

# E-Sports and it's changing dimensions.

By *Sruthi Kannan*

Kerala Law Academy Law College, Trivandrum

Although the Indian constitution has many regulations to safeguard its citizens, there are still some areas which require the intervention of the government to basically ensure that the interests of the parties are preserved. ESports and games ' underlying technologies are some recent trends that posed IP concerns. Esports is basically a competition where people use different computers or even video game equipment to compete with each other. In 2016, e-sports had around 323 million viewers, and then 385.5 million viewers.<sup>1</sup> The paper throws light on relevant issues that would affect the Intellectual property and need for regulations on eSports.

## Sports and Esports

In modern times we can observe several IPR regimes for e-sports who want safety after observing similarities with eSports and regular sports. They argue that the provisions available for protecting sports are sufficient of a justification to provide the protection of e-sports law. It wouldn't stand this line of argument and eSports would lose the security it needs. This claim of the promoters who compare eSports with Sports would be discussed in the following section.

When observed carefully, it can be found that there are many similarities between e-Sport and sports both require adequate skill, preparation, technique, and judgment. They both are very competitive; they involve the fans very much, both emotionally and passionately. Both have organized several important events each year.

However, these aforementioned comparisons do not go to the extent of arguing for providing protection to eSports. Many fundamental gaps exist between the two, there is a complex

---

<sup>1</sup> IPWatchdog.com | Patents & Patent Law. 2020. Intellectual Property In The World Of Esports - Ipwatchdog.Com | Patents & Patent Law. [online] Available at: <https://www.ipwatchdog.com/2018/04/02/intellectual-property-esports/id=95245/>.

framework for the said sports industry to work under. For sport, the "official" status is given to the events and partners.<sup>2</sup> This even involves eSports game developers. It is done so as to acquire control over the representation of the game. A sport's central feature is its rules, and they are established with care over the years.

## IPR in Sports and Esports

The IPR (Intellectual Property Rights) had expanded from sport's and media, now sportsmen try to save and secure a firm control over what they term as a fair price for the efforts and hard work they put in the game. With the increase of eSports, all of these challenges have now reached a whole new aspect of freedoms. There are many people behind the term e-sports, they include – game developers, publishers, content creators, all of them want to accomplish Sports and eSports to have an equal footing.<sup>3</sup>

Video games developers should not create a static environment that has been planned, but an interactive framework. Protecting video games under copyright law is like non-interactive works only to such creators. Today the creators enjoy the labour of the authorial imagination of some player. Copyright law does not properly shield players' authorship by distributing economic gains rather than players to network owners. The dynamic relationship between sport and intellectual property is disrupted by eSports in two ways:<sup>4</sup>

1. There is a significant difference in the legal security that eSports and Sports have to offer. In virtual games, there may be laws that recognize Intellectual Property, while in sporting competitions it does not do the same as a sporting performance will not be certainly considered a copyrighted work. In the case of e-sport, the development of the game requires imaginative work and for these purposes, eSports can be covered. When sports success is not protected by uniform privileges, nothing can really stop eSports creators from

---

<sup>2</sup> Taylor & Francis. 2020. *Is Esport A 'Real' Sport? Reflections On The Spread Of Virtual Competitions*. [online] Available at: <https://www.tandfonline.com/doi/full/10.1080/16138171.2018.1559019>.

<sup>3</sup>The Conversation. 2020. *Esports Is The Future Of All Sports – Here's Why*. [online] Available at: <http://theconversation.com/esports-is-the-future-of-all-sports-heres-why-121335>.

<sup>4</sup> SCARNICI HOLLENBECK. 2020. *IP Protection In E-Sports*. [online] Available at: <https://scarincihollenbeck.com/law-firm-insights/intellectual-property/ip-protection/ip-protection-in-esports/>.

replicating the same thing. The same causes ambiguity about esports being accepted under intellectual property law while not necessarily acknowledging sports.

2. E-sports can entail enormous sport reputational risks. Sportspeople are also regarded for inspiration and play the part of millions of people worldwide. This value system is aimed at sport governance. It would therefore be in vain to compare these two formats since they vary in several respects. The already complicated application of IPR to eSports will become more complicated by drawing comparisons.

## Trademark

The word Trademark is simply a tag name, it many probably include term, name, sign, product or some combinations that are simply used to differentiate provider and sellers from each other, and it's often used to denote the service source

Team names or game names in e- are very significant because they are the only way to identify each player on the digital platform. Many teams have now realized how important it is to protect your identity and have acquired trademarks for your team names, including EnVy, Liquid, Evil Geniuses and many others. Jonathan Wendel is a famous player with the right to retain his "FATALITY" name.<sup>5</sup>

BURNISHED LAW JOURNAL

In order to obtain trademark rights in the US, eSports players must be interested in video game competitions. Such trademark rights must be acquired as they help secure better sponsorship deals and player support. In a legal arrangement, advertisers favour teams that obtained IP rights.

## CONCLUSION

There are major changes that occurred in the field of e-sports during the 21<sup>st</sup> century; we mostly come across people who simply contribute to game platforms by making new improvements that usually follow copyrighted creations and without any hopes of monetary, legal or commercial incentives. Given the above, after video games became mainstream and common, there have been

---

<sup>5</sup> Uusitalo, E., 2020. *Esports – Are Your Iprs Protected? – Hannes Snellman Blog*. [online] Hannessnellmanblog.com. Available at: <http://hannessnellmanblog.com/2018/03/08/esports-are-your-ipr-protected/>.

numerous disputes and disputes. This makes it important that the conflicts be discussed and resolved within the legal system. E-Sports are becoming increasingly popular as professional sports are being played and not as a mere hobby or dependency. ESports are becoming increasingly common in India too, with frequent participation and tournaments. This suggests that the player involvement is enough to encourage the player to alter and make changes already in place, raising copyright issues.

We must also be prepared for the e-sports and the continuing IP proceedings. If we take an example of the US, we can clearly understand that it's not something which can be simply sorted, it's something which needs immediate attention including a lot of research and technical study to manage disputes accordingly. In each scenario, the creator and player's jurisdictional questions must be answered.



BURNISHED LAW JOURNAL