

COPYRIGHT INFRINGEMENT IN THE VIDEO GAME INDUSTRY

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**MORE
THAN JUST A
GAME**



the video game industry

Young, global, fast-paced, born-digital, highly innovative, highly creative, and very successful industry

Complex IP Products/Services

Complex Contractual Matrix

Complex Regulatory Framework

= Complex Issues (Overlaps, Gaps & Mismatches)

- Protectability
- Freedoms
- Regulation
- Use
- Abuse

+ Transactional/Supranational reach with consequences on the entire legal and regulatory frameworks & profound impact on culture and society





CYBERPUNK

2-0-7-7



VS



Woodturning

WoodShop

video game content

3D Models and Environments

Music, Sound & Voice Acting

In-Game and Concept Art

Story and Dialogue

Characters

Graphics

authors

Graphical Artists

Designers

Animators

Musicians & Composers

Writers

Visual Artists

game engine

Creative Suite

Software Modules and Tools

Renderer

Physics Simulation

Artificial Intelligence Management

Music and Sound Generation

complex subject matter

- Unitary approach
 - audiovisual works
 - computer programs
 - something else?
 - Distributive approach
- For an overview: Andy Ramos et al, The Legal Status of Video Games: Comparative Analysis in National Approaches, WIPO 2013 [partially outdated]
- Copyright
 - Patent
 - Trade marks
 - Design
 - Unfair competition
 - Trade secrets
 - EULA & ToS
 - Creative use of third parties IP

the study

- Creation of a video game
 - incorporation of third-party intellectual property
 - cloning
- Distribution of and access to a video game
 - emulators and ROMs
 - key selling
 - account transfer and second hand video games
- Alteration of the video game
 - Modding
 - In-game user creations
- Integrity of the video game
- Re-purposing the video game
 - UCG
 - Livestreaming and Esports
- Definition
- Relevance
- Copyright
- Other legal issues
- Enforcement strategies

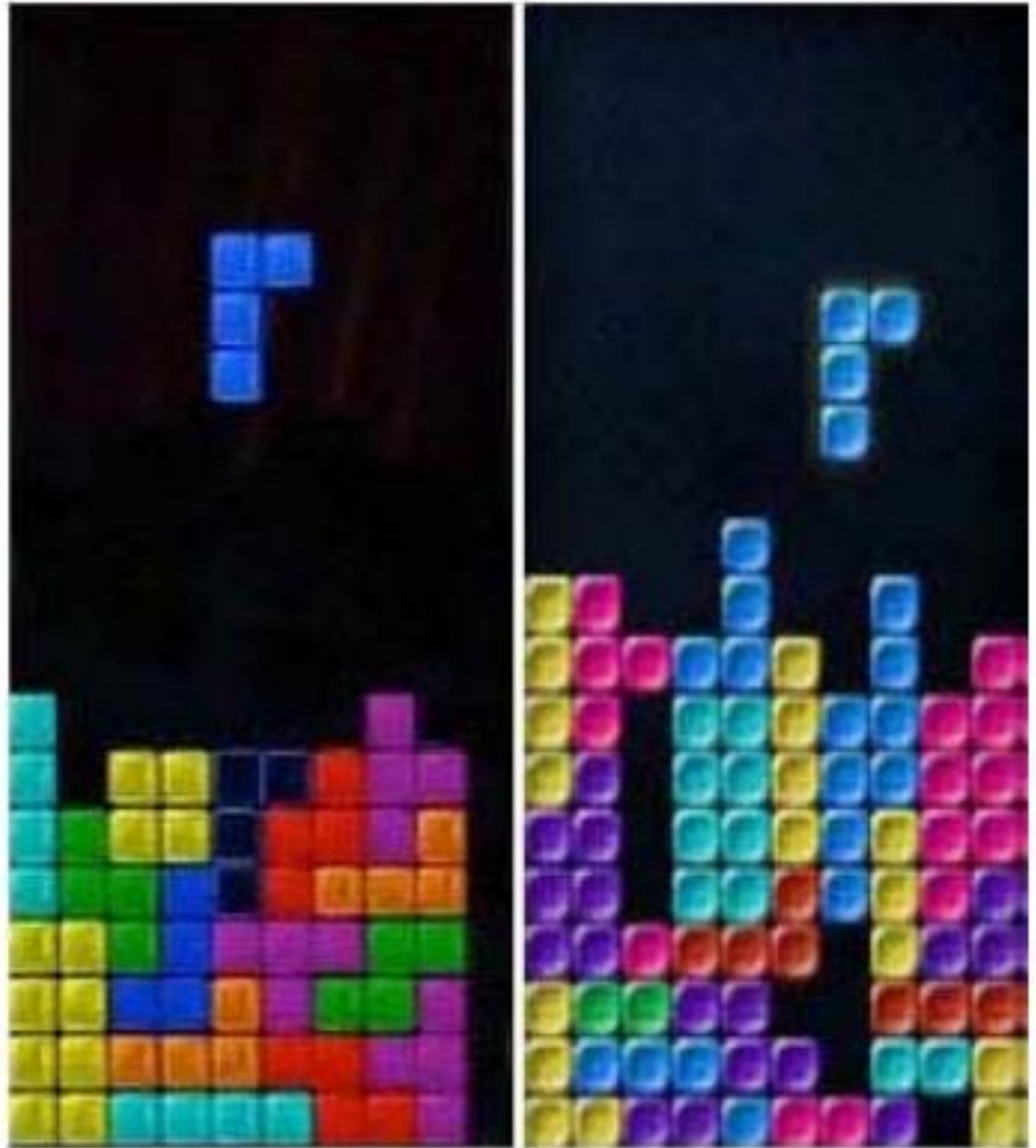
creating a video game use of 3° parties ip



creating a video game - cloning



**Tetris Holding, LLC v.
Xio Interactive, Inc.,
863 F.Supp.2d 394
(D.N.J. 2012)**





Spry Fox LLC v. LOLApps Inc, No. 12-00147, 2012 WL 5290158 (W.D. Wash. Sept. 18, 2012)



VS



Woodturning

WoodShop



K.C. Munchkin!



Pac-Man

access and distribution

- emulators & ROMs
- key-selling
- account transfer/selling

altering the video game – modding & in-game users creation



re-purposing of a video game

- UGC
- Livestreaming & Esports

conclusions

- multi-layered strategies
- litigation not always the best option
- looking ahead (the metaverse)

thank you

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