

Imitation is the Sincerest Form of Flattery

By Reg P. Wydeven
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In a story of art imitating life, the Canadian Red Cross recently sent a letter to the author of the Video Game Law Blog, expressing its concern about the use of the Red Cross emblem in video games to depict Red Cross facilities and vehicles in combat situations.

The imagery and graphics of today's video games are unbelievably life-like, and it seems the more realistic a game is, the more popular it is. Games like "Brothers in Arms" and "Medal of Honor" put the players in the heart of battles in the European theaters of World War II.

The Canadian Red Cross feels that the display of their emblem in these video games that contain violence and mature themes directly conflicts with its humanitarian principles. The Red Cross, which now has 181 recognized Societies worldwide, was formed in 1863 by Switzerland's Henry Dunant after visiting the site of a battle between the Austrian and French armies.

During the Geneva Convention for the Protection of War Victims of 1949, the Red Cross' emblem of a red cross on a white background – the inverse of the Swiss flag – was formally recognized as a distinctive sign of the Medical Service of armed forces that identified their neutral status. Canada's trademark laws state that "no person shall adopt in connection with a business, as a trade-mark or otherwise, any mark consisting of, or so nearly resembling as to be likely to be mistaken for... the emblem of the Red Cross."

While no lawsuit has yet been filed, if the Canadian Red Cross does file suit, it will be interesting to see if it can prove that the depiction of its emblem in a video game constitutes use "in connection with a business."

In a story of life imitating art, Bo Stefan Eriksson, former executive of Gizmondo Europe Ltd., a failed video game company, has been charged with embezzlement, grand theft auto and other charges stemming from crashing a Ferrari Enzo – one of only 400 made – into a pole on Malibu's Pacific Coast Highway at an estimated 162 mph.

The Enzo is featured in many street-racing video games, such as "Forza Motorsport" and "Project Gotham Racing". Eriksson was allegedly street-racing the \$1.5 million Enzo against an \$800,000 Mercedes Benz McLaren SLR when he lost control and destroyed the vehicle. Eriksson reportedly had a blood alcohol content level of 0.09, just over the legal limit of 0.08.

Eriksson has been charged with bringing two Enzos and the Mercedes McLaren SLR, worth a combined estimated \$3.8 million, into the U.S. without permission from the British banks that held the titles to the vehicles. He was also charged with fleeing the scene of an accident after his Porsche Cayenne rear-ended a Ford Explorer. Eriksson is being held on \$3 million bail and faces up to 14 years in prison.

In a story of art imitating life, or life imitating art (I'm not sure which), Victor Willis was recently arrested in San Francisco for failing to appear at a sentencing hearing for drug and gun charges. Willis was a member of the 1970s disco group The Village People, and ironically, he portrayed the cop. Willis faces up to 5 years in prison, which is considerably less fun than staying at the "YMCA".