



Virtual Worlds & Video Games Team

Explosive growth in the number and use of virtual worlds and video games has created a more urgent need to understand and address the legal issues associated with these growing industries. Pillsbury has an internationally recognized, multidisciplinary team of attorneys who are at the forefront of these issues and assist clients across the entire spectrum of legal matters and business opportunities. We are the first major law firm to establish a multidisciplinary practice focused on virtual worlds and video games. Across our 14 offices in the U.S., Europe, and Asia, we represent some of the largest companies in these industries and some of the most promising startups and emerging growth companies.

Our Team

Pillsbury's Virtual Worlds & Video Games team includes attorneys who are at the forefront of issues central to the virtual worlds and video games industries. We are a multidisciplinary legal team that understands the business and technology issues involved with virtual worlds and video games. Recent examples of our team members' involvement include:

- Leader of Virtual Worlds & Video Games team is the current Advisory Board Member and Chair of Legal Committee of the Association of Virtual Worlds.
- Developing and co-chairing a working group on Virtual Worlds and Video Games for the International Technology Law Association (ITechLaw). ITechLaw is one of the world's largest associations focused on technology law. Its global membership base spans six continents, representing more than 60 countries.
- Team members are active in SL Bar Association in the Second Life® world.
- Since 2006, we have hosted a monthly SD Forum in our Silicon Valley office and a SIG focused solely on virtual worlds. We speak regularly at industry conferences worldwide.
- We regularly issue alerts and advisories tracking issues and trends regarding virtual worlds and video games.
- Team members are involved in American Bar Association Patent, Trademark and Copyright Committee; Section of Science & Technology Law, Virtual Worlds and Multiuser Online Games Committee; Section of Intellectual Property Law, Special Committee on Computer Gaming; Intellectual Technology Law Association.

Types of Clients

- Virtual world creators and operators
- End users
- Businesses providing tools and services to end users, creators and operators
- Businesses operating in virtual worlds

What We Do

Our Virtual Worlds & Video Games team offers comprehensive services, including:

Intellectual Property

Patents

- Developing and implementing strategies for protecting patentable technology and business methods
- Understanding and avoiding infringement of third-party patents
- Understanding implications of patent provisions in Terms of Service and End User License Agreements
- Patent licensing and litigation

Trademarks

- Protecting and enforcing mainstream trademarks in virtual worlds
- Protecting and enforcing trademarks for the names and trade dress of virtual worlds and games, avatars and in-world businesses
- Advising on issues relating to the use of trademarks and product placement within virtual worlds and games
- Licensing in-game assets, characters, avatars and businesses

U.S. Virtual Goods revenue is expected to reach \$1.6 billion in 2010.

—*Inside Network*, January 2010

Copyrights

- Developing and implementing strategies for protecting copyrightable content
- Licensing music and other creative content in virtual worlds and video games
- Advising on Digital Millennium Copyright Act (DMCA) compliance and use of the DMCA to enforce copyrights in virtual worlds

- Understanding implications of copyright ownership provisions in Terms of Service and End User License Agreements
- Enforcement against illegal copying of virtual items and marketplaces for facilitating unauthorized sale of virtual items

Open Source

- Advising on the use of open source software in virtual worlds and video games
- Conducting open source audits of source code used in/virtual worlds and video games
- Open source compliance and due diligence issues
- Strategies for providing open source tools to use with proprietary virtual worlds software
- Protection of regulatory rights when using open source software
- Management and employee seminars on open source issues

Agreements and Licensing

- Drafting software development and hosting agreements
- Drafting and advising on the implications of Terms of Service and End User License Agreements
- Advising on unauthorized use of third-party applications that work with virtual worlds and video games
- Advising on all aspects of licensing involving virtual worlds and video games

Corporate

- Venture capital and other financing
- Corporate formation and governance
- Development of corporate policies and procedures regarding the use of virtual worlds, such as employees' participation in virtual worlds and avatar guidelines
- Development and implementation of corporate risk management procedures
- Mergers and acquisitions

Employment Law

- Advising on international employment issues regarding dispersed workforces making use of virtual world technology
- Advising on use of virtual worlds for recruiting and hiring

Privacy & Data Protection

- Advising on data protection and privacy for Internet, e-commerce and online gaming in the entertainment and media sectors

- E-business audits, Website set up and data protection
- Protection of customer and employee data
- Assist media companies in implementing and complying with appropriate privacy laws regarding minors' use of online games
- Assist health care companies in complying with appropriate privacy laws when deploying virtual environments

Property Rights

- Advising on ownership vs. licensing of virtual currency, land and other assets
- Advising on property rights upon termination of TOS and/or EULA

Litigation and Dispute Resolution Issues

- Advising on Terms of Service and End User License Agreement disputes
- Patent, trademark, copyright and trade secret litigation
- Right of publicity litigation
- Right of privacy
- Use/collection of evidence for litigation based on user activity, chat logs and other in-world events
- Applicability of real-world law to virtual world disputes
- Advising on contracts/disputes between end users of virtual worlds
- Advising on cyber-stalking, defamation, intentional infliction of emotional distress, libel and other in-world torts

Financial Services

- Advising on virtual currency and exchange issues
- Advising on "real money trade" and regulatory issues
- Advising on financial fraud in virtual worlds
- Advising on in-world skill contests, gambling and sweepstakes
- Advising on in-world payment methods and technologies and commerce

Tax

- Advising on tax issues involving virtual world and game transactions

Regulatory

- Voice Over IP (VOIP) regulation of online games
- Law enforcement surveillance issues
- Broadband access, technologies and services

- FCC regulatory requirements of online and Internet gaming
- Assist companies targeted by the DOJ in connection with processing transactions

Recent Publications & Presentations

Publications

Advisory—Copyright Registration for Virtual Goods: The Benefits of Timely Filing, by James G. Gatto, Jenna F. Leavitt, Benjamin T. Duranske, 2010

"Data Protection Basics: A Primer for College and University Counsel," John L. Nicholson, Meighan E. O'Reardon, JCUL Volume 36, Number 1, 2009, pp.101-144

Advisory—Department of Defense Debunks Myths and Endorses Use of Open Source Software, by James G. Gatto, Daniel S. Herzfeld, 2009

"Worlds.com Saber-Rattling Portends a Trend in Virtual Worlds and Video Game Patents," James G. Gatto, Bradford C. Blaise, D. Benjamin Esplin, Journal of Internet Law, Volume 13, Number 5, November, 2009

Client Alert—Linden Lab Is Changing Its IP Protection Policies for the Second Life® Virtual World, by James G. Gatto, Benjamin T. Duranske, 2009

Client Alert—Virtual World Operator and Executives Sued Over Unauthorized Sale of Virtual Goods; Case Dismissed After Changes Made, by D. Benjamin Esplin, James G. Gatto, 2009

Client Alert—Blizzard Wins Virtual World Battle Against MDY—CEO Found Personally Liable, by Benjamin T. Duranske, James G. Gatto, Cydney A. Tune, 2009

Emerging Trends—Choosing a Safe Path to the Clouds, featuring Wayne C. Matus and John L. Nicholson, 2009

Advisory—Trademark Claims Against Virtual World Strip Club Denied on 1st Amendment Grounds, by James G. Gatto, D. Benjamin Esplin, Justin A. Pan, 2009

Advisory—China Taxes Real Profits from Virtual World Transactions, by Bill Zhang, David Tang, Joseph R. Tiano, Jr., James G. Gatto, Benjamin T. Duranske, D. Benjamin Esplin, November 2008

Client Alert—Patent Suit Targets Virtual World, Video Game, Social Networking and Other Websites, by James G. Gatto, D. Benjamin Esplin, November 2008

"Virtual Worlds, Real World Issues," *Landslide*, the magazine of the American Bar Association's Section of Intellectual Property Law, slated for publication as the cover story in the inaugural issue, October 2008

"A look at the impact of real-world intellectual property laws on video and computer games," ITechLaw 2008 European Conference, Barcelona, November 6, 2008

Automated Program for Playing Virtual World Game Deemed Copyright Infringement, August 14, 2008 (Republished on *VirtuallyBlind.com*, August 29, 2008)

"The 3D Internet Will Change The Way We Live," *The Wall Street Journal*, A13, July 17, 2008

Rights in Virtual Property—Legal and Practical Concerns, March 15, 2005

Presentations

"Ten-Minute Success Stories," speaker, Engage! Expo, Engage Digital Media; New York, NY, February 16, 2010

Avatars in the Classroom—Privacy and Legal Challenges in Using Virtual Worlds and Social Networks for Education, Pillsbury webinar, December 7, 2009

"Patent Update: Understand Today's Issues and Prepare for What's Ahead," panelist, Engage! Expo, Engage Digital Media; San Jose, CA, September 24, 2009

"Digital Media Patents for Profit," The Business & Technology Of Online Video, Streaming Media East 2007 Conference & Exhibition; New York, NY, May 15, 2007

"Hidden Trademark Use: the Dark World of Sponsored Links and Meta Tags," (speaker), 2008 ITechLaw World Conference, ITechLaw, Las Vegas, NV, April 24-25, 2008 (Also showcased as "Topic of the Month" on the ITechLaw IP Committee web page, ITechLaw, October 2008)

"Donkey Kong Lives: A look at the impact of real-world intellectual property laws on video and computer games," (speaker), 2008 ITechLaw European Conference, ITechLaw; Barcelona, Spain, November 6, 2008

"Virtual Worlds SIG: Annual Future of Virtual Worlds" panel discussion, Pillsbury's Silicon Valley office, October 27, 2008

"Legal Issues in Virtual Worlds: Virtual Law for Non-Lawyers," Virtual World London Conference, October 20, 2008

"Legal Issues with Virtual Worlds," presented to George Washington University Law School, Cyber Law Group, October 1, 2008

"Virtual Worlds SIG: Virtual Economies with Real Results—The change brought about by virtual collaboration is only beginning to be understood," Pillsbury's Silicon Valley office, August 25, 2008

"Real Concerns When Practicing in Virtual Worlds," panel discussion, American Bar Association Section of Science & Technology Law's Annual Meeting, New York, NY, August 2008

"Why Virtual Worlds Matter for Lawyers," panel discussion (moderator), American Bar Association Section of Science & Technology Law's CLE teleconference, Second Life and via teleconference, June 2008

"Do You Truly Own What You Are Licensing? What Every Licensor and Licensee Needs to Know About Open Source Code," Advanced Forum on Technology Licensing Agreements, ACI, April 29, 2008

"Why Commercial Lawyers Should Care About Virtual Worlds and Multiuser Online Games," panel discussion, American Bar Association Section of Business Law's Annual Meeting, Dallas, TX, April 2008

"Virtual Law for Non-Lawyers," (presenter), "Intellectual Property Enforcement," (panel moderator), "Ethical Concerns for Attorneys and Executives in Virtual Worlds," (panel moderator), Virtual Law Conference, New York, NY, April 2008

"Virtual Worlds—Real Law, Real Issues," American Bar Association Annual Meeting, August 2007

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