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Summary of doctoral thesis

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Derivative works based on video games

The inspiration to take on this topic emerges from my own experiences with video games and fan creations. The main research problem of the dissertation concerned the relation between the fans of video games and video games publishers. This relationship stems out from fans' creations based on video games and is heavily influenced not only by copyright law, but also by consumer law.

The dissertation consists of six chapters. The first chapter is an introductory part that consists mostly of historical sources and touches upon historical topics. It includes an outline of the development of traditional games and video games, and the influence of the former on the latter. This chapter also covers the topic of the development of video games during the times of the Polish People's Republic. The second chapter is in a way a continuation of the first chapter. It introduces the reader to the topic of Table Top Role-Playing Games and their influence over the video games industry and fan creations. It also includes sociological phenomena which influence members of fandom. The content of this chapter is based on the work of Karolina Grzybczyk, who is a pioneer of legal studies of popular culture's fans in Poland. The third chapter begins the main considerations of thesis – the legal status of video games in Polish law. It also includes an analysis of foreign jurisdictions and their approach to video games. To show the full spectrum of the problematic legal status of video games, there is a sub-chapter devoted to criminal law as well. The fourth chapter deals with the topic of permissible forms of using video games in different types of works – the possibility of applying personal fair use, parody law and the right to quote to video games. This chapter explains the difference between the protected and unprotected parts of the video games and the practical consequences which result from such a division. In the fifth chapter, I focused on analyzing the selected types of derivative works based on video games – *cosplay*, *let's play* and *mods*. The sixth chapter focuses on two main topics. The first one is the legal relation between a fan who is a creator of fanarts and a consumer, and a publisher who is an entrepreneur. The objective of this part is to investigate this relationship that ensues from a



licensing agreement between the abovementioned parties. The second part focuses on the problems of proper jurisdiction in licensing agreements and applicable laws.

In the course of conducted analyses, several *de lege ferenda* propositions were formed. The main one stipulates the need to change the relations between video games fans and publishers. Not only does this mean that the change of the copyright law is desired, but also that we need to rethink consumers law to reinforce the position of small fan creators. Other, lesser proposals include the reduction of the duration of video games copyright from 70 years to 30 years, and the creation of gray and black contract provisions in consumers' licensing agreements.

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