S1:E5 - Bugging Out: The Legal Effects of Bugs and Glitches in Games

April 10, 2019

In this episode of LAN Party Lawyers, Steve Blickensderfer, Nick Brown, and special guest Jack Clabby explore the legal consequences of bugs in video games and digital exploits in the esports ecosystem.

Steve: Welcome to the LAN Party Lawyers podcast. My name is Steven Blickensderfer. I am joined by Nicholas A. Brown, my colleague, former classmate and cohort in gaming, and we are your hosts of the LAN Party Lawyers podcast where we tackle issues at the intersection of video games, law, and business. I'm envisioning a triangle. Remember nothing we say is legal advice on this podcast, so please don't take it as such. But, I'm very excited about our episode today. So, Nick why don't you tell us what's going on.

Nick: Absolutely, today we're going to talk about bugs and glitches in video games, which is a sensitive topic near and dear to all of our hearts, and we're really excited today to have with us Jack Clabby, who's a shareholder in Carlton Fields' Tampa office. He's with us to help explain some of the legal issues that are involved when there are bugs and glitches in games. So, today were going to first talk about bugs, were going to talk about the good, the bad, and the surprising, and then we'll talk a little bit with Jack about what happens when there are bugs in games.

Steve: Nick, you're saying a lot, bugs, bugs, bugs. Do I need to call the exterminator? What kind of bugs are you talking about?

Nick: Not today, Steve. So, when we're talking about bugs, what we mean are coding or development errors in games. Pretty much all video games, as we know they're software, and they pretty much all come from lines of code, and as we all know software does not always work the way you expect it to, and sometimes things go wrong. And so, when we are talking about bugs and glitches, were talking about the whole spectrum, from games completely not working when they just crash or fail to run, all the way down to the game pretty much works, but certain expects of it behave in unexpected ways. So, of course, when we think about bugs, the first thing we think about is games not working, these are bad bugs.

Steve: Bad bugs, right. Bad bugs are, I just played five hours going through this cave, trying to find the boss, beat the boss, except somehow when I'm getting my reward, it's not there, items disappear, or when I go to return, turn in a quest to get whatever XP, I can't for some reason.

Nick: So frustrating.

Steve: So these are the very frustrating, slam your controller on the floor or, you know, don't slam it to the TV, but sometimes it makes you want to do that.

Nick: I wouldn't recommend that.

Steve: Those are bad bugs, and often you have to go back and you lose substantial progress as a result, and this is what can often times generate bad press. When you've got, especially in this day and age, people banding together on Reddit, or whatever community that exists for a game or forum, and they can just, you know, lay out all of their frustrations and vent, and you often times will have bad press as a result.

Nick: That happened recently in Fallout 76, right?

Steve: Yeah, I was just going to say Fallout 76, is a very recent, very good example of that.

Nick: So, the reviews for the game, when they started pouring in after the game came out, they said it was just littered with all sorts of bugs, from game stopping ones to just some entertaining ones, and we won't go through all of them here but there are a lot of funny videos online that catalog these bugs. It's pretty entertaining.

Steve: I was just going to say, you probably have a lot of laughs as a result of the bugs. Which gets us into our next category of bugs, which could be fun bugs.

Nick: Right, so bugs aren't always bad, right? Sometimes they are hilarious in fact. Like for example, there's a glitch you can have in some games where your character gets stuck in some awkward animation, right? No matter what you do.

Steve: Right.

Nick: So, it's always fun to have this stoic hero involved in a, you know, a cinematic story line, and then you see them fighting enemies from a like a crab walk stance, and it looks really bizarre and it's out of place, and it's really funny.

Steve: Have you ever done a crab walk Nick?

Nick: Ah, not offline. To my knowledge.

Steve: So, only virtual crab walking for you?

Nick: So far. So, another famous example is the horse from the game The Witcher 3.

Steve: Great game.

Nick: Great game. The horse's name was Roach. As we all know this game was lauded as an absolute masterpiece, and a technological masterpiece. It was very thematic and it was high quality. But the

horse you ride in the game, which is a big part of the game, he had all these physics problems. He would randomly float through the air, look like he was swimming, he would walk around on two legs sometimes, and even once in a while he would stand there and look like he was doing these weird push-ups.

Steve: Horse push-ups, Nick.

Nick: Horse push-ups.

Steve: They don't lay down, so they need to have strong legs, they do horse push-ups.

Nick: Apparently. So in an otherwise masterpiece of a game, the wacky behavior of this horse became a meme online and it was really funny. It got so big, that even the developers of the game were in on it. A couple years ago, they released an April Fools video, after the game came out, where they were saying that during development, people actually complained, because the horse coding was too good. It was too realistic, and people were getting like motion sickness and whatever. So, in this video they claimed that they instituted a Bug Creation Department at the developer and they went back and inserted all the funny behaviors of the horse. So, they really owned it. I thought that was a really good move. It was funny, and the video is still online, you should absolutely check it out.

Steve: Well played. Well, sometimes we have bugs that are bad, sometimes we have the hilarious, and sometimes we have the really useful and harmless and interesting bugs. One of those that comes to mind is the Konami code bug. Which is really…

Nick: Ah, yes.

Steve: It's kind of leaked into pop culture and exists in other places, but it's that classic up, up, down, down, left, right, left, right, B, A, and then all of a sudden it opens up a new mode, where it just enhances your gamer experience.

Nick: I think you can even do that in Google Chrome now, if you type that in, it gives you some kind of Easter egg.

Steve: Yeah, so that's the really cool bugs. Now you can find it in lots of different places. But this is to be distinguished from what immediately came to mind when I was thinking about this stuff, is the Game Genie, right for Nintendo or Genesis. It's actually a hardware piece that just jam into your game console, right, and then you stick your cartridge on top of that.

Nick: I never had that because I'm not a cheater. But, well, maybe you have more experience with it than me?

Steve: Well, you know, I did have one but I wouldn't considerate it cheating. So what happened was the Game Genie, somehow when you put in the right codes, it would manipulate the memory, somehow find where the memory was stored for extra lives, for instance, and where the default was 3 on this particular game, you could change it 99. That's not cheating, Nick. It's just changing the settings on the game.

Nick: You're right. Yeah, that sounds totally legit from over here.

Steve: You know, there are other examples of interesting glitches that are in pop culture.

Nick: Right, so one that, you know, I always think of is, I used to play World of Warcraft when it first came out, and it was a Massively Multiplayer Online game, and there are all these areas of the world that you can't really get to because the developers are still working on them, they're not accessible. But some people actually learned how to glitch, use a steep terrain glitch, to get into these unplayable areas, and I remember it was hilarious because they would come back to the forums and tell their friends about it, after scoping it out, and it was treated like they were these great explorers, like the Lewis and Clark, you know, the people would say "What did you see in this land?" And, you know, they played along and it was really funny. That just always sticks out in my memory.

Steve: Yeah, so there are other types of bugs. So, why don't you go into the next category, the ones that find their way into mechanics of other games?

Nick: Sure, some bugs actually led to accidental discoveries, that go on to do great things, and I've got to stop and make an analogy here. A great example of this comes from outside the video game sphere and that's Viagra. The ED pill that we all know about.

Steve: You just went there.

Nick: I did. Hey, it's a great example, bear with me. It was an accidental discovery itself. They were testing heart medicine on a bunch of different people to see what they could do, to help peoples' failing heart issues, and a bunch of the patients started reporting a very interesting and un-ignorable side effect.

Steve: Is this coming from personal experience?

Nick: It's coming from a lot of online research. And that side effect ultimately became the primary purpose of these little blue pills that went on to sell millions, and millions, and millions around the world. And, so I like that as an example, because the exact same thing has happened with bugs in games. My favorite example is Tribes' skiing. So, skiing is a super fun movement mechanic, where you can take advantage of physics to zip around the map, like a professional skier. It actually comes

from a physics glitch in an older game called Star Siege: Tribes, where players could slide across the ground by messing with jump and jetpack mechanics. And, that mechanic, they embraced it and they started, the developers started putting out new games with that mechanic as a core part of the game.

Steve: Yeah.

Nick: Tribes Ascend was the most recent one and it was tremendously fun. It's a shooter, you're fighting, you're playing capture the flag. But, you're zipping around on all these hills and jumping over chasms and it added a whole lot of fun to the game. Maybe a less famous but a more extreme example would be a game called GunZ: The Duel.

Steve: I haven't even heard of it.

Nick: Well I've got to disclose, I never played it myself by I found some articles online and it is really interesting. It is a third-person horde mode shooter from the mid-2000s.

Steve: Horde mode? Is this like zombies?

Nick: No, not quite, it's endless waves of computer-generated enemies, and you last as long as you can.

Steve: Like Vermintide?

Nick: Something like that, yeah. So, now this game had a movement animation canceling glitch that allowed for an entire new style of play that dramatically increased mobility and allowed for these huge combos. It was called K-Style, which as I understand it, means Korean Style, because it originated in Korea. And, that weird glitch...

Steve: Kind of like Gangnam Style?

Nick: Well, maybe, maybe a little bit like...

Steve: Somewhere in that.

Nick: ...some kind of predecessor.

Steve: Not nearly as popular though.

Nick: Not nearly. It became really popular, it ended up becoming the entire meta strategy for the game, and it attracted a bunch of players because few games at the time allowed this type of freedom of mobility that you could access by employing this exploit. And as a testament to the fun of the exploit, in the sequel, the developers removed the glitch, and they tried to put their own K-Style movement scheme in, and that game was much less popular. People complained it didn't work the same way. They wanted the bugs back.

Steve: Put it back! Put it back!

Nick: Right. Didn't happen, unfortunately.

Steve: Alright Nick, that was a very interesting conversation we just had about different types of bugs and games, and glitches. And now I'd like to shift gears here for a minute and go to the interview.

We're now going to interview Jack Clabby, a veteran litigator here at Carlton Fields in our Tampa office, who does a lot of work in cyber security and securities litigation. He's also a long time gamer himself, you don't want to face him off in Golden Eye, probably not with the golden gun. Without further ado, Jack, welcome to the podcast.

Jack: Thanks for having me here Steve, and Nick. I've heard a lot about this, and looking forward to today.

Steve: Awesome. So Jack...

Nick: So are we.

Steve: ...why don't you start us off by telling us what's your favorite or worst bug experience in your gaming career?

Jack: Well I started off gaming on the PC in sort of the early '90s, mid '90s.

Nick: PC master race, represent.

Jack: That's right, and at that time for 3D games it was all camera glitches, or camera bugs. So, I remember playing Tomb Raider, and being pretty frustrated about not being able get to what looked to be accessible, but weren't.

Nick: Right.

Jack: And one of the ways you could tell what was and what wasn't accessible, was where the camera would go. Resident Evil as well, for the PlayStation, had that sort of classic tank style control system...

Nick: Right.

Jack: But you had a fixed camera in a room and you often couldn't see parts where you wanted to go.

Nick: Always fun.

Steve: What about moving the camera around so you could see inside the room that you're about to enter? There's another way to work that one.

Jack: That's right. So, that's the thing right, so that were a glitch becomes an exploit. Right? And did you feel it was okay to use that? Now, I play a lot of Nintendo Switch now, and Mario Odyssey has a fantastic camera that takes what was, I think, an exploit...

Nick: Right.

Jack: Right in the early times Resident Evil, makes it part of the game experience.

Nick: They embraced it.

Jack: And how are you going to play around with it? Right, and gives you much better control and I think graphics and obviously the processing power is much higher and can do that. But, I tell you, one of the other games, I don't know if any of our listeners are gonna know about this, but, there was a game in the mid-90s called Spaceship Warlock.

Nick: Yeah.

Jack: I remember being very upset that I couldn't get the credit, the credits. I achieved credits, but couldn't deposit them in some sort of account that I really needed. So, if there are any fans of space opera point-and-click adventures out there, maybe they know the frustration. I did eventually get it to work, but I had to uninstall it, reinstall it, put it on a few different machines.

Steve: Very frustrating.

Nick: That's a pain.

Jack: And the reward for that was not great.

Steve: Yeah.

Jack: It was just completing the on-rail adventures.

Nick: Icing on the cake, huh? So Jack, what are some legal consequences that can come from buggy games? You know, from a top-down perspective.

Jack: So the bottom-line risk for the publisher for games is a loss of interest in the game. Right? So, let's just start out by saying, it's the business risk, which in a lot of ways drives the problems.

Nick: Right.

Jack: But with big blockbuster games, and I think, also with smaller games, so, at the extreme ends of game publishing, you're gonna see the risk of private lawsuits. And what do we mean by that? Well, there's a couple of theories. When a product ships there's often an argument that it comes with an implied warranty of fitness, different states call it something different. But the idea is that when a publisher sells a product and a consumer buys it, there's an implied warranty that the thing that you're selling is going to do what it's supposed to do.

Nick: Make sense.

Jack: And that really looks like a breach of contract claim. Then, you hear about products liability lawsuits, again that you've bought something to do a particular purpose and it doesn't accomplish that purpose, sort of similar.

Now, at the other end, we're not talking about contract lawsuits, or sort of implied warranty lawsuits, we have this sort of scarier end of it, which is accusations that the publisher or the retailer, whoever selling this good, is really lying. And that's often called a deceptive trade practices.

Nick: Right, it's all a scheme.

Jack: That's exactly right. Like the person who's selling this good, or in this case the software, knows it doesn't work, but is nonetheless selling. And that's something where regulators, in addition to private plaintiffs, who's the person bringing the lawsuit, I think are going to be interested.

Nick: Yeah I would imagine so.

Steve: And I could think of a recent example of that where, I'm not saying that it happened there, but Fallout 76 is another example of just, you know, a game that was shipped and it had a lot of bugs in it,

it met with a lot of frustration, and I understand, you know, there were lawsuits that stemmed from that.

Jack: Yeah, so these are, and you have a blockbuster title like Fallout 76 that's produced by Bethesda, right, one of the biggest publishers out there, and these are $100 million dollar titles. The risk there is something called a class action, right? So for the listeners who don't know what a class action is, it's when a number of people all have the same loss, right? In the case of Fallout 76, let's say you had 100,000 people who bought it in the first 48 hours, and each of them would join the putative class of buyers and each would sue for their $70 refund, right?

Nick: And that would be in the same lawsuit under the theory that it wouldn't be worth it for them each bring an individual lawsuit.

Jack: That's exactly right, because to try to get your $70 back, it doesn't make sense for you to pay a lawyer $50,000 to go do that. But if a bunch of people all get together, it's suddenly the economics changes. Now the theory again, in this sort of discussion around, the Fallout game.

Nick: Or the fallout, you might say.

Jack: Right, the fallout from the launch. It wasn't that the bugs themselves reduced the value of the good, right? It was more that there were bugs in the product, the product wasn't finished, and the consumers weren't getting the refunds that either they were promised or the refunds that they were entitled to. So, it's really different, right? You have a buggy launch of a title, and I think we have to contrast this with what we've seen in other blockbuster titles. Now I'm a big Star Wars Battlefront fan, I played it for the Xbox in the mid-2000s.

Nick: The original one?

Steve: Yeah.

Jack: Oh the original one.

Nick: Nice.

Jack: And then I got very excited for Battlefront 1.

Steve: As did many of us.

Jack: And Battlefront 2 and this is the Battlefront I'm going to experience with a new generation.

Nick: Right.

Jack: I wanted to see what the millennials had in store for me.

Nick: It's not all avocado toast.

Steve: You were a little disappointed, weren't you?

Jack: I was. Okay, although the problem is I've been playing with so many buffs on my old Xbox character...

Nick: Right.

Jack: ...that it was hard to start again as a grunt. But that was it right, because on day one of the launch, this is more for Battlefront 2, right? But, on day one of the launch for Star Wars Battlefront 2, folks who had paid a little extra money, right, got better equipment, better classes and better hero access, right?

Nick: Got to get those preorder rewards.

Jack: That's right, but so that's different, right? So, bugs and like a Fallout 76 launch is an error in the coding that Bethesda may or may not have known about.

Steve: You can't even pay to fix that.

Jack: That's right. But, Battlefront 2, the game worked exactly how it's supposed to.

Nick: Right.

Jack: The criticism from the players was that the way it was supposed to work is terrible, and stop doing this.

Nick: Right.

Jack: And it's a little easier to fix because it doesn't require you to cracking open the code as much.

Nick: So we've got class actions in America. I understand that the U.K. in 2015 amended its, they have a Consumer Rights Act that in 2015 they amended it to increase protection, specifically for people that buy or bought digital content. And they allow the type of class actions that you're talking about here in America.

Jack: That's right. So, the United States is known for innovating a lot of things, right—apple pie, Thanksgiving, American-style football. We're also at the innovation point in class actions, where we've had class actions for several generations. Europe, and particularly, the United Kingdom, does not have these sorts of class actions. So, they needed to pass a law that did a couple of different things, one the consumer rights act allowed people who were buying video games, certain types of refunds and replacements.

Nick: Guaranteed them?

Jack: Right. So in the United States, this is done by contract, and it's done by what we call common law, a series of lawsuits that creates weather there is or isn't a right to a refund. In the U.K., this is now done by the equivalent of the United States statute. But the second thing it did, and this was, I think, in recognition of modernity, really, was it allowed for a type of class action that looks like more like a more U.S.-style class action. Which was a pretty big deal. And there hasn't been a lot of action under it, but at some point I think we're going to see this, and again for blockbuster titles this is a big deal. And this happened right around the time that Steam and some of the other digital game sellers and streaming services started talking about what a refund would be.

Nick: Wow, what a coincidence.

Steve: So, I'm really struggling with where's the line for where something is just, you know, yeah I accept that this game, no program is perfect, no game is perfect. There are going to be errors in lines of code. But where is the line between, you know, I accept a buggy game or, you know, this is a problem, and it rises to the level of there may be some legal consequences for it?

Jack: I think it's going to be really regulatory action. We talked about that a moment ago, regulators like the Federal Trade Commission, the FTC, and state regulators, particularly in California where a lot of these software development companies reside or the publishers reside, are going to be at the forefront of this and they're not looking for the buggy game, they're looking for the buggy game plus some evidence that the publishers knew about it. Right? Because it's that lie that really turns and makes things scary. That's on one end, right, that's sort of the publisher's potential responsibility looking at sort of, are they, you know, if I'm selling a, you know, a food product that I know is tainted. Right, obviously in that case it's, the consequences are illness and death and a little more qualifiable.

Nick: Foreseeable.

Jack: Right, but the theory's no different. If I'm selling a product that I know is buggy and is going to have complaints, you can see a regular kind of picking at theory. Now, on the other side, right, what about exploitation of these bugs?

Steve: Right.

Jack: Or exploitation of these glitches? You know, there's a pretty good example from, I think it's four years ago or so. A couple of guys found a bug in video poker machines.

Nick: Ah, yeah.

Jack: What's a video poker machine but a video game?

Nick: Right.

Jack: That's really what it is. It's a video game with a lot more money, more directly at stake, and what they did, they didn't do any special tools, they didn't hack it, they figured out a combination of key presses that dramatically increased their chances.

Steve: Konami code.

Jack: That's right.

Steve: Struck again.

Jack: I don't know how. You know, it's been a while since I looked at, I don't know how they were able to figure this out, but they were charged and prosecuted under a criminal statute, right? That's the Computer Fraud and Abuse Act.

Steve: Why don't you tell us a little bit about the Computer Fraud and Abuse Act for those listeners who might not know.

Jack: Right, so speaking of bugs, right, the Computer Fraud and Abuse Act has its own share of bugs. This is a law that was passed in 1984 and I think in 1984...

Nick: At the height of all technological hacking development, yeah.

Jack: And it has, it has been picked apart, right, in the 34, 35 years since then, and it is, you know, it's like a cup that's being made to hold Niagara Falls now. It simply just doesn't fit. But these folks at video poker were prosecuted under the portion of the statute that essentially criminalizes intentionally accessing a computer without authorization or in excess of authorization, and that means there's just about as much as...

Nick: Just by pressing buttons that were on the machine itself.

Jack: Right. And so I mean look, this is the, it's very challenging to have an anti-hacking law that I think proceeded or at least coincided, you know, the internet, right? To think about that for a minute, right? And so eventually this was, you know, eventually this prosecution was dropped.

Nick: Right.

Jack: But not without quite a bit of expense, quite a bit of time, and quite a bit of effort to get it done.

Nick: Yeah, I think they litigated it for years and then the IRS still was chasing them, if I recall correctly, for hundreds of thousands of dollars in back taxes and interest that they claim was illegally won, even though the lawsuit went away.

Jack: And I think that, look, most people would understand that when you're going into a casino or you're logging in online to play with real money and you're gambling that money that there might be criminal blowback from that. A little bit harder to think that, if you're, again, you're simply just pressing buttons that it's gonna lead to that. But at least the user's experience is a heightened one. Think about it, though, from the perspective of esports, right, which is where a lot of the revenue is being driven right now in this industry, right? Again, the contrast between a glitch, which is fun, and an exploit, right? So I played a lot of NHL '94 on the Sega Genesis.

Steve: Nice.

Jack: As some of our listeners likely did.

Steve: You should, you'd be proud, or you know, I should note here this is my plug for foos-puck, which is what I, a game that I beat Nick in just the other day, singlehandedly.

Nick: Steve is surprisingly good at that game.

Steve: Yeah, I...

Jack: That's right. Well, when you spend, you know, a good eight to nine hours a day on it I wouldn't be surprised that you get better. But I like, this was, NHL '94 had an exploit really was where you took, I used to play Alexander Mogilny from the Buffalo Sabres and you'd go right in front of the net. You'd go up, down, and up again, right in front of the net, and it would go in every time.

Nick: Oh wow, well played.

Jack: So my brother and I made the rule that you couldn't do that move. And so, again, it was in our little, in our 1v1 esports community at the time...

Nick: That's great. I love it.

Jack: ...in 1994 we had that rule.

Nick: Steve would never agree not to do that, by the way.

Steve: Well, I have the same exact example in Command & Conquer: Zero Hour. We would play that game religiously. And it was like an RTS-style game and we would literally start every game, and you don't know the guy who's on the other side, you're playing a 1v1 or whatever, and you start off by a series of typing like good game, no SCUD cheat, you know, and then if they don't acknowledge those rules you might be in for trouble because they might just all of a sudden, you know, in a few minutes you hear that SCUD launcher and it's like they didn't get the weapons of mass destruction yet so I don't know what's going on here. They're cheating, but, you know.

Nick: And so, you know, connecting that to modern esports, one of the things that allows a game to become an esport and to become competitive is that it's really well made, right, and the glitches and bugs are absolutely minimized. But, like we're talking about, it's still complex software. There's still gonna be some kind of loophole or hole, right?

Jack: That's right. And what are the, what does the esports league do to address that, right? We make it fair, right? Again, fast forward a couple of years from '94, it's the early 2000s, and we had a rule in Mario Kart on the N-64 that you couldn't play as Toad. Just make it simple, no Toad.

Nick: Wow, the Toad discrimination.

Jack: A couple, look, a year, maybe two years ago, there's a, you know, pretty well developed game called For Honor, pretty big esports like.

Nick: Oh yeah.

Jack: And there was a lot of coverage at the time sort of in the press about one tournament that was ruined by a particular glitch that was used by one. The rules weren't clear at the outset of the tournament.

Nick: Oh no.

Jack: And I think that, you know, it was a pretty good prize, $10 grand I think that was on the line, and that led to a lot of frustration. And you can see for some of the esports, you know, not in the professional esports leagues but in some of the pay-to-plays, right, where I'm going to just get in this tournament for putting up my $10 fee, if someone else is able to use an exploit and I wasn't clear on

the rules, the user's going to be pretty upset about that. And again, you could see potential contract-based actions.

Nick: And I could imagine, you know, if you were upset not getting your Spaceship Warlock reward, if these guys who put in the time and the money and then they got exploited out of a tournament, I would be furious.

Jack: The thing about sports-based games, right, like what EA does every year to put out a brand new FIFA game, I mean, it's clearly, it's far and away the number one soccer, football, whatever we want to call, for our U.K. listeners. You have, you've got glitches, alleged glitches in the game is what is keeping it from becoming the sort of esports juggernaut that it probably should be.

Nick: It's not up to the level of quality it needs to be in order to have a predictable and manageable rule set.

Steve: And we're gonna be talking a little bit more about esports and the tremendous growth esports has seen in infusion of money [in another episode], but Jack, looking into your crystal ball, do you see, or do you think we'll see more or less legal consequences for bugs in games?

Jack: I think we're going to see more. As more of the consumer's entertainment dollar shifts from watching movies, watching television, and into interactive and esports and steaming services, you're going to see more. More money means more plaintiffs, lawyers, and regulators looking at ways to make it, right? Now, there is an acceptance I think that comes with a particularly complicated set of software, like a Fallout 76 or an Anthem or a Dead or Alive 6, but even accepting, right, that this is more complicated software, guess what, it costs more. And the more people are beginning to invest in these things, the more that companies are making a billion dollars off of games, I think the more you're going to see folks looking for, looking for ways to, when they feel they've been harmed, get redress for that. At the other end of things, though, right, just to kinda bring it full circle, smaller publishers who are relying on crowdsourcing or are relying on Kickstarters could be argued are making contracts with their investors or their funders or their donors.

Nick: Right.

Jack: And should look carefully about how they word those contracts to make sure they're not promising more than what they really promised.

Nick: That's a great point. You promise to deliver a perfect game, it's going to be hard to deliver that promise.

Jack: Yeah, so that's where I think we're going to see this. I continue to look at the blockbuster games for large scale class actions and regulator actions, but I think for smaller publishers, solo game producers, look at the way you're having interactions with your customers or your early stage investors, and make sure you're only promising them what you mean to promise. And if you do that, I think we're going to at least have some control over this, but as, we'll keep an eye on it and we'll check back in with you, Nick and Steve, on this as we begin to learn more about how these lawsuits are getting resolved and filed across the country.

Nick: So for now on your Kickstarter, make sure to promise this game will not work.

Steve: Well that was really interesting Jack. Thank you so much for your time today. We really appreciate it.

Nick: Absolutely.

Steve: I learned a lot about bugs and glitches, and I appreciate your time. Unless you have anything else to add Nick, I think that's all we have for today's podcast.

Nick: That's all I've got. Thanks again to Jack for coming and joining and educating us. Keep a lookout for other episodes of the podcast we've got coming up. We release once every two weeks. And, until then, game on.

Steve: Game on.

Presented By

John E. Clabby

Related Practices

Cybersecurity and Privacy

Esports and Electronic Gaming

Media, Entertainment, Music & Sports