



LEGAL PITFALLS FOR COMPUTER GAMING BUSINESSES

1) Know the Players in this “Game”

- Developers;
- Designers;
- Publishers;
- Gaming Distributors;
- Social Games Companies;
- Brand Owners;
- TV Production Companies; and
- Book Publishers.

2) Know the Levels in this “Game” and the “Game” manuals

- Distribution Agreements;
- Brand Licensing;
- Software Licensing;
- Software Development Agreements;
- Character Licensing;
- Employment Contracts;
- Design Agreements / Artwork;
- Website Terms and Conditions;
- Competitions and Promotions (licensing / lottery / gambling issues);
- Advertising Standards;
- Existing Intellectual Property;
- Music Licensing;
- Publishing Agreement;
- Development Tools / Software Engines (In-house);
- Development Tools / Software Engines (Third Party);
- Physical Media Distribution (Manufacturing Agreements);
- On-line Distribution;
- Console products manufacturing v non-console product;
- Manufacturing (independent manufacturer);
- Retail or licensed to digital distributor;
- Social Gaming vs. Gambling / Lotteries / Games of chance, etc; and
- Gambling and Lotteries legislation and Licensing.

3) Identify the threats to the “Game”

- a) Infringing the Intellectual Property of any Third Party when using or creating:
 - characters;
 - designs;
 - brands;
 - software (embedded);
 - using unlicensed development software; and
 - copyright.

- b) Protecting your own Intellectual Property:
 - registering your own brand / trademark;
 - copyright infringement;
 - patentability (software is difficult and expensive to patent);
 - ensuring Intellectual Property sits within the Company (e.g. not with one of the Founders); and
 - Employment contracts / consultancy agreement unclear on ownership of the Intellectual Property rights developed.

- c) Unwittingly granting exclusivity to a third party;
- d) Failure to get exclusivity from a third party;
- e) Entering into onerous or unclear contractual arrangements;
- f) Entering ineffective Partnership agreements / Co-development arrangements (with ineffective dispute, deadlock or terminating provisions);
- g) Founder disputes;
- h) Absence of a Shareholders’ Agreement;
- i) Lack of Founder Vesting (ensuring that the shares of any Founder who quits are acquired by the remaining Founders);
- j) Investee Company not “Investor Fit” from a corporate / company secretarial perspective;
- k) Over-reliance on single distributors / granting exclusivity to a single distributor; and
- l) Falling foul of Gambling and / or Lotteries legislation and Irish / European or US licensing requirements.

If you feel that any of the above issues are relevant to your gaming company or if you require some addition advice, please feel free to contact a member of our team who will gladly assist you in any way that they can.

This publication is published as a general guide and not as a detailed legal analysis. It should not be used as a substitute for professional advice based on the facts of a particular case.

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