



On the Specific Personality Right Attribute of Sound

Yifei Fan

Shenyang University of Technology, Shenyang, China

Yifei.fan01@hotmail.com

Abstract. With the development of practice, the issue of identifying the legal attributes of sound and the possibility of constructing the "right to sound" has once again attracted the attention of society and scholars. To clarify the specific position of sound in the protection of civil law is a necessary way to improve the system of personality rights in the Civil Code and to comprehensively protect the personality rights. Therefore, this article will be from the perspective of specific personality right constitutive elements of dialectical thinking to give the sound specific personality right legal attributes of the basis, in order to solve the "sound right" theory and practice needs.

Keywords: voice, "right to sound", specific personality rights.

1 Introduction

From "voice" explosion to AI sound infringement cases, the economic attributes of sound are highlighted with digital economy growth. Big data, AI, and other technologies facilitate infringers' actions. The practical demand for voice rights protection is increasing, drawing scholars and public attention. The discussion on voice's legal attributes will affect Civil Code provisions on protecting natural persons' voice rights. Therefore, there's considerable exploration space for sound's legal attributes.

Response to the problem, there are two views on sound's legal attributes: specific personality right and personality interest. China's Civil Code adopted the "personality interest" theory. However, with tech development and emergence of sound rights issues, this theory no longer meets society's needs. The author agrees with the "specific personality rights" theory.

The specific personality right attribute of the voice can be viewed from two perspectives. From a micro point of view, the recognition of specific personality rights should be judged from three criteria: whether it has a clear object, whether the content of the right is clear, and whether it cannot be covered by other personality rights. From a macro point of view, the confirmation of specific personality rights also need to consider the dynamic factors of the composition of the right. And the dynamic factors mainly include social development, scientific and technological progress. [1], Therefore, the theoretical sources of the attributes of the specific personality right of sound should be argued from the perspectives of static and dynamic factors respectively.

2 Static Factors

2.1 The "Right to Sound" has a Definite Object

The object is the constituent element of a private right, the carrier of a private right, [2]the object on which the right depends, and the basic premise for distinguishing between different personality rights. In order to be a right, it must have an object. Therefore, to prove the specific personality right attributes of the "right to sound", it is necessary to prove that it has a clear object.

Academics on the object of personality rights have three views: "personality elements" "ethical value" "personality interests". The ethical value theory views the object of personality right as the externalization of personal ethical value. In contrast, the personality interest theory sees it as the inherent interest in the natural and social elements of personality. The theory maintains that the object of personality right should not be confused with other subjects like the right to health. The personality element theory solely protects the elements of personality without emphasizing the interests derived from them, resulting in a split of the personality right. The ethical value theory's definition of the object of personality right is unclear and variable, affecting legal protection's stability. The personality interest theory emphasizes protecting the legitimate interests derived from the natural person. The civil subject enjoys civil rights to satisfy their interests, which is the starting point and ultimate purpose of the law. Therefore, the author believes that "personality interests" is more comprehensive and objective.

To establish the clarity of the "right to sound", it must be proven that natural persons have a distinct interest in sound. Firstly, it has a moral interest rooted in the spiritual aspect, emphasizing personal freedom, behavior, and spiritual level. Sound is used as a medium for communication and expression, fulfilling people's spiritual needs. Secondly, individuals also possess a property interest in their voice, seeking economic benefits with technological advancements. In conclusion, natural persons enjoy moral and economic interests in sound, establishing its clarity as the object of the "right to sound".

2.2 Clarity of Rights and Obligations of the "Right to Sound"

The aim of rights construction is to clarify the scope of what civil subjects can and cannot do, and define boundaries with other individuals. This allows for prediction and constraint of behavior, leading to a predictable social order and comprehensive rights protection. To determine if the "right to voice" qualifies as a specific personality right, it's crucial to establish clear rights and obligations boundaries.

The right to sound comprises four aspects: recording, usage, licensing, and claiming. Recording sound involves fixing sound signals on a material carrier for externalization and storage. This is a natural person's exclusive right to decide on their sound, including whether to record, who can record, and related matters. Usage rights allow the holder to freely use or not use their own voice or others' with permission. Licensing allows the holder to grant free voice usage to any person or organization for any purpose, regardless of usage method, time, or place. Claiming rights cover personality and infringement claims, allowing natural persons to seek remedies for sound rights infringements.

Remedies for personality right infringements include stopping the infringement, removing nuisances, eliminating danger and influence, restoring reputation, and apologizing for damage. Claims for infringement are based on causing damage and include restitution and pecuniary compensation claims.

In terms of obligations, according to Article 1023 of the " Civil Code, " in addition to the obligation of the voice right holder, the voice right holder should also be subject to certain restrictions and obligations when exercising the voice right, that is, unauthorized use of the voice of others in a specific field does not violate the " voice right. " In addition, the use and permission of sound shall not threaten national security and violate public order and good customs. In addition, the use and license of sound shall not threaten national security or violate public order and morals.

2.3 The "Right to Voice" is not Covered by other Personality Rights

The core criterion for whether an interest can be treated as a specific personality right lies in determining whether the protected personality interest is independent and delimited from other interests, with clear connotations and boundaries, with the focus on determining whether it can be encompassed by other interests. [3]

"Right of Voice" Cannot be Covered by General Personality Rights.

From the point of view of legal interpretation, China's general personality rights is defined in the basic value of personal freedom and human dignity under the limit, can protect the newborn "other personality interests" of a personality rights collection, general terms. [4]Generally in general form of other personality rights for unified protection, the protection of personality interests have a certain degree of convergence, lack of distinctive features and independence. But the voice interest has exclusive, dual attributes, and the civil code explicitly stipulates that its protection with reference to the application of the protection of the right to portrait, which implies that the voice interest has a certain degree of independence, can not be more generalized protection. Therefore, the "right to voice" cannot be covered by general personality rights.

The "Right to Sound" cannot be Covered by the Right to a Portrait.

Article 1023 of the Civil Code explicitly states that the protection of the voice of natural persons is "by reference to the provisions relating to the right to a portrait", and as far as the reference is concerned, the legal facts regulated by this norm are only analogous to those regulated by the norm being applied. [5-6]This means that the "right to voice" and the right to portrait differ despite their similarities. Key distinctions lie in two aspects:

Firstly, the objects of protection vary significantly. The right to portrait focuses on safeguarding the visual effect of a person's face, figure, and appearance. In contrast, the "right to voice" emphasizes protecting the natural person's entitlement to their vocal cords' sound waves and vocal characteristics. Secondly, infringement modes differ. The right to portrait requires material carriers for recording and presentation, while the

"right to voice" does not. Infringement of the latter is mainly unauthorized use or imitation of voices, excluding defilement or destruction. Additionally, the "right to voice" can be infringed through special methods like editing to create AI-based sounds, but the right to portrait can not. In summary, neither the right to sound itself nor its infringing components can be covered by portraits.

With regard to other personality rights, an analysis from the perspective of the object shows that the "right to voice" cannot necessarily be covered by personality rights such as the right to body, the right to health, the right to name, the right to honour and the right to life. It will not be repeated here.

3 Dynamic Factors

In essence, the dynamic factor of the construction of specific personality rights means that the elements of personality are constantly developing, and the developing elements will put forward different requirements for the protection of rights. SO, the essence is whether there is a demand for the protection of the "right to sound" in the context of social, scientific, economic and cultural development.

3.1 Strengthening of the Economic Attributes of Sound

Judging from the speed of development in the new era, the necessity of legal protection of voice rights and interests will become increasingly necessary, and its separation from portrait rights and thus becoming an independent type of personality rights will become more and more obvious. [7-10] Firstly, the personality marking nature of sound is becoming more evident, leading to increasing economic value. Scientific and technological advancements enhance voice distinguishability, driving the growth of its economic significance for individuals. For celebrities, their identifiable voices and unique characteristics contribute to their fame-based earnings. For instance, in October 2023, the Chengdu Internet Court ruled on the nation's first "sound right" dispute in film and TV drama lines. The plaintiff accused two game companies of unlawfully using his voice clips in their games, infringing on his voice and personality rights. The Court found the defendants guilty of using the plaintiff's voice without consent or permission, violating his rights. The defendant was ordered to apologize and compensate the plaintiff for 30,000 yuan. This case highlights the personality identification and economic aspects of sound infringement, where the defendant profited from using the plaintiff's film and television sound as a game gimmick.

3.2 Increased Risk of Abuse

Since the 21st century, global science and technology's development has diversified communication channels and information obtaining means, featuring diversity, universality, efficiency. Technologies like voice simulation, synthesis, copying, and beautification have improved, reducing voice infringement costs. AI's voice recognition ability has exceeded stenographers' levels, enabling quick and high-quality sound recording

and analysis. When abused, this technology could become a tool for infringing the "right to sound". For instance, the Beijing Internet Court heard the country's first "AI sound infringement case" in December 2023. In this case, the defendant company sold the plaintiff's voice-over audio in its name after AI-processing it without authorization. The plaintiff sued the five defendants. While the case is pending, it highlights AI's potential for efficient and low-cost voice imitation for profit. Given the increasing sound economy and decreasing infringement costs, the urgency of improving sound rights protection and public demand for it is rising. However, the recognition of the legal status of the "right to voice" means that the obliges can take the initiative to defend their voice rights and interests when the rights and interests have a high probability of being harmed or when the result has not yet occurred or has been harmed. That is to say, when it is recognized that the legal nature of the "personality interests", the "reference application" at this time is due to the fact that the voice rights and interests do not meet the legal requirements of the specific personality rights.

In the context of increasing demand for sound protection, relying solely on "personality interests" to explain the "sound" is insufficient for practical needs and may hinder the protection of rights holders. Therefore, clarifying the specific legal attributes of the personality right of "sound" is more practical than classifying it as personality interests.

4 Conclusion

With the development of science and technology, only with reference to the application of the relevant provisions of the protection of portrait rights can not meet the demand for sound protection, the construction of the "right to sound" has a considerable necessity. Clearly sound specific legal attributes is the "sound right" legalization of the road that must be taken. The analysis of this paper shows that the voice has a clear object, clear rights and obligations, which cannot be covered by other personality rights, and the demand for the protection of voice rights and interests is increasing, so it is necessary to affirm that the specific property of personality right of the voice has social ethics, and it should be recognized that the specific property of personality right of the voice is a legal attribute.

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