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culture, debate [<http://howtonotsuckatgamedesign.com/?p=3327>] , August 7, 2011

[<http://howtonotsuckatgamedesign.com/?p=3327>] by Anjin Anhut.

This article is filed under [game criticism](#).



Hm, Mojang is getting sued by Bethesda over trademark. This was publicly stated by Mojang chief Notch at his [tumblr on friday](#).

As much as I sympathize with Notch and his crew and hope for the issue to be resolved fairly, Mojang displayed severe carelessness on this issue. As much as I understand the temptation to view this issue as the poor indie David getting viciously attacked by the Goliath lawyers, the uninformed ~~reactionary~~ overzealous bullshit treatment by the gaming community is just that, ~~uninformed reactionary~~ overzealous bullshit. As much as I find trademark laws to be worth of debating and changing, ~~uninformed reactionary~~ Bethesda is not the place to bitch about it.

Don't hate the player. Hate the game!

I'm co-founder of a small social media entertainment and game company and we had to deal with naming our intellectual properties too. We assigned one guy (another co-founder), to do the research in his spare time and consulted with a trademark and patent expert, ~~uninformed reactionary~~ it took us about two weeks to find out what we can and can't use. It's not that hard or expensive to gather the necessary knowledge to understand which names would collide with already established trademarks.

The fact that Mojang's title "Scrolls" conflicts with Bethesda's "Elder Scrolls" trademark rights should come as no surprise to anyone who just spent some time with the issue. The laws are clear and the information to avoid conflicts is publicly available. You can check the [database of the United States Patent and Trademark Office](#) for example. And yes, when you trademark a name for you property which is composed of two or more words, the single words are trademarked too. There are exceptions to that rule (like descriptive words for example or parody and commentary) and it is debatable if this measure does more good than harm, ~~uninformed reactionary~~ but the matter of things is clear.

This is the reason why you can't publish a superhero comic called Spider-Guy, why you can't broadcast an animated series call Nickey Mouse and Ronald Duck. It's why the WWE had to remove all references to "Hulk Hogan" when he was still wrestling there and replace it with "Hollywood Hogan", due to trademark claims by Marvel comics regarding their character "The Incredible Hulk". And this is why Mojang can't just go along and publish a fantasy RPG video game, when there is already one with the word "Scrolls" in its name.

Correction: Mojang's Scrolls is not actually defined as an RPG. My mistake. Though it is a fantasy game, with a card mechanic, stats and all that jazz. So it easily could be a spin-off of fantasy RPGs like Elder Scrolls. You can have a look at the official site here: scrolls.com. Thanks to a reddit user for pointing this out.

Legal rights, shmegal rights, can't

Bethesda just let this slip? No they can't.

Registering a trademark does not only come with powers, it comes with liabilities also. The matter of the law is that, if Bethesda willingly ignore when their trademark appears to be violated, they can lose their trademark protection. You are required by law to enforce your registered trademarks or you weaken them and eventually lose them. Bethesda has no choice but file the lawsuit or they are in danger to lose the protection for their whole Elder Scrolls franchise.

I don't want to have Mojang face damages as much as the next guy. But the problem doesn't lie with Bethesda here. I understand the sentiment to bash Bethesda. The small creative indie studio that made it big is now attacked by guys in suits from one of the big players. Get over the narrative, folks and focus your anger on the actual target: Trademark laws. If you want things to change write your elected representatives, start a petition and educate yourself, but don't waste your fucking time with stupid tweet bullshit like this:

“Am I the only one who thinks Bethesda is suing indie developers over trademark to try to scare them out of the RPG genre?”

“Bethesda suing Notch over the word “Scrolls”? That's just wrong, stupid, and silly.”

“Absolutely shameful of @bethblog to be suing @notch for this (not the devs, but surely legal).”

Notch is not helping.

Notch published a written statement on the issue on his tumblr. [Read it here](#). Well, I'm not his lawyer but he should keep his mouth shut until the issue is resolved, he is getting sued and is publicly giving testimony and not really in his favor. He makes an emotional appeal and voices his confusion, including plainly describing that Mojang just didn't do their homework before going along with their “Scrolls” game trademark. He is basically making the case for his opponents.

Let's have a look at Notch's official statement, quoting snippets from his full article:

A lot of people want more details about what is going on, so here is everything I know:

Okay, then we can assume that you did not leave out any important detail, can't we?

First of all, I love Bethesda. I assume this nonsense is partly just their lawyers being lawyers, and a result of trademark law being the way it is.

Mkay, what are the other parts? When this “nonsense” is just partly caused by laws and lawyers, what is the rest of it? This is just suggestive talk on Notch's side, implying that there is more to the issue than plain legal matters. As if Bethesda is playing legal games or want to harm Mojang or whatever. The legal situation alone not only justifies but also explains Bethesda's move here to the fullest.

We also applied for Scrolls, the new game we're working on. We knew of no similarly named games, and we had even googled it to make sure.

You even googled it? YOU EVEN GOOGLED IT?!?! The internet is full of shit and full of holes, since when is google a way to be save on an issue? How about registered trademarks of properties that aren't released yet? How about canned unicorn meat and reptoids? (seriously look up reptoids). I can't believe that Notch actually just stated that their research on the matter did not go beyond google. If, that is true, Mojang had it coming for their ignorance. And he also defends Mojang by “not knowing similar named games”. Honestly, how easy does he want to make it for Bethesda's lawyers?

I'm not even sure if you CAN trademark individual words, like Scrolls, but we sent in the application anyway.

Yeah, okay, we get it. You have no comprehensive knowledge about trademark laws, went ahead anyway and even now you haven't bothered to make yourself smarter on the issue. You can't just go around like “We din't know better”, when you register a trademark. You have to do your homework. I don't know what you pay your legal team, Notch, but they don't seem to give good legal advise. Man how can you first be so careless about your game trademark and than be so careless with your public statements about an ongoing lawsuit?

I really dig your work and your exploding success is a remarkable story and inspiration for many indie devs around the world. I'm glad you exist as a part of gaming culture. But I can't side with you

on that one.

Pitchforks And Torches

I understand how it can appear that Mojang is somewhat a victim in this situation, and how it seems appropriate to retaliate against the oppressive AAA publisher. But the case that Mojang chief Notch is making is quite damning for his studio. The trademark laws could lead to a judge ruling against Mojang and maybe rightfully so. And taking into account that Bethesda is not allowed to pick and choose where to enforce their trademarks and where not, there is little to no basis on which demonize Bethesda here.

I hope that everything plays out as fair and harmless as possible for both sides. And maybe next time before you guys get out your pitchforks and torches you use your brain first.

Disclaimer: nothing in this article is to be considered legal advise... get a lawyer to do that.

60 THOUGHTS ON "BETHESDA IS NOT THE PROBLEM AND NOTCH IS NOT HELPING"



GBM

on **October 6, 2011 at 11:51 am** said:

'Then I am not allowed a game with a title including ,Äö/Ñ/ƳWorld,Äö/Ñ/Ƴ, because Blizzard owns it, or ,Äö/Ñ/ƳOrange,Äö/Ñ/Ƴ, because Valve has the trademark, and ,Äö/Ñ/ƳMetal,Äö/Ñ/Ƴ belongs to Konam'

No ingoroth you are allowed that as world is a descriptive term. However exceptions apply if your World of whatever or Whatever world is a fantasy RPG featuring dungeons, pvp and elves. Same goes for Orange if you want to have a game called Steves Fantabulous Orange adventure you might be able to have that, but if your Orange Cuboid wants to have first person shooter games and a certain portal mechanic you bet your arse you cant have that. Try Reading the actual article esepcially when he mentions descriptive terms and adjectives can be used in exceptional circumstances.

And secondly cant you people read. If bethesda doesnt challenge the ruling then they run the risk of losing the rights too the trademark and the potential money it makes. As long as they hold the copyright to scrolls in relations to Fantasy RPGs they have to fight to keep it every step of the way. It is even stated in the article.

And regaurdless of what people call it the game is still trademarked under law and they have perfect legal ground in case of threats.



Ingoroth

on **October 6, 2011 at 9:51 am** said:

I'll keep hating the player. The player is playing the game One cannot exist without the other, I'll hate both.

"And yes, when you trademark a name for you property which is composed of two or more words, the single words are trademarked too. "

That is the single most stupid thing I've ever heard and it needs to be changed immediately. Then I am not allowed a game with a title including "World", because Blizzard owns it, or "Orange", because Valve has the trademark, and "Metal" belongs to Konami.



Ur Bota

on **September 11, 2011 at 4:25 pm** said:

This post seems to be written in emotional state, "he should keep his mouth shut" "even now you haven,Äö/Ñ/Ƴ bothered to make yourself smarter on the issue", which makes me take you claims less seriously.

"Yeah, okay, we get it." – Who are these "we"?

In other notes I can see you ascribing motives to Notch wordings and doings which are very poorly underwritten.

Furthermore you seem to have a poor grasp of what constitutes an "official statement". The text you quote from is from Notch's personal tumblr and may be considered public but not official.



Manly

on **September 8, 2011 at 5:59 am** said:

Notch is a swedish guy not a room full of lawyers, and even if he loses in court it would have been well worth it for Mojang.. amazing PR? Should he be quiet because of respect for the lawyers or...? Its very unlikely that this will hold up in a swedish court.

Bethesda also run a real risk of having half of northern Europe boycotting them, this is just as much a reality as messed up trademark laws.



Abyss

on **September 7, 2011 at 3:09 pm** said:

The two things that bug me:

1. Scrolls is not that uncommon of a word, and a single word, too. Not that big of a deal on it's own, but I think it's something to consider.
2. NOBODY every called a game "the elder scrolls". Bethesda should just remove those three words, and replace it with something else. In no real way do elder scrolls seriously have anything to do with the storyline. Apart from being a minor macguffin in the thieves guild quests, that is.



Eric

on **August 27, 2011 at 12:13 am** said:

"You even googled it? YOU EVEN GOOGLED IT?!?! The internet is full of shit and full of holes, since when is google a way to be save on an issue?"

responses like this.. so many responses like this on the internet. So many, it makes me wonder how stupid the world has gotten. Notch is a smart man, however like myself, English is not his primary language. What he meant is that after proper investigation, he also Googled it in case of different results. As in, he actually bothered to.

Hard to explain to someone whom I now know is rather ignorant, but I gave it a shot.



An Idiot

on **August 25, 2011 at 3:25 pm** said:

"This is the reason why you can't publish a superhero comic called Spider-Guy, why you can't broadcast an animated series call Nickey Mouse and Ronald Duck. It's why the WWE had to remove all references to Hulk Hogan when he was still wrestling there and replace it with Hollywood Hogan, due to trademark claims by Marvel comics regarding their character The Incredible Hulk. And this is why Mojang can't just go along and publish a fantasy RPG video game, when there is already one with the word Scrolls in its name."

Your conclusion only holds water if you could sensibly argue that I couldn't create a comic book called "Man" where the protagonist is a Man and doesn't do anything remotely spider-like, or an animated series called "Mouse" or "Duck" in which an animated Mouse/Duck does nothing remotely close to anything Mickey or Donald ever did. And I don't really see what Hulk Hogan has to do with this – he'd publicly aligned himself with other Marvel characters as well (Mr. America) so Marvel had reasonable grounds to posit that he was infringing on their trademarks.

In essence, you've hung your argument off of a set of badly conceived analogies that bear no relevance at all to the subject matter.



Andreas

on **August 21, 2011 at 4:28 pm** said:

You should bear in mind that US Patent and Trademark law is on the same as in the eu. They cant force notch that easily in sweden. I can totally understand notch to say that is nonsense since the laws in most of eu are not used that aggressive as in the US



simon

on **August 21, 2011 at 3:04 pm** said:

don't hate the player, hate the game. OF COURSE i hate the player! nobody forces bethesda letting those stupid laws being executed!

they easily could be like they, a new indie game called 'scrolls', just like 'scrollbar' or our gamer 'the elder scroll', funny BUT NO they sue the guy. stupid, just stupid.



Michael

on **August 20, 2011 at 2:47 pm** said:

I completely agree with you. One thing that I always find annoying from Indie developers is that they always have this tendency to ignoring common rules and law. It is like that they see themselves to be higher than anything thus you always see the hate from Indie community when someone signs their game with big name publisher (selling out according to them). A lot of times I associate them with hippies in the 80s or 90s that keep yelling "You can't trust the system!".

I find this ironic because what Mojang did right now is actually nothing but giving free advertisement for their new game. It gathers more people to know what "Scrolls" are and in the same time it develops hate toward Bethesda that have done nothing but defending their IP name. I have nothing against Indie and I support them but sometimes I wish that this 'uppity' attitude in Indie developers can just change.



Opinionsarelike...

on **August 18, 2011 at 10:26 pm** said:

I find it truly surprising that a site named "howtonotsuckatgamedesign" is run by a condescending asshole, HUGE surprise.

People may take your OPINION more seriously if you could be bothered to check your grammar and spelling before posting a bunch of "you should have known better" rhetoric.

What successful games have you designed again?



CitrusConsumption

on **August 10, 2011 at 7:06 am** said:

I actually now find this dispute a whole lot more interesting, same with the law.

It brings up the problems of Trademark and Copyright issues, I find the fact that it is different with every(?) country very inefficient since games, comics etc are made EVERYWHERE pretty much. Also reading the comments, I find it funny how much negative response this is getting. It just proves how hurt gamers are over this, especially since I think most people don't understand or know (including me) the technicalities of the law and how they are different for each country. So you might be right on this matter in your country but not in another, vice versa.

But this is what I picked up from the comments. SO I HAVE NO IDEA REALLY! I could be wrong. Nice article though gave a reaaal nice facepalm vibe.



Crazedfish

on **August 9, 2011 at 10:57 pm** said:

Some interesting and fair points which really raise the issue of how stupid some laws are. Is there exceptions to these laws though; it seems there's a lot of games with similar titles already in existence, e.g. Halo Wars, Star Wars, Mafia Wars, Guild wars, Geometry wars, Miner wars, GTA-Chinatown wars, Advance wars, C&C Tiberium wars etc. etc. Maybe we should be able to do polls to decide these damn things instead of wasting time and money with trivial matters.



Gwathdring

on **August 9, 2011 at 8:39 pm** said:

@Starky

Well put, starky. Very well put indeed.



alex

on **August 9, 2011 at 2:03 pm** said:

this is probably a little besides the point but if you find the time maybe check out this podcast episode "when patents attack" of this american life http://www.thisamericanlife.org/radio-archives/episode/441/when-patents-attack?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+talpodcast+%28This+American+Life+Podcast%29&utm_content=Google+Reader

it shows some aspects of the disconnect of "real business" (here: game industry) and "law business". and maybe gives this debate some other dimension and fodder for argument.

i wished people wouldnt call each other names so quickly btw. piece.



david

on **August 9, 2011 at 12:47 pm** said:

@Anjin: that s what I thought, there s probably a whole lot more people aware of mojang s upcoming game now than there was before, thanks to this trademark dispute, and they get the whole "poor underdog indie facing off agains big corp lawyers" bonus. not that the creators of minecraft need ani boni...

even colours can be trademarks (c.f. telecom /magenta), if they ve been used as such long enough and thus are "established" as a brand. similarly, that s possible with single, descriptive words. it s however quite difficult to get there. I ve worked at the Swiss Institute of Intellectual Property, and while my law-y days are behind me, I don t think Bethesda would actually win this dispute. But someone definitely would have lost their job, if they had done nothing at all about it.

whether bethesda went about it in the cleverest way is a different question, but we would need to know more about that letter actually said.



thedude

on **August 9, 2011 at 1:40 am** said:

Regardless of whether Bethesda is doing the right thing to protect their trademark and of Notch doing the wrong things we can still take our pitchforks and torches to march against a company being an asshat. Bethesda could have said:

"Notch, we own the trademark that your new game might infringe upon. Being that the game isn't in competition with 'The Elder Scrolls' directly and the fact that you are a small independent company which is blowing the winds of change in our industry, perhaps we can come to some sort of agreement. In order to protect our trademark we'd like to license the name to you for \$0.01. This way our trademark is protected and we can go on making games."

Now I'm no lawyer or trademark expert, but there must have been a better way to deal with this than a lawsuit. Wouldn't a free license agreement alone protect Bethesda's interest? (I made it a penny above in case money must change hands.)



Starky

on **August 9, 2011 at 12:36 am** said:

I think this boils down to the fact that most people don't understand trademarks at all* – and think that "scrolls" is different enough from "The Elder Scrolls", or that most people call the games "Oblivion" etc, and assume Bethesda are in the wrong.

They are wrong, and so is Notch.

Trademarks are all about strength. Strength is gained from uniqueness (that is the more generic the term the weaker any claim for trademark becomes – trademarks have actually been lost due to becoming generic terms), market share and finally chronology (who applied for, and used the TM first).

In "Big Mac" Mac is the strongest term, in "Mickey Mouse" it is clearly Mickey. Companies could get away with calling a burger "Big *Something*" – say the "Big Beefer", Just like you could name a character "*Something* Mouse". So long as it didn't sound like Mac or Mickey – John Mouse would be fine, Michael Mouse" wouldn't.

In "The Elder Scrolls" that defining term is clearly Scrolls.

Pre-notch, any mention of Scrolls + Game would automatically associate with Bethesda products, and I can only fine 1 game that is not an Elder Scrolls game with scroll/s in the title, a small word/puzzle game, and I seriously doubt they applied to gain a trademark for it.

So the second issue is market share, or brand/company association. Simply put courts have been known to grant usage to a company who came second to market (as in another company trademarked a name first) but became the clear market leader, due to the sheer weight of association with that company and their products. A fictional example (though not totally fictional in the case of gmail in the UK) is if someone had a business called "google" that pre-dated Google. One involved in computing and the internet somehow, but relativity unknown – a court may rule that this little unknown brand would suffer no harm from having to change name and grant rights to big G, Google – no matter which came first.

So in this case, Bethesda came first, have the stronger brand (notch has zero brand strength yet) and market share. They clearly should be the ones to own "scrolls" in the video game market.

Seriously, this is a trademark that is literally worth hundreds of millions (if not a billion plus) to Bethesda, and worth literally fuck-all to Notch/Mojave – they are not going to have a sense of humour about this kind of thing (when it can actually destroy their Elder Scrolls trademark.

Notch is an idiot if he doesn't immediately realize he's been a fool and withdraw and and all claim to the term "scrolls", if he somehow gained the trademark in Sweden he should give it up to Bethesda, relinquish all claim to it.

Best he can do is maybe bargain usage of the term for his game (and any directly related products), but he can't win.

If Notch does win in Sweden due to some odd non-EU conforming laws, or a stupid judge, then you can be almost sure that Bethesda'll win in European court, it will cost both of them millions – millions that Bethesda will happily risk for their billion dollar TM. Will Notch? I doubt it.

*Disclaimer, I'm not a IP lawyer, just a Engineer who deals quite a lot with patent and trademark issues for my company. A company that would challenge any lawn cutting product with "hover" in the name (and before anyone googles, "challenge" are a licensed rebadge).



omnilynx

on **August 8, 2011 at 11:34 pm** said:

@Anjin:

You said, "And yeah, I suspect that Bethesda,Äö/Ñ/Ÿs move and especially their rude style turn out to be quite the public relations blunder." So, Bethesda "is" the problem after all, then? There are multiple ways to defend a trademark, and it looks like Bethesda (or rather ZeniMax) chose the jerk way, and is receiving understandable flak for it. Trademark disputes are settled all the time, and Mojang was (and still is) willing to work with them. Apparently you misunderstood:

nobody's up in arms about someone enforcing a trademark, they are angry about how they are going about it.



Jesse

on **August 8, 2011 at 11:33 pm** said:

"This is the reason why you can,Äö/Ñ/Ÿt publish a superhero comic called Spider-Guy, why you can,Äö/Ñ/Ÿt broadcast an animated series call Nickey Mouse and Ronald Duck."

Well yes, of course.. those are obvious aliases for copyrighted entities... But having a copyright on "Spider-man" does not give you to right to sue any person that uses spider in their IP...

Here is a good example: Star Trek, Star Wars, Stargate: none of those entities can sue each other for using star in their title. The names are entirely dissimilar.

If Mojang had named the game "The younger Scrolls" then there would be a problem. As it is, this will only be a very costly PR loss for Bethesda.

And your critique of Notch's public statement is senseless. Of course he can say what he wants publicly, because Bethesda has NO case. There is nothing to hide, because there is no possible way Bethesda could win.



TheFlyingWalrus

on **August 8, 2011 at 11:05 pm** said:

I found this a good and enlightening article, and i can't really say i've been angered by it much. Just a tip: If you're feeling angry reading an article, and want to reply in a righteous fashion, don't. There's enough rage on the internet, and you're not helping. In a way, that's also directed towards the author, who's writes in a somewhat condescending (sp?) manner sometimes. It doesn't bother me, but it will just attract more stupid rage-comments.

On the topic, i must say i mostly agree with you on how Notch has made the problem worse. We could've seen this coming a mile away, considering how fast he went from underground developer to founding his own company. I also wasn't aware that the state of the copyright law is the way it is in the US. Coming from Sweden, this feels very alien to me, and apperently to most of Minecrafts fanbase. I can only hope this will encourage people to look into their country's copyright law. If silly and contraproductive situations such as this whole debacle can occur, then clearly there is a problem with the system.

On that subject, do you perhaps Notch making this deal public might have a positive effect? People are mostly raging it seems, but i think there's a good chance that people will rage at the laws aswell.



jorma

on **August 8, 2011 at 10:11 pm** said:

I'm sorry, but you do sound very condescending with your YOU EVEN GOOGLED IT?!?! comment. You are trying to suggest that this is Notch fault for being unaware of the Elder scrolls series, while full well knowing that he WAS aware of it, it being one of his favourite game series, and that he HAS been given the legal advice that Zenimax has no case. You are either being willfully disengenious, or you failed to properly read his blog post describing his side of the story.

I think he is very much helping when publishing this zenimax C&D and his thoughts about it. More developers should strive to be as transparant.



Matt

on **August 8, 2011 at 9:29 pm** said:

This article brought to you by the money hats at Bethesda! You forgot to mention that Bethesda didn't trade mark "scrolls" "The Elder scrolls" on the other hand they have. Does Bethesda own the word "The" too? How about "elder"? I hear it is illegal to name your kid Mario now too.



The_Unreal

on **August 8, 2011 at 8:36 pm** said:

This is a really condescending article. It's almost as if you get so caught up in the minutiae of law that you lose sight of what is reasonable and just. Perhaps you should have been a lawyer.

"And taking into account that Bethesda is not allowed to pick and choose where to enforce their trademarks and where not, there is little to no basis on which demonize Bethesda here."

I just don't believe you. Let's see some statutes if you're going to play that game. Perhaps some case law. Anything? [Citation Needed]

Finally, I have to ask – what, exactly, should the torch and pitchfork crowd be doing? Talking to elected representatives? Well what in the hell are my reps going to do about Swedish law, hmm? It is ENTIRELY right and popular to pressure the company in order to alter their behavior.

Bottom line is that your article does nothing but deflect and provide cover. You don't advance the discussion, you don't adequately address the international nature of the case, and you don't provide a meaningful solution for the non-problem you posit. Although, nice job in scamming up some traffic for your blog by being "controversial." So I suppose you win that way.



Anjin Anhut

on **August 8, 2011 at 8:45 pm** said:

@The-unreal: After carefully reading your comment I was thinking about how to address your points. But then I didn't.



M5B

on **August 8, 2011 at 6:43 pm** said:

Maybe you should start the blog called "how not to suck at giving constructive criticism", with the first entry about not assuming a condescending holier than thou attitude even when one is technically correct.



Anjin Anhut

on **August 8, 2011 at 6:56 pm** said:

@M5B: Sorry, but the domain hownottosuckatgivingconstructivecriticism.com is waaaaaaayyyy to long for tweets, y'know.

@Smion: Yeah, generally they can own regular words for their specific type of goods and services. But on a case-to-case basis it of course get's more complicated and a number factors need to come together to trigger a conflict that needs to be resolved in court. Descriptive words like "clean", "big" "tasty" and such are usually allowed since they characterize your goods.

You recall that it just was "The Last Airbender" movie, while the TV series is mainly known as "Avatar – The Last Airbender". But they couldn't use "Avatar" for their movie's title, because the film company around James Cameron already parked the term Avatar for movie titles.



Smion

on **August 8, 2011 at 6:42 pm** said:

Companies can actually "own" regular words of the english language? Wouldn't that make the existence of both the games "No More Heroes" and "Company of Heroes" (and probably a shitload of other 'hero'-games) impossible?



fuckfuckfuck

on **August 8, 2011 at 6:06 pm** said:

Go fuck yourself kthxbai



Anjin Anhut

on **August 8, 2011 at 6:22 pm** said:

@fuckfuckfuck: I approved your comment just for sheer entertainment value. I've never had a commentary being so consistent with the authors name. kthxbai.

@callum: Sigh...



callum

on **August 8, 2011 at 5:53 pm** said:

you seem like such a pretentious person. this article screams douchebag. this is your opinion, not fact.



Ryan Thor

on **August 8, 2011 at 4:32 pm** said:

Oh my god, you need an editor. I could not read this article with the number of errors within it.



Anjin Anhut

on **August 8, 2011 at 4:45 pm** said:

@Ryan Thor: Your right. I'm a german, so yeah I need someone badly to look after spelling and grammar mistakes. Would you do it, seriously?



Gustaf Zetterström

on **August 8, 2011 at 4:11 pm** said:

Good Article but very bad. -;-•

1.You expect a small the owner of a small company, to be over night, expert in all laws around trademarks? How ignorant.

2. Here in Sweden we have quite a different culture than from the USA. Here, most of would said that it would be ok to have the name scrolls. Isn't there already a game that is called "Scrolls" then it ok. It's our mentality. that is in contrast to what we find the US.

3. Notch just saying his mind on it. really it's just common sense. And I think the judge here in sweden will probably understand his viewpoint.

4. The justice system here is quite different it seems. Since Notch stated that he has searched for a game with the specific name "Scrolls" and couldn't find any, then the judge here have to find him non guilty. The judge will surely consider the fact that Notch is a layman. Swedish court and law isn't so focused on punishment as the american is. Bethesda coming here and think it will be like an american court would be deeply sad. I guess the judge (Since it is him/her who judges and not a Jury) will give a reasonable outcome if the parts can't negotiate.

5. Notch is not guilty. They wanted the name "Scrolls", "Scrolls" was free so they took it period. Im sure the swedish judge will also consider this.



Moron
on **August 8, 2011 at 3:56 pm** said:

The reason I'm siding with Notch is because Bethesda's legal team are NOTORIOUS copyright trolls. Just look at the Bethesda vs. Interplay case. Take a shot for every countersuit. Don't though, because you'll wind up with liver poisoning.



Teej
on **August 8, 2011 at 3:39 pm** said:

I considered your arguments and then dismissed them. Advising you to clean up the language and adjust your tone is just constructive criticism. It's your "fucking problem" if it makes people take you less seriously.

Bethesda chose to send Notch that threatening letter. They choose to enforce a legal monopoly on a term which has no objective basis in reality. They are without a doubt the villains of this story, and should be criticised alongside trademark law itself so long as they choose to use it in this way. Notch has every right to criticise their bullying, and gamers are right to attack them.



Teej
on **August 8, 2011 at 3:18 pm** said:

"And taking into account that Bethesda is not allowed to pick and choose where to enforce their trademarks and where not, there is little to no basis on which demonize Bethesda here."

There absolutely is, based entirely on the fact that they're choosing to enforce "their trademarks" in the first place. You say "focus your anger on the actual target: trademark laws", but you then pardon Bethesda for using such law aggressively. Bethesda may have a legal right under the existing copyright law to monopolise the name "scrolls", but they have no moral right to do so, and to threaten legal action against Notch on the basis of this unjust legal monopoly makes them clearly the villains in this scenario. They have no moral right to enforce any such trademark, trademark law is based upon the contradictory notion of "intellectual property" and any attempt to enforce it should be attacked as an assault upon the liberty of all creative individuals.

And as an aside, your dismissive, sarcastic and aggressive tone in this article doesn't help your argument. If you need to swear to get your point across, it might not be a particularly good point.



Anjin Anhut
on **August 8, 2011 at 3:31 pm** said:

@Teej: So, somebody using strong language keeps you from considering the arguments independently from how valid they are? I don't see where this is my fucking problem.

And btw you totally missed the point of the article, if you still are talking about Bethesda "choosing" to do what they do.



Pentaxia
on **August 8, 2011 at 1:35 pm** said:

what is this? longest hate-post i've read before!

at least try to be neutral..

all i can read in this article is "i hate notch, minecraft and everything connected to mojang"



Anjin Anhut
on **August 8, 2011 at 1:40 pm** said:

@Pentaxia: Man, you are in some higher spheres of perception i can't reach. So instead of arguing with you I'll just make fart noises with my mouth.



frymaster

on **August 8, 2011 at 1:34 pm** said:

All but one of your examples of infringement on multi-world trademarks are deliberately contrived to be suggestive of the trademark, though your "Hulk Hogan" example redeems them.

However:

"This is just suggestive talk on Notch's side, implying that there is more to the issue than plain legal matters. As if Bethesda is playing legal games or want to harm Mojang or whatever."

I am really confused how you can take a statement that starts off by saying they're sure this action didn't originate with the principal company employees and take that to mean you think he's implying a deliberate policy. The whole point of him saying he's sure this originated with the lawyers is to make it clear that this is an act with no malice behind it.



fooi

on **August 8, 2011 at 1:27 pm** said:

I think the best thing for Notch to do in this situation would have been to say "OK, sorry guys, we'll use another word."

Make it public, make a big deal of what a nice guy he is.

End of problem. Beth is happy. The fanboys are happy. Notch looks like a great guy.

Now he's got all manner of problems, he sort of looks like a dick, Beth also look like dicks.



VMetal

on **August 8, 2011 at 1:11 pm** said:

So if I go back in time and make a game called "Edge of Unreal, a King's Quest for Glory through the Mirror of Doom and Warcraft" it would mean I'd be rick by now... sometimes laws are just too weird.



Rusty Broomhandle

on **August 8, 2011 at 11:26 am** said:

Does "Solar" then also infringe on "Sins of a Solar Empire"?

I understand that US copyright law requires you to defend your trademarks or lose them, but there's nothing to defend here.



Anjin Anhut

on **August 8, 2011 at 11:35 am** said:

@Calandra: Hey there. My knowledge of trademark laws comes what our expert consultant explained to us and personal research and is in fact limited to German and US trademark laws. If the Swedish laws paint another picture of the situation, please help us out and explain how.

Even if Swedish laws are drastically different, the situation for US market would still stand as it is. You can't enforce trademark laws of one country in another. Thanks.



Anjin Anhut

on **August 8, 2011 at 11:35 am** said:

@joe: Yo, Joe. Your "faggoty" comment won't get published. Freedom of expression is all well and good, but this is my blog and here is no platform for anti-gay slurs. Feel free to resubmit your opinion, but this time make sure you don't come off like a

homophobic dick. Thanks.



Calandra

on **August 8, 2011 at 11:19 am** said:

This post fails to take Swedish trademark laws into account.



Stefan

on **August 8, 2011 at 10:45 am** said:

@ Ted meyer: Everytime I here the name "Scrolls" I am thinking about The Elder Scrolls and not the card game, so I get a little confused :S



JustAGuy

on **August 8, 2011 at 6:57 am** said:

I was thinking of a mean way to say I disagree, but I guess I will just say it. I disagree.



Ted meyer

on **August 8, 2011 at 12:29 am** said:

I complete disagree, because trademarks are supposed to protect from consumer confusion, and I'm quite sure nobody will confuse "Scrolls" with "elder scrolls (some #): Skyrim" especially when one is a fancy 3D high-performance game, and the other is a card game. and also, as far as I can tell, Sweden has much more reasonable copyright laws and judges, and if Bethesda is going to sue, they have to sue mojang in Sweden. plus, instead of offending indie gamers, they would do alot better and make far more money if they went down a path of "hey mojang, want to promote eachothers games? they have similar names". because that's really all what it's about in the end for Bethesda: money.



Anjin Anhut

on **August 8, 2011 at 12:52 am** said:

@Ted meyer: Hey there. Yeah, it actually may turn out that a swedish court rules against Bethesda's claim and damn would they look stupid if that happens. And yeah, I suspect that Bethesda's move and especially their rude style turn out to be quite the public relations blunder. I don't see how this all conflicts with my article though. Can you help me out?



DavidR

on **August 7, 2011 at 11:48 pm** said:

This whole post is full of crap. I stopped reading here:

"Get over the narrative, folks and focus your anger on the actual target: Copyright laws."

Not only are you not a lawyer, but you don't know the difference between trademark and copyright either. Here's a hint: They're totally different things. They may both come under the banner of IP but the purpose and enforcement of them is not the same in any way.



Anjin Anhut
on **August 8, 2011 at 12:21 am** said:

@DavidR: Gee, thanks, your right. I inserted the wrong term there and I understand how this can cause confusion. You will find that I fixed it. As to the rest of your comment: meh.

@Michael Kwan: Great comment!

Ha, well that would be an interesting ruling. It actually might be quite risky for Bethesda to force a court to judge on how valid the trademark actually is. We'll see.

When it comes to the court of public opinion, yeah, Bethesda hasn't played its hand well. Instead dishing out a law suit, they could have attempted to reach an agreement with Mojang more thoroughly or did some proper public relations work. While I think, that Bethesda isn't necessarily offensive and to be demonized for their law suit, they sure displayed a lousy style and this unsurprisingly ends up being a public relations blunder for them.

@Thomas_The_Stronger: I have mixed feelings about the state of trademark rules too. On the one hand it protects IPs but on the other I myself experienced how hard it is to find a proper name for my own properties. With all the protection of business there comes a price of creative limitations, and I myself am not sure if this is ballanced fairly. Fallout, Brink, Pray, Vanquish, Blur, Burnout, Viking, Hunted, Halo, Spawn, Hulk, Wolverine ect, these are all just works of the english language and still need to be protected.



Michael Kwan
on **August 7, 2011 at 11:39 pm** said:

Correction, Bethesda could lose the mark on a finding their mark is in sufficiently distinctive.

(Damn tiny smartphone keys.)



Michael Kwan
on **August 7, 2011 at 11:37 pm** said:

There's no question the Bethesda can try and enforce it's trademark for "The Elder Scrolls" and claim that Mojang's "Scrolls" infringes their mark. But since we don't know what other Cease and Desist letters have been issued, we can't know how selective their trademark enforcement has been. I checked the trademark search tool on the US PTO website. There are 98 live trademarks involving the word "scroll" or a variation. The interesting thing is if there were litigation over the infringement, one possible outcome is that Bethesda could lose their trademark entirely on a court finding that their mark is sufficiently distinctive.

There are two courts to consider. The Federal District Court where a trademark action would be heard and the court of public opinion. Notch's posts are aimed at the latter. Bethesda will have to balance whether the harm to their business reputation is worth the benefit (and risks) of a successful trademark infringement prosecution against Mojang.



Thomas_The_Stronger
on **August 7, 2011 at 11:01 pm** said:

This thing is incredible, stupid, silly.

id has "doom", "quake", and those are simple words.



Anjin Anhut
on **August 7, 2011 at 7:58 pm** said:

@David: Since Mojang has little to no marketing costs and can rely on great word of mouth and a devoted fanbase, I don't think that they would lose anything over changing the name of the game. Maybe this episode even turns out to be a good will boost to the company and after all they even benefit from it.

@SenorKaffee: Well, it's actually about avoid problematic precedence cases. When they once let someone infringe on their trademark it gets harder to argue in other conflicts later. Like with Bronk or FullOut.



david

on **August 7, 2011 at 7:50 pm** said:

it probably will just end up with an agreement that they will use a different name other than "scrolls", which isn't such a horrible scenario for mojang. unless they're stupid and let themselves get entangled in unnecessary legal battles, they'll be fine...



consi

on **August 7, 2011 at 4:32 pm** said:

well...i was not aware of this thing going on, but i agree with you anjin. you want to play the game you have to learn the rules and if you lose because you did not know them, well that is poor preparation. yes game design is an art form, but if you want to make money with it you need to know how to play the business game too.

on the bright side though i think that this case will raise awareness of the trademark and copyright issues among the budding developers and they won't fall in the same trap in the future.



SenorKaffee

on **August 7, 2011 at 3:58 pm** said:

You are right, it is a very very dirty game. The only thing that Bethesda and Mojang could have done is reach some kind of agreement that gives Mojang free reign to use the name for a nominal fee. But there isn't really something in for Bethesda to do that, they'd need to give a lot of dollars to lawyers to prepare the paperwork for some "street cred".

Bethesda doesn't even want the name "Scrolls" – but they are more or less forced to fight this battle or might lose a more important fight later, for instance against a game called "The Eddar Scrolls: Daggerwind".