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Rules of the Game: Are the Rules and Mechanics of Video Games Copyrightable?



The video game industry has long been characterized by game developers borrowing gameplay features from earlier releases to develop their own new and innovative games.

This practice has persisted due to the widespread belief that the rules of video games are excluded from copyright protection under § 102(b) of the Copyright Act, either for being too abstract or for having a functional nature. This Article is the first scholarly work to argue that this belief is mistaken and that none of the § 102(b) exclusions categorically apply to such rules. Specifically, it proposes that most video game rules are in fact eligible for “thin” copyright protection, and that such protection would strike an appropriate balance between incentivizing creativity and permitting competition in the industry. This Article concludes that such a copyright would provide improved legal clarity and a reliable means of preventing video game “cloning,” which does not exist in the status quo.

About the Author

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