



## What Happened to the Olympic Esports Games? If IP is the Problem, We Can Fix It

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At the 142<sup>nd</sup> Session of the International Olympic Committee (“IOC”) held in Paris in July 2024, the members voted unanimously to create the “Olympic Esports Games.” The IOC’s celebratory press release announced that “history was made today” and quoted a statement from the organization’s president, Thomas Bach, who confirmed that the IOC is committed to “keeping up with the pace of the digital revolution.”<sup>2</sup>

The term “esports” refers to organized, competitive video gaming. Esports can be played solo or in teams, depending on the game. As a team sport, an esports resembles basketball, football, or baseball, except that the underlying game being played is a video game, rather than a game with a stick or ball<sup>3</sup>.

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<sup>2</sup> *IOC enters a new era with the creation of Olympic Esports Games – first Games in 2025 in Saudi Arabia*, INTERNATIONAL OLYMPIC COMMITTEE (July 23, 2024), <https://olympics.com/ioc/news/ioc-enters-a-new-era-with-the-creation-of-olympic-esports-games-first-games-in-2025-in-saudi-arabia>.

<sup>3</sup> See Dominic Sacco, “What are esports? An overview for non-fans”, BRITISH ESPORTS FEDERATION (Dec 6, 2016) <https://britishesports.org/the-hub/about-esports/what-are-esports-an-overview-for-non-fans>. Note that the term “esports” is “a singular noun when it refers to the industry, a plural noun when it refers to several different esports” and it can also be used in the singular form “when referring to a singular competitive video game (i.e., ‘League of Legends’ is an esports)”. Ancea Ulea, “Everything you’ve ever wanted to know about esports (but were too afraid to ask),” EURO NEWS (June 22, 2023), <https://www.euronews.com/culture/2023/06/22/everything-youve-ever-wanted-to-know-about-esports-but-were-too-afraid-to->

Over the past decade, the field of esports has seen explosive growth<sup>4</sup>. What began as informal competitions at local game stores has evolved into a multinational media and entertainment business, drawing millions of viewers. Unlike some traditional sports, which have a strong presence in a particular country or region (football in the United States, cricket in Commonwealth countries, sumo in Japan), esports competitions have a global audience. Esports has its own hero-athletes who dominate a game for years, its own grudge matches and rivalries between teams, its own professional leagues, and even its own World Cup.<sup>5</sup>

Despite the rapid rise of esports and the international character of the players and fanbase, resistance to the idea of including esports in the Olympics has been fierce<sup>6</sup>. The IOC's decision to create an esports Olympics is, therefore, a significant event in the history of the Olympic movement. But the announcement of the new Games in Paris was largely ignored in a summer that included historic elections in the United Kingdom and France and an attempted assassination of Donald Trump. The Olympic Esports Games will be a global, competitive event for video gaming, bringing together elite esports athletes from around the world to compete in officially sanctioned esports tournaments. The IOC has taken an important step in recognizing esports as a legitimate sporting endeavor that will take place under the Olympic brand.

The IOC's announcement of the new Olympic Games was not a surprise to some, because it followed a long internal study process that began in 2018<sup>7</sup> and included a pilot series of Olympic esports competitions in Singapore in 2023.<sup>8</sup>

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<sup>4</sup> The IOC has carefully tracked the rise of esports. The then-President of the IOC, Thomas Bach, noted in a meeting with India's Prime Minister in 2023 that "[t]here are 3 billion people playing esports and gaming around the world. It is estimated that over 500 million of them are interested specifically in esports which includes virtual sports and sport simulations." *IOC President announces plans to create Olympic Esports Games at opening of 141st IOC Session in Mumbai*, INTERNATIONAL OLYMPIC COMMITTEE (October 14, 2023), <https://www.olympics.com/ioc/news/ioc-president-announces-plans-to-create-olympic-esports-games-at-opening-of-141st-ioc-session-in-mumbai>.

<sup>5</sup> *Every team that won at the Esports World Cup*, ESPORTS WORLD CUP FOUND. (August 24, 2024) <https://esportsworldcup.com/en/news/EWCWinners-EWC>.

<sup>6</sup> Jim Parry *E-sports are not sports*, 13 SPORT, ETHICS AND PHIL. 3 (2018). <https://doi.org/10.1080/17511321.2018.1489419>. An abstract of this article appears in the IOC's Olympic World Library.

<sup>7</sup> Olympic Agenda 2020+5 15 Recommendations, INT'L OLYMPIC COMM. 21 <https://olympics.com/ioc/olympic-agenda-2020-plus-5> (last visited Feb. 25, 2025).

<sup>8</sup> Olympic Esports Week 2023, INT'L OLYMPIC COMM., <https://www.olympics.com/en/sport-events/olympic-esports-week-2023> (last visited Feb. 25, 2025).

What was a surprise was the announcement that the IOC had partnered with the National Olympic Committee of Saudi Arabia to host the Games for the next 12 years and that the inaugural Olympic Esports Games were to take place in 2025.

Organizing an entirely new series of Olympic Games with production values that satisfied the IOC's famously high standards in less than 18 months seemed like an impossible task at the time of the announcement. As it turns out, it was. According to a brief press release posted on the IOC website, the Olympic Esports Games have been delayed until 2027 but the "road to the Games" will begin in 2025.<sup>9</sup> No official explanation was given for postponing the Games, and indeed the press release doesn't even acknowledge that a delay has occurred.

### **What's Blocking Progress?**

In the absence of information from the IOC or the Saudi planning committee,<sup>10</sup> it is hard to say exactly what the roadblocks to the Olympic Esports Games are. But one issue that could be slowing the progress of the Games is intellectual property ownership and licensing<sup>11</sup>.

The biggest difference between the traditional Olympic Games and the esports version of the Games is the need to obtain licenses for the use of third-party intellectual property assets. Nobody owns the game of basketball. The IOC does

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<sup>9</sup> *Inaugural Olympic Esports Games to be held in Riyadh in 2027 – Road to the Games to start this year*, INT'L OLYMPIC COMM. (Feb. 11, 2025), <https://www.olympics.com/ioc/news/inaugural-olympic-esports-games-to-be-held-in-riyadh-in-2027-road-to-the-games-to-start-this-year>. The IOC does not seem to have lost its enthusiasm for the Games, which it describes as "a landmark event both in the world of esports and within the Olympic Movement". *Id.* See also Jonathan Rest, *Olympic Esports Games Delayed*, SPORTS BUS. (Jan. 27, 2024), <https://www.sportbusiness.com/news/exclusive-olympic-esports-games-delayed/>.

<sup>10</sup> The Saudi Olympic and Paralympic Committee (SOPC) seems to have outsourced the production of the Games to the Esports World Cup Foundation, a non-government, non-profit foundation in the Kingdom of Saudi Arabia, which "will become the Founding Partner of the Olympic Esports Games." *Inaugural Olympic Esports Games to be held in Riyadh in 2027 – Road to the Games to start this year*, *supra* note 9.

<sup>11</sup> There are other difficult issues for the IOC to address beyond IP rights, such as the role of women in esports competitions (which have traditionally seen greater participation by men) and the issue of violence in video games. "With respect to esports, our values are and remain the red line that we will never cross," said IOC President Thomas Bach in a 2024 press release: *IOC EB proposes creation of "Olympic Esports Games" to IOC Session*, INT'L OLYMPIC COMM. (June 24, 2024), <https://www.olympics.com/ioc/news/ioc-eb-proposes-creation-of-olympic-esports-games-to-ioc-session>. The IOC's new president, Kirsty Coventry, seems to share this view. In remarks given just before the election, Coventry stated that "esports is growing rapidly, but we need to define our role and ensure our values remain intact." Raúl Daffunchio Picazo, *"Inside the IOC: Kirsty Coventry speaks"* INSIDE THE GAMES (Feb. 25, 2025), <https://www.insidethegames.biz/articles/1152021/inside-the-ioc-kirsty-coventry-speaks>. The way that the IOC typically defines its role and enforces its values is through the Olympic Host Contract. Brisbane Olympic Host Contract, §13.1. As noted elsewhere, the agreements between the IOC and the Saudi hosts of the Olympic Esports Games have not been made public and it's not clear at this point how the IOC's red line will work in practice.

not have to pay the NBA a fee to organize a basketball tournament and distribute video of the games on television. The game of basketball is free to play and unencumbered by any IP rights. On the other hand, a video game is owned by the developer of that game and typically licensed to a publisher for distribution.<sup>12</sup> Video games are then licensed to an end user, not sold. The license granted to an end user of a video game invariably excludes commercial use of the game. If the IOC wants to organize a video game tournament and distribute video of the matches, it needs a separate commercial license from the video game publisher.

The IOC could avoid some of the most difficult IP issues if it decided to develop its own video games or buy an independent game developer to create IOC-branded games. Alternatively, the IOC could license small, indie games from the publishers of those games and require those publishers to accept IP ownership or license terms that are beneficial to the licensor, which is something larger game publishers might reject. The IOC appears to have been experimenting with this approach during the exhibition event in Singapore held in 2023. The esports events in Singapore included one AAA game<sup>13</sup> (*Gran Turismo*, a car racing game) and several much smaller games that featured competition in virtual archery, tennis, sailing, taekwondo, and chess.<sup>14</sup>

But developing video games is an expensive and difficult business, even for publishers with decades of experience, and relying on small games (like archery, chess, or tennis) would mean that the IOC is effectively writing off a large part of the prospective broadcast and streaming audience. In order to attract viewers in the numbers needed to fund the production of the Olympic Esports Games, the IOC will need to stage competitions with top-tier video games that audiences all over the world know and love. For example, *Fortnite* matches may fill Olympic venues and draw online audiences in a way that a competition involving a virtual archery or sailing game never will.

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<sup>12</sup> The publisher of a AAA video game tightly controls the commercial exploitation of the game, including commercial exploitation in the form of esports tournaments or events.

<sup>13</sup> The term “AAA game” is used in the video game business to describe high-budget, high-profile games that are developed by major game studios and published internationally. The AAA game is the equivalent of a blockbuster movie in the film business.

<sup>14</sup> “IOC’s inaugural Olympic Esports Week begins with dazzling Opening Ceremony in Singapore,” ASS’N OF NAT’L OLYMPIC COMMS. (ANOC) (June 22, 2023), <https://www.anocolympic.org/olympic-movement/iocs-inaugural-olympic-esports-week-begins-with-dazzling-opening-ceremony-in-singapore/>. The IOC also released a mobile app called “Olympics™ Go! Paris 2024” developed by nWay Inc., which included “12 crowd-roaring mini-games.” The App Store description of the application identifies nWay as the owner of the copyright, while the boot screen for the app identifies the IOC as the copyright owner.

## Will the Use of Proprietary IP Conflict with the Olympic Charter?

Nothing in the IOC's history or structure contemplates the use of proprietary IP to stage international competitions and that may explain some of the delay in getting the Olympic Esports Games up and running.

The entire operational structure for the Olympic Games depends on International Federations (“IFs”), which are international non-governmental organizations.<sup>15</sup> Each IF is responsible for the administration and regulation of a specific sport at the international level, including setting rules, ensuring fair play, and organizing international competitions. However, esports does not have a recognized IF with the authority to set rules for the competitive play of video games. Instead, each video game title has its own competitive ecosystem controlled by its publisher. The rules for competitive play of *League of Legends* are very different from the rules for *StarCraft II*, and it is difficult to imagine a scenario where the publishers of AAA titles would cede complete rule-making authority to an international organization.<sup>16</sup>

In addition to the structural issues, there are basic philosophical concerns about the role of private, for-profit companies in the Olympics. The Olympic Charter affirmatively seeks to control and limit commercial influence within competition areas.<sup>17</sup> Many esports titles feature in-game branding, partnerships, and monetization strategies that could conflict with the Olympic Charter and related by-law provisions. Even displaying the name and logo of a video game in an arena where the game is played would seem to violate the Charter. The IOC's efforts to control excess commercialism could conflict with the use of proprietary IP in the Olympic Games.

There are ways to solve these structural and philosophical issues. For example, the board of an esports IF could include representatives from game

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<sup>15</sup> Olympic Charter, Rule 25. For example, the IF for football (soccer) is FIFA, the IF for badminton is the Badminton World Federation, and the IF for fencing is the Fédération Internationale d’Escrime.

<sup>16</sup> A game publisher will, of course, have a powerful financial incentive to attempt to get its game included in the Olympics due to the worldwide visibility the game will receive. But the bigger the game is, in terms of global market share, the less likely the publisher will be to make changes to its competitive ecosystem if those changes can't be effectively controlled by the publisher and could damage the ecosystem itself.

<sup>17</sup> Rule 50 of the Olympic Charter provides that “[e]xcept as may be authorised by the IOC Executive Board on an exceptional basis, no form of advertising or other publicity shall be allowed in and above the stadia, venues and other competition areas which are considered as part of the Olympic sites. Commercial installations and advertising signs shall not be allowed in the stadia, venues or other sports grounds.” Olympic Charter, INT’L OLYMPIC COMM. (Jan. 30, 2025), <https://www.olympics.com/ioc/olympic-charter>.

publishers. The IF could be given authority to create a uniform code of conduct (addressing issues such as bribery, match-fixing, and sexual harassment) and uniform rules on anti-doping and stimulant abuse while each publisher retains control over game-specific rules for its own unique competition system. Similarly, the IOC could grant an exception to the rules on commercialism in competition areas to make it clear, for example, that the branding of *Rocket League* can be displayed in a competition area where *Rocket League* is played. These issues can be addressed, but getting it all done within the 18 months originally allotted for the commencement of the first Olympic Esports Games was overly optimistic.<sup>18</sup>

### **Owning the Olympic Games**

It's not clear what IP terms the IOC will seek when it enters into negotiations with game publishers, but we can get a general idea from the IP provisions that the IOC typically receives from the agreements that establish the Summer Games.<sup>19</sup>

The Olympic Host Contract is the legally binding agreement between the IOC, the host city, host state, the National Olympic Committee of the host country (“NOC”), and, on formation, the Organizing Committee of the Olympic Games (“OCOG”). This contract governs various aspects of the Olympic Games, including IP rights.

A key principle in the Olympic Host Contract is that the IOC retains full ownership of all Olympic intellectual property, and the host city and others are granted limited, conditional rights to use Olympic-related marks, imagery, and

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<sup>18</sup> Even the revised 2027 date for the inaugural Olympic Esports Games could prove difficult for some game publishers to implement because professional esports competitions have a season and schedule of events, just like the NBA and Premier League, that runs one or two years into the future. The Olympic Esports Games will have their own schedule, including a lengthy qualification process for the Games. Attempts to harmonize the Olympic schedule with the professional season for several different video game titles could be a logistical challenge and something that can't be left to the last minute to organize.

<sup>19</sup> International Olympic Committee, Brisbane City Council, State of Queensland & Australian Olympic Committee, *Olympic Host Contract 2032 – Principles* (July 21, 2021) (hereinafter *Brisbane Olympic Host Contract*). The Olympic Host Contract for the 2032 Brisbane Summer Games is posted on the IOC's website, 11 years before the start of the Games. As of February 25, 2025, there was no Olympic Host Contract for the Olympic Esports Games that are now scheduled to begin in two years in Saudi Arabia. The IOC has publicly committed to a “new approach” when it comes to host city selection that is “dictated by rigour, good governance and transparency.” “IOC Session endorses new future hosts approach and targeted dialogue with Brisbane 2032,” INT'L OLYMPIC COMM. (Mar. 12, 2021), <https://www.olympics.com/ioc/news/ioc-session-endorses-new-future-hosts-approach-and-targeted-dialogue-with-brisbane-2032>. The IOC's contractual relations with the Saudi Olympic and Paralympic Committee and the Esports World Cup Foundation have not been quite as “transparent” as some might have hoped, but the Olympic Esports Games are still new and it's possible that more and better information will be released to the public soon.



other IP assets strictly for organizing and promoting the Games. Section 19.1 of the Olympic Host Contract for the Brisbane Games in 2032 provides that:

“the Games ... are the exclusive property of the IOC, which owns all rights, including Intellectual Property Rights, in relation thereto. The IOC owns, in particular all rights relating to: (a) the organisation, exploitation and marketing of the Games; (b) authorising the capture of still and moving images of the Games for use by the media; (c) the registration of audio-visual recordings of the Games; (d) the broadcasting, transmission, retransmission, reproduction, display, dissemination, making available or otherwise communicating to the public, by any means now known or to be developed in the future, works or signals embodying audio-visual registrations or recordings of the Games; (e) the determination of the conditions of collection, access and use of data relating to the Games....”<sup>20</sup>

That clause works when the IP rights are derived from access to the venue, and everything inside the venue is owned or controlled by the event organizer. From an intellectual property perspective, there is no ownership interest in an athletic activity, similar to an artist’s copyright interest in a musical performance or choreographed dance performance.<sup>21</sup> A broadcaster like NBC is paying the IOC for the exclusive right to access the Olympic venues and capture audiovisual content of the sporting events that take place there (and use the Olympic trademarks). A broadcast or transmission of content from the venue will become a copyrighted work upon recording or transmission, even if the underlying athletic activity is not protected by copyright.

In contrast, the video game that is displayed at an esports event is, itself, a work of authorship protected by copyright. No one has the right to use that game in a commercial context without a license from the rights holder, who is typically a game publisher. So, the standard IP clause used by the IOC in an Olympic Host Contract, which is premised on the organizer acquiring a clean venue and then imposing IP ownership conditions on the media and others in return for permission to enter that venue, does not work for esports. The venue will cease to be “clean” from an IP perspective the instant the game boots up and copyrighted content (and the game’s trademarks) are displayed.

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<sup>20</sup> Brisbane Olympic Host Contract, *supra* note 19, at Principles, Section 19.1.

<sup>21</sup> *Compendium of U.S. Copyright Office Practices*, U.S. COPYRIGHT OFFICE, § 885.5(B)(3) (3d ed. 2021). “The [Copyright] Office cannot register claims to copyright in athletic activities or competitive maneuvers as such, because they do not constitute copyrightable subject matter under Section 102(a)(4) of the Copyright Act.” *Id.* There may be analogous or neighboring rights in athletic activity that are specific to a particular jurisdiction which are beyond the scope of this article.

## Understanding the Underlying Business Models

The IOC's standard IP terms for the Summer Games reflect the business model that has been developed by the IOC since the dawn of televised sports. That underlying business model differs substantially from the business model for AAA video games. Understanding the key differences between the two can help to craft appropriate IP terms.

The IOC makes money from three broad categories: (1) the sale of broadcast and streaming rights, (2) sponsorships and advertising, and (3) branded merchandise. There are other sources of revenue, but these are the big buckets. Of these three, broadcast rights are by far the biggest cash cow. In recent years, the IOC derived 61% of its funding from the sale of broadcast rights.<sup>22</sup>

Esports leagues and events do not make a significant share of their revenue from broadcast rights. In the years following the launch of the Overwatch League and other franchised esports leagues, there was the hope and expectation that streaming rights would be a significant source of revenue,<sup>23</sup> but that has not turned out to be the case. Esports events are streamed live on Twitch, YouTube, and other game streaming platforms to sometimes massive global audiences, but the sale of those rights has not (yet) generated reliable IOC-like media revenue. Most of the funding that supports esports comes from sponsorships.

But the difference between the business models runs even deeper than that. The business of video game publishers is to sell video games or give them away for free and make money from the sale of digital goods inside the game (skins and other cosmetic items).<sup>24</sup> Organized, professional play of a video game is, in effect, a form of marketing for the video game. For the IOC, a live basketball game is the revenue-generating product, it is not a marketing opportunity for another revenue-generating product. The opposite is true for video game publishers: the live esports

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<sup>22</sup> "How the IOC finances a better world through sport, INT'L OLYMPIC COMM., <https://www.olympics.com/ioc/funding> (last visited Feb. 25, 2025).

<sup>23</sup> Ben Fischer, *Sources: Overwatch League-Twitch Deal Worth At Least \$90M*, *SPORTS BUS. DAILY* (Jan. 9, 2018), <https://www.sportsbusinessjournal.com/Daily/Closing-Bell/2018/01/09/overwatch/>; Darin Kwilinski, "MLB's BAMTech inks \$300M exclusive deal with Riot Games," *ESPN* (Dec. 16, 2016), [https://www.espn.com/gaming/story/\\_/id/18292308/mlb-bamtech-streaming-platform-inks-300-million-exclusivity-deal-riot-games-league-legends](https://www.espn.com/gaming/story/_/id/18292308/mlb-bamtech-streaming-platform-inks-300-million-exclusivity-deal-riot-games-league-legends).

<sup>24</sup> A "skin" is a "graphic or audio file, which, for example, can be used to change the appearance of the user interface to a program or for a game character's outfit, weapons, and other elements shown in the video game." *IP and Esports*, EUR. COMM'N., EXEC. AGENCY FOR SMALL AND MEDIUM-SIZED ENTER. (Mar. 19, 2020) [https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/ip-and-esports-2020-03-19\\_en](https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/ip-and-esports-2020-03-19_en).



event is not typically the revenue-generating product, it is a marketing opportunity for another revenue-generating product, namely the video game itself.

Thus, it stands to reason that the highest priority for a video game publisher in a negotiation of IP terms relating to esports events will be to do no harm to the real revenue-generating asset—the video game. Any contract terms that seek to transfer ownership of the underlying video game, or any of its characters, maps, levels or designs, will be a non-starter for a AAA video game that is successful in the market. The same is true for an attempt by the IOC or any other licensee to obtain rights to create derivative works of game content.

### **The Path Forward on IP Terms**

If the OCOG, acting under authority of the IOC,<sup>25</sup> were to argue during contract negotiations with video game publishers that the Olympic Esports Games “are the exclusive property of the IOC, which owns all rights, including Intellectual Property Rights, in relation thereto,”<sup>26</sup> then those negotiations will likely not be productive. The contract terms for the Olympic Esports Games should recognize the differences between the business models for traditional sports and esports and reflect the legitimate ownership interests of game publishers.

If, as the authors suspect, the delay in launching the Esports Olympics is at least partly attributable to the difficulty in drafting appropriate IP terms, then we offer the following suggestions to facilitate contract negotiations:

- **Ownership of the IOC’s IP:** The video game publisher will acknowledge the IOC’s ownership of the Olympic trademarks and “the organization, exploitation and marketing of the [Olympic Esports] Games” in a manner similar to that set forth in Section 19.1(a) of the Brisbane Olympic Host Contract. But the game publisher cannot acknowledge that the Olympic Esports Games are the “exclusive property of the IOC” and that the IOC owns all intellectual property rights in the Games without a carve out or express acknowledgement that the video game played in the Esports Olympics is owned by the game publisher.

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<sup>25</sup> Maybe the Esports World Cup Foundation, acting under authority of the OCOG, which is acting under authority of the IOC, will enter into license agreements with video game publishers. The structure of the Olympic Esports Games has never been explained to the public, so it is not clear how the license agreements will work. For purposes of this article, the authors assume that the OCOG will be the licensee of video game IP as this tracks the traditional model used for the Summer and Winter Games but as a practical matter the EWCF may be the licensee. Assuming the internal cross licenses between the IOC and the EWCF are in place, the identity of the licensee is not particularly important to the analysis in this article.

<sup>26</sup> Brisbane Olympic Host Contract, *supra* note 19, at Principles, Section 19.1.

- **Ownership of the Game Publisher’s IP:** The OCOG will acknowledge that the publisher owns the video game that is played at the Olympic events, the trademarks used for the game, and the advertising and promotional materials that incorporate those trademarks.
- **License to Play the Game:** As discussed above, the OCOG will require a license from the publisher to use and display the video game and its trademarks at Olympic competitions. If, for example, the Olympic Esports Games feature competitive play of *Overwatch* 2, then the OCOG will require a license from Blizzard Entertainment to stage those competitions.
- **Broadcast and Streaming:** In the typical Olympic Host Contract, the IOC claims ownership of all broadcast rights for the Games, including the right to register audio-visual recordings of the Games.<sup>27</sup> In the esports context, audio-visual recordings of the action taking place at the Olympic Games will necessarily capture footage of the video game that is being played. You can’t have an Olympic competition for the game *Tekken 8* without showing gameplay footage of the actual game. The trademarks for the video game and the user interface will also be captured in any audio-visual recording of a match. As noted above, the IP ownership terms should reflect the fact that the game publisher will continue to own the trademarks used to brand the video game and the copyrights in the game itself. The OCOG will be licensed by the publisher to capture coverage of the competitions that take place at the Olympic Esports Games and to distribute the gameplay footage from those competitions.
- **Game Data:** In the Brisbane Olympic Host Contract, the IOC claims ownership of “the determination of the conditions of collection, access and use of data relating to the [Olympic] Games.”<sup>28</sup> Video games collect a significant amount of data on the performance of players and teams. A typical MOBA<sup>29</sup> tracks various gameplay statistics to assess player performance and contribution to their team. Key metrics include match outcomes (wins, losses, and ties), Kill/Death/Assist (KDA) ratio, and gold economy. The agreement with the game publisher will have to

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<sup>27</sup> *Id.* at Section 19.1(b), (c), and (d).

<sup>28</sup> *Id.* at Section 19.1(e).

<sup>29</sup> “MOBA” is an “acronym for multiplayer online battle arena: a genre of computer game in which two teams attempt to capture the other’s base on a battlefield”. *Definition of ‘Moba’*, COLLINS DICTIONARY, <https://www.collinsdictionary.com/dictionary/english/moba> (last visited Feb. 25, 2025).

recognize that the publisher will determine “the conditions of collection” of video game data. That data will be owned by the publisher and licensed to the OCOG.

- **Marketing and Promotional Materials:** Given that there is very little understanding or awareness of the Olympic Esports Games, even among esports enthusiasts, the OCOG will likely want to conduct a significant marketing campaign in advance of the Games. The OCOG will require a license from the game publisher to use the name and trademarks for the video game in its marketing and promotional materials. If the video game publisher will share marketing and promotion obligations, the publisher will likely need a license (or, more accurately, a sublicense) from the OCOG to use the Olympic trademarks to promote the Games on its social media accounts and in any advertising or promotional campaigns that the publisher undertakes in support of the Olympic Esports Games.
- **Venue Displays and Scoreboards:** Assuming that the IOC can find a way to resolve the possible conflicts with the Olympic Charter discussed above, the OCOG will require a license from the game publisher to use the game’s trademarks on scoreboards, Jumbotron/video boards, digital signage, concourse displays, wall wraps, entrance signage, tickets, program booklets, press backdrops, and similar in-venue displays.
- **In-Game Digital Items:** While most of the licenses granted will run from the video game publisher to the OCOG, the game publisher will likely also require a sublicense from the OCOG to use the Olympic rings and other IOC trademarks inside the game on the uniforms of player avatars and on other cosmetic items inside the game.

The outline above is intended to balance the interests of the OCOG/IOC and the game publisher so that each retains ownership of its intellectual property and has the license rights needed to make the Olympic Esports Games a success.

## **Conclusion**

The Olympic Esports Games represent a transformative opportunity for both the IOC and the global esports industry. However, the challenges that have delayed the launch of the Games underscore the complexities of integrating proprietary digital content into the legacy Olympic framework administered by the IOC. The core issue—intellectual property rights—highlights the fundamental differences between traditional sports and esports, where game publishers retain ownership and control over the competitive ecosystem.

Despite these obstacles, a clear path forward exists. By crafting intellectual property agreements that acknowledge the business models of both the IOC and game publishers, the Olympic Esports Games can become a viable and sustainable global event. Mutual recognition of ownership rights, carefully structured licensing agreements, and flexible broadcasting arrangements will be essential to ensuring the Games' success.

If the IOC is to fulfill its vision of embracing the digital revolution, it must adapt its traditional approach to intellectual property and governance. A collaborative model—where video game publishers, event organizers, and other stakeholders work together—can establish esports as a legitimate Olympic discipline while respecting the rights and commercial interests of game developers and publishers. With the correct framework in place, the Olympic Esports Games can become a landmark event that bridges the worlds of competitive gaming and global sports, securing their place in the Olympic movement for generations to come.