



## Loot Box Update: California Federal District Judge Puts an End to ‘Loot Box’ Suit Brought Against Apple

JANUARY 11, 2022

A California federal district judge put an end to a suit brought against Apple under California’s Unfair Competition Law (Business & Professions Code § 17200). The suit alleges that loot boxes in games are akin to illegal slot machines, which are prohibited by California law. Rather than suing the game publishers themselves, plaintiffs sued Apple for hosting games with loot boxes in the Apple App Store.

At issue is Brawl Stars, a game published by Supercell, a Finland-based publisher. According to the plaintiff Rebecca Taylor, her minor son downloaded Brawl Stars to his iPhone and iPad and made in-app purchases of loot boxes, which provide upgrades or cosmetics for use in the game. As the court decision admits, buying “a loot box is a gamble in the sense that the player does not know what it contains until it is opened.”

The district court dismissed the case for two reasons. First, it found that plaintiffs did not have standing to sue under Section 17200, because plaintiffs merely purchased virtual currency—called “gems” in Brawl Stars—for use in the game. Plaintiffs undoubtedly received all the gems they purchased, and thus suffered no economic loss from their purchases. The fact that the plaintiffs’ minor son chose to use the gems for loot boxes “was not a transaction with Apple,” and thus plaintiffs’ claims against Apple failed. Whether plaintiffs can cure their standing problem by suing Supercell instead remains to be seen.

The court also dismissed the suit on the merits, finding that the loot boxes in Brawl Stars were not gambling devices under California law. Nor was the court swayed by the plaintiffs’ assertion that loot boxes are inherently harmful. Even if that were so, the court held, plaintiffs’ remedy lies with the legislature, not with the courts. As the decision noted, legislatures in various jurisdictions have begun regulating loot boxes, but because neither Congress nor the state legislature has done so here, plaintiffs could not seek relief in court.

The dismissal order dismissed the case without leave to amend, and thus spells the end of the case against Apple.

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