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About me

- Graduated from MUNI in 2009
- Lecturer at Queen Mary University, the School of Electronic Engineering and Computer Science (EECS)
- Teach and research on the impact of laws, norms and environmental constraints on users' behaviour and interactions in Cyberspace
- Collaborations with WIPO, UKIPO, Council of Europe
- Co-editor of the Interactive Entertainment Law Review, Edward Elgar Publishing
- Consultant at Kriz & Partners, ČR
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Module Objectives

- What to expect from this module:
 - An introduction to Interactive Entertainment Law as a separate legal discipline;
 - Understanding the unique nature of video games as creative media;
 - Gaining insights into the video game industry;
 - Grasping the role of IP for the entire video game lifecycle and the industry as a whole; and
 - Identifying different stakeholders and their interests (developers, publishers, platform owners, users, creators, etc.)

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Module Overview

- Lecture 1 – Video Games and IP
- Lecture 2 – Video Games and Copyright
- Lecture 3 – Video Game Patents
- Lecture 4 – Trade Marks, Designs and Other Rights
- Lecture 5 – The Metaverse

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The Industry – Statistics

- **Global Revenue:** The global video game market is projected to generate **\$475 billion in 2024**, marking significant growth from earlier forecasts
- **Player Base:** Over **3.38 billion people** now play video games worldwide, with projections suggesting the number will surpass **4.5 billion users by 2028**
- **European Participation:** Around **53% of the EU population aged 6–64** engages in gaming, as reported in earlier surveys (IFSE 2022)
- **Regional Market Leaders:** While **China** continues to lead in revenue generation, the **United States** remains dominant in consumer spending and as a hub for major game publishers such as Microsoft, Activision Blizzard, and Electronic Arts

www.statista.com

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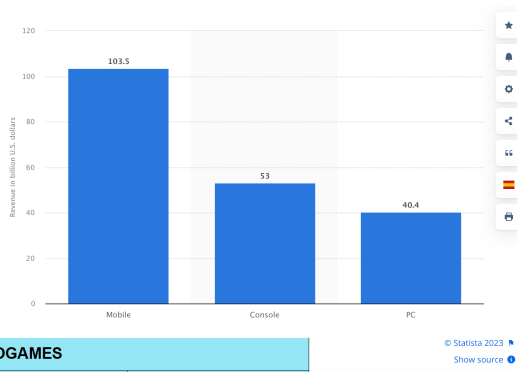
The Industry – Characteristics

- Young, global, fast-paced, born digital, highly innovative, creative, and very successful industry
- Complex digital products, underpinned by IPRs
- Complex contractual matrix facilitating the ecosystem
- Complex regulatory framework
- Transnational / international reach with consequences for the entire legal and regulatory framework
- Profound impact on culture and society

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The Industry – Structure

- Game platforms
 - PC
 - Console
 - Mobile
- Game distribution
 - Digital
 - Retail
 - Cloud



THREE PLATFORMS OF VIDEOGAMES

CONSOLE	PC (PERSONAL COMPUTER)	MOBILE/CASUAL
<ul style="list-style-type: none"> • Run on dedicated hardware • Expensive to develop • Wide variety of genres • System controlled by IP owners • Box product and digital 	<ul style="list-style-type: none"> • Run on Windows, Mac or Linux • Wide variety in price and genre • No single gatekeeper for platform • Most sales through digital 	<ul style="list-style-type: none"> • Run on tablets and phones • Least expensive to develop, but development costs increasing and difficult to retain players • All genres, but social and casual games play a big role • Largest number of gamers

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The Industry – The Players

- First party – makers of software and / or hardware
- Publishers
 - the vast majority of games are made by third-party publishers and developers



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The Industry – The Trends

- Digital accessibility will increase
- More powerful devices, enabling content-intensive games
- E-sports, cross-platform play, and cloud gaming will further expand
- Live services and video-game streaming services will grow
- More innovative gameplay will lead to more engaging games
- VR / AR / XR... The Metaverse

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Interactive Entertainment Law

- Interactive Entertainment Law:
 - Identifies relevant legal, regulatory and commercial considerations that industry players need to be aware of,
 - Links and reinforces intellectual property issues, in particular copyright, to the specific needs of this creative industry, to promote economic growth and support game developers in protecting their creative works,
 - Explores the player vs creator conundrum,
 - Formulates industry-informed and inter-disciplinary research and policies

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Interactive Entertainment Law

- IP law:
 - Copyright – protects the engine and the content
 - Patents – protect hardware and software-related, technical effect
 - Trademarks – protect branding, game mechanics (?)
 - Design – protects how a product looks
- Confidentiality and trade secrets
- Unfair competition and anti-trust
- Personality rights
- Contractual matrix – while IPRs are the default rules in relation to rights allocation with regards to the various protected assets, contract law provides an infrastructure that facilitates the access to and use of these assets and, furthermore, enables to modify or adapt these rules
- Regulation plays an increasingly important role in shaping the industry's future and our aim is to provide a platform for a multi-stakeholder dialogue that will result in well-informed, positive policies (rather than reactive ones)

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MTJG – Conference Series

Queen Mary
University of London
Centre for Commercial Law Studies

ABOUT VRLT IELR

MORE THAN JUST A GAME

After careful consideration of the global situation of the pandemic, we have decided to further postpone MTJG London to the 7-8 April 2022.

However, we do not want to stay silent for another year. We would like to discuss a number of different topics as part of 2 online webinars, on the 20th and 27th of May 2021, 5-6 pm UK time.

Retrospective (20th May 2021 5-6pm UK time)
Register here: https://qmul.ac.uk/zoom.us/webinar/register/WN_s8vbyYmTt5UgionnPoQ

Looking ahead (27th May 2021 5-6pm UK time)
Register here: https://qmul.ac.uk/zoom.us/webinar/register/WN_H2hkyabSa57Mk-5VbaYDw

WELCOME

More Than Just a Game (MTJG) is a unique series of academic-led conferences on Games and Interactive Entertainment Law attracting an international network of

<https://www.mtjg.co.uk/>

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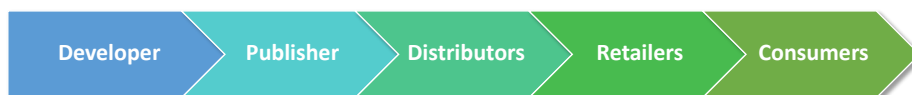
IELR – Peer-review Journal

The screenshot displays the Elgaronline website interface for the Interactive Entertainment Law Review journal. The header includes the Elgaronline logo and navigation links. The main content area features a search bar, a 'Table of Contents' section, and a list of articles from Issue 1 (August 2021). The articles listed are:

- Article 1:** "The ultimate unboxing": in search of the right questions to ask about loot boxes" by Gaetano Dimita, Jon Festinger, Yin Harn Lee, Michaela MacDonald and Marc Mimler. Category: Editorial. DOI: <https://doi.org/10.4337/ielr.2021.01.00>. Pages: 1-2. Download PDF.
- Article 2:** Getting under your skin(s): a legal-ethical exploration of Fortnite's transformation into a content delivery platform and its manipulative potential by Marijn Sax and Jef Ausloos. Category: Research Article. DOI: <https://doi.org/10.4337/ielr.2021.0001>. Pages: 3-26.

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Video Game as an Interactive Medium



- A complex digital product, an interactive medium
- Video games are unlike traditional games or sport practices
- The consumption of video games is tied to specific technological platforms that are also consumer commodities, such as consoles, computers, or handheld devices
- The complexity (and industrial scale) of video game animation, music, and acting, makes a modern video game share more in common with a motion picture than with a board game
- Players are interacting with the game and with each other

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Video Games and IP

- Video games as digital products heavily depend on IPRs – it is the bloodline of the industry
- Video game as *“an electronic or computerized game played by manipulating images on a video display or television screen.”*
- IPRs are associated both with the tools used to develop games and the content included in a game

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Intellectual Property Rights

- **Copyright** – set of exclusive rights granted by statute in relation to original works that generally lasts for 70 years after the death of the author; it arises automatically through the act of creation and does not need to be registered
- **Database right** – a statutory right based on the substantial investment made in creating and maintaining databases and protects against the extraction and reuse of data for at least 15 years
- **Patents** – a monopoly right granted by statute for the commercial exploitation of an invention for a limited time, usually 20 years; registration is required
- **Trade marks** – indicate the origin of goods and services, and may be protected from misuse by third parties, either by rights acquired via registration or through evidence of use; protection will last for as long as the mark fulfils its role as an indicator of origin
- **Registered designs** – may be protected through the act of creation or by registration and there is a plurality of design rights available (aesthetic and functional aspects of the designs of industrial articles, or protect against the copying and misuse of designs); they last between 3 to 25 years

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Other Rights

- **Confidential information / trade secrets** – most legal systems do not recognise trade secret as exclusive rights as such, but rather a specific legal remedy designed to protect the secrecy put up by the rightsholder, which is based on different legal principles, such as unfair competition, general principles of tort law, contract law or breach of confidence in common law jurisdictions
 - In the EU, the Trade Secret Directive establishes a minimum standard of protection
 - It specifically states that trade secrets are not considered intellectual property rights, which also precludes the application of the Enforcement Directive

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Other Rights

- **Personality / image rights / rights of publicity** – a property right that protects against the misappropriation of a person's name, likeness, or other indicia of personal identity – such as nickname, pseudonym, voice, signature, likeness, or photograph – for commercial benefit
 - US
 - State law level, statute or case law
 - *Rogers* test, transformative use analysis
 - Outside US
 - Personality and image rights, different legal regimes
 - Related protection: trade marks
 - Related claims: copyright claims, privacy and defamation claims

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IP Matrix (plus trade secrets)

Copyright	Trade Marks	Trade Secrets	Patents	Registered Design	?
<ul style="list-style-type: none"> • Code • Story • Graphics • Concept and in-game art • Music and Sounds • User Interfaces • Motion-Capture • Voice Acting 	<ul style="list-style-type: none"> • Company Name • Company Logo • Game Title • Distinguishable "Catch Phrases" associated with the game 	<ul style="list-style-type: none"> • Pricing Information • Development Tools • Developers' know-how • Deal Terms 	<ul style="list-style-type: none"> • Inventive Gameplay or Game Design Elements • Hardware Technical innovations • Software Technical innovations 	<ul style="list-style-type: none"> • Box Design • 3D Models and Environments • User Interfaces 	<ul style="list-style-type: none"> • Fictional Marks • Video Game Streams • Youtube Videos • Modifications • Unauthorised Merchandising

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How much intellectual property is there in a PlayStation?



Patents

PlayStation game controllers, robot playmates, and 3D technology are inventions which can receive patent protection.



<https://www.wipo.int/export/sites/www/socialmedia/en/docs/how-much-ip-is-there-in-playstation.pdf>

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Trademarks

The PlayStation logo, name, and symbols are registered trademarks that allow the company to stand out from the competition.



Designs

The look of the PlayStation console, controllers, and game interfaces are a key factor of the gaming experience – and can be registered designs.



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Copyright

Storylines, music, characters, and code are creative assets that bring videogames to life – and receive automatic copyright protection.



Trade secrets

Sony's strategy for the development, manufacture, and distribution of the PlayStation is confidential information – and protected through trade secrets.



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In-class Exercise

Building an IP Portfolio for a Video Game

1. Work in groups of 3-4 students
2. Outline the game concept
3. Identify applicable IP rights
4. Draft your IP portfolio
5. Present and discuss

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Key Points

- The interactive entertainment industry has experienced an unprecedented success and growth
- **Interactive Entertainment Law** addresses the diverse legal and regulatory challenges within this dynamic field, with its scope expanding alongside the industry's evolution
- While **Intellectual Property** remains central, the discipline increasingly encompasses broader issues, reflecting the complexity of the sector.

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Thank you!