

An Analysis of the Copyright Issues of Fan Works

Bingqian Shao

Anhui University of Finance and Economics, Bengbu, Anhui, 233000, China

Abstract: With the widespread use of the rapid development of the network and a variety of software platforms, increasing the number of Fan works, Fan works commercial features growing conflict between the Fan works with the original copyright has become more pronounced. Especially the "Xiao Zhan Fans 227 Incident" at the end of February 2020 has aroused public attention to Fan Works. Under this circumstance, analyzing the copyright conflicts between Fan works and the original works and improving the coordination mechanism of copyright conflicts will benefit the healthy and orderly development of Chinese cultural undertakings.

Keywords: Fan works; Copyright conflict; Knowledge Sharing

1 Conflict between fan works and original copyright

1.1 Conflict with the personal rights of the original work

The first is the conflict between Fan works and the right of authorship in the original work. When the original work is derivatively created and then published, it is clearly stated that the source is to respect the original author and the public's right to know. In our country, due to the public's ignorance of intellectual property rights and weak legal awareness, most of the same authors When publishing Fan works on the Internet, he did not indicate the awareness of the source or source of the various materials he used. No matter what kind of work, they have borrowed some content from the original work, and they have a certain degree of dependence on the original work. Respect the author's authorship of the original work.

Followed by conflict with the right of integrity of protected works. That is, without the permission of the copyright owner, the work must not be substantially modified, and the original work must not be deliberately changed or used as a counterfeit method.^[1] Some fan authors are in the process of creating for the sake of reading and popularity. In, there is the act of deliberately vilifying the characters in the original work and distorting the character of the original work. This kind of Fan works has completely deviated from the content of the original work. What's more, some co-authors use the characters in the original work. Making pornographic and vulgar creations, or in order to attract a specific group, use two same-sex characters with no emotional relationship in the original work to create works with same-sex themes. This situation will damage the reputation of the original author to a certain extent, which will lead to the copyright owner's The right to protect the integrity of the work is violated.

1.2 The conflict with the copyright of the original work

The conflict between Fan works and the copyright of the original works is mainly reflected in the right of adaptation. The right of adaptation is the right to change the work and create new works with originality.^[2] Adapted works generally refer to not changing the basic content of the original work, but only changing the type or expression of the work, such as adapting novels or comics into movies, or changing the length of the work, adapting long stories into short stories, etc., this kind of adapted work It is substantially similar to the original work. Therefore, to judge whether Fan works and the original work have a conflict of adaptation rights, first of all, it is necessary to clarify whether the two have a substantial similarity to a certain extent. If they do not exist, then this Fan works It should not be an adaptation work, it should enjoy complete copyright, and it will not infringe the adaptation right of the original work.

2 Fan works with the original copyright conflicts coordinated path

2.1 Join the Creative Commons Agreement

Since 2002, more than 70 countries and regions have joined the Creative Commons License issued in the United States, and there are now a large number of websites in China that adopt the new generation of Creative Commons License. mode .CC agreement as a unique way licensing works, it is the concept of sharing knowledge, encourage authors to work some rights to the public under certain conditions can be free to use, so that the traditional copyright "rights reserved" model some shortcomings The problem has been solved, and the accessibility of the circulation of intellectual achievements has been enhanced, allowing authors and the public to obtain a new way of using and protecting works that is more flexible and more in line with the current era, and balances the interests of the original authors and the public. The relationship between needs. Under the CC agreement, the author transfers some of his rights to the public domain, allowing the public to use his work under certain conditions.

2.2 Introduce the commercialization rights of virtual characters

From the perspective of the characteristics of the role of the work, the unclear attribution of the role itself is a prerequisite for copyright conflicts, that is, the original author has the copyright to the work, but does not have the ownership of the representative role, then the solution can clarify all his rights through the system. The French economist Posner believes that legal property must have three prerequisites: one is that the object has value due to scarcity, the other is that it can be clearly attributed to a specific subject, and it can exclude others from sharing and interference. The subject can be transferred to others at a certain price. The role is of scarce value. It provides materials for the creation of related fans and is a basic element of the product commercialization market. However, it is difficult to be exclusively occupied by the original creator within the existing system. Transfer transactions. [3]Based on this analysis, the eligible virtual characters are regarded as the protection objects of the property rights of copyright law, that is, the coordination method of "introducing the commercialization rights of characters" will follow the trend. The right of Fan Works commercial publishing is exclusively owned by the original author, and other commercialization The same author needs to enjoy the relevant commercial publishing copyright through the transaction from the original author, so as to protect the original author's income.

2.3 Establish an appropriate compensation mechanism

The extreme distribution of benefits leads to mandatory bans and fair use neither can reconcile conflicts in a low-cost way .It can be seen that Appropriate property compensation is a better solution to the overall interests.The article mentions that Fan works has low cost of dissemination in recent years and has a wide range of dissemination, while commercial Fan works' low publishing cost and high profit are the original works brought to it, but commercial Fan works also helped the original work itself increase its popularity Attract potential readers for it, etc.,It can also increase revenue for the original work.,Commercial Fan works not only enjoy the positive externalities of the original work, but also create benefits for the original work, but the former is generally much greater than the latter.Commercial publishing in combination with Fan works is based on the purpose of "profit-making". Paying for consideration and making up for the original author's loss is in line with the coordination of costs and benefits of all parties and internalizing externalities.

Therefore, an appropriate compensation mechanism can be established, requiring co-authors to bear corresponding responsibilities and appropriately compensate the original author. Specifically, the original work and commercial Fan works can be quantified and evaluated separately, and the actual data such as the popularity and sales volume of the two works can be comprehensively considered. Analyze specific data, compare commercial Fan works with similar general published works of the same period, and evaluate the "Fan works benefit value" of commercial Fan works due to the original role elements; combined with the changes in the original work sales and the factors affecting the popularity, Estimate the commercial Fan works because the increased "to benefit value of the original work." Given by professional evaluation agencies around the two valuations reasonable compensation. After the exclusion of other interference terms upper and lower limits, the parties agreed on the final range in the interval self compensation Amount. According to this kind of thinking, the compensation standard will be refined, the communication cost will be reduced, and the autonomy of the parties will be enforceable.

3 Conclusion

The prosperity of fan culture is an inevitable trend, and with it is that the copyright disputes between Fan works and the original will also exist for a long time. However, there are inextricably linked between Fan works and the original. Therefore, for my country's copyright law, a reasonable settlement of the dispute between the two is of great significance.

Coming to our country, we should improve relevant legislation and regulations, reasonably resolve the conflict between Fan works and the copyright of the original work, protect the legal rights of the two, and provide creators with a more complete legal environment, which will be conducive to the prosperity and development of my country's cultural undertakings and stimulate creation The creative enthusiasm of the authors.

References:

[1] Baidu Encyclopedia: "Protecting the Integrity of Works".

[2] The provisions of Article 10 of the Copyright Law of the People's Republic of China [8] Creative Commons license.

[3] Posner: "The Economic Analysis of Law: Part One", translated by Jiang Zhaokang, Beijing: China Encyclopedia Press, 1997 edition .