



epic games obtains early win in *fortnite* “running man” ip lawsuit

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On Friday, May 29, 2020, the United States District Court for the District of Maryland granted Epic Games' motion to dismiss in *Brantley et al. v. Epic Games, Inc.*, Case No. 8:19-cv-594, one of several lawsuits filed against the videogame creator regarding the use of “emote” dance moves in its popular videogame *Fortnite*.^[1]

The Plaintiffs—two former University of Maryland basketball players—claimed to have created, named, and popularized the “Running Man” dance. They alleged that Epic Games intentionally copied the movements of the dance as an “emote” in *Fortnite*. The Plaintiffs asserted eight causes of actions against Epic Games: (1) invasion of the right of privacy/publicity; (2) common law unfair competition; (3) common law unjust enrichment; (4) federal unfair competition; (5) trademark infringement under the Lanham Act; (6) common law trademark infringement; (7) trademark dilution; and (8) false designation of origin...

[1] An “emote” is a programmed movement performed by a player’s online avatar to express the player’s emotions in the game. “Emotes” are one of various in-game purchases that players can use to customize their *Fortnite* experience.

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