

# Identification of Copyright Infringement of "Script Killing" Works

Ling Liu

*School of Law, China Jiliang University, Hangzhou, Zhejiang, China*

**Abstract:** With the continuous improvement of people's demand for recreational activities, the "script killing" industry has entered the fast track of development, which brings huge economic and cultural benefits, but also brings a series of legal problems. The frequent occurrence of various infringement cases urge the identification of the types of works protected by "script killing" in the Copyright Law, and explore the analysis of the main infringement acts, in order to achieve the purpose of safeguarding the legitimate rights and interests of non-traditional works such as "script killing".

**Keywords:** Script Killing; Copyright Law; Infringement Identification

## 1. Introduction

As a role-playing game, some people believe that "script killing" originated from foreign "live action role-playing game", LARP, and others believe that "script killing" originated from the western "murder mystery", also known as "Script Homicide".[1] In the past two years, with the popularity of a variety show called "Star Detective" in China, the script killing has gradually presented those features that there are more and more types of script killing, and the form has changed from a single offline to a combination of online and offline. According to relevant industry data, the market size of China's script killing industry will reach 24 billion yuan in 2022, and the market size of China's script killing industry will increase to 44.8 billion yuan in 2025.[2] However, the lack of relevant legal regulations in the script killing industry, and some developers and operators ignore the legitimate rights and interests of others in the process of pursuing interests, resulting in the "popularity" of pirated scripts and the serious infringement of the interests of the original

authors.

As an emerging industry, "script killing" has little research in Chinese academic circles. Most of the existing research focuses on the types of works and copyright ownership, but not detailed classification [3], and rarely makes research on the infringing nature of the use of pirated scripts. Therefore, this paper first affirms that the script killing should be protected by the copyright law and demonstrates that it may become dramatic works and cannot be regarded as audiovisual works. Finally, the paper analyzes the infringing nature of several uses of pirated script killing, and makes efforts to protect the legitimate rights and interests of non-traditional works while filling the gap of existing research.

## 2. Identification of the Work Type of the script killing

### 2.1 The Copyright Law basis of the Attributes of the Script Killing Works

The work is the object protected by the Copyright Law, and it is the basis for the author to enjoy the rights. In the third revision of the Copyright Law in 2020, China made three important modifications to the definition and types of works, which resolved the practical disputes: first, clarified the definition of the works, namely "original intellectual achievements in literature, art and science,"; second, changed "film works and works similar to film making" to "audiovisual works"; third, openly stipulated "other works". Shi Hong, deputy director of the Civil Law Office of the Commission for Legislative Affairs of the Standing Committee of the National People's Congress, made a special explanation that the work must meet four requirements: originality; must belong to the field of literature, art and science; can be expressed in a certain form; intellectual achievements. After the above full discussion and legislation

confirmation, the works protected by the Copyright Law of China adopt the mode of open work types. In other words, in the field of literature, art and science with originality and can in tangible form of intellectual achievements can become the copyright law protection works, the type of works mainly in the copyright law in the eight categories (specific 13) works. But in special circumstances, there may also be other works conform to the characteristics of the works, and also should be protected by the copyright law.

From the script to kill the main two types of analysis,” Pure Text “script play, needs less. It's just a lot of people around a table, according to the plot of the specific role or dialogue, extract clues, reasoning. Text is the main form of script content, so the script text creation completely accord with the requirements of Copyright Law for originality and the others. Therefore, the “Pure Text “script killing can obviously become a work protected by the Copyright Law. “Real “script killing is more complex than” Pure Text”. It is composed of multiple parts, including not only the written scripts, but also many additional elements, such as music background, video playback, costumes, props, graphics display and non-player character(NPC) interaction, giving the player an immersive experience. Therefore, some scholars have further proposed that script killing can be judged as a whole, or it can be judged separately according to its constituent elements.

## **2.2 The Work Attributes of the Script Killing**

There are many elements of the script killing of the real-life immersive type, and the whole is mainly combined through the following elements. First, the script. It is the key element of script killing, in which the progress of the plot flow, the content of the script killing story, and the plot are all described through words. Second, map. As one of the props of the script killing, players can obtain the layout map of the whole script killing scene through completing the task, and complete the game according to the guidance of the map. Most of these graphic works are directly transformed into real objects according to the content of the script and the author's own imagination, which are highly targeted. Third, the NPC

performance. A small number of NPC performances are adapted or improvised, but most NPC performances do not have free play or improvisation. They just strictly enforce certain expressions, movements, and voices according to the arrangements in the script in order to move the plot forward more smoothly. Fourth, the rules of the game. The script killing rule is to divide the complete storyline into small text fragments and distribute them to gamers. Script kill players to reason through the content and clues of the script in their own hands, and interact with other players, integrate the entire story, and restore the story. The rules of the game are an essential element of the progress of the script. Fifth, put the objects and props in the scene, the photoelectric effect and the organ design. Most of the general organs and items are purchased externally, and then combined to present the plot. Only a small number of the developers design the props themselves, and then combine the story and scene to create an atmosphere. Sixth, audio, sound effects and video. The audio in the background is usually recorded by the voice actors according to the recorded and written script, under the employment or hiring of the script kill shop. The background sound and video are downloaded from the Internet. Script killing, as a whole, is reproducible. Script killing, as a whole, is reproducible and can be expressed in a certain form. Script killings is an intellectual work formed through the unique imagination and design of the author. In addition, the whole contains a lot of originality. For example, the display of multimedia effects, the display of items, and the setting of the scene environment belong to ingenious intellectual achievements in the fields of literature, art and science that can be presented in a certain form. They give people spiritual and cultural enjoyment. Through multiple angles and dimensions, the script killing player can have a three-dimensional immersive experience in the script killing scene. Therefore, the composition of its overall expression falls into the scope of protection by the copyright law, which can be regarded as a whole work.

Most of the above elements have obvious originality. Therefore, their elements can be identified as works as long as they conform to the four requirements of the copyright law. What is worth noting is that whether the rules

of the game should be classified as the work is controversial. The rules of the game itself is a general standard in the game, which logically belongs to the category of thought. According to the dichotomy of American thought and expression, it is easy to be judged as not a work. However, the rules of the game are not the same. Almost every script kill game has a specific scene, script and the corresponding, match the rules of the game and the script kill content, let the player through the script to kill specific rules of the game to look for clues, reduction plot, put together the truth, is according to the specific circumstances of each script kill modify, adjust, makes the rules of the game have other uniqueness. And is different from the general ideological rules of the game, so it should be identified as a work.

To sum up, whether from the whole or in part, the script killing is in line with the requirements of the works in the Copyright Law, so script killing should be protected by the Copyright Law.

### **2.3 Identification of the Type of Script Killing Works**

#### **2.3.1 Identification of the overall type of script-killing works**

As a work, the "script killing" can be protected by the Copyright Law, which has been widely recognized by the academic circle, but there are still different voices on which work should be classified as the specific work.

The recognition of the dramatic works. The supporters and the opponents are mainly because they have different definitions of dramatic works. According to the relevant provisions of the current regulations on the implementation of the Copyright Law, dramatic works refer to opera, drama, local opera and other works provided for stage performance. The supporters regard the dramatic works in the Copyright Law as a complex and multi-level art, including the combination of time and space. Organic music, literature, dance, architecture, lighting various means of artistic expression combined. [4] Opponents argue that dramatic works refer only to screenplays. The script is composed of various elements, such as music, lyrics, dialogue, narration, dance and other elements, rather than the visual effects presented on the stage. [5] Researchers in London have based on the drama "Sleepless Night". A list of five

aspects of immersive drama is summarized. 1. The play has a story line, and all the participants of the play follow the story line to complete the play. 2. Its design is realistic, so that the ordinary audience has a selfless self, so as to experience the plot and life of the drama, and the audience has their own special feeling. 3. These theatrical performances include both props based on specific scenes and other elements such as various artistic backgrounds. 4. There is usually a large number of people in the play, and the characters in the play can communicate and interact with each other to discuss the plot, or complete the corresponding tasks to promote the development of the plot. 5. Immersive drama is not just about visual and auditory stimuli. It extends to at least five senses. Such as touch, taste, hearing, vision, the senses. [6]

This paper believes that with the development of The Times immersive play completely accord with the five elements, combined with people's demand for entertainment, immersive experience is more and more in line with the needs of the way. Therefore, using the concept of the first dramatic works will immersive play into the category of dramatic works both in accordance with the current law can better play to the legal prospective. Therefore, the definition of dramatic works not only includes the traditional dramatic works, but also includes other new and similar dramatic works that may appear in the development of The Times. This method of interpretation does provide the possibility for the script killing to be protected in the category of dramatic works. However, not all scripts are "Real script killing" scenes, more is "Pure Text" script mentioned above, if this is also included in the scope of dramatic works, it is suspected to expand the scope of interpretation. But if according to the interpretation of London scholars immersive drama works is the most obvious feature of the barriers between the audience and actors, the audience has become a ring, both "Pure Text" script or action is fixed by the NPC and "audience" is the player to complete the plot, can be included in the category of drama works. Therefore, this paper holds that Script killing is possible to include dramatic works, but it still needs to be further demonstrated.

The identification of audiovisual works. The first review draft of the Copyright Law

changed "film works and works created in a similar way to film production" to "audiovisual works". The second review draft divides "audiovisual works" into "film works, TV series works and other audiovisual works". Although the expression of the two drafts changed, they still took "film works and works created in a similar way to film production" as the fundamental standard to judge whether a work is an audiovisual work. On the whole, the script is an immersive entertainment mode between players. The player does not have the idea of "shooting" at the beginning of the game, and the player does not completely follow the script. The players' actions come entirely from their own ideas, and the direction and result of the story are unknown. In most cases, there is no other person other than the player to film and save it. In order to enable the player to integrate into the game story faster, most of the developers of the script will choose a relatively dim environment to enhance the atmosphere, in which case the shooting condition is also very difficult. Therefore, the script on the whole does not conform to the definition of audiovisual works in the Copyright Law, and should not be identified as audiovisual works.

In conclusion, we can judge whether the script killing can protect as the dramatic work according to the specific case situation. If it cannot be included, other types of works that can be included in the guarantee clause can be considered.

### 2.3.2 Identification of the types of works that constitute the elements of script killing

Among the above-mentioned constituent elements, "script" is a written expression that guides the entire script killing process, and is the core part of ensuring the integrity of the overall work of script killing, and most opinions support its recognition as a written work. However, there are also some objections that script killing is not like ordinary written works recorded in a smooth and complete form, but fragments scattered on different cards, and each player cannot fully access the part of the script that is not their own character until the end of the game, in which case the "script" cannot be recognized as a written work in the true sense. In this regard, the author believes that the dispersion of the script does not affect the nature of its works. Because the script killing works when the author is

complete, the developers, the host of the scene and other NPC can see the script "picture", and here is not objective not, the game players cannot contact overall script time only for the game, the game after the players can review and read through the NPC play to understand the script play the plot and its setting. Therefore, it is more appropriate to use the script as a written work. Also, maps may be recognized as graphic works; clothing and music may be recognized as fine art and music. Other props, such as keys, famous brands, customs clearance secrets, etc., are directly designed and manufactured by the developer according to the setting of the script, reflecting personal originality and can be considered as other works. The rules of the game should be classified as deductive works, or from the form of expression can also be identified as oral works or written works.

### 3. Determination of the Main Infringement of Script Killing

From the perspective of the industrial chain, the script killing from the creation, to the exhibition, finally to the store purchase, player use involves a number of links. Therefore, there are many types of infringement involved, and it is more complex. The most common is pirated script killing, for example, the first pirated "script killing" copyright infringement case in Shanghai, bought a large number of hardcover boxed scripts, scanned, photocopied and sold. [7] In addition to the creation process, more infringement exists in the use process, such as merchants who buy pirated scripts and merchants who organize players to use pirated scripts. For example, in a typical case released by the Kaifu District People's Court in Changsha City, Hunan Province, it ruled that the consequences of the defendants' unauthorized use of pirated scripts for business operations disturbed the order of market competition, caused damage to the welfare of other operators and consumers, violated the principle of good faith and business ethics, and constituted unfair competition. This case as the first case of infringement judgment of great significance. It can be seen that both in academic theory and in judicial practice, it is urgent to respond to the relevant infringement of "script killing" in the copyright field.

#### 3.1 Production of pirated scripts and Killing

## Scripts

"script" as a written work, the basic rights of the author are the right of reproduction, the right of distribution, the right of authorship, the right of publication. If the online script is used, it will also involve the "communication" rights such as information network transmission rights. The act of infringing the right to copy works is "plagiarism", which is divided into two types: changing the signature and not changing the signature infringement. Change the infringement of the signature to be "plagiarism" behavior. Some infringers will extensively copy the content of another script when creating their own script, including but not limited to the plot of the script, language description, tasks and other key elements. After the completion of the work, it is signed as itself and issued to the public, which not only infringes the copy right of the original obligee, but also infringes the right of authorship and distribution. In addition, if the infringer steals the name of the unpublished works and "makes it public", it also infringes the publication right of the original right holder. The infringement that does not change the signature is "piracy". This kind of behavior often appears in the online mode. Many online players completely capture the development company's script killing content through screen recording and screenshots during the game, and then sell it to other players intact. This process not only infringes the copyright of the script killing the author, but also infringes the property rights of the development company. Or players after the end of the offline game, by recording the content of the script for the second creation imposter of the original author to sell. Online communication spreads pirated scripts on the Internet, which not only infringes on the author's right to copy, but also infringes on its "communication" rights, such as the right of broadcasting, exhibition, and information network communication.

### **3.2 The behavior of stores providing pirated scripts**

The store owner provides the pirated scripts mainly by buying the electronic version after printing and directly buying the pirated finished products. In this paper, we expand and analyze them separately.

#### 3.2.1 Printing it by oneself after purchasing an

electronic version infringes the right of reproduction

In this way, the store mainly buys the electronic version of the pirated script online, and then download and print it. There is no question that such conduct constitutes a replication action. The act of downloading and printing by oneself produces a new copy on the material carrier, and there is no exemption, that is, personal appreciation, research and learning. Therefore, there is no doubt that the script killing of the shopkeeper infringes the copyright owner's right to copy, and it should bear the corresponding tort liability and give compensation. Even if the store does not print the electronic pirated script, but just stores the electronic pirated script in the electronic carrier and directly provides it to the player, the download behavior in this case is still a copying behavior. Because new copies of the work were created in the electronic media, the right of reproduction was still infringed.

#### 3.2.2 Direct purchase of pirated finished products does not infringe on the distribution or lease rights

In this way, stores buy pirated products directly and then provide players for entertainment. In this case, whether the script killing of the shopkeeper infringes the copyright? In view of this, it is still necessary to analyze the behavior of the store. Some people think that the store of the relevant works for the "use". However, the meaning of the use of everyday language is not consistent with that of the use stipulated in the Copyright Law. The use of Copyright Law refers to some certain behaviors, such as performance, reproduction, information network dissemination, etc., which are regulated by the Copyright Law. At this time, it is necessary to analyze the behavior of the merchant in detail.

Different from the previous way of obtaining, the store owner gets the pirated finished product, and the copying behavior is carried out by the pirated producer, rather than the merchant, so the store owner does not constitute the infringement of the reproduction right of the copyright owner. As the owner of the pirated product, the store owner provides the pirated script to the players for the process of entertainment. Some people think that it is easy to infringe on the right of issue and lease. However, according to the definition of the issuing behavior in the Copyright Law, only



the sale, gift and other behaviors can constitute the infringement of the right of issue. The store did not sell or give away the finished script to players, so the store did not infringe the distribution rights of the corresponding work. Compared with the publishing behavior, the behavior of providing pirated scripts to players is indeed a kind of rental behavior, but not necessarily violating the rental right. After the revision of the Copyright Law in 2001, the lease right was separated from the distribution right and became an independent exclusive right, but the object of the lease right could only be computer software and film and television works. Of course, script-killing scripts do not belong to the object of the rental right, but some scripts have supporting video and audio, and whether the supporting video and audio can be regarded as film and television works and become the object of the rental right needs to be further analyzed. This paper believes that although most of the supporting video and audio use the shooting technique of film and television works, they can not be used separately from the script but an inevitable part to restore the plot, so it is not appropriate to define the pirated script provided by the store as a violation of the rental right.

### **3.3 Store Owners Host the Players' immersive Experience of Pirated Scripts**

The act of the store hosting the player's immersive experience of the pirated script involves multiple subjects, the store, the NPC, and the player. This paper analyzes the behavior of each subject.

#### **3.3.1 The player's use of the script process does not violate the performance right**

There are a wide variety of script killing in the market. The script does not prompt the player's lines, requiring the player to speak, act and complete the reasoning task according to the character; while the script requires the player to read the lines according to the script. However, no matter what type of script, no matter how many lines the script directly sets for the character, the "script killing" game requires the player to replace the character and restore the script through their own performance. In other words, the process of the game is the process of performing the script.

According to Article 10 of the Copyright Law,

the right to perform refers to "the right to perform works publicly and to perform works publicly by various means". In other words, "public performance" means that the performance is performed to an unspecified majority, and the performance that violates the right to perform must be a public performance where the performer has provided the work to the public. Although the script to kill the player is performing the script of this work, but does not meet the public performance of this condition. Because in the game of "script kill", although the place provided by the operator is public and belongs to the public place, the number of players participating in the game is fixed, and the game place is in a closed state, except for the game players and staff, other personnel cannot enter. Since the whole performance was carried out in an closed environment to specific objects (often relatives, friends and classmates), the players who performed pirated scripts did not violate the performance rights of the work owner.

#### **3.3.2 NPC performance of pirated scripts may infringe on performance rights**

NPC is different from players. NPC hosts and guides players in the "script killing" to unlock the story, and promote the development of the game. It can be said that a NPC directly affects the experience of the game. As the variety of scripts becomes more and more rich, some of the scripts are performed by NPC and players, and some by NPC according to the script itself. When playing with the player, although the script will give the specific lines of the player and the NPC, the player often needs to join their own understanding, while the NPC needs to respond to the player's performance in time. Therefore, in this case, it is not so much the NPC and the player, but the NPC is still exercising the function of hosting and guiding, and promoting the development of the story and the game through the way of performance, which should not be considered a violation of performance rights. [8]

But now many scripts of the market are performed by NPC alone. In this case, NPC needs to wear specific clothes, say the lines as required by the script, and match the specified music, etc. Obviously, these can be called performance behavior. Moreover, the biggest difference between NPC and players is that most players are made up of relatives or friends and only play each script once, so there

is no possibility of unspecified public performance. However, NPC needs to play the same script at many times, and each time is not a specific person, so it meets the possibility of "public performance" violates the right to perform. [9]

### 3.3.3 Store owners host the players' immersive experience of pirated scripts

The behavior nature of the pirated script is mainly influenced by the behavior nature of the players and the NPC. If the player's behavior infringes the right to perform, and the "script killing" operator provides the pirated script copy to the player to perform, it is actually licensing the player to infringe the use, then this authorization behavior itself is also infringing the right to perform. From the provisions of the International Copyright Convention, the property rights enjoyed by the copyright owners are actually the exclusive right to authorize others to use their works, including the exclusive right to authorize others to perform their works publicly. In this sense, the authorizer who authorizes others to commit infringement can constitute "direct infringement", which should not only stop infringement (stop authorization), but also compensate for the loss.

Similarly, the behavior nature of NPC also directly determines whether the store infringes the performance right, especially the labor relationship between NPC and the store. However, usually, the player does not violate the right to perform publicly, so the operator does not violate the right to perform publicly by providing a script for him to perform. Therefore, the behavior nature of the pirated script is mainly determined by the behavior nature of the NPC, so it can be seen that the store owner also has the possibility of infringing the right to perform. [10]

## 4. Conclusion

In recent years, there has been a boom in script killing, and behind the huge scale of the industry, there will also be some copyright infringements, especially when using script killing works, there will be some infringement

risks. After buying electronic print infringement replication, directly buy pirated products not infringement distribution and lease, but easy infringement replication; the player use the script process behavior not infringement performance; NPC pirated script behavior may infringe performance; store owners host players immersive experience the nature of pirated script is mainly affected by the players and NPC behavior; In addition to civil infringement, the production of pirated scripts is subject to criminal liability.

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