

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application –

Mark: RICOCHET
Serial No.: 97071347
Filed: October 12, 2021
Applicant: Activision Publishing, Inc.
Classes: 9, 41
Law Office: 114

RESPONSE TO OFFICE ACTION

This is in response to the Office action issued April 25, 2022 (“the Office Action”). For the reasons set forth below, the Applicant respectfully submits through its undersigned counsel that the likelihood of confusion and descriptiveness refusals cannot be sustained, and that approval for publication is warranted.

Likelihood of Confusion

The Applicant is seeking to register the mark RICOCHET ANTI-CHEAT for downloadable and non-downloadable software for preventing cheating in video games. The Examining Attorney continues to cite as an obstacle to registration another party’s registered mark RICOCHET for “Interactive multimedia computer and video game programs” (Reg. No. 3180435; “the Registration”). As noted in the previous response, the other party’s mark as used in commerce serves as the title for a particular computer game.

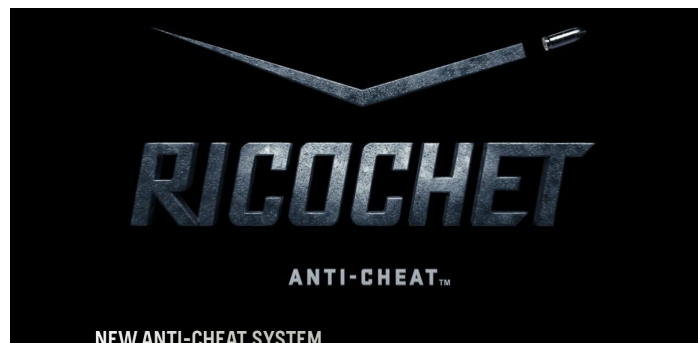
The Examiner also has refused registration on the ground that the Applicant’s mark is merely descriptive. The contention in the Office Action is that the RICOCHET ANTI-CHEAT mark “immediately describes a feature and function of applicant’s goods and services, i.e., software goods and services featuring anti-cheat solutions used in ricochet style games”. In asserting this refusal, the Examiner clearly concedes that the cited RICOCHET mark itself is a generic term for a type of game. Thus, the registrant’s mark should be entitled to little or no

protection by the Patent and Trademark Office. This alone should be sufficient to compel withdrawal of the likelihood of confusion refusal.

Other factors weighing in the Applicant's favor with respect to the refusal under 2(d) include the significant differences between cheating prevention software and a game title; the evidence of record that very similar marks are registered to, and/or are being used by, two different parties for, on the one hand, game software and, on the other hand, anti-cheating programs; and substantial evidence in the record of dilution of "ricochet" on the registry and in the marketplace with respect to games and other entertainment properties. When all of the arguments and evidence are considered in totality, it is clear that there is no valid basis for sustaining the likelihood of confusion refusal.

Descriptiveness

While the term "ricochet" is generic (or at least highly descriptive) as applied to the registrant's game, it is not so plagued with respect to anti-cheating software. The record reflects that one definition of "ricochet" is "a glancing rebound (as of a projectile off a flat surface)". In the context of the Applicant's mark, the term suggests protection in that attempts at cheating are repelled by the Applicant's software in a manner that calls to mind a glancing rebound. This connotation is reinforced by the deflected bullet design used by the Applicant in connection with the mark, as shown immediately below.



It is clear that the Applicant's mark RICOCHET ANTI-CHEAT is in fact a classic example of a suggestive – that is, inherently distinctive – mark. As such, it is immediately eligible for registration on the Principal Register with no need to establish acquired distinctiveness. The refusal under Section 2(e)(1) accordingly cannot be sustained.

Request for Information

Attached are pages from the Applicant's website promoting its anti-cheat program. Regarding the two questions posed by the Examiner, the Applicant responds as follows:

Q1: Is applicant's anti-cheat software used for ricochet-type games?

Answer: Applicant's anti-cheat software is not used for ricochet-type games.

Q2: Could applicant's anti-cheat software be used for ricochet-type games?

Answer: The anti-cheat software is highly sophisticated and is designed for use with sophisticated, competitive games. The anti-cheat software is not designed for use with ricochet-type games.

Conclusion

Based upon the above arguments and the substantial evidence of record in support of its position, the Applicant respectfully submits that the application must be approved for publication.

June 2, 2022

Respectfully submitted,

/Jeffrey A. Smith/

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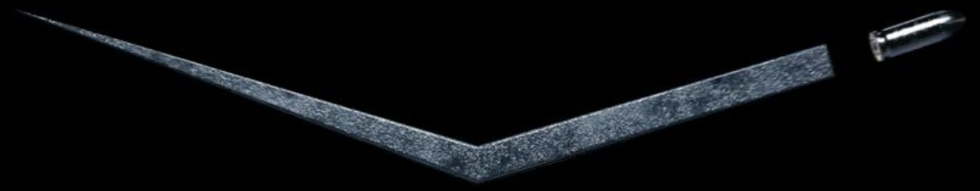
Ricochet Call of Duty®: Warzone x +

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NEW ANTI-CHEAT SYSTEM

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Call of Duty®: Warzone™ and *Call of Duty®: Vanguard* on PC also utilizes a new PC kernel-level driver, developed internally for the Call of Duty franchise as part of the RICOCHET Anti-Cheat initiative. The driver is currently live in *Call of Duty: Warzone* and *Call of Duty: Vanguard*, globally.

For the full breakdown of RICOCHET Anti-Cheat read the announcement blog post [here](#).

LATEST PROGRESS REPORT



HOW IT WORKS

RICOCHET Anti-Cheat brings a broad enhancement to the security to *Call of Duty: Vanguard* and *Call of Duty: Warzone*. As part of this multi-faceted anti-cheat security initiative is a new kernel-level driver on PC, currently live for *Warzone* and *Vanguard*. The new initiative allows for rapid iteration to combat a sophisticated and evolving problem.

KERNEL-LEVEL DRIVER

Kernel-level drivers are given a high level of access to monitor and manage software and applications on a PC, such as your PC's graphics card driver. The kernel-level driver element of the RICOCHET Anti-Cheat system will check the software and applications that attempt to interact and manipulate *Call of Duty: Warzone* and *Call of Duty: Vanguard*, providing the RICOCHET Anti-Cheat team more data to bolster security. For more detailed information about RICOCHET Anti-Cheat and its PC kernel-level driver, [read the dedicated FAQ.](#)





PROTECTING YOUR PRIVACY

In its initial rollout, the kernel-level driver will only operate when you play on PC. The driver is not always-on. The software turns on when you start *Warzone* or *Vanguard* and shuts down when you close the game. Plus, the kernel-level driver only monitors and reports activity related to Call of Duty. While the kernel driver is deployed on PC, by extension, console players playing via cross-play against players on PC also stand to benefit.

FAQS

WHAT IS RICOCHET ANTI-CHEAT?

The RICOCHET Anti-Cheat initiative is a multi-faceted approach to combat cheating, featuring new server-side tools which monitor analytics to identify cheating, enhanced investigation processes to stamp out cheaters, updates to strengthen account security, and more. RICOCHET Anti-Cheat's backend anti-cheat security features have launched for *Call of Duty®: Vanguard* and *Call of Duty®: Warzone™*. Each title also utilizes a new PC kernel-level driver for all players, developed internally for the Call of Duty franchise. The driver has deployed globally for both *Warzone* and *Vanguard*.

HOW DOES THE RICOCHET ANTI-CHEAT KERNEL-LEVEL DRIVER WORK?

The PC kernel-level driver monitors and reports applications that attempt to interact with *Call of Duty: Warzone* or *Call of Duty: Vanguard*, allowing the RICOCHET Anti-Cheat team to determine if a machine is utilizing unauthorized processes to manipulate the game.

[VIEW ALL FAQS](#)

- 2. How does the RICOCHET Anti-Cheat kernel-level driver work?
- 3. What is a kernel-level driver?
- 4. Why does RICOCHET Anti-Cheat use a kernel-level driver instead of software from the user level of access?
- 5. When I launch Call of Duty: Vanguard or Call of Duty: Warzone, what will I see?
- 6. What can I expect from RICOCHET Anti-Cheat?

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 - [Learn how to report a player in Call of Duty: Warzone](#)
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- 7. Is the kernel-level driver in RICOCHET Anti-Cheat always-on, even when I'm not playing Call of Duty: Vanguard or Call of Duty: Warzone?
- 8. What data does the driver examine on my PC?
- 9. What testing has been done to test the kernel-level driver?
- 10. Can I opt out of using the driver to play Call of Duty: Vanguard or Call of Duty: Warzone?



ANNOUNCING RICOCHET ANTI-CHEAT™: A NEW INITIATIVE FOR CALL OF DUTY

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by Call of Duty Staff

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The RICOCHET Anti-Cheat initiative is a multi-faceted approach to combat cheating, featuring new server-side tools which monitor analytics to identify cheating, enhanced investigation processes to stamp out cheaters, updates to strengthen account security, and more. RICOCHET Anti-Cheat's backend anti-cheat security features will launch alongside *Call of Duty: Vanguard*, and later this year with the Pacific update coming to *Call of Duty: Warzone*.

In addition to server enhancements coming with RICOCHET Anti-Cheat is the launch of a new PC kernel-level driver, developed internally for the Call of Duty franchise, and launching first for *Call of Duty: Warzone*. This driver will assist in the identification of cheaters, reinforcing and strengthening the overall server security. The kernel-level driver launches alongside the Pacific update for *Warzone* later this year.

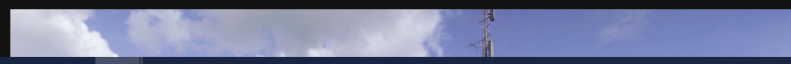
While the kernel driver, which is only a part of RICOCHET Anti-Cheat, will release to PC, by extension, console players playing via cross-play against players on PC will also stand to benefit. The kernel-level driver will subsequently release for *Call of Duty: Vanguard* at a later date.

What is RICOCHET Anti-Cheat?

The new anti-cheat security initiative is designed to fight unfair play.

Here is why RICOCHET Anti-Cheat matters:

- A Full Anti-Cheat System.** RICOCHET Anti-Cheat brings a broad enhancement to the security of for Call of Duty, bringing server enhancements to *Call of Duty: Vanguard* and *Call of Duty: Warzone*. Launching first in *Warzone* later this year is a new kernel-level driver on PC. The driver will be integrated into *Call of Duty: Vanguard* at a later date. The new initiative allows for rapid iteration to combat a sophisticated and evolving problem.
- Call of Duty: Warzone Adds Kernel-Level Driver.** Kernel-level drivers are given a high level of access to monitor and manage software and applications on a PC, such as your PC's graphics card driver. The driver element of the RICOCHET Anti-Cheat system will check the software and applications that attempt to interact and manipulate *Call of Duty: Warzone*, providing the overall security team more data to bolster security. Once the kernel-level driver is deployed, it will be required to play *Warzone*. For more detailed information about RICOCHET Anti-Cheat and its kernel-level driver, [read the dedicated FAQ](#).
- Protecting Your Privacy.** In its initial rollout on Call of Duty: Warzone, the kernel-level driver will only operate when you play on PC. The driver is not always-on. The software turns on when you start *Call of Duty: Warzone* and shuts down when you close the game. Plus, the kernel-level driver only monitors and reports activity related to Call of Duty.
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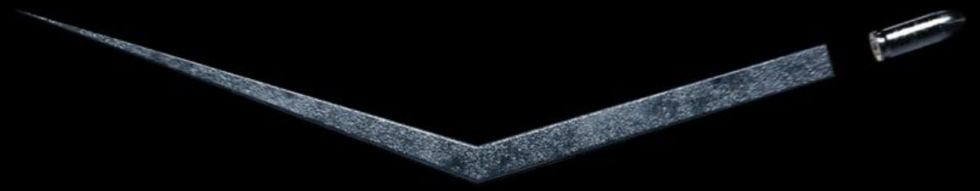


Ricochet Call of Duty®: Warzone x +

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