

THE MANUFACTURED DEPENDENCY

Engineered compulsion in games as a service, and four doctrines that now reach it

For years, the claim that live service games engineer compulsion and profit from it was a cultural grievance with no legal handle. That has changed. Design liability, consumer deception, gambling aimed at minors, and unconscionability now converge on the same conduct from four directions, and each is independently sufficient.

THE REVENUE CONCENTRATES IN THE PLAYERS LEAST ABLE TO STOP.

Loot box spending, and therefore the revenue drawn from it, concentrates in the minority of players who exhibit problem gambling behavior. Among 16 to 18 year olds the association is moderate to large, and larger than in adults; a systematic review found it in twelve of thirteen studies examined.

That is not a business that happens to capture some vulnerable users at the margin. It is a business whose most lucrative revenue is drawn from the vulnerability itself.

A CLOSED LOOP, TIGHTENED ON PURPOSE.

1 • DESIGNED

Variable reward schedules, near-miss presentations, streak and login incentives, limited-time events that punish absence: the mechanics a behavioral scientist would select to produce persistent, hard-to-extinguish behavior.

2 • MONETIZED

Instruments calibrated to the compulsion itself. The loot box is the clearest: a randomized outcome sold for real money, rewarding repeated purchase.

3 • CONCENTRATED

The yield does not come evenly from a broad base of satisfied customers. It concentrates in the players least able to stop, and the data feed back into the design.

Where these features are present, the harm is not a side effect of the design. **It is the design working as intended.**

THE ENGINE

The loot box as paradigm: the empirical predicate, and the direct theory that failed

THE PREDICATE, BUILT ON THE LOOT BOX.

Akin Some loot boxes are "psychologically akin to gambling"; the reinforcement architecture borrows from the slot machine.	~94% Of top-grossing mobile games with loot boxes were rated suitable for children twelve and older. Exposure is built into products marketed to minors.	$\eta^2=0.120$ The loot box / problem gambling association among 16-to-18-year-olds: moderate to large, and larger than in adults. Twelve of thirteen studies agree.	Yield Spending rises with problem gambling severity; the mechanic "may allow companies to profit from adolescents with gambling problems for substantial monetary reward."
--	--	---	--

Sources Drummond & Sauer, 2 Nature Hum. Behav. 530 (2018); Zendle, Meyer & Cairns, 115 Addiction 1768 (2020); Zendle, Meyer & Over (2019); Spicer et al. (2021); Gilly, sec. III.

"NOT A THING OF VALUE," BECAUSE THE SELLER'S OWN TERMS SAY SO.

Coffee v. Google · N.D. Cal. 2022 Not illegal slot machines: virtual prizes are not a "thing of value" under Cal. Penal Code §330b.
Mai v. Supercell · N.D. Cal. 2023 Same; subjective enjoyment is not a thing of value where the terms of service bar resale.
Taylor v. Apple · N.D. Cal. 2022 Dismissed: existing law does not plainly prohibit loot boxes; the plaintiff received the currency purchased.

The common root · Kater v. Churchill Downs

A virtual item is not a thing of value where **the terms of use bar its sale for cash**. The defense is supplied by an instrument the seller drafted.

The lesson is not that the gambling characterization is settled. It is that it is live, contested, and consequential, which is what makes forcing it in litigation valuable. The vector runs through the estoppel route, not the direct theory.

THE FOUR VECTORS

Design liability · deception · gambling aimed at minors · unconscionability. Each independently sufficient.

A JURY HAS NOW ATTACHED LIABILITY TO THE ENGINEERING OF COMPULSION.

Mar. 25, 2026 · Cal. Super. Ct., L.A. Cnty.

A jury found addictive platform design a substantial factor in a minor's injury; compensatory and punitive damages awarded.

In re Social Media · N.D. Cal. 2023

Design defect and failure to warn proceed past \$230 and the First Amendment: a defendant's own content-neutral designed features are a product, not publication.

Patterson v. Meta · App. Div. 2025

A duty to warn of addictive design features, and to consider reasonable alternative designs.

The application to games is direct. A loot box is a **content-neutral designed feature**, the speech of no third party, redesignable without touching a line of expressive content. The reasonable alternative design is not exotic: **transparent odds, spending limits, the randomized purchase removed for minors.**

The honest boundary: no duty where the connection is too attenuated (Modisette). The theory reaches gambling-structured mechanics with a safer design declined, not every game that is hard to put down.

Sources Jury Verdict, Social Media Cases, Cal. Super. Ct., L.A. Cnty. (Mar. 25, 2026); In re Social Media, 702 F. Supp. 3d 809 (N.D. Cal. 2023); Patterson, 2025 N.Y. Slip Op. 04385; Modisette, 30 Cal. App. 5th 136 (2018); Gilly, sec. IV.

THE DECEPTION IS NOT HIDDEN ONCE IT IS NAMED.

\$375M

New Mexico ex rel. Torrez v. Meta: 37,500 willful violations found under each of the deceptive and unconscionable prongs, at \$5,000 per violation.

And in the federal MDL, the court largely denied the motions to dismiss the state attorneys general consumer protection claims: the theory that engagement-maximizing design was deceptively presented proceeds.

THE RECOGNIZED SPECIES OF THE DARK PATTERN

- Odds on randomized purchases obscured or omitted
- Prices laundered through virtual currencies that break the link between a click and a dollar
- Limited-time offers manufacturing urgency
- Interfaces that make spending frictionless and refunds difficult

Against adults, an unfairness theory. Against children, who cannot supply the judgment the practices are engineered to bypass, **a stronger one.**

THE CONTESTED STATUS IS NOT A WEAKNESS. IT IS THE AMMUNITION.

The factual profile is complete. Mechanics structured like gambling, aimed at products marketed to children, drawing their revenue from the most compulsive users: a gambling harm inflicted on minors. Whether it satisfies a given statutory definition is contested, as the Belgian and Dutch divergence shows, and the argument does not rest on foreign authority.

The mechanism is the ADA's own exclusion. The statute excludes compulsive gambling from the definition of disability. A defendant facing the disability axis is tempted to fold the plaintiff's condition into that exclusion. But to run the argument, it must characterize its own product as gambling.

That admission is the one the gambling and consumer protection vectors need. **The trap is set on the next slide.**

ONE PRODUCT CANNOT BE GAMBLING IN THE DISABILITY COURT AND NOT-GAMBLING EVERYWHERE ELSE.

ELECTION ONE · "IT IS NOT GAMBLING"

The §12211(b)(2) exclusion falls away, and the disability axis opens.
The clinical picture becomes evidence of the harm the design inflicts.

ELECTION TWO · "IT IS GAMBLING"

The concession feeds the gambling-to-minors and consumer protection vectors, and invites the regulatory characterization the industry has spent years resisting.

Judicial estoppel exists to prevent exactly this maneuver. The contested status of loot box gambling, a weakness in the naive framing, **is what gives the trap its force.**

THE ABSENCE OF MEANINGFUL CHOICE IS A CONDITION THE COUNTERPARTY PRODUCED ON PURPOSE.

Procedural unconscionability, extended across time. Not merely unequal bargaining at signup: choice is progressively engineered away as the player is habituated, as sunk costs in purchases and progress accumulate, as social ties raise the cost of leaving. Later amendments that expand the publisher's rights are accepted under conditions the publisher manufactured.

The boundary cases cut both ways, honestly. Breach of a term of service is not infringement without a nexus to an exclusive right (MDY); the server-context infringement in Davidson turned on circumvention plus unauthorized copies. They forbid recharacterizing a contract dispute as piracy, and they confirm the contract is where this vector lives.

| The one-sidedness of the contract is not cured by the click that formed it, least of all a click obtained under engineered compulsion.

THE DISABILITY AXIS

Three routes past the compulsive gambling exclusion, and the objections answered

THE OBVIOUS ROUTE IS A TRAP. THE REAL OBSTACLE IS NOT THE FIRST ONE RAISED.

THE RED HERRING · §12210

The exclusion for current illegal drug use. Gaming is legal; invoking this carve-out against a gaming-related condition is a category error, to be named, not argued on the merits.

THE REAL OBSTACLE · §12211(B)(2)

The exclusion of compulsive gambling, alongside kleptomania and pyromania, from the definition of disability. A defendant will try to fold a gaming-related condition into it. Three routes get past it, strongest deployed together.

THREE ROUTES, STRONGEST TOGETHER.

1	Route around it: the covered disability	Plead through ADHD, cleanly covered, and frame the harm as differential: mechanics engineered to defeat impulse regulation fall hardest on players whose disability is impulse regulation. Disordered gaming becomes evidence of harm, not the disability to establish.
2	Distinguish it: gaming disorder is not gambling	ICD-11 defines gaming disorder (6C51) as a distinct diagnosis from pathological gambling. The exclusion names compulsive gambling; by its own terms it does not reach a separately defined condition.
3	Spring the trap: the exclusion's price	A defendant who characterizes the condition as compulsive gambling to win the exclusion has characterized its product as gambling, and the other vectors take the concession. Two faces of one coin, joined at the estoppel trap.

Sources 42 U.S.C. §12211(b)(2); World Health Org., International Classification of Diseases 6C51 (11th rev. 2022); Gilly, sec. VIII.

"Every engaging game becomes a lawsuit."

No. The theory is bounded by its defining features: gambling-structured mechanics, reaching children, the concentration pattern, a safer alternative declined. Merely absorbing games do not fit the profile.

"You conflate two populations."

The child gambling harm and the disability harm involve different people and doctrines, kept separate and joined at exactly one point: the estoppel trap.

"Loot box gambling is contested; the Dutch reversed."

Conceded, and built into the design. The vector rests on the empirical predicate and the estoppel trap, which operate whether or not a regulator has yet called the mechanic gambling.

"Courts will second-guess fun."

The authority reaches content-neutral designed features severable from expressive content. The claim is not that the game is too good; it is that a monetization mechanic could have been built safely.

"Section 230 bars it."

The vectors survive by staying on the design-conduct side of the courts' line. Where a claim strays to the arrangement of third-party content, it should be abandoned, not stretched.

Four vectors, each independently sufficient, converge on the same conduct: the design that builds the compulsion, the deception that sells it, the gambling structure aimed at minors, and the one-sided contract that formalizes it. The industry's own defensive characterizations are being turned into admissions.

THE LINE IS THE SHIELD.
**THE DEPENDENCE IS THE THING IT WAS RAISED
TO PROTECT.**

The shield is thinner than it looks, and the thing behind it is finally in range.

TABLE OF AUTHORITIES • CASES

All authorities as cited in Gilly, T. (2026), The Manufactured Dependency, Working draft, June 2026 (v2). Citations verbatim from the article's footnotes.

Coffee v. Google LLC, No. 20-cv-03901, 2022 WL 94986, at *12 (N.D. Cal. Jan. 10, 2022).

Comb v. PayPal, Inc., 218 F. Supp. 2d 1165 (N.D. Cal. 2002).

Davidson & Assocs. v. Jung, 422 F.3d 630 (8th Cir. 2005).

In re Social Media Adolescent Addiction/Personal Injury Products Liability Litigation, 702 F. Supp. 3d 809 (N.D. Cal. 2023).

In re Social Media Adolescent Addiction/Personal Injury Products Liability Litigation, No. 4:22-md-03047-YGR (N.D. Cal.) (Gonzalez Rogers, J.) (orders denying in relevant part the motions to dismiss the state attorneys general consumer protection claims).

Jury Verdict, Social Media Cases, Cal. Super. Ct., L.A. Cnty. (Mar. 25, 2026).

Kater v. Churchill Downs Inc., 886 F.3d 784, 788 n.2 (9th Cir. 2018).

Mai v. Supercell Oy, 648 F. Supp. 3d 1130 (N.D. Cal. 2023).

MDY Indus., LLC v. Blizzard Entm't, Inc., 629 F.3d 928 (9th Cir. 2010).

Modisette v. Apple, Inc., 30 Cal. App. 5th 136 (2018).

Patterson v. Meta Platforms, Inc., 2025 N.Y. Slip Op. 04385 (App. Div. 2025).

State of New Mexico ex rel. Torrez v. Meta Platforms, Inc., No. D-101-CV-2023-02838 (1st Jud. Dist. Ct., Santa Fe Cnty., N.M., verdict returned Mar. 24, 2026); Order Correcting Verdict Form (Mar. 26, 2026) (Biedscheid, C.J.).

Taylor v. Apple, Inc., No. 20-cv-03906-RS, 2022 WL 35601, at *2–3 (N.D. Cal. Jan. 4, 2022).

STATUTES

42 U.S.C. §12210 (excluding an individual currently engaging in the illegal use of drugs).

42 U.S.C. §12211(b)(2) (excluding compulsive gambling, kleptomania, and pyromania from the definition of disability).

Cal. Penal Code §330b.

OTHER AUTHORITIES

David Zendle, Rachel Meyer & Harriet Over, Adolescents and Loot Boxes: Links with Problem Gambling and Motivations for Purchase, 6 Royal Soc'y Open Sci. 190049 (2019).

Stuart Gordon Spicer et al., Loot Boxes, Problem Gambling and Problem Video Gaming: A Systematic Review and Meta-Synthesis, 24 New Media & Soc'y 1001 (2021).

Aaron Drummond & James D. Sauer, Video Game Loot Boxes Are Psychologically Akin to Gambling, 2 Nature Hum. Behav. 530 (2018).

David Zendle, Rachel Meyer & Paul Cairns, The Prevalence of Loot Boxes in Mobile and Desktop Games, 115 Addiction 1768 (2020).

Fed. Trade Comm'n, Bringing Dark Patterns to Light (2022) (staff report cataloguing manipulative design practices in consumer interfaces).

World Health Org., International Classification of Diseases 6C51 (11th rev. 2022) (Gaming disorder).