

Valve Corporation Potentially Facing Class Action Suit

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Plaintiffs suing Valve Corporation over the company's use of loot box in several top videogames have moved for class certification in Seattle federal court. The suit alleges that the loot boxes in three games—Counter-Strike: Global Offensive, Defense of the Ancients 2, and Team Fortress 2—violates the Washington Consumer Protection Act because they constitute online gambling that Valve failed to disclose. The proposed class consists of the parents of minor children who purchased loot boxes from Valve, a class that could exceed hundreds of thousands of parents. Plaintiffs argue that the same issues exist for the entire class—namely, that Valve has concealed that their games include gambling elements, which are illegal under Washington law—and that damages could be easily determined from Valve's records listing the amount spent by minors on loot boxes in its games. Plaintiffs also seek injunctive relief against Valve that would prohibit loot boxes.

Plaintiffs' claims have had a long and tortured history. Although initially filed in December 2016 on behalf of both parents and children, the district court sent the case to arbitration at Valve's request. Valve prevailed in the arbitration, and the court dismissed the case. Plaintiffs appealed, and the Ninth Circuit reversed the order compelling arbitration of the parents' claims but sustained as to the children's claims. With Valve's arbitration victory still binding on the children's claims, the parents may face an uphill battle on their suit against Valve.

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Recognizing that emerging industries require bespoke lawyering, David Enzminger formed and leads Winston's Videogame, Gaming & Esports Group to provide comprehensive legal solutions to companies in these industries. This multidisciplinary group includes more than 60 lawyers across 10 practices working seamlessly to assist companies in these industries in all areas, including managing IP portfolios, assisting esports companies establish global sports leagues, selling franchises, and developing proactive legal solutions for issues that arise from league operations. We represent videogame publishers in antitrust matters and represent both rights owners and gaming companies in licensing issues for game content. In addition, our team helps electronic game clients prepare for all types of regulatory and public scrutiny issues, such as corporate governance, data privacy, and harassment/discrimination claims that are sure to come as the industry continues to grow in both size and influence.

Our offices in New York, Silicon Valley, Los Angeles, Shanghai, and Hong Kong provide gaming clients with a global platform for their complex and evolving legal needs.

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