

Red Dead Redemption 2's Pinkerton agents are at the center of a lawsuit

The publisher of *Red Dead Redemption 2* has thrown down a legal gauntlet against the security company Pinkerton – which demanded royalties for using its name in the game. According to a complaint filed late last week, Pinkerton sent Take-Two Interactive a cease-and-desist letter over the characters of Andrew Milton and Edgar Ross, a pair of Pinkerton agents and major antagonists in the game. Now, to have the characters declared fair use, arguing that they're part of *Red Dead Redemption 2*'s detailed historical setting.

Pinkerton Consulting & Investigations (now a subsidiary of security firm Securitas AB) delivered its cease-and-desist order in December, roughly two months after *Red Dead Redemption 2*'s release. It commended game development studio Rockstar's "clear affection" for Pinkerton, but claimed it was trading on the "goodwill" associated with the company's trademarks, creating a false impression that the game was made by or connected with Pinkerton.

The order demands that Take-Two pay either a lump sum or ongoing royalties. But Take-Two contends that *Red Dead Redemption 2* – which the lawsuit describes as a "gripping Wild West adventure" and "essentially an interactive film" – is protected by the First Amendment.

Take-Two notes that the Pinkerton National Detective Agency is referenced in plenty of other Western fiction, and that the agency played a major role in real 19th- and early 20th-century American history. (It was not, however, the

inspiration for the Weezer album *Pinkerton*.) Among other places, Pinkerton agents appear in the 2000s-era TV series *Deadwood*; the 1980 film *The Long Riders*; and the 2010 game *BioShock Infinite*, where the protagonist is a former Pinkerton agent.

The complaint accuses Pinkerton of trying to profit off *Red Dead Redemption 2*, which sold 17 million copies within two weeks of release. It also gives Take-Two a chance to brag about how big and historically accurate *Red Dead Redemption 2* is – quoting glowing press from news outlets and, more idiosyncratically, the Audubon Society. “Historical fiction—television, movies, plays, books, and games – would suffer greatly if trademark claims like [Pinkerton’s] could even possibly succeed,” Take-Two declares. “[Pinkerton] cannot use trademark law to own the past.”

Pinkerton did not immediately respond to a request for comment.

<https://www.theverge.com/2019/1/14/18182017/red-dead-redemption-2-pinkerton-lawsuit-take-two-interactive-trademark-infringement>