



## Loot Box Update: Another ‘Loot Box’ Suit Dismissed. Northern District of California Ends Claims Against Google’s Play Store

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Earlier this month, a district court in the Northern District of California ended a suit against Apple concerning loot boxes. That suit alleged that Apple facilitated in-app purchases of “gems,” a virtual currency used in Supercell’s game Brawl Stars. Plaintiff also alleged that her minor child then used those gems to purchase loot boxes in the game, which constituted illegal gambling. But rather than sue Supercell, who publishes Brawl Stars and is responsible for creating the loot boxes, Plaintiffs sued Apple for facilitating the transaction. The court tossed the suit after finding that (a) Plaintiffs did not buy the loot boxes from Apple, and thus had no standing to sue under California’s Unfair Competition Law (Business & Professions Code § 17200) and (b) the loot boxes were not illegal gambling devices under California law in any event.

A decision issued in a similar suit brought against Google ended last week on similar grounds. The case, brought by the same attorneys on the same day as the Apple case, sought to hold Google responsible for games (in this case, Bandai’s Dragon Ball Z Dokkan Battle and Square Enix’s Final Fantasy Brave Exvius) in its Play Store that use loot boxes. The Northern District of California dismissed the case for two reasons. First, it noted that Google was entitled to immunity under Section 230 of the Communications Decency Act. That statute generally protects providers of “an interactive computer service” from liability for the content of information placed on that service by another. Because Google’s Play Store is an “interactive computer service,” and the allegedly illegal loot boxes were placed in the Store by third parties, the court found that Google was immune under the statute.

Although the court entertained the possibility that Plaintiffs might amend to get around Section 230 immunity, it did not reach that issue because it found Plaintiffs’ claims also failed on their merits. Following the decision in the *Apple* case above, the court found that Plaintiffs lacked standing to sue under that law because they suffered no injury from anything that Google did because Google did not sell the loot boxes to Plaintiffs. The Court also found that the loot boxes were not illegal gambling devices in any event, because they did not provide a chance to win a “thing of value,” i.e., money or an item that can be easily converted to money. Instead, the prizes in the loot boxes merely provided the opportunity to acquire in-game items that provided additional enjoyment to the game player, and that subjective enjoyment was not a “thing of value” under the statute. The court decision did note, however, that the outcome might be different if the prizes won from loot boxes could be traded or sold outside their respective games—although in this case, that argument would fail because Google’s terms of use prohibited the sale or transfer of those items.

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