

Anna Hörlesberger In Pursuit of Patents

Strategic Patenting of Video Game Mechanics for Sustaining Competitive Advantage in the East Asian Video Game Industry

Topic and Research Question

This thesis analyzes whether strategic patenting of video game mechanics can function as a viable means of sustaining competitive advantage in the East Asian video game industry. The research question at hand is “*how viable is strategic patenting of video game mechanics for sustaining competitive advantage in the East Asian video game industry?*” and is answered utilizing a single case study approach of Nintendo’s use of Pokémon-related patents in litigation against the company Pocketpair and their game “Palworld”. It furthermore situates that case in a broader legal and strategic analysis of Japan’s, the People’s Republic of China’s (PRC), and the Republic of Korea’s (ROK) patent law and legal infrastructure.

As the video game industry has become one of the most economically significant parts of the creative industries, this thesis deals with an emerging legal strategy for its central commodity. For independent and smaller developers, broad or interlocking patents over gameplay systems can raise the cost of genre participation and expose studios to litigation risk.

State of the Art

The thesis connects strategic management, the resource-based view, patent strategy, and video game industry research in its literature review. Strategic management literature concerns itself with how firms build and preserve competitive advantage through resources and patterns of decision-making. This connects to the resource-based view and the VRIO (value, rarity, inimitability, organization) framework, which provides the basis for judging whether a resource contributes to sustainable competitive advantage by analyzing its value, rarity, inimitability, and exploitation in an organization.

The usage of patents as a legal and strategic tool is further elaborated on, in particular Somaya’s (2012) work on patent strategy, which distinguishes proprietary, defensive, and leveraging strategies. Literature on intellectual property in the video game industry completes the foundation for the thesis’ topic. This literature shows that intellectual property rights such as copyright and trademarks have traditionally been the dominant forms of protection for video games while patenting of software and gameplay-related mechanics

remains more contested and dependent on the jurisdiction. The thesis includes Hanson’s (2025) commentary on the present litigation and further legal commentary on the shift from copyright to patent enforcement. They argue that the dispute could have potential future consequences for the treatment of video game software and mechanics in patent law.

Methodology and Approach

The thesis uses a three-layer analytical framework in order to assess if (1) the legal systems facilitate patent strategies regarding video game mechanics and (2) if this practice sustains competitive advantage.

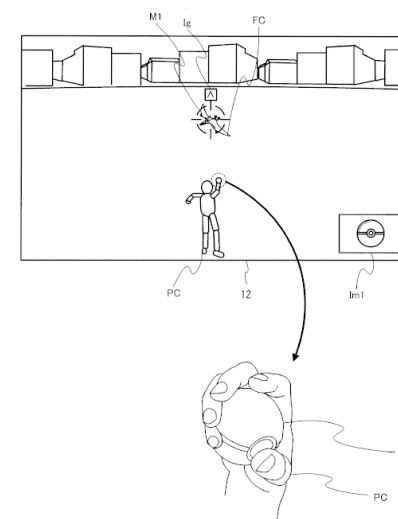
The legal layer is based on doctrinal legal research. It analyzes the current state of patent law in Japan, the PRC, and the ROK regarding the patentability of video game mechanics. The patent layer utilizes a single embedded case study approach centered on the patents in the Nintendo v. Pocketpair litigation. The single case study approach was chosen as active litigation over video game mechanics patents remains rare, and because the asserted patents in the case at hand are publicly identifiable through official plaintiff and defendant announcements and patent databases. The competitive advantage layer applies the VRIO framework using Hussain’s (2019) adaptation to the IP value chain, examining the rarity, inimitability, organization, and value of the patents.

Main Facts

The empirical chapter follows the analytical framework laid out above. In the legal layer, the thesis finds that Japan, the PRC, and the ROK all permit patenting of software, including video game mechanics, as long as the invention shows sufficient technical character. The more important differences lie in the enforcement of intellectual property rights.

The patent layer analyzes the claim and filing patterns of the three publicly identified patents Nintendo asserts in its litigation against Pocketpair. The core mechanics include a two-mode field system, switching between capture and battle items, and a terrain-adaptive riding system with mountable characters. The first two patents cover different aspects of the same battle-catch mode system, creating an interlocking claim structure resembling a *patent fence* as described by Somaya (2012).

All three patents were applied for in early 2024, shortly after Palworld’s release, but carry retroactive priority dates going back to 22 December 2021. This is seen as strategically important as it allowed claims to be refined or expanded while preserving an earlier priority date. The 2025 amendment to one of the patents further indicates active portfolio maintenance in light of the litigation.



Patent JP7545191 Reference drawing (Iwao 2024, 53).

The patents under analysis are active in Japan (and in the U.S.) and have no equivalent registrations in the PRC and the ROK. Outside Japan, the patents may still matter indirectly through prior art effects and broader deterrence, especially protecting the domestic market, but not with the same immediate exclusionary strength.

Results

The thesis arrives at a conditional answer. Strategic patenting of video game mechanics is viable for sustaining competitive advantage, but only when three conditions are met:

- (1) the relevant jurisdiction must allow the patenting of software-implemented gameplay mechanics,
- (2) the firm must proactively maintain and actively manage a patent portfolio,
- (3) and the commercial scale of the game or company must justify the costs of filing, maintenance, and possible enforcement.

The thesis concludes for the single case study at hand that the patent set at the current point in the litigation proceedings fulfil the VRIO criteria. The patents are rare because the rights are exclusively held, inimitable because active patent status and enforcement raise the cost of imitation, organizationally embedded because Nintendo has the firm structure and resources to deploy them, and valuable because they protect commercially important mechanics while also creating deterrence effects against competitors utilizing a proprietary patent strategy.

The legal frameworks of the PRC and the ROK also permit patenting of video game mechanics under technical-character requirements, so strategic patenting is not unique to Japan in legal principle. Practical viability is weaker where equivalent active patent registration is absent or where enforcement conditions are less favorable. Limitations of this thesis include legal literature not accessible due to the language barrier and changes in the ongoing litigation. Future research could include a multi-case study design, should the trend of strategic patenting continue to develop in the video game sphere.

References

All references can be found in the full version of the MA thesis available at <https://theses.univie.ac.at>.

About the Author

Anna Hörlesberger holds a Bachelor’s degree in business law from the Vienna University of Economics and Business (WU), paired with academic and professional development at Kobe University and the WKO in Tokyo, Japan. Her professional focus lies at the intersection of law, business, and the East Asian region with a particular focus on Japan.

Contact information:

anna.hoerlesberger@gmail.com

LinkedIn: [Anna Hörlesberger](#)

Examination Date: 17 June 2026

