

Video-Game Firm Has Score to Settle Over Mods

ENTERTAINMENT: Suit by Blizzard says product hacks cost millions in revenue.

By **HENRY MEIER** Staff Reporter

With big bucks on the line in the multibillion-dollar video-game industry, developers are increasingly using a decidedly old-school tactic to combat hackers who modify games to give certain players unfair advantages: They're headed to court.

Blizzard Entertainment Inc., a division of Santa Monica-based **Activision Blizzard Inc.**, is the latest combatant to enter the fray. It took on **Bossland GmbH** earlier this month, saying the German company sells subscriptions to services that allow players of several popular Blizzard games to "circumvent or evade (the company's) anti-cheat technologies."

Blizzard claimed in a federal court filing that Bossland's hacks for its properties "World of Warcraft," "Diablo 3," "Heroes of the Storm," "Hearthstone," and "Overwatch" have cost the company tens of millions of dollars in lost revenue.

"Blizzard's business depends upon its games being enjoyable and fair for players of all skill levels, and Blizzard expends an enormous amount of time and money to ensure that this is the case," the complaint reads. "The Bossland Hacks destroy the integrity of the Blizzard Games, thereby alienating and frustrating legitimate players and diverting revenue from Blizzard to Defendants."

While litigation is only a part of developers attempts to prevent modifications – or "mods" – to games' underlying code, legal action serves as a way to root out bad actors and deter future hacking, according to **Stephen McArthur of McArthur Law Firm** in West Los Angeles.

"Developers that file these lawsuits are taking away the profit potential (for making cheats)," McArthur said. "There's still people out there doing it, but it would be far more widespread an issue if they weren't shutting these companies down."

Powerful protections

The Blizzard case is far from the first of its kind – video-game developers have been dealing with hacks and modifications to their underlying code since the industry's inception.

One of the first cases involving mods or cheats came in 1993 when **Nintendo Co.** sued the makers of the Game Genie, a product that gave cheat options to Nintendo video-game players. While Nintendo lost that case, legal challenges targeting game hackers have been overwhelmingly successful since.

Most of the recent cases filed, including the July Blizzard filing, rely on the Digital Millennium Copyright Act of 1998 as the backbone for their claims. The DMCA is best known as the law that allows companies to issue takedown demands for copyrighted material on outlets such as YouTube. But the statute also contains several clauses that outlaw actions taken to "circumvent a technological measure that effectively controls access to a work" protected by copyright.

Attorneys for game developers have used this provision to go after hackers in court because it provides a much safer option than pursuing direct copyright infringement claims, according to **Jonathan Steinsapir**, a partner at Santa Monica's **Kinsella Weitzman Iser Kump & Aldisert**.

"Trying to apply the current precedent (regarding general copyright claims) to software is very difficult," he said. "There's just not a lot of case law on it."

The DMCA, in comparison, is relatively ironclad. Blizzard and other game developers have used it to successfully argue that

mods induce players to circumvent game developers' efforts to police cheating and flaunt end-user license agreements, in which players must agree not to cheat.

Blizzard alleged in its complaint that Bossland intentionally built a product that it knew would cause players to violate those EULAs.

"Defendants know that the Bossland Hacks cannot be used without violating the EULA, but nevertheless encourage and induce their customers to use the Bossland Hacks in violation of the EULA," the filing reads.

Enforcement issues

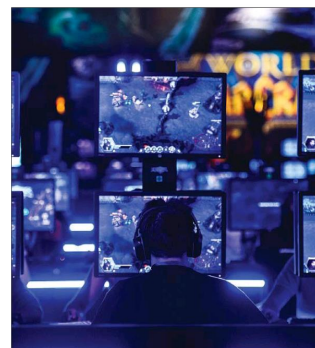
While Blizzard might have a case, collecting a judgment issued by the court or a jury would likely present its own set of problems. Because Bossland is headquartered in Germany, Blizzard

would have to initiate legal proceedings in that country in order to enforce the U.S. judgment. While Germany does have more favorable laws than many countries when it comes to enforcement, Steinsapir said collection can still be difficult.

"There can be issues with collecting on judgments even when it's your next-door neighbor," he said.

Setting aside the legal component, there's also a basic supply-and-demand issue game developers must contend with, according to McArthur, meaning more bad actors are likely to pop up due to the immense profit potential.

"There's a lot of money to be made in hacking and cheating in the video-game space," he said. "If you start selling hacks for one of these hugely popular games like 'World of Warcraft,' you can make millions."



SASCHA SCHUERMANN/GETTY IMAGES
Game On: 'World of Warcraft' player.

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SHAY HUGHES
COO, Hughes Marino, Inc.

West Los Angeles

11150 Santa Monica Blvd.
Suite 850
Los Angeles, CA 90025
tel: (310) 277-3211
hughesmarino.com

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