

It's 2045, I Spent \$700 Rolling for Klee, and Genshin Impact Shut Down: Copyright Law, Media Preservation, and Gacha Games

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Keywords

Copyright, gacha games, media preservation, archiving, software law, reverse engineering

INTRODUCTION

Software preservation is a difficult task, but gacha games exacerbate the typical problems with software preservation and present their own problems inherent to the genre. Books, music, and films can all be archived relatively easily, and legal deposit laws generally reflect that.¹ The same cannot be said for software.

A book can be read hundreds of years after its publication if stored correctly, and more fragile mediums like film or audio cassettes can be shifted to other, more robust formats with some effort. While it is much easier to make copies of software than of more analogue mediums, the difficulties lie in actually running that software in the future. Thankfully, this problem is not insurmountable.

Software emulation be used in place of the required hardware or software; copy protection can be broken if needed to run the software; and, with a lot of time and resources, even software that depends on connecting to a remote server can be made functional.² These are technical problems with technical solutions, but these solutions may run afoul of copyright law. This paper will examine the copyright issues around preserving gacha games. This paper specifically concerns US and EU copyright law, though the principles are broadly universal.

PRESERVING GACHA GAMES

As a general rule, gacha games follow a 'live service' model. They are periodically updated and require a connection to a remote server to play. This alone makes them tremendously more difficult to preserve than more 'traditional' games, which come with all the files one would need to archive. A game cartridge manufactured 30 years ago can have its contents dumped and enjoyed today with software emulation, but a gacha game downloaded onto a phone not even a year ago may be completely unusable today should the developers stopped supporting it.

Defining Preservation

Preservation in this instance can be defined in a number of ways ranging from a fully playable experience to mere documentation, with each definition having its own associated costs and legal ramifications.

Developers generally go with one of two options when deciding to no longer support a gacha game, either:

- Just shutting down the servers
- Altering the game to run without a server connection

The most preferable outcome from an archival standpoint is the ability to play the game without connecting to a server.³ Although rare in the gacha space, sometimes developers will release an offline version of their games, usually for a fee to offset the development costs associated with the conversion.⁴

As alluded to earlier, this kind of preservation can be done without authorisation from the original developers, but that undertaking is of questionable legality.

COPYRIGHT ISSUES

Making unauthorised copies of a gacha game is copyright infringement. However, copyright infringement is not absolute, and relevant exceptions may apply here.

Fair Use

Perhaps the most notable is the US fair use doctrine,⁵ which assesses whether the use of a copyrighted work is non-infringing based on four (non-exhaustive) factors.⁶ The fourth - potential market effects - is generally considered to be the most important.⁷ With that in mind, one has to wonder what the market effects of modifying a gacha game to run after it has been sunset actually are, especially when done non-commercially.

Lemley (2021, 1268—1274) makes the argument that reproducing out of print works should be considered a fair use, and posits that "[b]y abandoning any effort to sell or license the work, the copyright owner should be understood to have relinquished any claim to market harm or effect under the fourth factor" (2021, 1273).

The EU Computer Programs Directive

Under EU copyright law, making alterations to software is permissible when "they are necessary for the use of the computer program by the lawful acquirer in accordance with its intended purpose."⁸

Case law is (very) limited, but may be used to argue that reverse engineering and modifying a gacha game to run after support has ended is non-infringing, and that this cannot be prevented by contractual means.⁹

BIO

Joseph Godfrey is a PhD student at the University of Hong Kong, specialising in Intellectual Property law. His doctoral thesis examines the role that copyright law plays in media preservation.

Joseph completed his LLB at the University of Derby and his LLM at the University of Cambridge, with a specialisation in Intellectual Property. He was previously a research assistant at the Alan Turing Institute and Nottingham Trent University.

His prior publications have concerned the law around reverse engineering.

FUNDING

Research was completed during the author's PhD. Funding for the PhD was obtained through Hong Kong PhD Fellowship Scheme provided by the University Grants Committee (UGC).

CONFLICTS OF INTEREST

The author has no association with the gambling or gaming industry.

The author owns shares in diversified, broad-market index funds which passively hold shares of publicly traded companies across all sectors, including gambling/gaming.

ENDNOTES

¹ Legal deposit is a requirement to send copies of published works to designated libraries. *See*, for example, the UK's Legal Deposit Libraries Act 2003.

² *See*, for a particularly relevant example, the private server reimplementation of *Genshin Impact* (MiHoYo 2020). “Grasscutter,” Grasscutters, GitHub, Last modified April 27, 2025, <https://github.com/Grasscutters/Grasscutter>. *See* also the private server reimplementations for *Dragalia Lost* (Cygames 2018) and *Love Live! School Idol Festival All Stars* (KLabGames 2019).

³ This usually necessitates removing the gacha mechanics from the game, such as rolling for characters. Depending on the extent of their implementation, this could mean significantly altering key aspects of the game. One has to wonder how accurately a *gacha* game is preserved if the gacha element is removed.

⁴ Examples of this include *Animal Crossing: Pocket Camp Complete* (Nintendo 2024) and *Mega Man X DiVE Offline* (Capcom 2023).

⁵ 17 USC § 107.

⁶ Those factors being the purpose and character of the use, the nature of the original work, the amount and substantiality of the work used, and potential market effects.

⁷ *Harper & Row, Publishers, Inc v Nation Enterprises* 471 US 539, 566 (1985).

⁸ Directive 2009/24/EC on the legal protection of computer programs [2009] OJ L111/16, art 5(1).

⁹ Case C-13/20 Top System SA v Belgian State ECLI:EU:C:2021:811 [57], [66]–[68].

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