and enhance their awareness of self-protection. Through the establishment of self-regulatory organizations, we can strengthen the self-regulatory management of live broadcasting platforms and enhance the regulatory effect.

On the other hand, it is far from enough to rely only on after-the-fact relief for trademark infringement incidents in live broadcasting, and real-time manual combination technology and

outside personnel supervision should be carried out in the process of live broadcasting. Live streaming platforms can monitor and screen live content in real-time with the help of advanced technologies such as big data analysis and artificial intelligence. By entering registered trademarks into the system and updating the system in real-time, while establishing an intelligent monitoring system, the platform can automatically identify keywords, pictures, videos and other content to quickly discover trademark infringements. In addition, technical supervision can also conduct comprehensive statistics and analysis of live broadcast data to detect anomalies promptly. Rather than relying solely on artificial forces, strengthening technical supervision helps to improve regulatory efficiency, reduce human loopholes, protect consumer rights and interests, and maintain the order of live streaming platforms. The organic combination of technical supervision and manual audit can form an effective regulatory network and strongly support the healthy development of the live broadcast industry. At the same time, real-time supervision also covers the complaints and reporting supervision of consumers and other groups, which helps to make up for the shortcomings of the platform’s untimely discovery. To this end, the live broadcast platform should set up a special complaint reporting channel, trademark owners and consumers can make complaints through online forms, customer service calls and other ways. The platform shall set up a special complaint handling team to accept complaint information promptly and conduct investigation and verification. In response to complaints and reports, the platform shall take appropriate measures to deal with them, including warning, punishment, removal, etc., to ensure that the infringement is corrected promptly. Live broadcasting platforms should establish a sound user feedback mechanism and respond to user complaints promptly to improve user satisfaction. At the same time, the establishment of a complaint and reporting mechanism can also effectively supervise live broadcast content, improve the transparency of the live broadcast industry, protect the rights and interests of consumers, and provide strong support for the supervision of live broadcast platforms.

6. Conclusion

The network is not a place outside the law, and it is also necessary to pay attention to the

protection of trademark rights while live streaming with goods. As an intermediary of live broadcasting with goods, the online live broadcasting platform should bear the responsibility of strict control, and prevent the occurrence of trademark infringement and the expansion of consequences in the three aspects before, during and after, so as to provide consumers with high-quality goods and services is the value of the live broadcasting platform. Although there are abundant legal documents available for platforms to provide a legal basis for how to bear liability in trademark infringement, there are some matters in which the law is not perfect and there is no clear law to follow, resulting in an endless number of trademark infringement cases on various platforms in judicial practice, and the platform's liability judgment is also different, which requires more clarification and elaboration of the platform's obligations and responsibilities. Supervision should also be enhanced to clarify how the platform performs its obligations in daily life and whether and how to assume responsibility when disputes occur.

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