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Esports and the Law 指



News, case summaries, articles, and strategies concerning esports and the law

Epic Games Sues Player for Cheating In Fortnite

By Michael Pollock, of Saul Ewing

r the online gaming commuinity, cheating and evading the consequences of cheating, goes back decades. For years, game developers have been playing cat n' mouse with third-party software developers that create cheat programs for a multitude of video games. Developers create cheat detection software and ban players who use it, and in return, software developers develop more sophisticated cheat programs to avoid detection. Recently, with the rise in popularity

of esports, the stakes of this back and forth have never been higher. Esports popularity has led to an increase in tournaments, and a substantial rise in tournament prize pools. But, with this increased popularity has come increased scrutiny on game developers to protect the integrity of their game - especially when millions of dollars are on the line.

Epic Games, the creator of the massively successful shooter Fortnite, is taking cheating very seriously. In a move that upends the continued back

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Predictions for Esports in 2025: Legal Considerations in Revenue Innovation

By Jeffrey Levine, JD, PhD Associate Clinical Professor Department of Sport Business Esport Business Program Lead Drexel University

In a recent Esports Insider article, industry thought leaders outlined their expectations for 2025 (Daniels, 2025). Revenue diversification emerged as one of the most frequently discussed issues, particularly in light of ongoing financial instability in the post-esports-winter era. As traditional revenue streams such as sponsorships and advertising become increasingly volatile, and therefore unreliable,

organizations are forging alternative strategies to ensure financial sustainability. These individuals identified three key revenue streams poised to reshape the industry: esports betting, user-generated content (UGC) monetization, and AI-driven gaming experiences (Daniels, 2025; Takahashi, 2025).

However, while promising, these emerging revenue models introduce significant legal and regulatory concerns that will shape the industry's trajectory. Esports betting raises compliance challenges related to gambling laws, match-fixing, and protecting

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younger consumers. UGC monetization presents unresolved intellectual property (IP) disputes regarding content ownership and compensation models. Meanwhile, AI-driven esports tools introduce complex questions related to fair competition, data privacy, and content ownership. As esports organizations attempt to regain financial stability and transition into what some industry insiders are calling an

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Esports and the Law

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Editor's Note

Trends in Esports For 2025

hat better time than the beginning of the year to talk about what's to come? After several years of layoffs, delayed games and decreased profits, things are finally starting to look up for the video game industry. Look no further than *Marvel Rivals* from Chinese publisher NetEase Games.

The library of competitive esports titles felt fairly stagnant going into 2024. Yes, there were the big names like League of Legends, Valorant and Fortnite, but where was the next big thing? Enter a 6-on-6 third person 'shooter' using Marvel Comics' greatest assets that is free to play. Introduced in early December 2024, Marvel Rivals has found unprecedented praise and success, and few (if any) bugs or exploits. Added to that, the character art is amazing, and the gameplay is fluid and fairly easy to learn. My favorite hero to play you ask? Black Panther. Can Marvel Rivals become a premier competitive esports title in 2025? I think it can, and that is my Prediction #1 for 2025.

User-Generated Content (UGC) was on the rise in 2024. UGC used to be the exclusive province of Roblox, where users could create their own 'mini-games' and charge others Robux to play them, creating a nice little economy within the game. Fortnite launched "Fortnite Creative" mode several years ago, but it was the introduction of Unreal Engine for Fortnite (UEFN) in 2023 that really opened the floodgates for UGC within Fortnite. Roblox has around 90 Million daily active users, and Fortnite has around 60 Million. The bulk of those users are Generation Z and Generation Alpha that grew up with the games. Those users are very interested in playing and developing UGC. While it is not my cup of tea presently (due primarily to quality issues and not much publisher curation), UGC has the potential to be game-changing in 2025. Many brands are looking to launch high-quality UGC within Roblox and Fortnite, including notably Calvin Broadus (aka Snoop Dogg). Snoop and his son Cordell launched "Snoop Dogg Red vs Blue" within Fortnite Creative in 2024, to great success. I'm happy to note that the game mode was developed by firm client 404 Creative in collaboration with Death Row Games. Any owner of intellectual property that wants to generate UGC should have a concrete legal strategy, and I think there will be a significant amount of legal work surrounding these types of transactions in 2025. There you go, Prediction #2 for 2025.

Prediction #3, well you guessed it, further integration of Artificial Intelligence (AI). AI can be used in many ways within games. Generating content is the obvious use case for AI, but what about using it to learn players behaviors and make games progressively more difficult? There have been complaints in the past of publishers using 'learning' technologies to progressively increase difficulty levels and thus drive players toward purchasing Downloadable Content (DLC). Electronic Arts owns a patent for a technique called Dynamic Difficulty Adjustment (DDA) that some FIFA players alleged in 2021 was used in the game to influence DLC purchases. EA quickly came out with a statement that "DDA technology...never was in FIFA, Madden or NHL, and never will be...". Warner Brothers Interactive Entertainment was famously awarded a patent (U.S. Pat. 11,660,540) on the Nemesis AI system found in the 2014 Lord of the Rings game Middle-Earth: Shadow of Mordor. The Nemesis AI system is a gameplay mechanic that generates unique enemy characters based on a player's actions, essentially creating a dynamic and personalized experience with each playthrough. Prediction #3 for 2025 is that we will continue to see these types of technologies creep into video games.

As always, Excelsior!

Darius C. Gambino, Editor-In Chief.

Miguel Oliveira Leads a Tech Company that Is Revolutionizing the VFX industry with Al-Powered Tools

Years ago, Miguel Oliveira was on a typical corporate track when his then-girlfriend, now-wife was offered a job in the gaming industry. While she was "happy" with her job, Miguel was less sure about his own situation. So, after she told him about the opportunity, the Harvard Business School Graduate (Alternative Investments) pursued the job, and was hired.

The rest was history.

Today, Oliveira is the CEO of Druids.ai, a company that is revolutionizing the VFX industry with AI-powered tools.

We wanted to learn more about his business and career path, which led to the following interview.

Question: How did you get involved in the video game industry?

Answer: I was raised in Germany, as the older son of my Portuguese immigrant parents. After attending business school, I decided that I'd want to live in Portugal, my actual home country. I was fortunate enough to find a management trainee position at the Portuguese national airline, TAP Air Portugal. After a few stints in several European countries, I ended up back in Portugal, in charge of that airline's budgeting process. As part of that responsibility, I was absolutely fascinated by the airlines

I could easily 'blame' my girlfriend-turned-wife for that. An old school friend of hers offered her a job, and instead of accepting, she pushed me into that role. Supposedly, she was happy in her job, but knew 'somebody' that would be perfect to help him build his gaming company. Instead of simply taking on that job, I convinced him that we should become business partners. Together we went to one



of the largest games conferences at that time, Electronic Entertainment Expo, or E3, in Los Angeles. We pitched our business plan to a game publisher from Germany and a few months later we were in business, and I was distributing and marketing video games. This is the reason why I truly believe in the German saying, "You just have to talk to people." You never know where opportunities may truly originate. Life takes interesting turns sometimes.

Q: What are your proudest of related to the video game industry?

A: My experiences in the video games industry over the past 25 years have been very positive and fortunate. For a long time, we have not been taken seriously, especially compared to other digital entertainment businesses, like movies or music. As this industry has now exploded to almost \$200B, reaching virtual ubiquity, it has also established itself as a cultural cornerstone of our society. Having been part and contributed to that growth makes me tremendously proud in and of itself. On a personal level, I'm particularly proud to have built and sold an online games distribution platform company during my early 30s. And most recently having led the acquisition of various companies worth close to \$400 million.

Q: What do you see in the future of the industry?

A: While the Pandemic has injected our and a few other industries with extra hypergrowth, the video games business specifically, is going through a tremendous structural change right now. 2023 was a year of significant contraction, as a result of various conflating factors (e.g. privacy policies changes, elevated interest rates, crypto winter). And with constantly increasing developing budget (\$400 million for AAA game being 'normal'), the bar has been raised so much, that too many games failed commercially, resulting in the closure of many studios and the layoff in 30,000+ highly skilled video game industry professionals. With that somber backdrop in our rear-view mirror, we are embracing several opportunities that have the potential to bring growth back to video games. Smaller studios (aka indies) will organically take a greater role in the future. This is not just an effect of their cost structure, but also their nimbleness and inherent creativity. Contrary to larger studios that are driven by income statements and quarterly reports (most are part of publicly traded conglomerates), indies are mostly only beholden to their founders (and some investors). When you combine that agility and scrappiness with the advent of AI tooling, you may end up with the perfect growth engine for our industry: creativity and affordable, rapid development.

Q: Tell us about your existing venture – Druids AI?

A: Druids AI is focused on helping our industry turn the corner and get back to the growth we've experienced over the past 20 to 30 years. Our team is on a mission to help game creators become better by making them more efficient. We aim to accomplish that through the strategic use of AI tools in the creator's organic workflow and production processes. Instead of replacing creators, we augment them, we accelerate them, we empower them with skills they would otherwise spend years acquiring. In our research, we found that all game creators spend almost half of their day googling how to use their tools. We are putting an end to that inefficiency by enabling creators to use their natural, human language to control their production tools. Our fully integrated AI-powered prompt interface not only educates creators on how to use their tools, the various Druids agents also take over those tasks when specifically requested to do so.

This way, tedious, repetitive processes, complicated and time-consuming tasks can be offloaded to Druids, freeing up creators' time to focus on what truly matters in game development: creating fun!

Q: Does this venture intersect in any way with your work you do in the video game industry, and how?

A: Absolutely. All three founders have 20+ years of video game experience each, in software development, executive production and management respectively. We are uniquely equipped to aggressively drive our team's efforts on the product developments as well as the go-to-market front. Druids truly feels like the perfect convergence of our careers to create something beautiful at the exact right time when our industry needs it most. It reminds me of my triathlon experience, which felt like the perfect marriage of my prior running, swimming and cycling experiences.

Sometimes the universe prepares you for what's to come and you don't even know it, until it manifests itself in front of you. It's a highly rewarding sensation.

Q: What has been the secret to your success as an entrepreneur?

A: I wish there were a secret, frankly. If, however, I had to point at some learnings that have served me well over the years, I'd call out three in particular: first, an open mind. You remember Jim Carrey's movie "Yes Man"? Very often, opportunities come knocking at your door and you just have to open it. Secondly, surround yourself with 'can do' people. This makes a huge difference. I'm a big believer in Henry Ford's quote "Whether you think you can or think you can't, you're right.". And lastly, outwork anybody and everybody. Grit and perseverance will inevitably lead to success. If you don't quit, you can't fail. Simple as that.

2025 EsportsTravel Summit to be Held in Bloomington, Minnesota

The EsportsTravel Summit is L the world's largest gathering of esports tournament and video-game event organizers and the only business conference focused on the travel side of the esports industry. Organized by the Northstar Meetings Group, the 2025 summit will be staged June 16–18, in Bloomington, Minnesota, a destination that has activated successful esports events at one of its largest civic assets, the Mall of America, as well as in its area hotels. The Esports Travel Summit, which began in 2017, offers esports tournament organizers the chance to meet one-on-one in a dedicated marketplace with destinations and venues interested in hosting events, and suppliers interested in supporting those events.

The conference also includes highlevel education featuring industry thought leaders and focused on trends in the industry. This year's program will include several case studies on successful esports events held at the professional, collegiate and grass-roots levels. Other sessions will include a state-of-the-industry roundtable discussion, a deep dive on how Bloomington has found its niche in esports with the venues at its disposal and updates from a dozen esports event organizers on their upcoming tournaments.

"We remain optimistic on what the future of in-person esports tournaments can mean for the travel industry, which has shown a keen interest in finding ways to work with esports event organizers and enhance the in-person experience," said Jason Gewirtz, vice president of the Northstar Meetings Group Sports Division. "But there is a place in these discussions for a wider range of voices, from the legal profession to the medical industry and more — voices we feel are key to the evolution of the industry. The esports industry has been fast to evolve and the Esports Travel Summit serves a significant role in educating the travel industry on this dynamic market, and the esports industry on what destinations and venues can do to support their events as they have been doing for decades in traditional sports."

The EsportsTravel Summit is produced in partnership with the Bloomington MN Convention & Visitors Bureau. Education sessions will be held at the conference's host hotel, the JW Marriott Minneapolis Mall of America. For more information and to register, please visit www. esportstravelsummit.com.

Saul Ewing Attorney Discusses Legal Expertise at the Intersection of Esports and Intellectual Property

At Saul Ewing, Tami Carmichael provides strategic legal advice to clients on advertising and branding initiatives, both when they launch and commercialize new ventures, as well as throughout the growth and development of their businesses and brands.

She has a deeply developed practice in media and entertainment, including representation of celebrities and creative content owners

who are exploring strategic partnerships and seeking protection of their business interests and intellectual property.

Her work on publicity and branding initiatives for these clients includes negotiating talent, licensing, and merchandising opportunities. In doing this and other work, Carmichael is dedicated to understanding each individual and their needs in order to tailor and customize her advice, so that clients receive concierge-level client service.

To learn more, we sat down with Carmichael for the following interview.

Question: How did you get your start in sports law?

Answer: I started working in the sports and entertainment law field as a brand management attorney. We handle advertising, media, entertainment, and IP matters for sports industry clients, including leagues, athletes/talent, athletic wear manufacturers and licensees and merchandising companies, as well as with traditional consumer goods and services brands that engage sports figures as part of



promotions, sponsorships, endorsements, joint ventures, licensing and other commercial arrangements.

Q: In what ways does your current practice intersect with sports law?

A: I assist businesses and individuals with various sports law contract and rights negotiations and enforcement matters. This includes advertising and IP clearance matters related to use of sports team and league indicia, trademark and related IP and publicity rights filings, use and enforcement strategies, MSAs for advertising and marketing initiatives by sports industry clients, establishing and oversight of merchandising programs and transactions, athlete branding strategies, appearances for athletes and influencers, negotiation of revenue sharing arrangements between talent, leagues and/or sports industry partnerships including sponsorships, endorsements, advertising, merchandising and licensing.

Q: What are some examples of your typical clients?

A: Typical clients include sports teams, sports venues/facilities, athletes, tech companies (with products

directed at the sports industry), influencers, advertisers and mainstream brands in the sports industry, and/or who use sports content, advertising and marketing agencies creating and/or using sports indicia and content, production companies, content creators and gaming industry companies.

Q: What trends are you tracking over the next few years in the Esports space?

A: Because of my brand management related work within the space, during the last year we have seen and are tracking the dramatic increase of AI used to impersonate athletes and sports related branding indicia in digital and social assets (including the dark web). This has resulted in the need to shift and strengthen monitoring and enforcement strategies, both domestically and internationally. We also continue to see expanded use of sports talent and sports content in gaming, mobile, podcast, media and general advertising campaigns and transactions.

Q: What do you like most about being a lawyer in the sports and entertainment industry?

A: My legal practice is dynamic and fluid. Each day presents new questions and endeavors. As a lawyer, I am privileged to work with many unique clients, ranging from individuals and emerging companies to Fortune 50 businesses. Our sports and entertainment industry clients have creative minds and extraordinary business ingenuity. The legal issues are often cutting edge, and in my capacity as a lawyer, I am able to collaborate

and strategize with legal and business teams to implement our client's goals, to protect their hard work, and to problem solve if challenges arise. The nature of our sports and entertainment industry clients also enables us to work holistically to, on one hand, commercialize assets and handle interesting transactions, and on the other hand, to collaborate with our colleagues to protect client's businesses and individual needs in peripheral matters.

The Intersection of Pokémon and Copyright: Lessons from **Recent Legal Challenges in Esports**

By Rashan E. Isaac Ph.D. Candidate- University of New Mexico (Sport Administration)

he gaming community is familiar with disputes related to intellectual property, with the Pokémon franchise being heavily involved with multiple legal cases related to copyright infringement. A recent case is seen with the title Palword [1], produced by the Tokyo-based indie gaming company Pocketpair Japanese-produced game that features many similarities to the Pokémon titles. As tension between game development companies and copyright holders continues to rise, the impact on the overall esports landscape cannot be overlooked. This article sheds light on key legal issues overlapping with Pokémon litigation; with a focus extended into copyright infringement and the impact on the esport ecosystem.

The Rise of Pokémon in **Esports**

Pokémon has origins that began as a globally enjoyed childhood game but has since evolved into one of the more prominent esports titles accompanied by competitive (and casual) tournaments and fan-driven events. The success of fan-driven events has led to legal conflict with the Pokémon company, an example seen in the legal issues stemming over the use of intellectual property (IP) rights in Pokémon Company International v.

Jones et al [2]. This case, in which a coffee shop owner used two popular Pokémon on a poster to showcase an event highlights the challenges faced at the intersection of gaming and IP rights. As a number of cases continue to point to how legal disputes related to Pokémon have become more pronounced, the challenges faced by both developers and players will increase based on the use of copyrighted elements from games and fan-generated content.

> The rapid, continued expansion of the esports industry highlights the importance of understanding copyright law.

The 'Palworld' Case and **Copyright Concerns**

Palworld—the gaming title which leaned heavily on patents relating to the artistic style, characters, and in-game mechanics of the Pokémon franchise [3] —serves as a prominent example of the copyright concerns which plague the esport industry. Despite not being recognized as an

official Pokémon title, Palworld faces multiple accusations of reproducing core elements originally created for the Pokémon universe. The center of this legal battle is driven by a single question: "Does Palworld constitute copyright infringement by imitating the look and feel of the Pokémon franchise?". At a larger scope, a case of this type amplifies the challenging balance of artistic inspiration and IP rights for the gaming community.

Copyright Infringement and **Esports**

Continuing to take a macro-view of this case, it would be critical to not overlook the impact fan-made content and third-party tournaments have on the evolution of a gaming title after its initial release. This is where concerns over copyright issues continue to be pressing. The success of a gaming title hinges on factors well after its release, with both game developers and fan-driven efforts required to navigate complex IP rights when incorporating copyrighted content into events and/or products. While some developers, such as those who created Palworld, argue that free expression should protect a title created for the enjoyment of fans [4], others, such as Nintendo developers, have a history of being fiercely protective of their IP and initiating multiple legal actions to prevent unauthorized use [5], [6].

Lessons for Esports

Professionals and Developers

From the *Palworld* case and other Pokémon-related IP disputes multiple takeaways can be used to inform the practices of esports professionals and developers, which include:

- Understanding Legal Frameworks: As IP law is well established as a core legal issue in esport, it is crucial for all stakeholders (e.g. game developers, tournament organizers, and content creators) to have a firm understanding.
- Well-defined Licensing Agreements: To mitigate IP issues, developers must ensure appropriate licensing and/or permissions are understood relating to copyrighted elements; especially in fan-organized esport events.
- Potential for Legal Action: An understanding of the possible

monetary (from lengthy legal battles) and reputation damage resulting from the unauthorized use of intellectual property must be understood.

The rapid, continued expansion of the esports industry highlights the importance of understanding copyright law. Using the Palworld case as an example sheds light on the complex legal issues popular titles such as *Pokémon* have faced in esports; additionally emphasizing the necessity of transparent guidelines for the esport community. Learning from such legal challenges provides esport professionals (and all stakeholders in the esport industry) with a roadmap for navigating the delicate balance between individual creativity and IP protection.

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The Problem with PEDs in Collegiate Esports

By Bradyn Rogers

Because collegiate Esports is in its infancy, it is currently facing a plethora of growing pains. One such issue is the use of performance enhancing drugs (PEDs). Prominent PEDs in this field range from cannabinoids to stimulants. Specifically, the legality of stimulants like caffeine, Vyvanse, and Adderall is garnering increased attention. Alongside the issue of PEDs noticeably increasing, the paramount concern is over enforcement of PED usage. Two of the largest organizations in collegiate Esports, the National Association for Collegiate Esports (NACE) and the National Esports Collegiate Conference (NECC), seek to provide clarity for the entire space on these issues.

NACE and NECC serve as the two main leaders in collegiate Es-



ports boasting 220 member institutions for the former and 530 member institutions for the latter. In the NECC, there are schools that have only Esports or gaming clubs and those that have a varsity program with a director and/or scholarships. Both groups compete against each other in this league despite not being

held to the same standard or having similar availability of resources. In NACE however, the membership qualifications to compete are much stricter because they do not want to deal with inconsistencies in competition, attitude, accountability, and responsibility that often adjoin student-led clubs at times. NACE requires members to be a varsity program with a fulltime staff member to oversee any competition and programs must compete in-person on campus for any and all competitions. On the other hand, student-led clubs are not able to put forth the resources to monitor each competition or even have a dedicated space to play from. The difference in expectations for holding students accountable from student-led clubs compared to varsity programs has made this issue difficult to find a solution for all of the relevant stakeholders.

The NECC Rulebook bans the use of the following online and at inperson events: "Stimulants, anabolic agents, alcohol and beta blockers, diuretics and other masking agents, narcotics, cannabinoids, peptide hormones growth factors, related substances, mimetics, hormone and metabolic modulators, and beta-2 agonists." In the same vein regarding online and in-person competition NACE's rules state: "The use of drugs or alcohol, legal or otherwise, may lead to disruptive behavior. Players believed to be under the influence of drugs or alcohol may be suspended or disqualified from the Competition at the sole discretion of League Officials." Consequently, both NACE and NECC have competition councils that come together to deal with PED issues that arise and to propose updates to current rules. If a new rule is proposed for NACE, the entire membership votes on it at their general assembly, the NACE Conference, in the summer in order to be put into effect the following semester. If a new rule is proposed for NECC, the competition council that brought about the proposal will work with the assigned staff to implement it into the next iteration of the rulebook that is released.

While both of these stances may serve as part of the correct way to deal with issues emerging from PEDs, enforcing them is another issue entirely. To date, there has been little to no enforcement of these rules that are documented; therefore, public knowledge and media coverage remains limited on the subject matter. As a result, many questions remain. How can you detect these infractions while players are playing from home? Should you subject players to random drug tests? Do you force

participation with their cameras on? These questions and others deserve increased attention moving forward in the Esports domain.

One of the most common protocols in the National Collegiate Athletic Association (NCAA) pertaining to PED usage is that if a drug test is positive, it will result in loss of eligibility and suspension from the sport. While that is the case for traditional collegiate sports, collegiate Esports are made up of smaller rosters and are often competing without substitutes due to roster composition. Subsequently, the consequences for suspending one player could lead to suspending the entire team. Furthermore, collegiate Esports does not maintain the same eligibility requirements as NCAA sanctioned sports. The only eligibility requirements are that players must have a 2.0 GPA and be a full time student. For collegiate Esports, bans from regular season matches, postseason play, and the entire season should be considered when navigating eligibility issues. Allowing the team affected by this suspension of play to be able to register an emergency substitute could be a possible option that would alleviate the potential negative effects for an entire team.

In traditional sports and in collegiate Esports, the attitude around cheating is generally negative and people do not tend to forget or move on very easily. For example, MLB fans and players still give grief to the Houston Astros following their scandal in 2017, and the usage of PEDs in collegiate Esports has a similar negative effect on both spectators and players. Unlike traditional sports, collegiate Esports does not have a consistent governance structure. This lack of consistency in enforcing disciplinary actions for PEDs

has the potential to create a hostile environment between the players, spectators, and the leagues which reinforces the notion of urgency in raising awareness on these issues.

Moreover, the use of a player "camera on" requirement may serve as a means of potential detection of PEDs through observable behavior otherwise visibly hidden. This strategy could also serve as a precursor in preventing other forms of cheating and may even improve an element of broadcasts conducted by the respective league. However, one concern with player cameras is performance issues that they may cause. Player cameras can take up bandwidth for those with troublesome internet connections or affect game performance by taking up a portion of computer resources.

Given the aforementioned context, updating the rules regarding the use and enforcement of PEDs for online competition must be a priority for either of these leagues going forward as they both pursue the frontrunner position in collegiate Esports. Currently, NACE is perceived to have the edge as the leader in collegiate Esports, but the NECC has made significant changes propelling them to a position considered a close second. The successful implementation of updated protocols that deal with PEDs will be vital to put them in the lead or to uphold NACE's current position.

Bradyn Rogers is a Graduate Student at the University of North Alabama pursuing a Master's of Science in Sport & Recreation Management

EPIC

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and forth with cheat code developers, Epic has decided to go directly after one of its players. On December 16, 2024, Epic Games sued Sebastian Araujo for repeatedly cheating in Fortnite and Fortnite tournaments.

ARAUJO'S FORTNITE HISTORY

According to Epic, Araujo had a prolific history of cheating in *Fortnite*, specifically in prize money tournaments. *Fortnite* is an online video game and game platform best known for its 'battle royale' mode, where 100 players are dropped on an island until only one player (or team) is left standing.

According to Epic, Araujo used all of the cheats that have plagued developers for years, such as extra-sensory perception ('ESP") and aimbots. ESP, sometimes referred to as map-hack, allows a player to know the location of other players in the game, and to also see other players through walls. Aimbot, as the name suggests, is a cheat that, when used in connection with ESP, will control a player's keyboard and mouse inputs to automatically aim at other players with perfect accuracy.

While aimbots and ESP cheats have been around for decades, the length Araujo went to avoid detection has not. Fortnite, like many online games, has anti-cheat software included in the game. In order to download and play Fortnite, a player must also download this anti-cheat software. If this software detects cheating on a player's computer, the player will be unable to launch *Fortnite*, and may ultimately be banned from playing the game. Epic bans players based on their hardware ID (i.e., the computer's serial number or network designation). Subsequent to a ban, the computer in question will permanently be restricted from



Michael Pollock, of Saul Ewing LLP

launching and using *Fortnite*. These hardware ID bans have historically been successful because most cheats require the cheat software be loaded on the same computer running *Fortnite* in order to read the game memory during play. The game memory contains portions of *Fortnite*'s software code that is in use during play, such as the location of players.

Araujo was able to evade the hardware ID ban, however, by using a direct memory access ("DMA") device, along with a DMA cheat program installed on his computer. DMA cheats use two computes to operate. The first computer runs Fortnite, the second computer runs the cheat software. For the cheat software to operate, it accesses computer memory associated with Fortnite, and through the DMA device, transmits it to a second computer running the cheat software. This avoids the hardware ban, but also avoids the cheat detection software from detecting the cheats in the first place. As a back-up plan, Epic alleges that Araujo also used a hardware ID spoofer, which alters the serial numbers on the hardware running *Fortnite* and the DMA device.

Araujo was banned on June 6, 2024 after Epic detected Araujo using cheats in *Fortnite*. Within two weeks, Araujo had created new accounts, with fake names, and was playing in Fortnite tournaments. Over the following five months, Araujo entered over 18 tournaments, winning approximately \$3,500. Araujo allegedly cheated in every single tournament. Despite his efforts to avoid the cheat detection software, Epic received numerous player reports about Araujo's play. After reviewing the game footage, Epic confirmed that Araujo was indeed using cheats during tournament play.

EPIC FILES SUIT

Epic had enough after discovering that Araujo had cheated in 18 tournaments in five months, creating at least four fake accounts in the process. On December 16, 2024 Epic filed a lawsuit against Araujo claiming Araujo: (1) circumvented Epic's technological measure in violation of the Digital Millennium Copyright Act (the "DMCA"); (2) breached Epic's End User License Agreement ("EULA") for *Fortnite*, along tournament agreements; (3) infringed Epic's copyrights in *Fortnite*; and (4) committed fraud.

Epic's most straightforward claim is its breach of contract claim alleging Araujo breached Epic's EULA and tournament agreements. Both agreements prohibit a player from using any kind of cheating device, program, or similar cheating method to gain a competitive advantage. If Epic's allegations prove true, there is little doubt Araujo breached these agreements.

Epic's copyright claim is more interesting, and is the weapon many

game developers have used in their fights against cheat software developers.1 As previously mentioned, Epic alleges that in order for cheat software to function, and give players the competitive advantage they seek, the cheat program must contain copied portions of Fortnite's copyrighted software code. Whenever a cheat program is run on a computer, a copy of the program code for Fortnite must also run. Epic alleges that Araujo, by using cheat software multiple times, has willfully infringed Epic's copyright related to the source code for Fortnite (by willfully copying it).

Epic's circumvention claim is premised on Title 17, Section 1201 of the U.S. Code, which provides: "No person shall circumvent a technological measure that effectively controls access to a work protected under [copyright law]." Epic claims that its cheat detection software, and hardware ID bans, are required components that a player must use and comply with in order to access Fortnite. Similar to its copyright infringement claim, Epic alleges Araujo violated this statute through the use of cheat software, DMS devices, and hardware spoofing – all of which are used to circumvent the measures Epic put in place to protect its copyright.

Epic's final claim for fraud is premised on Epic's allegations that Araujo made multiple fake accounts after his numerous bans. As part of creating these fake accounts, Araujo agreed to Epic's EULA – which agreement Epic claims Araujo never intended to

follow through with. Instead, Epic alleges that Araujo misrepresented that he would not disable or circumvent any of *Fortnite*'s security measures, or otherwise use any unauthorized software to gain an unfair advantage.

Likely more problematic for Epic, and the impetus for the lawsuit, was Araujo's use of these fake accounts to play in multiple tournaments. By accepting and agreeing to Epic's tournament agreements, with no intention of complying with the terms, Epic alleges

With esport prize pools continuing to climb, players are spending more and more time and effort on increasing their skill in order to compete.

Araujo misrepresented that he would not use any cheat programs to gain a competitive advantage — in order to win the thousands of dollars of prize money at stake.

Epic claims that these misrepresentations, which allowed Araujo to play in publicized tournaments after being banned, has damaged its reputation and goodwill. A claim that any gamer can understand. With esport prize pools continuing to climb, players are spending more and more time and effort on increasing their skill in order to compete. Araujo, and players

like him, diminish esports as a whole, and take from the players who spend untold hours perfecting their craft. This is what makes Araujo's story stand out. Instead of spending the necessary time and effort to practice and play *Fortnite*, Araujo spent an inordinate amount of time, effort, and money – to cheat.

Araujo's actions likely cost him thousands of dollars. According to Epic, Araujo needed two high-performing computers, a DMS device, and the actual cheat software. Araujo would also have needed to take the time to learn how to run, manage, and coordinate the DMS device and cheat program. Then, and only then, could Araujo actually play *Fortnite*. When all of this is taken into account, Araujo probably did not even break even on his \$3,500 in winnings.

CONCLUSION

Epic's lawsuit against Araujo is likely just the beginning of a new crackdown by game developers against players who cheat, especially those who cheat at tournaments. With esports continuing to gain popularity, and the corresponding increase in tournament prize pools, comes increased scrutiny and a demand for fair and balanced competition. Epic and other major developers are unlikely to risk their tournaments – which draw hundreds of thousands of viewers – being seen as compromised.

¹ See e.g. https://www.geekwire.com/2023/destiny-2-developer-bungie-wins-6-7m-in-law-suit-against-video-game-cheat-maker/#:~:text=LATEST%20NEWS-'Destiny%202'%20developer%20Bungie%20wins%20%2066.7M%20in%20lawsuit,against%20video%20game%20

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"esports spring" (Waananen, 2025), it is imperative that they proactively address the evolving legal landscape surrounding revenue diversification.

Esports Betting: Expanding Legally but with Risks

Esports betting is becoming a significant emerging revenue stream in competitive gaming. For instance, one major sportsbook reported that esports wagering grew by 13% in 2024, far outpacing the 4% growth seen in traditional sports betting during the same period (D'Elia, 2025). This surge in betting activity signals increasing consumer demand and suggests that gambling may play a pivotal role in esports' financial future. Riot Games' recent decision to lift restrictions on betting sponsorships for its leagues further underscores the industry's growing acceptance of esports gambling as a legitimate revenue stream (Fudge, 2024).

However, while esports betting presents lucrative financial opportunities, it also invites heightened regulatory scrutiny and integrity risks. The industry continues to face potential legal exposure associated with its popular, yet unregulated "skin gambling" market, which emerged in the mid-2010s and remains prevalent today (DeSena, 2024). Skins, cosmetic in-game items, became widely used as de facto virtual currency for betting, fueling a multibillion-dollar underground gambling economy that operated with little legal oversight and frequently involved underage users (McLeod v. Valve, 2016). While no federal statute exists that directly regulates skin gambling, this may change as the esports gambling economy matures.

Beyond the betting component, there are governance concerns. Unlike

traditional sports, where leagues such as the National Football League and governing bodies like the International Ice Hockey Federation enforce strict gambling policies, esports lacks uniform oversight. Instead, as the primary intellectual property rights holder, this responsibility likely falls upon the developer. Thus far there is no dominant approach to regulation as each developer acts based on its own interests. This regulatory inconsistency heightens the risks of match-fixing, fraud, and other integrity concerns as developers and regions enforce varying standards.

If developers eschew regulatory responsibility, such burden likely falls to government. But the regulation of gambling varies significantly across jurisdictions, making compliance a formidable challenge for esports companies operating internationally. In the United States, for example, individual states police sports betting, with each jurisdiction having their own statutes that may differ materially. Few seem to have enacted esports-specific legislation, with Nevada and New Jersey leading the way and adding to the ambiguity. In contrast, countries like the United Kingdom and Australia have well-established gambling laws, allowing esports betting to flourish under clear guidelines. However, the industry's younger audience creates an added layer of scrutiny, as regulators seek to prevent underage gambling and promote responsible gaming practices. This fragmented regulatory approach leaves esports betting operators navigating a complex and often ambiguous legal environment.

User-Generated Content and IP Ownership Battles

UGC is emerging as a transformative

force in the 2025 esports landscape, redefining how players interact with games and how developers monetize their platforms. The rise of UGC-focused platforms such as Fortnite Creative, Roblox, and other sandbox-style environments has empowered players to create, share, and monetize in-game content in ways that were previously limited to modding communities. However, while UGC presents new monetization opportunities, it also blurs traditional legal boundaries between developers, content creators, and esports organizations. As more companies integrate UGC-based business models, legal disputes surrounding intellectual property rights, derivative works, and revenue-sharing models are likely to emerge.

The central legal issue in UGC is ownership, a question that remains largely unsettled in video game law (Chau, 2023). The uncertainty surrounding who holds rights to usercreated content affects modders, developers, and players alike, creating an emerging legal framework that has yet to be standardized across jurisdictions. UGC often constitutes derivative works based on pre-existing copyrighted material, raising questions about copyright ownership and the extent of an owner's exclusive rights, including control, distribution, and monetization. However, copyright law does not protect gameplay mechanics, general ideas, or elements considered standard within a genre (Maitra, 2015), making it difficult to define what exactly is protectable in a mod. This lack of legal clarity also complicates efforts by modders and independent creators to assert ownership over their work.

Al in Esports: Legal and

Ethical Risks

As esports organizations continue to push the boundaries of innovation, AI-driven tools are poised to reshape competitive gaming and business models in 2025. AI-powered coaching systems, predictive match simulations, and automated broadcasting enhancements are already being integrated into training, strategy development, and content production (Harper, 2025; Olavsrud, 2024). While these technologies offer unprecedented advantages, they also introduce legal and ethical challenges.

The legal landscape surrounding AI is in its early stages, with courts only beginning to define the scope of AI-generated works under existing intellectual property law. In an important 2025 decision, a court ruled that training an AI on copyrighted material does not qualify for the fair use defense, setting a critical precedent for AI-generated esports content (Soni & Levy, 2025). This ruling signals that AI-driven content creation in esports is likely to face increasing legal scrutiny in the near future. Additionally, 2024 saw more than 30 lawsuits filed against AI companies, with courts intensifying their examination of how AI models are trained on copyrighted works without explicit authorization (Madigan, 2025). These cases could profoundly influence how AI-generated strategies, game analysis, and highlight reels are regulated in esports.

Beyond copyright disputes, AI's role in esports also raises serious concerns about data privacy and player protection. AI-powered analytics systems process vast amounts of player data, ranging from in-game performance statistics to biometric tracking. Without clear regulatory frameworks, this data could be misused or exploited, leading to potential legal challenges

under evolving AI and data privacy laws. As AI becomes more embedded in competitive gaming, regulators may need to establish stricter guidelines on data collection, consent, and the ethical use of player information to ensure compliance with emerging legal standards.

Conclusion

These 2025 esports industry predictions highlight revenue diversification as both a solution and a challenge for long-term sustainability. While esports betting, UGC, and AI-driven innovations offer new financial opportunities, they also introduce substantial legal risks that must be carefully navigated. Courts and legislators may begin to play a major role in defining the rules governing these emerging revenue streams. The industry must prepare for potential court cases that could set precedents for gambling liability, intellectual property rights in UGC, and the role of AI in competitive gaming. As the legal landscape continues to evolve, esports stakeholders must stay informed and take a proactive approach in crafting forward-thinking policies rather than reacting to legal challenges as they arise.

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