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# Video Games

Judy Suwatanapongched

## Activision Files Lawsuit over the Rights to Use the Word “Warzone” in the *Call of Duty* Series

On April 8, 2021, Activision Publishing, Inc. filed a lawsuit against Warzone.com LLC regarding the use of the word marks “Warzone” and “Call of Duty Warzone.” *Activision Publishing, Inc. v. Warzone.com, LLC*, United States District Court for the Central District of California, Case No. 2:21-cv-03073. Activision is the publisher of the *Call of Duty* series of military-themed “first-person shooter” games. Warzone.com is the developer of a multiplayer turn-based strategy and negotiation game similar to Hasbro’s *Risk*.

Activision’s complaint alleges that, in 2020, Activision released a free-to-play multiplayer game titled *Call of Duty: Warzone*, a “large-scale, highly competitive, fast-paced military combat game in which 150 players fight to be the last soldier standing in a massive, detailed, fully-realized ‘Warzone,’ spanning more than nine square kilometers of virtual space.” Activision alleges that Warzone.com’s game *Warzone*, which Warzone.com claims was

released in 2017, is a “low-budget, niche virtual board game” where players “take turns moving numbers (representing ‘armies’) across a map of the world.” The complaint alleges that *Warzone* is available on Warzone.com’s website and on mobile devices, but, unlike *Call of Duty: Warzone*, not on game consoles.

The dispute between the two parties originated in June 2020, after Activision filed applications to register the trademarks “Warzone” and “Call of Duty Warzone.” Warzone.com opposed Activision’s applications and filed its own trademark applications to register the mark “Warzone.” Activision alleges that Warzone.com has demanded that Activision change the name of its games, stop using the word “Warzone,” and abandon Activision’s trademark applications.

Warzone.com claims that Activision’s use of “Warzone” in its game title, marketing, and advertising has confused members of the public, including players of *Warzone*. Activision contends its use of “Warzone” and “Call of Duty Warzone” is not likely to cause consumer confusion because the parties’ games are so different in style, gameplay, appearance, trade channels, consumer base, and design mark and logos. Activision’s complaint lists 16 other games

with the word “Warzone” in their titles that are available as a browser-based game or on mobile devices. At this time, *Call of Duty: Warzone* is not available on mobile devices.

In its complaint, Activision seeks a judgment declaring that, among other things, (1) Warzone.com does not possess exclusive trademark rights to the term “Warzone”; (2) Activision use of “Warzone” or “Call of Duty Warzone” marks do not infringe and has not infringed on Warzone.com’s alleged trademark; (3) Activision is entitled to have its pending trademark applications for “Warzone” and “Call of Duty Warzone” to mature to registration; and (4) Warzone.com’s pending trademark applications should not proceed.

The outcome of this lawsuit could have interesting implications for how courts analyze consumer confusion and public perception of games in various media. For instance, when considering game titles and potential intellectual property rights, game developers may need to research and consider games in broader channels than before, including in genres that are not in direct competition.

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*Judy Suwatanapongched is an associate in Sheppard Mullin’s Business Trial Practice Group. She is also a member of firm’s Esports & Games Industry Team. This article originally appeared on Sheppard Mullin’s Game Counsel Blog.*

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