

# Cheaters Never Win, But They Might This Time

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Last week I wrote about the Computer Fraud and Abuse Act. The law was adopted after President Reagan watched ‘War Games,’ a movie about a teenager who accidentally hacked into a government computer and almost started a nuclear war with Russia.

This week’s article is about a teenager who used a cheat hack in the video game Fortnite, and is being sued for copyright infringement.

Fortnite is a multiplayer online video game and it’s all my 13-year-old and his buddies can talk about. In the free game, your player, along with up to 100 others, is parachuted into a field where he and his allies try to kill as many enemies as possible. I think they call it Fortnite because kids could play it for two weeks straight without stopping.

In the game, you can find weapons and other upgrades to aid in your quest, or steal them from fallen foes. Of course, you can also buy upgrades, too.

Or, you can cheat.

Apparently players can download a software hack that can give them an advantage over their adversaries. According to Epic Games, the maker of Fortnite, “A cheat might enable the cheater to see through solid objects, teleport, impersonate another player by ‘spoofing’ that player’s user name, or make moves other players cannot, such as a spin followed by an instant headshot to another player.”

As a result, in October, Epic Games filed multiple lawsuits against individuals who “created, developed, and/or wrote a software cheat” for Fortnite’s Battle Royale game mode. Epic claims the cheats violate the game’s End User License Agreement and the Digital Millennium Copyright Act. The DMCA criminalizes copyright infringement on the Internet. If found guilty, the defendants could face fines of up to \$150,000 per incident, per case.

Epic claims the violators infringed on their copyright by injecting the cheat code into the Fortnite game, which modified it into something different from the copyrighted work. Launching the modified game resulted in a “derivative work,” thus infringing the copyright. The violators would also upload videos of the cheats on YouTube, and by doing so, Epic argues they again infringed the copyright by “publicly displaying and/or publicly performing the unauthorized derivative works.”

While other software companies have previously sued the creators of cheaters, two of Epic’s lawsuits are groundbreaking because they are the first to sue cheaters themselves, including one against a 14-year-old kid.

The kid got sued after posting videos of himself playing with the cheats. In response to the suit, he enlisted the help of a lawyer’s worst nightmare – his angry mom. She wrote a letter to the judge, asking that the suit be thrown out.

First of all, she pointed out that her son is a minor, and is therefore not capable of consenting to contracts. She also never authorized him to play Fortnite, which meant that the EULA was not binding on him. Even if she did, however, she claims an EULA is between a licensor and a game’s purchaser; because the game is free, there is no “purchaser,” so the EULA is invalid. Finally, she argues that because her son didn’t financially gain from cheating and since the game is free, Epic couldn’t lose any profits from his cheating, so Epic wasn’t damaged.

Because of the enormous popularity of Fortnite, other developers hoping to replicate its formula will be following the lawsuit closely.

At least the kid didn’t hack into NORAD.

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