



The Next Major Acquisition Target in the Gaming Industry



What is the next major acquisition target in the gaming industry?

The gaming industry is going through a tremendous paradigm shift after accumulating a mind-boggling market share of \$180 billion in 2021, with countries like United States and Japan accounting for a majority of this. This industry was spring boarded by the COVID-19 pandemic, seeing huge boosts of revenue as people looked to gaming for entertainment at home. The industry is expected to cross the \$300 billion mark by 2027.

This unprecedented growth is primarily influenced by three factors:

Ease of accessibility

The conventional console business model, while still growing, is no longer the core of the gaming industry. It's a higher barrier of entry for many people due to the cost of consoles. However, other models like mobile gaming and cloud gaming have completely transformed the industry by providing a lower entry barrier and being accessible to a wider audience. In 2021, over 50% of the revenue of the gaming industry came from mobile gaming itself. Thus, without an iota of doubt, these models can be attributed as the financial engine of the industry.

Growing engagement from different streaming platforms

Video games, which were once considered to be a mere hobby, have now become a popular and demanding eSport owing to the broadcasting of gameplay sessions and leagues by a myriad of streaming platforms including YouTube, Amazon Twitch, and Facebook Gaming. This has made gaming far more popular than ever before and created celebrity gamers.

Increasing demand for metaverse technologies

With the advancements in virtual, augmented, and mixed reality technologies, the gaming platforms are just scratching the surface. Games in the metaverse environment will provide an unprecedented experience to users and will attract more and more young people to the industry.

With such an astonishing growth in this industry, we are now anticipating cutthroat competition among different players to capture the largest market share. For example, companies like Microsoft, Take-Two Interactive, and Sony have recently made major acquisitions that have shaken up the gaming industry. After acquiring ZeniMax, the parent company of Bethesda, in 2021 for \$7.5 billion, Microsoft is now acquiring the game developer Activision Blizzard in an all-cash transaction valued at \$68.7 billion. On the other hand, Take-Two Interactive and Sony have also announced to purchase Zynga (known for social gaming) at \$12.5 billion and Bungie (known for developing Destiny) at \$3.6 billion.

Given these massive deals, there seems to be a sudden rush in becoming the world leader of this industry. Therefore, it won't be a surprise if companies like Sony, Tencent, Nintendo, etc. soon initiate acquisition talks with other key gaming developers like Electronic Arts (EA) or Ubisoft. It therefore becomes imperative to understand the game developing companies from both a market and IP perspective.

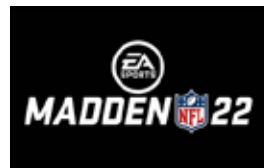
My first article in this series focuses on the comparison of Intellectual Property (IP) strategies of Activision Blizzard and Electronic Arts (EA).

While companies like Microsoft and Sony are locked in the gaming platform battle and others like Amazon, Google, Apple, Netflix, and Meta are all trying to capitalize on this highly lucrative space, it is worthwhile to see where the IP portfolio of the next eligible acquisition target such as Electronic Arts (EA) stands as opposed to the most recent acquisition target, Activision Blizzard. Before we proceed, let's look at some of the popular games published by these two players:

**ACTIVISION
BLIZZARD**



Electronic Arts



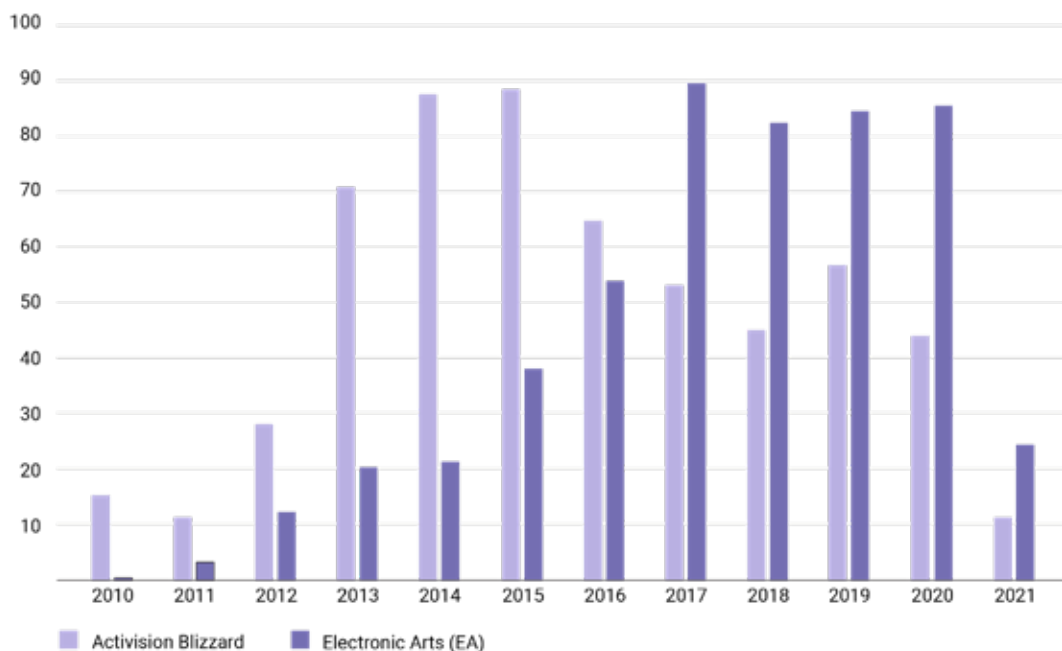
Some of the top revenue generating games from Activision Blizzard are Candy Crush (~\$7B), World Warcraft (~\$9B), and Overwatch (~\$1B). On the other side, popular games from Electronic Arts include FIFA (~\$10B), Battlefield (~\$3B), and Sims (~\$3B).

Patent Insights*

Below are a few preliminary insights from the patent portfolio of both Activision Blizzard and Electronic Arts (EA).

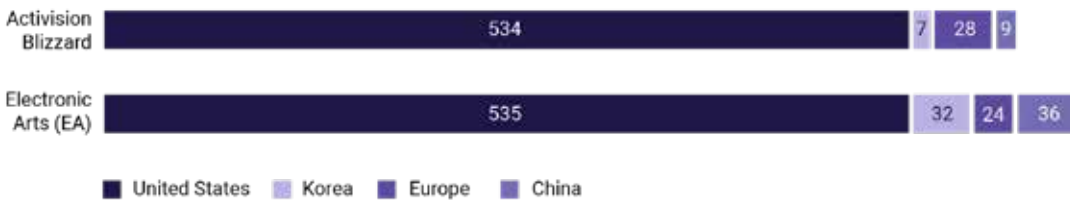
*1. Global patents and applications were studied while identifying the trends. 2. Filing trends for the years 2020 and 2021 may change based on pending publications filed during this period.

Patent Filing Trend



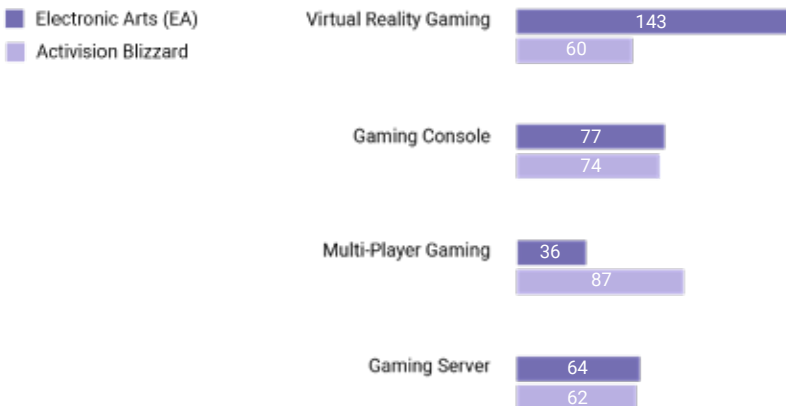
- Activision Blizzard owns 674 patents/ applications with 75% active portfolio (#508 active patents/applications), whereas EA owns 751 patents / applications with 65% active portfolio (#494 active patents/applications).
- Activision Blizzard was most active in the year 2015 after which the filing count declined year on year till 2018. On the contrary, Electronic Arts (EA) has been on a filing spree since 2017.
- Most of Activision Blizzard's patent portfolio was acquired from the original creator of Candy Crush Saga, King in 2016. It accounts for over 300 patents/ applications. Surprisingly, the filing count of King has been declining since 2015 which has contributed to the low aggregated filings from Activision Blizzard in succeeding years.
- Interestingly, almost 10% of the patent applications of Activision Blizzard in the US are focused on the design side i.e., Activision Blizzard has over 60 design patents in its portfolio. On the other hand, Electronic Arts (EA) has only 2 design patents and both have expired.

Jurisdiction Coverage



- Both Activision Blizzard (534) and Electronic Arts (535) have favored the United States (US) jurisdiction for patenting – accounting for 80% and 71% of their portfolio, respectively. In the US jurisdiction, Activision Blizzard has 57 published applications that are under prosecution. On the other hand, Electronic Arts has 52 published applications that are pending for grant in the US.
- Electronic Arts seems to have a preference towards Asia, demonstrated by its filings in Korean (32) and Chinese (36) jurisdictions, whereas nothing of this sort is illustrated from Activision Blizzard's portfolio. From the market perspective as well, EA has been active in both China and Korea. It acquired PopCap in 2011 which had started gaining the Chinese game market share since its entry in China in 2008. Additionally, EA acquired Hands-On Mobile Korea to increase its market share in Korea.
- Both the companies have preferred filing through the route of WIPO PCT with Activision Blizzard filing around 65 patents / applications and Electronic Arts filing around 50 patents / applications.

Technology Distribution



- Both the patent portfolios are primarily focused on the four categories - virtual reality, gaming console, multi-player gaming, and gaming server.
- Both the companies have given tough competition to each other in the Gaming Console domain in the past 15 years.

- Electronic Arts (EA) filed aggressively (80%+) in the Virtual Reality domain in the last 5-6 years.
- Both the companies have a similar portfolio count under Gaming Server domain. However, interestingly, both the players have gained more interest in this domain in past few years. Over 80% and 70% of the filings, in this domain, from Activision Blizzard and Electronic Arts have come in the last 5-6 years.

Patent Infringement Litigation

Both Activision Blizzard and Electronic Arts (EA) have been on the receiving end of patent lawsuits i.e., defendants on several occasions. Activision Blizzard has been facing lawsuits from companies including Non-Practicing Entities (NPE) like Worlds Inc (2012), Acceleration Bay (2016) and manufacturing company P.S. Prods (2014). Besides these, AC Technologies (i.e., NPE) had also filed an infringement lawsuit against Activision Blizzard in 2014 for violating one of their patents in the data storage technology. After failing to invalidate the patent in the U.S. District Court, Activision Blizzard is not set to face a patent trial. On the other hand, Electronic Arts (EA) has been challenged with patent infringement lawsuits by NPEs like Uniloc (2010), White Knuckle IP (2015), and Stone Interactive (2019).

Activision Blizzard has recently achieved a huge win by successfully defending a lawsuit from Worlds Inc. that lasted for nine long years. Worlds Inc. argued that Activision Blizzard has been violating five of its patents around the domain of “users interaction in the virtual space”. However, the U.S. District Court dismissed the case mentioning that the Worlds’ patents merely reflect “abstract ideas.”

Electronic Arts (EA) has recently pledged to open five of its accessibility-related patents for general use. To be clear, EA will not enforce these patents against any infringing entity. These include technologies that specifically facilitate disabled players with the ease of accessibility.

Trademarks

Activision Blizzard collectively owns a total of 723 trademarks (335 registered, 28 pending and 360 dead) in the US through its various subsidiaries, such as, Activision Publishing, Blizzard Entertainment, and King.com. CALL OF DUTY, WORLD OF WARCRAFT, DIABLO, CANDY CRUSH, HEARTSTONE, and OVERWATCH are some prominent trademarks owned by Activision Blizzard in the US through its three subsidiaries. On the other hand, Electronic Arts (EA) has a mammoth 802 trademarks in the US, where 323 marks are registered, 40 are pending and a hefty 439 are dead. Some of the prominent trademarks owned by Electronic Arts (EA) in the US include EA SPORTS, THE SIMS, and BATTLEFIELD. To explicate, both Activision Blizzard and EA are head-to-head currently in terms of active registrations.

Trademark Infringement Litigation

The patent story repeats itself on the Trademarks side too, where both Activision Blizzard and EA have been at the receiving end. Activision Blizzard has been a defendant in 2 trademark infringement lawsuits in recent times for the trademark DELTA FORCE in their game Call of Duty: Modern Warfare 3 and “Humvee” for Call of Duty franchise. However, both the cases were finally ruled in the favor of Activi-

sion Blizzard. This depicts that Activision Blizzard's games are actively monitored by other companies and Activision Blizzard has been extremely cautious while using the trademarks owned by other entities.

Electronic Arts has been a defendant in a trademark infringement lawsuit for Bell Helicopters in the video game "Battlefield 3". The case was ruled against Electronic Arts as it was noticed that the use of BELL HELICOPTER can mislead the consumer into believing that Electronic Arts has been authorized by the trademark owner to use the mark.

Electronic Arts sued Energy Armor for trademark infringement for using its logo, claiming that Energy Armor is marketing its wristband using a logo like that of Electronic Arts. Since the wristband is marketed as sports equipment, this could cause confusion in the market. Hence, we may conclude that there is both offensive and defensive action from EA when it comes to Trademarks.

Conclusion

While recapitulating the comparison between the IP trends of Activision Blizzard and Electronic Arts (EA), it is evident that though Activision Blizzard has been actively filing since 2013, EA has increased its filings in the last five years.

Further, apart from the US jurisdiction, EA has active patent filings in other jurisdictions like China, Europe, and Korea. Additionally, by taking a pledge to make some of its patents open for royalty-free usage, EA is effectively utilizing its patent portfolio to improve its stand in the gaming industry.

A similar stance can be observed on the Trademarks front too, where EA has a profound coverage and is enforcing their Trademarks rights on potential infringers. Considering all these factors, EA seems to be one of the prospective gaming developers that could gain interest for acquisition / partnership by companies like Sony, Tencent, Nintendo, Amazon, Google, Apple, Netflix, Meta, and more – all of which are looking to augment their market share in this consistently growing industry. Stay tuned.



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