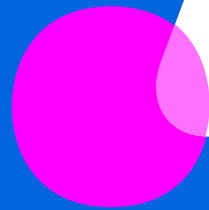




Guidelines for Esports Tournament Organizers



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Guidelines for Esports Tournament Organizers

is one of several guides created by the World Intellectual Property Organization (WIPO) and written by Andy Ramos (Pérez-Llorca) and Antonio Muñoz-Torrero (Pérez-Llorca). Other titles:

**Intellectual Property and Esports:
An overview of the game**

Guidelines for Esports Players



Guidelines for Esports Tournament Organizers

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Guidelines for organizers

IP for tournament organizers

Organizing an esports competition entails different levels of complexity depending on the size, importance and commercial aspects involved. The bigger the event, the more intensive the exploitation of the video game and intellectual property (IP) of other content, with the respective zealotry from right owners. In order to ensure compliance with the law and with the IP rights of all stakeholders, you will need to ensure you are authorized by the various right owners, starting with the IP owner of the video game. If the competition has sponsors, partners, or even uses teams and player logos to promote the competition, several license agreements will be involved to ensure that the competition is not infringing third-party rights.

Outlined below are the key IP licensing requirements for tournament organizers to successfully comply with relevant IP requirements.

What is your tournament?

Start by defining the core elements of your competition. These elements will be asked for and be used as the basis for many of the agreements and licenses you might need to enter to make your competition happen.

At the outset, defining the core elements might clarify if you can use one of the general licenses and conditions that video game publishers authorize through their website, or if a specific agreement will be needed.

- Dates.
- Venue and territory.
- Non-commercial or commercial character of the organizer.
- Prize pool and format.
- Participating players (professional or not).
- Entry fees (beyond costs or not).
- Sponsorship and brand activation agreements.
- Merchandising.
- Entrance fee.
- Broadcasting/streaming of the competition.
- Other uses of video game owner IP (creative kit) in the promotion of the event.

Game licenses

Publisher/developer license: Once you understand or define the characteristics of the tournament, the next step is to ensure you can actually use a video game in the competition. The authorization or license from the game publisher or developer to use their game in your competition will vary according to the characteristics of the competition as mentioned above. This license would typically include the right to host the game, use game footage and display game-related content during the event.

Some publishers have specific licensing programs for esports events, so we recommend you check their official websites or contact them directly with respect to the structure they establish for licensing. In some cases, for small tournaments, the license to organize a tournament can be given automatically and for free, subject to a number of conditions to follow, especially regarding the use of the video game-related IP or any association with other brands or events. These licenses not only grant the right to use the video game, but also include some services provided by the publisher, particularly in relation to hosting the game on its servers.

Broadcasting rights: If you plan to stream or broadcast the competition, make sure that your license includes the right to broadcast game footage. Don't forget that players and teams must also authorize the use of their image during their participation in the tournament.

Using music

Background music: If you intend to use music during an event as background music, you should clear the rights. This is generally done through a collective management organization (also known as performance rights organization) from the country where the venue is located. In many cases this can be done online through their website. In most cases, you will need to report on the details of the use, such as number of people at the venue, if there is an entrance fee and the repertoire of music used. This will allow the organization to calculate the tariff that should be paid for the use of the music.

Streaming music: The legal regime for streaming music online is slightly different from that for on-premises use, and also differs between particular uses. Some internet platforms have secured licenses from right owners that cover the use of their repertoire by users (both individuals and professionals). Others have implemented technological measures to detect the uploading of copyrighted content and will block it before it is made available or, in some cases, ensure that the monetization from the platform is reverted to the right owner. Before investing time, resources and creativity in content, it is advisable to analyze where the content will be available, the platform's music policy and what songs will be synchronized in your content to avoid future problems. Be aware that if background music is also heard in the streaming, platforms might automatically apply monetization rules for the benefit of the right owners of that music.

Trademark licenses

Game logos and titles: Organizing a tournament does not necessarily mean that you can use the IP related to the game such as logos, titles, developer or publisher logos, characters, etc. The intended uses need to be expressly authorized by the owner, including use in promotional activities related to the tournament or in association with the tournament partners or collaborators. The license for those uses is usually included in the overall agreement governing the relationship between the game publisher and the event organizer of the competition, although this may require additional agreements if the game contains third party trademarks (think, for example, of the logos of real teams in some sports games). Trademark infringement can result in injunction against further use of the trademark, incur fines, and tarnish your relationship with the publisher in the future.

Sponsor logos: If you have sponsors for your event, make sure you have reached the appropriate agreements regarding the right to use their logos and trademarks in your promotional materials and broadcasts, and that their right to use your logos is also properly framed.

Content creator licenses

Player and team content: Esports tournament organizers must obtain licenses from players and teams to use their likenesses, names and other personal IP in their promotional materials and broadcasts, which are typically granted in player contracts, team agreements, or in the terms of use of a tournament. If the images or videos will be used in different contexts beyond

the promotion and transmission of the event, this needs to be authorized by the teams and players, especially in a commercial context.

Third-party content: If the organizer intends to use third-party content, such as fan art or other copyrighted works, it must ensure that it has the necessary license or permission from the right holders, whether professional or amateur.

Broadcasting and streaming licenses

Platform licenses: If you are streaming your event on platforms such as Twitch, YouTube, or TikTok, make sure you comply with their terms of service and obtain any additional licenses required. These platforms often have specific requirements for broadcasting video gameplay content. Non-compliance with the platforms' terms could lead to blocking of the streaming and even your profile. Special care should be taken regarding foul language and inappropriate content for minors.

Distribution rights: The Internet is the most common medium for the broadcast of esports competitions; however, the popularity of some esports competitions has brought them to television and traditional media. To exploit esports footage and gameplay, organizers must obtain appropriate distribution rights, which are usually included in the publisher's agreement. This right might be under a different name or expression under the contract or license, but what is important is that the use you are making is covered by the language of the license.

Merchandising licenses

Event merchandise: If you are willing to sell merchandise related to your event, such as t-shirts, posters, or other branded items, you should obtain the necessary licenses to use game logos, names, and other trademarked material included in the merchandising. This could face higher scrutiny from rights owners that normally keep strict control over merchandising with their IP. This also means that infringement in merchandising might lead to strong reactions from them. While the game license will likely include the granting of these licenses, you should consider that merchandising may require additional agreements. These should also address the distribution of the revenues derived from the sale of the licensed material.

Sponsor merchandise: Ensure that you have the right to use sponsor logos and trademarks on any event merchandise. Check if it is already covered in the relevant sponsorship agreement.

Dispute resolutions

WIPO offers Alternative Dispute Resolution (ADR) services specifically tailored for the esports sector, which can be a game-changer by providing specialized mediation and arbitration options. The services include mediation, arbitration, and expert determination, in flexible and expedited procedures, where parties begin by submitting a request for mediation or arbitration to WIPO, which then appoints a neutral mediator or arbitrator with expertise in the relevant field. The process is designed to be confidential and efficient, allowing parties to resolve their disputes without resorting to litigation. The specialized knowledge in IP and esports of experts ensures that the resolution process is adapted to the unique needs of the sector, promoting fairer and more effective outcomes.

In line with these efforts, the International Games and Esports Tribunal (IGET) was established as a joint initiative between the Esports Integrity Commission (ESIC) and the WIPO Arbitration and Mediation Center (WIPO AMC). IGET is a pioneering not-for-profit joint initiative by ESIC and the WIPO AMC, offering specialized ADR within the global video games and esports industries. IGET administers integrity disputes (in collaboration with ESIC) and commercial and IP disputes (in collaboration with the WIPO AMC).

Checklist for a successful esports event

As described, IP rights in esports competitions are intensive.

Take advantage of this checklist to remember key elements when organizing a competition.

Secure IP licenses: First and foremost, obtain a license from the publisher of the video game that you will use in your competition. Understand the conditions for the use of the video game-related IP and ask for additional authorization for those uses that are not included in the license obtained to organize the competition, including the use of trademarks, music and other copyrighted works featured during the competition.

Control third-party content: If exclusivity is important, protect your content as part of your business strategy by taking appropriate measures to implement robust mechanisms to monitor and review all content. Have systems in place to check third-party uses for compliance with licensing agreements and IP laws. Eventually, decide to enforce your rights, or not.

Develop a proactive IP strategy: Secure appropriate IP rights for your own content, including trademarks, copyrights, and patents. Regularly review and update your IP portfolio to protect your interests. Grant limited licenses of your IP to increase the revenue streams.

Engage: Consult with IP lawyers or legal experts to ensure all agreements and practices comply with relevant laws and regulations.

Establish alternative dispute resolution (ADR) mechanisms: Implement ADR mechanisms, such as arbitration and mediation, to resolve IP-related disputes confidentially and to save time. Well recognized bodies, such as WIPO, offer expertise in dealing with disputes from esports, including immediate resolution during tournaments. Ensure tailored dispute resolution proceedings to address any imbalances in bargaining power.

Have contracts in place: Create and use detailed contracts that are fit for purpose with players, sponsors, and partners outlining the scope of use, duration, and compensation for IP rights. This might lead to a longer process in the beginning but could avoid numerous problems in the future, especially if your tournament grows in size and notoriety.

Implement compliance training: Provide training for staff and participants on IP laws, licensing agreements, and compliance requirements. Ensure everyone involved understands their responsibilities and the importance of respecting IP rights as a strategy to manage your IP but also to avoid inadvertent IP infringement during the tournament.

Request players' rights: Secure authorizations to use players' publicity rights in streams, promotional materials, and other event-related content. Without such rights you might find yourself without attractive content to engage with fans and the audience when promoting the tournament or your brand. Make sure that the authorization covers all the intended uses including those of a commercial nature.

About the authors

Andy Ramos is a partner specializing in Entertainment and Technology Law at Pérez-Llorca, with offices in Europe, the Americas and Asia-Pacific. Andy holds a law degree from the University of Seville and an LL.M. in Intellectual Property from Whittier Law School in the USA, where he also gained international experience working at Sony Pictures in Los Angeles. He works with multinational companies and video game associations on intellectual property, contract law, and regulatory issues, representing clients in copyright litigation and advising on complex negotiations and legal issues in the video game, audiovisual and music industries, including the convergence of entertainment and technology.

Andy has contributed to international legal articles and studies on intellectual property and technology, coordinating major works such as "Video Game Law: Legal and Business Aspects" (2023), a treatise he coordinated with the participation of over 60 authors; and the international studies commission by WIPO "The Legal Status of Video Games: Comparative Analysis in National Approaches" (2013) and "The Role of Mobile Apps in the Video Game Industry" (2023). He is an active speaker and lecturer in professional courses and has been invited by the World Intellectual Property Organization to speak around the world. Andy is also the co-founder and vice president of the Spanish Entertainment Association (DENA), father of three children with whom he enjoys spending time playing great video games, especially cooperative action-adventure platformers with puzzle-solving elements.

Antonio Muñoz-Torrero is a lawyer at Pérez-Llorca and has previous experience of working in prestigious international law firms. Antonio studied Law and Economics at the Universidad de Granada. He holds a Masters in Intellectual Property and New Technologies from the Universidad Autónoma de Madrid, and has deepened his studies in data protection and artificial intelligence through various programmes at the IE Law School (Instituto de Empresa). He also collaborates as a lecturer in several Masters courses offered by both universities.

Antonio works for national and multinational companies, advising them in areas such as intellectual property, data protection, cybersecurity and regulatory compliance (e.g. digital services, artificial intelligence, telecommunications). In the video games sector, Antonio guides his clients in navigating the complex legal and regulatory landscape they face in the course of their activities. As a gamer, Antonio enjoys role-playing games, either single-player or multiplayer (mostly MMO), and is a modest e-sports player.

With esports activities growing, tournament organizers, professional players, sponsors and fans are engaged in an activity that relies on the use of IP rights from video game publishers.

Guidelines for Esports Tournament Organizers will help organizers understand the IP rights related to the uses of video games in esports and provides a step-by-step guide on how to obtain all the necessary rights in order to undertake the tournament and to develop business models in this sector.