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## Where do video games belong?

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Online games (massive multilayer on-line games (MMO)) constitute an enormous market. In this contribution, the problem of legal protection and copyright.

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[Rz 1] Video and computer games became recently one of the biggest entertainment economies. Tens of millions of players created a new sub-society and the economy behind it still expands. Next to traditional off-line computer and video games, a new model of entertainment emerged: on-line games. Because of a huge success and their expansion on the entertainment market, they became soon massive multilayer on-line games (MMO). It is predicted that currently there are twenty million on-line users, from which half of them pay monthly subscription fees. Together with traditional (off-line) counterparts, on-line games created an enormous market.

[Rz 2] Video or computer games are not defined by law. These expressions have been taken from the common language and need to be investigated in terms of the scope, differences between them, and relation to other phrases, like for instance multimedia or software. It's very important to see video and computer games in a wide context. They became not just a simple entertainment tool, but a social platform with an economy of its own, its laws and rules, its ethical codes, etc.

[Rz 3] Because so far video games avoided legal attention, the first challenge, when it comes to legal issues is to define what video and computer games are. They have already been defined for the purpose of common language. For the legal needs, it is very important to narrow the meaning.

[Rz 4] One of the essential features of computer games, next to their digital form, is the element of interactivity. Computer games need to be interactive, since otherwise they fall within the copyright regime as images or films. Furthermore, crucial for computer games is their purpose to entertain. Another application, not commonly recognised, is education e.g. all kinds of managing games, drive or flight simulators, strategic and tactical games. Next to them, games which migrated from professional training facilities to the entertainment market can also be found.

[Rz 5] Finally, MMO games, which revolutionised the entertainment market, produced a whole new dimension for computer games. In those games, the world within the game is not defined by the developer, but is left for the users to explore and develop. These games can be compared to the Web 2.0, where its users very often create the whole environment of the game, a 'real economy' within the game, and affect the off-line world by taking part in the on-line one.

[Rz 6] Computer games evolution accelerates, and any attempt to define computer games is possible only *post factum*. Because of that, computer games can be defined within a larger group of works – multimedia. Multimedia have caught more attention, especially in Germany, and it might be easier to define computer games using the methodology already applied for multimedia. Different legal regimes have developed different ways to ensure some legal protection for computer games. Nevertheless, legal interests are protected mainly through intellectual property law and contract law.

[Rz 7] Computer games, which have not been introduced as a specific subject within copyright law, seem to fall into more than one category of works. Even though, the catalogue of copyright protected works is an open one, allowing *sui generis* protection for artistic works, some works gain extra protection. Therefore, some countries decided to qualify computer games as computer programs or software, what has been recently challenged (France), others decided from case to case (Poland).

[Rz 8] The problem of classifying computer games within copyright law needs to be investigated carefully, having the copyright crisis in mind. When designing solutions, a broad perspective needs to be applied. On-line games have challenged the already gentle consensus considering computer games legal qualification. The problem of unifying copyright law in the digital era seems to be the background problem crucial to this research.

[Rz 9] In solving the problem and lowering the level of uncertainty, several solutions are possible. Most require at least some intervention within the copyright regime. Introducing a new category of works would probably solve the problem in a short term perspective, while unifying copyright law would have better medium term chances. Designing a new legal regime from scratch in order to secure digital content is another solution under debate. Even more radical, but probably most effective, would be to rebalance the existing regime using private law and some copyright law rules. This would allow to create a system suited for the digital content, on-line interaction and co-authorship within copyright protected works.

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