
Legal Issues With Respect To Video Gaming Technologies: What every gaming company should know

by

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Overview

- **Gaming Technologies**
- **Content Production**
- **Offensive Content**
- **Summary of Legal Issues**
- **Conclusion**



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Gaming Technology Platforms

- **PC Platforms:**

- Windows-Based Platforms
- Mac-Based Platforms
- Linux-Based Platforms



- **Console Platforms:**

- Microsoft Xbox
- Sony PlayStation
- Nintendo GameCube & Revolution



- **Home Entertainment Platforms:**

- Set-Top, Cable and Satellite TV boxes
- High Definition Televisions & LCDs

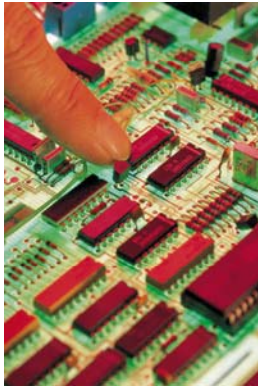


- **Emerging Platforms:**

- Handheld Platforms (Nokia N-Gage)
- 3D Platforms (3D PCs, 3D Televisions, 3D Peripheral Devices)



Technological Requirements



- High-Speed Processors and Memories
- High-End Graphics Technologies
- Fast Hard Drive Technologies
- High Resolution Displays
- Peripheral Devices (High-Speed Mice, Gaming Keyboards and Keypads, Joy Sticks and Controllers, Speakers and Headsets, 3D Glasses)
- High-Speed Internet Access
- High-End Content Production Systems



Convergence



*Based on Oregon Networks Limited Presentation at CONFERENCE ON GAMER TECHNOLOGY, Seattle 3/04.



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Content Production

Realism (Shadow Ops: Red Mercury)



*Based on Zombie Studios Presentation at CONFERENCE ON GAMER TECHNOLOGY, Seattle 3/04.

Shadow Ops: Red Mercury by Zombie Studios



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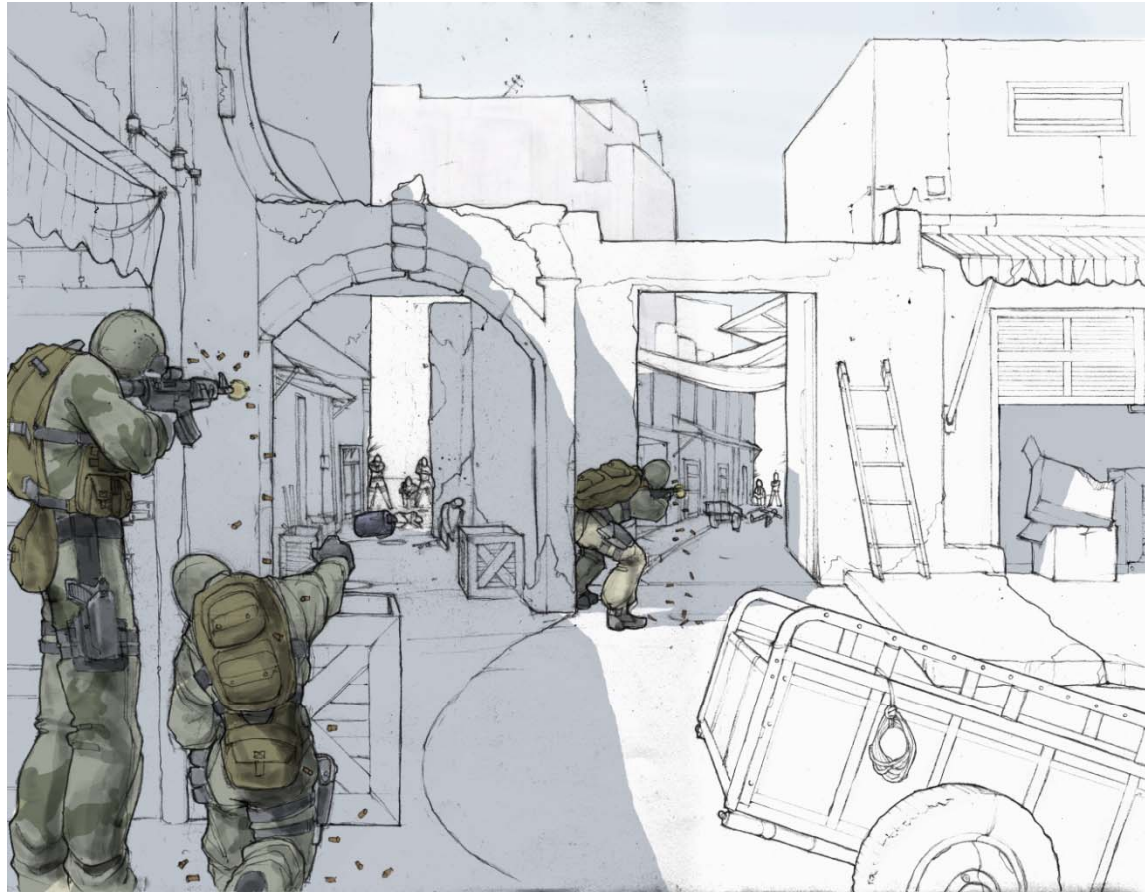
Production: Shadow Ops: Red Mercury

- 2 years, 45 artists animators and engineers
- Screenplay by Waugh & Mendillo (Dreamworks)
- Orchestral score by the Seattle Symphony
- Sound design by SOUNDELUX (Black Hawk Down)
- Cyberscans by Gentle Giant (The Matrix)
- Motion Capture w/ Green Berets and Rangers
- Digital location photography in Russia, Morocco, Croatia, Bosnia and France



*Based on Zombie Studios Presentation at CONFERENCE ON GAMER TECHNOLOGY, Seattle 3/04.

Story Boarding



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Image Capture



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Sound Capture



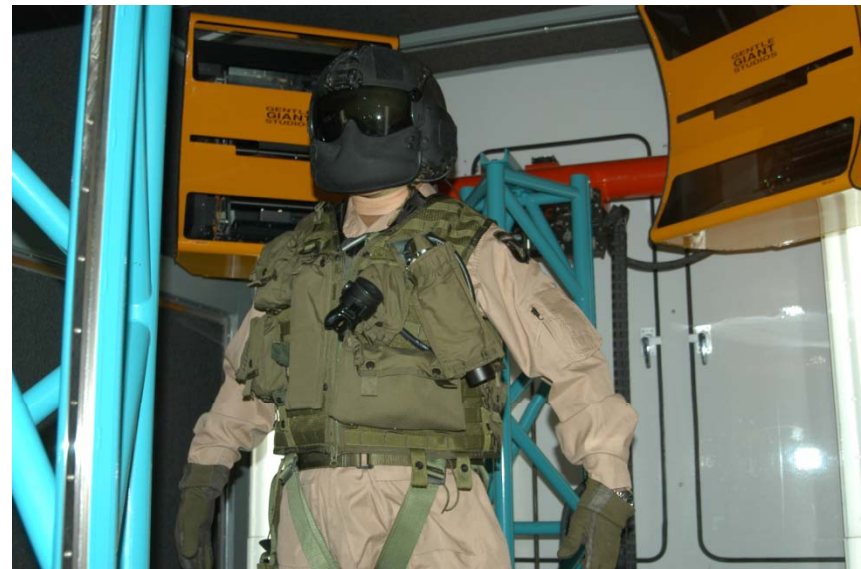
*Based on Zombie Studios Presentation at CONFERENCE ON GAMER TECHNOLOGY, Seattle 3/04.



Character Development

CIA Agent
Male, Powerful Build
Weapon, MP5 SMG

01
LEVEL



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Character Development



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Motion Capture



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Weapons Modeling



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Weapons Sound Capture



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Sound Production



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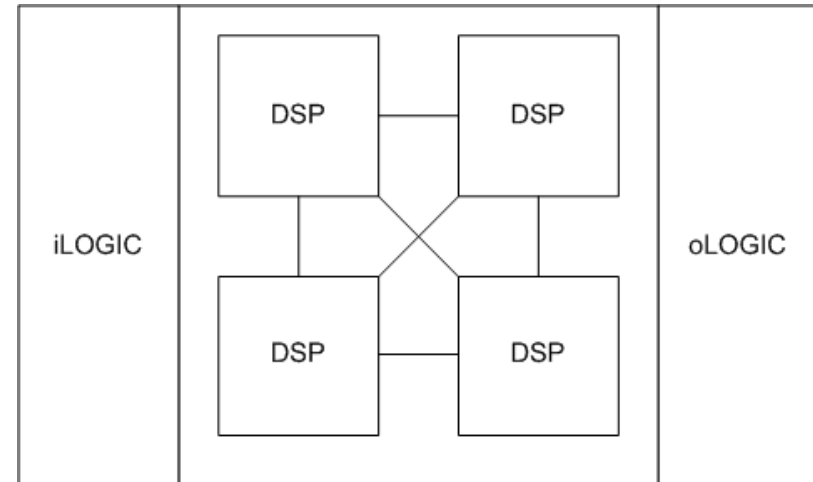
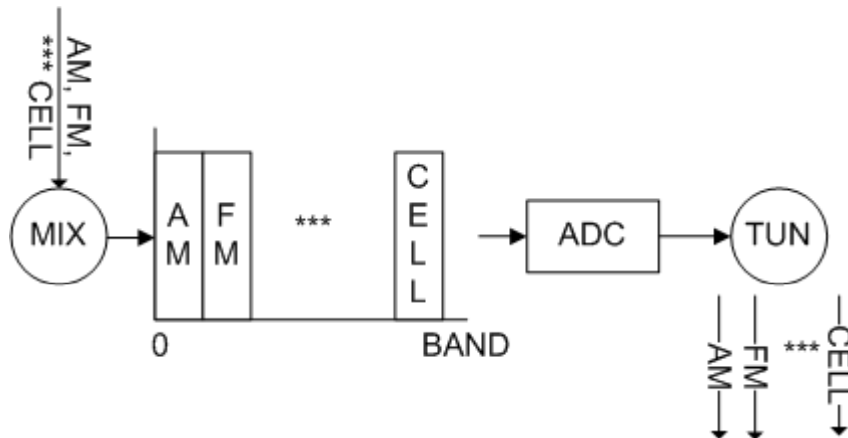
Realism: Crysis 3



Realism: ARMA III



DIGITAL RECEIVER/SOFTWARE DEFINED RADIO



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Summary of Legal Issues

- **Technology:**
 - Patent Protection
 - Content Control and Distribution
- **Content Production:**
 - Control of IP
 - Patent, Copyright, & Trademark
 - Complex Licensing Issues
- **Offensive Content:**
 - Banning & Legislation: Mothers Against Violence in America (MAVIA)
 - Video Game Ratings and Other Solutions
 - Constitutional Issues



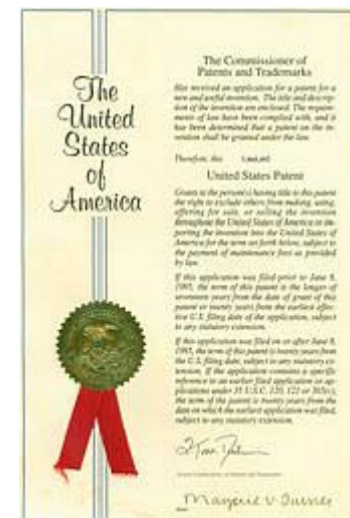
Protecting Gaming Technologies

- **IP Protection:**

- Games
- Developer Tools
- Rendering Tools
- Game Engines
- Graphics Engines
- Game Scripts, Stories and Elements

- **Content Control and Distribution:**

- Digital Rights Management
- Licensing



Content Production Protection

- **Ownership of IP between developers and publishers is one of the biggest issues:**
 - Publishers would like to own everything
 - Developers in weak position as compared to publishers
- **Historical Models:**
 - Early deals either licensed game to publisher with developer retaining all IP rights (book publishing model) OR
 - Assigned all rights to publisher on work-for-hire basis (record industry model)
 - Neither the recorded music nor book model is equitable given peculiarities of software games
- **Possible IP Ownership Model:**
 - Game Code (Publishers)
 - Source code (Developers)
 - Object (Binary) Code (Publishers)
 - Graphics and Audio Files (Game-Specific: Publishers; Reusable: Developers)
 - Tools and Technology (Developers)
 - General Purpose Routines (Developers)



*Based on Presentation by Jim Charne at CONFERENCE ON GAMER TECHNOLOGY, Seattle 3/04.



Complex Licensing

•The complexity of video game licensing today lies not in its difficulty, but rather in its sheer volume. A good example of this is SCEA's recent release "Downhill Domination" which involved the following:

- 60 In-Game Brand Licenses (e.g., Pacific Cycle, Marzocchi, SOBE and OGIO International)
- 35 Music Licenses
- 13 Image Releases/Talent Agreements
- 5 Featured Athlete Agreements
- 3 Footage Licenses – in game movies
- 1 Track License – Mountain Cross Four Man Gravity Fed Cycle Competition



*Based on Sony Computer Entertainment America, Inc., Presentation at CONFERENCE ON GAMER TECHNOLOGY, Seattle 3/04.



Constitutional Issues

- Many attempts to regulate may also be struck down as overbroad or unconstitutionally vague
- The law here is very unsettled
- New technologies, especially sexually-oriented games in 3D and with tactile feedback, will undoubtedly bring on more attempts to regulate in this area
- – SO, STAY TUNED



America Invents Act

- **First to File**
- **False Marking**
- **Joinder & Consolidation**
- **Best Mode**
- **Non-Infringement Opinions**
- **Prior User Rights**
- **Post-Grant Review**
- **Preissuance Submissions**
- **Patentability Changes**



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Conclusion

“The universe of video games is not just for kids in arcades anymore. From software development to use of personalities in games, gamer technology law requires specialized knowledge on the part of industry executives and the attorneys who represent them.”

“Corporate development and operations officers doing the yeoman’s work within their companies to develop, publish, finance, and protect their intellectual property need a solid working knowledge of the business and legal factors necessary when negotiating the maze of production. “

“Attorneys involved in the transactions of gamer technology need to hone their skills in the realm of game content, access and understanding complex licensing and intellectual property issues.”



*From CONFERENCE ON GAMER TECHNOLOGY website (www.lawseminars.com/htmls/seminars04/04gamewa/about.htm).





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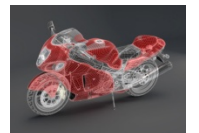
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The Villamar Firm is a Professional Limited Liability Company (PLLC) law firm based in Virginia with easy access to the [United States Patent and Trademark Office](#). The Villamar Firm specializes in the practice of Intellectual Property Law, including [patents](#), [trademarks](#), [copyrights](#), [trade secrets](#) and [computer and internet law](#).

At The Villamar Firm we strive to provide the best possible work product, at a competitive price, and with superior client service.

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*Mr. Villamar is licensed to practice US state law in Virginia and the District of Columbia.



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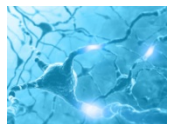
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Mr. Villamar's expertise covers a wide variety of technologies, including wired, wireless, optical, terrestrial broadcast and satellite communications, neural networks, fuzzy logic and artificial intelligence, encryption, digital signal processing, speech recognition and language understanding, sound and image processing, video processing, medical imaging, video games, on-line gaming, gaming engines, physics engines, 3D graphics, virtual worlds, Digital Rights Management, e-commerce, military technologies, radar, sonar, fighter aircraft, missiles, ground guidance, heads-up displays, computers and architectures, computer networks and security, semiconductors, device manufacturing, nanotechnology, oil and gas exploration, renewable energy, electrical, solar, thermal and wind power, automotive technologies, and electromechanical technologies.

Prior to founding **The Villamar Firm**, Carlos gained extensive experience in numerous aspects of intellectual property law as an attorney in large, national general practice and IP boutique law firms and as a patent examiner in the Speech Signal Processing Group of the [U.S. Patent Trademark Office](#).

As an electrical engineer, Mr. Villamar has over nine years of commercial experience, including production design and testing for the [Standard Missile](#) Program at the [General Dynamics Corporation](#) Missile Systems Group (purchased by [Raytheon](#)), high-speed digital logic and computer design for the [Advanced Tactical Fighter](#) Program at the [Hughes Aircraft Company](#) Radar Systems Group (purchased by Raytheon), and IR&D and design of high-speed digital signal processing and communications systems at the Hughes Aircraft Company Advanced Circuits Technology Center (purchased by Raytheon, spun off as TelASIC and then purchased by [MTI](#)).



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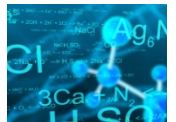
**Dr. Villamar's practice will be limited to Trademark Law while licensed in the District of Columbia.



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Dr. Villamar is licensed to practice law in [Germany](#) and the United States and specializes in international and domestic corporate and business issues and trademark law. She is also available to serve in a liaison capacity between German and U.S. counterparts. Before joining the firm, Dr. Villamar worked on both sides of the Atlantic advising and representing clients in corporate, regulatory and transactional matters. She has broad experience guiding clients through the evaluation, negotiation and closing process of commercial arrangements, specifically pertaining to Internet service providers. She has assisted in the formation and restructuring of corporations and joint ventures, execution of domestic and cross-border transactional agreements, and formulation of internal and external corporate policies.

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Schwerpunkte: Internationales Handels- und Gesellschaftsrecht, Internationales Markenrecht. Dr. Villamar ist in Deutschland und in den Vereinigten Staaten als Rechtsanwältin zugelassen und konzentriert sich in ihrer Tätigkeit auf nationales und internationales Handels- und Gesellschaftsrecht und Markenrecht. Darüberhinaus steht sie als Verbindungsperson zwischen deutschen und US-amerikanischen Partnern zur Verfügung. Dr. Villamar hat sowohl in Deutschland als auch in den USA Mandanten im Unternehmensrecht beraten und vertreten. Sie hat, u.a. im Bereich der Telekommunikation tätige, Klienten während des Evaluierungs- und Verhandlungsprozesses unterstützt, z.B. bei der Gründung und Umstrukturierung von Unternehmen und Joint Ventures, im Zusammenhang mit nationalen und internationalen Handelsverträgen und bei der Formulierung von internen und externen Unternehmenspraktiken.



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