

REVIEW  
THE LEGAL STATUS OF VIDEO  
GAMES: COMPARATIVE  
ANALYSIS IN NATIONAL  
APPROACHES

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## REVIEW

# THE LEGAL STATUS OF VIDEO GAMES: COMPARATIVE ANALYSIS IN NATIONAL APPROACHES

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The paper was written by Andy Ramos, Laura López, Anxo Rodriguez, Tim Meng and Stan Abrams, originally in English for the World Intellectual Property Organization (WIPO) on July 29, 2013.

The text is directed towards academic public wishing to deepen their knowledge about legislation of intellectual property in video games. The purpose of the paper is to show video games in the context of their complex legal situation, due to the different types of theories that exist internationally about their protection. The way in which each jurisdiction views video games is analyzed, emphasizing the way governments are creating different definitions in order to be able to regulate their mixed nature of art, design and software development.

The authors mention in their introduction that video games evolve at a fairly fast pace, and this must be taken into account at the time of reading this paper. Due to the new technologies, many more controversies can arise from this subject. Nevertheless, it is possible to emphasize that the authors through this text tacitly create a structure of study that can be used by those who want to deepen in this new world and perform their own research.

The text is structured in three parts: in the first, the authors make a small but necessary introduction to contextualize the reader. In order to accomplish this, they make a historical tour, name the objects matter of protection, people involved from beginning to end in the creation of a videogame, its development and marketing, giving place to a classification created through the practice in each country to settle the controversies on this subject. The second part refers to 24 countries and how they regulate this phenomenon. Finally, we can read the conclusions based on the results from the previous analysis.

From the beginning, the authors propose the meaning of “video game” that must be kept in mind by the reader throughout this work, since from this point until the conclusions of the debates on this topic will illustrate the legal theories created from the diverse meanings by the different countries. Legislative samples from different legal systems are shown, and the relevant legal development of video games is discussed.

The work shows 3 concise theories that frame the most common forms of protection used by the nations that were subject of the study and then are classified according to these conditions. Additionally, it shows a general parameter of protection on the subjects involved in the process of creation, development and marketing of video games, according to the intellectual property rules already established in their legislation or new laws that seek to regulate this phenomenon.

The study shows the different regimes of regulation of video games, the transfer of rights of the creators and the protection that the different countries have given to these complex works; All, taking into account the different components with which the video games are developed, for example, the literary element, graphic, sound, characters and software. However, the distributive protection in the eyes of the authors seems to be the most appropriate option, in any case, but they do not rule out the possibility of establishing a special protection regime for video games as a whole.

In conclusion, the authors unlike a great majority, consider that the element that really distinguishes one game from the other is not software, but its various literary and audiovisual elements. However, they also understand that due to the great variety of video games the treatment given to them in the matter of intellectual property must be different, and they suggest that this topic has to be considerate by an international debate that can unify the varied viewpoints and lead to a regulation

of the protection of video games, because the result can not only answer these question otherwise they can explore agreements of topics like the protection of video games as singular works of authorship, the relationships between authors and producers, the question of who can qualify as an author, an enumeration of those authors' rights, and others current situations. They show us through this work that no country in the world has regulated in detail this matter, so is "the perfect time to approach a harmonized, international solution for an eventual implementation in domestic legal regimes" to prevent possible abuses and really guarantee the rights for all possible concurrent parties involved in future legal disputes.