

# Esports – is it a sport, a business or both?

We look at the legal issues circling this new, weird millennial thing called esports

Unless you've been hiding under a rock, or outside in fresh air engaging in outdoor sport, you will have seen the explosion of what is known as esports (a.k.a. electronic sports).

## What is esports?

Esports is competitive video gaming. We are talking about global audiences of 35 million, prize money of up to \$25 million per tournament and crowds big enough to sell out Madison Square Garden three nights running. Esports is a global industry that is tipped to have a market value of over \$1 billion by 2020.

## The minefield of legal issues

Think about a legal issue. Got one? It's probably an issue in esports. Unless you thought of probate, which isn't an issue in esports...yet.

The commercialisation of the different games, the operation and governance of esports tournaments and the rapidly changing industry trigger a range of commercial, policy and legal issues including broadcast rights, intellectual property and gambling regulation. Doping and match fixing are already causing problems.

## What's the situation with IP in esports?

Esports is a big web of licensed rights. Practically speaking, each different game could be thought of as a different code of esports.

Under Australian copyright law, computer programs are protected by copyright. The game is also protectable as a cinematograph film. The owners of the rights in the games are typically the developers and publishers. The level of IP protection available to the owners of esports is not available in 'traditional sport', meaning that the owners of each sport have an increased level of control.

This creates an industry where the owners of each sport can control the reproduction and dissemination of the game and as a result the ownership and exploitation of the IP rights is incredibly valuable. The owner of the sport can then license the rights to the game to tournament organisers, broadcasters, merchandisers and sponsors.

One of the most precarious elements of the rise of esports is with respect to 'Streamers' and the IP considerations that livestreaming brings. Streamers are not professional esports players; they are personalities who run their own channels to which users can subscribe.

Streamers can attract lucrative sponsorship contracts – however, the streamer may not have obtained the rights from the owner of the IP in the particular sport. This could cause downstream (sorry) problems as streamers develop value in a brand which exploits a product in which they have no enforceable legal interest. Kind of a new form of cybersquatting.

With esports viewership tipped to make up 10% of all sports viewership in the US within the next 2 years, the industry is one to watch.

Questions? Give us a call.

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