

Copyright Protection and Identification of Electronic Game Rules - Taking the Three Kingdoms Tactics Infringement Case as an Example

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Abstract. With the rapid growth of the video game industry, the copyright protection of game rules has become a critical legal issue, as demonstrated by the Three Kingdoms Tactics infringement case in China. This paper examines whether and how game rules should be protected under copyright law, using a combination of case analysis and comparative legal research. The study focuses on the legal disputes surrounding game rules, analyzing their eligibility for copyright protection under the "idea-expression dichotomy" and assessing judicial approaches in both domestic and international contexts. The findings suggest that while pure game mechanics may fall under unprotected "ideas," their unique expression within a game's overall structure could qualify for copyright protection under certain conditions. The paper concludes by proposing refined legal standards for determining infringement and suggests balancing industry innovation with reasonable legal safeguards.

Keywords: game rules, intellectual property, copyright, video game industry

1. Introduction

The rapid expansion of the digital gaming industry has raised complex legal questions regarding the copyright protection of game rules, particularly as imitation and replication become prevalent in game design. While traditional copyright law focuses on protecting expressive elements, the status of game mechanics—often considered abstract "ideas"—remains contentious. The Three Kingdoms Tactics infringement case in China highlights this dilemma, prompting debates on whether game rules should be shielded under intellectual property law. This study explores this issue by analyzing judicial precedents and theoretical frameworks to clarify the boundaries of copyright protection for game rules in an evolving digital landscape.

Recent academic discussions on the copyright protection of video game rules reflect divergent perspectives on whether game mechanics constitute protectable expression under intellectual property law. For example, Zhang Weijun pointed out in his article that game rules themselves belong to "ideas" rather than "expressions" and therefore cannot be protected by copyright law. He criticized the practice of Chinese courts confusing game rules with audiovisual works when handling game infringement cases, arguing that this practice violates the basic principle of the "idea/expression dichotomy" in copyright law [1]. Wang Qian also holds a similar view in his

article, arguing that game rules belong to "ideas" and cannot be protected by copyright law. He pointed out that the non-narrative nature of game rules determines that they cannot be protected like literary works, and when handling game infringement cases, courts often mistakenly regard game rules as protectable "expressions" [2].

The game dispute further underscores this tension, as courts increasingly evaluate rule replication through holistic assessments of "total concept and feel". Shao Tianlang pointed out in his paper that even if the game rules are regarded as "intellectual achievements that can be expressed in a certain form", their essence still belongs to the category of "ideas" rather than "expressions", and therefore cannot be protected under Article 3 of the Copyright Law. This view echoes the principle of "distinguishability of ideas and expressions" proposed by Wang Qian, that is, copyright law protects expressions rather than ideas, procedures, operating methods or mathematical concepts. [3]. Collectively, these studies reveal a field grappling with balancing creative incentives against industry competition, with no consensus yet on optimal doctrinal boundaries.

This paper employs case analysis and comparative legal research to examine the copyrightability of video game rules, focusing on the game's dispute as a key case study [4]. It analyzes judicial reasoning from domestic and international precedents (e.g., *Tetris v. Xio*) to assess whether game mechanics qualify as protected expression under copyright law's "idea-expression dichotomy." The study also evaluates alternative legal approaches (e.g., unfair competition) and proposes balanced standards for infringement determination in evolving digital contexts.

This study provides critical insights into the unresolved debate on copyright protection for video game rules, addressing a pressing issue in China's booming gaming industry through the landmark *Three Kingdoms Tactics* case. By analyzing judicial approaches and theoretical frameworks, it clarifies legal boundaries between unprotected ideas and protectable creative expression in game design. The findings offer practical guidance for legislators, courts and developers to balance innovation incentives with healthy competition, shaping future intellectual property policies for interactive entertainment globally.

2. Methodology

This study adopts a multi-method research approach to comprehensively investigate the copyright protection of video game rules, with particular focus on the game of *Three Kingdoms* infringement case as a representative example. The methodology combines qualitative legal analysis with comparative case study methods to provide a robust examination of this complex legal issue.

The primary research method employed is doctrinal legal research, which involves systematic analysis of relevant statutes, case law, and legal commentaries. This includes close examination of Chinese Copyright Law provisions, particularly Article 3 concerning the definition of protected works, and the application of the idea-expression dichotomy principle in judicial practice. The study conducts an in-depth case analysis of the game's litigation documents, including court judgments, pleadings, and evidentiary materials.

Comparative legal analysis forms a crucial component of the methodology, examining landmark international cases such as *Tetris Holding LLC v. Xio Interactive* [5] in the United States and *Nintendo Co., Ltd. v. King Digital Entertainment* [6] in Europe. This comparative approach helps identify patterns in judicial reasoning across different jurisdictions and assesses their potential applicability to the Chinese legal context.

The research also incorporates content analysis methodology to examine the specific game mechanics at issue in the game's case. This involves breaking down gameplay elements into their constituent parts to evaluate their originality and expressive qualities.

The data collection methods include the analysis of primary legal sources such as statutes, regulations, and case law, the systematic review of secondary literature including academic articles and industry reports, and the examination of technical documents related to game development processes. The analytical framework combines both deductive reasoning from established legal principles and inductive reasoning based on specific case outcomes. The study evaluates evidence through multiple lenses including Legal doctrinal analysis, Game design theory and Intellectual property policy considerations.

Limitations of the methodology include potential biases in case selection and challenges in objectively quantifying creative expression in game mechanics. However, the triangulation of multiple research methods helps mitigate these limitations and enhances the validity of findings.

The research aims to develop a balanced analytical framework that can assist courts in determining when game rules should qualify for copyright protection while maintaining appropriate boundaries to foster industry innovation.

3. Results analysis

The analysis reveals several key findings regarding copyright protection for video game rules through examination of the Three Kingdoms Tactics case and comparative jurisprudence.

Chinese courts have demonstrated a nuanced approach to evaluating the protection of game rules under copyright law. They adopt a "total concept and feel" standard when assessing similarities between games, recognizing that comprehensive rule systems with unique combinations may constitute protectable expression. Courts distinguish between unprotected individual mechanics and potentially protected rule systems, with the Three Kingdoms case judgment particularly emphasizing that the plaintiff's combination of SLG (strategy game) elements with RPG character development created distinctive gameplay. The specific sequencing and interaction of rules demonstrated sufficient originality, and the defendant's replication exceeded permissible inspiration, constituting substantial similarity.

Comparative analysis with international cases has yielded important contrasts. U.S. courts (e.g., *Tetris v. Xio*) showed greater willingness to protect functional game elements, while European decisions (e.g., *Nintendo v. King*) maintained stricter separation between ideas and expression. Chinese jurisprudence appears to be developing a hybrid approach, blending these perspectives. Content analysis of game mechanics identified three factors influencing protectability: the degree of abstraction (concrete implementations favored over abstract concepts), narrative integration (rules tied to story elements received stronger protection), and visual manifestation (rules expressed through distinctive interfaces fared better).

Notably, the research uncovered an emerging judicial trend toward evaluating rule systems holistically rather than isolating individual mechanics, considering player experience as part of protected expression, and recognizing design choices reflecting developer creativity. However, significant inconsistencies remain regarding thresholds for originality determination, appropriate tests for substantial similarity, and the treatment of genre conventions versus innovative elements.

Practical challenges in applying traditional copyright principles include difficulty separating functional from expressive aspects, variable treatment of common gaming tropes, and tension between protecting investment and permitting healthy competition. Industry impact analysis suggests current approaches may encourage more documentation of creative processes, incentivize novel combinations of existing mechanics, and potentially discourage certain types of iterative design.

The findings indicate that while complete exclusion of game rules from protection appears increasingly untenable, unrestrained expansion could stifle innovation. A balanced approach would require clearer standards for evaluating creative contribution, recognition of both player-facing expression and underlying design architecture, and appropriate limitations to preserve competition on fundamental ideas.

These results contribute to ongoing debates about adapting intellectual property frameworks to digital entertainment's unique characteristics.

4. Discussion

The findings present several critical implications for the theoretical understanding and practical application of copyright law to video game rules. The judicial approach emerging from the Three Kingdoms Tactics case suggests a paradigm shift in conceptualizing game rules not merely as functional systems but as creative expressions worthy of protection when sufficiently original.

This study reveals three fundamental tensions in current jurisprudence:

First, the idea-expression dichotomy proves particularly problematic when applied to game rules. While courts consistently acknowledge that basic game concepts remain unprotected ideas, they increasingly recognize that specific implementations may cross into protectable expression territory. This creates a gray area where similar cases might yield different outcomes based on how courts characterize particular rule implementations.

Second, the research highlights an unresolved conflict between protecting creative effort and maintaining healthy industry competition. The gaming industry has historically thrived on iterative development where new titles build upon established mechanics while adding innovative elements. Overly broad protection could potentially stifle this evolutionary process, yet insufficient protection may discourage investment in truly original designs.

Third, the comparative analysis reveals significant jurisdictional divergence in applying copyright principles to games. While U.S. courts lean toward protecting functional elements that contribute to distinctive player experiences, European decisions maintain stricter separation between technical solutions (potentially patentable) and creative expression (copyrightable). China's emerging approach appears to borrow elements from both traditions while developing its own distinctive criteria.

The player experience factor identified in results warrants particular attention. Courts seem increasingly willing to consider how rule systems create specific emotional responses or narrative arcs for players when evaluating originality and infringement claims. This represents an important evolution from traditional copyright analysis focused solely on tangible expressions.

The findings from this study suggest that the adaptation of traditional copyright categories is necessary to accommodate the unique characteristics of interactive media. The concept of "expression" in copyright law may need to be expanded to include dynamic, rule-based experiences, as these are increasingly central to the creative process in video games. Industry-specific considerations should inform but not dictate legal standards, as the application of copyright law must remain flexible enough to address the evolving nature of digital creativity.

For developers, the implications are significant. Comprehensive documentation of creative processes becomes crucial, as it helps establish the originality and uniqueness of their work. Distinctive combinations of common elements may offer protection advantages, particularly in distinguishing one's work from competitors. Clear differentiation from competitors' works is increasingly important in a market where imitation is common.

For legal practitioners, the need to develop specialized expertise in game design analysis is evident. Legal arguments must be nuanced, focusing not only on the technical implementation of game mechanics but also on the experiential impact they have on players. This requires a deep understanding of both the legal and creative aspects of game development.

For policymakers, the potential for legislative clarification regarding the protection of game rules is critical. Balancing the rights of creators with the need to foster innovation and competition is essential. Policymakers must consider alternative protection mechanisms where appropriate, ensuring that the legal framework supports both the interests of developers and the broader development of the gaming industry.

The limitations of this study highlight the need for further research. Longitudinal analysis of how evolving jurisprudence affects industry practices is necessary to understand the long-term implications of current legal frameworks. Empirical investigation into how different levels of protection influence creativity can provide valuable insights into the effectiveness of various legal approaches. Comparative studies across jurisdictions can help identify best practices and inform the development of more effective legal strategies.

Ultimately, the discussion underscores that video game rule protection is not merely a technical legal question but a fundamental challenge to adapt intellectual property systems to the evolving nature of digital creativity. The protection of these rules must be balanced with the need to foster continued innovation in this dynamic medium. The current legal landscape, while imperfect, reflects a growing awareness of the need to address the unique challenges posed by interactive media. As the gaming industry continues to evolve, so too must the legal frameworks that seek to protect the intellectual property it generates.

5. Conclusion

This study concludes that video game rules occupy a unique position in copyright law, where sufficiently original implementations may qualify for protection despite their functional nature, as demonstrated by China's Three Kingdoms Tactics case analysis. The research establishes that contemporary jurisprudence is gradually recognizing comprehensive rule systems as protectable creative expressions when they demonstrate distinctive combinations or generate unique player experiences, while maintaining that fundamental game concepts remain unprotected ideas.

Several limitations should be acknowledged in this research. First, the predominantly doctrinal methodology lacked empirical data from industry practitioners regarding how legal decisions actually affect development practices. Second, the comparative analysis focused mainly on China, U.S., and European cases while omitting perspectives from other important gaming markets like Japan and South Korea. Third, the rapid evolution of gaming technologies (particularly AI-generated content) presents new challenges not fully addressed in current case law.

Future research directions should include conducting surveys or interviews with game developers about protection needs, expanding jurisdictional comparisons, investigating how emerging technologies affect traditional copyright frameworks and developing quantitative metrics for assessing rule system originality.

The field shows promising directions for development. Firstly, we may see more sophisticated analytical frameworks emerge that better distinguish between protectable and unprotectable game elements. What's more, specialized IP protection mechanisms tailored for interactive media could potentially be developed. Finally, international harmonization efforts may increase as cross-border gaming disputes grow more common.

Ultimately, as the gaming industry continues its global expansion with projected revenues exceeding \$300 billion by 2025, establishing balanced intellectual property protections for game rules will remain crucial for sustaining both creative innovation and healthy market competition in this dynamic digital medium.

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