

→ Esports & Games

Sheppard Mullin has a longstanding history representing clients in the games, entertainment and music industries, and our team has extensive experience addressing the many nuanced business and legal issues faced by participants in these sectors. This experience has uniquely positioned us to represent clients in the emerging esports and gaming industries as the ecosystem expands and multimedia entertainment and technology continue to drive an engaged audience. Underpinned by our internationally-renowned, entertainment, technology and advertising lawyers, our multidisciplinary team includes advisors with deep experience on state-of-the-art and high-profile matters, including those involving: content development, production and distribution; advertising and sponsorships, live event production and broadcasting; mergers and acquisitions and finance, counseling on and protection of our clients' novel inventions, brand identity and other intellectual property; labor and employment advice and counseling; and dispute resolution and litigation.

Esports

Our esports team provides legal services to all segments of the esports industry. We represent athletes, product providers, advertisers, influencers, content creators, media companies, marketing companies, tournament providers, venues, and investors in a variety of matters.

We understand that the global and competitive nature of esports, combined with its increasingly robust digital and online presence, requires a collaborative, multi-disciplined approach to all such legal matters. This is equally true when negotiating and drafting agreements, counseling a client on business and legal issues, securing an investment, or protecting rights including through litigation or other proceedings. Importantly, we also understand rules and regulations involved with esports competitions and their participating players and organizations. We help our clients achieve their goals, navigate challenges and proactively identify opportunities as the esports industry continues to expand.

Our experience enables us to advise clients on issues such as:

- Intellectual property protection including licensing, copyrights, trademark registration, and patents
- Esports gambling
- Advertising, promotions and sponsorships
- Merchandise manufacturing and agreements
- Acquisition and leasing of sports facilities
- Public financing and zoning compliance for esports facilities
- Esports gaming facilities, operations management and infrastructure support
- Compliance with FTC endorsement and influencer guidelines
- Communications, media rights, and broadcasting
- E-commerce and internet law

- Compliance with privacy and data security regulations and data breach response
- Cross-border transactions
- International dispute resolution

Games

In addition to the intellectual property, regulatory, financing, and game distribution issues traditionally facing many game companies, Sheppard Mullin's Games team advises clients on legal and business issues to help the video game industry evolve into new forms of entertainment and new platforms.

Blockchain Games and Digital Assets

We are a leading firm for advising clients on legal issues associated with blockchain games and digital assets. The issues we cover include:

- Whether tokens and other digital assets are subject to securities or commodities law
- Whether a token-related business model requires money transmitter licenses
- Whether digital marketplaces constitute securities exchanges
- Gambling-related issues
- Patenting blockchain game technology
- Smart contract issues and smart contract developer liability
- Open source issues with blockchain games and digital marketplaces
- Development, distribution, terms of service and other relevant agreements

Gamblification

We advise many clients on game mechanics that require consideration of federal and state anti-gambling and/or anti-lottery laws. It is imperative for companies in these spaces to carefully vet their business models with legal counsel who understands these issues. We have the leading game-based practice that focuses on these issues, including the legal ramifications of using business models that include virtual goods/currency, loot boxes, digital collectibles and secondary markets. We have deep experience advising clients on the emerging legal issues with many of the hottest money-making game models in the industry, such as:

Social Casino Games

Many of the top-revenue generating games in the app stores are social casino games. Several of the leading companies in this space have been subject to class-actions under gambling loss recovery statutes for allegedly using illegal gambling mechanics. We have advised numerous companies on how to avoid these types of issues and quickly resolve litigation when it arises.

Real-Money Skill-based Games

Nevada's passage of SB9 and New Jersey's legislative action promoting real-money, skill-based games will lead to tremendous business opportunities balanced by the need for careful legal structuring of these offerings.

Virtual Goods and Currencies

We advise clients who leverage virtual goods and currencies for monetization on the associated legal issues that can arise. We help ensure that the terms of service protect our client from foreseeable issues, including class action lawsuits, and advise on the regulatory issues that may arise depending on the virtual currency model (e.g., financial regulatory issues including money-transmitter laws) and the impact of and strategy for addressing secondary markets.

Fantasy Sports

As the industry adopts more innovative business models, including daily fantasy sports, the need to carefully consider federal and state legal issues increases. Sheppard Mullin has numerous attorneys who routinely advise clients on the legality of evolving business models that require the application of federal and state lottery and gambling laws, including the Unlawful Internet Gambling Act, the Wire Act, the Professional & Amateur Sports Protection Act, the Illegal Gambling Business Act, the Travel Act, and others.

For many clients, our attorneys have conducted a 50 state analysis and advised on the legality of fantasy sports business models and game features. Our attorneys also advise clients on the legal issues with digital and virtual currency, including bitcoin and other cryptocurrencies, and how they may impact the legality of business models. Additionally, we help companies with a variety of intellectual property issues to assess the unique aspects of their fantasy sports offerings, develop and implement patent filing strategies and handle patent licenses, sales/acquisitions and patent litigation, as well as copyrights and trademarks.

Music

Our nationally-recognized team of music lawyers works alongside both emerging and established endemic and non-endemic companies and brands, as well as labels, publishers, and recording artists on matters involving the convergence of music and esports, gaming and interactive entertainment. We have a deep and longstanding music practice. We know the music business and understand the myriad of rights and revenue opportunities. Our know-how and vast network allows us to provide a value add-approach to our practical business and legal advice as we represent our clients on novel and complex matters driving music partnerships and activations.

AR / VR

Sheppard Mullin has assembled a team of attorneys focused on the unique legal issues of virtual reality and augmented reality. As hardware and software have reached a level of sophistication making concepts previously confined to science fiction a reality, we work with clients on a variety of issues related to AR/VR, including:

Developer/Platform Issues

In both virtual reality and augmented reality, there are a handful of meaningful “first party” platforms. These platforms rely on content developed for them by developers. While the first developers for virtual reality tended to be hobbyists, more and more startup companies are focusing on developing both gaming and story-based content (and in some cases both) for one or more of the existing platforms. Due to its extensive history with similar issues surrounding traditional gaming platforms, Sheppard Mullin has meaningful expertise in navigating these developer/first party relationships.

Content Licensing

As one of the leaders in entertainment law, Sheppard Mullin's legal team has deep experience licensing existing IPs to various platforms, including virtual reality. New technologies tend to create new issues around the rights that must be granted to a licensee in order to effectively leverage an IP. We can help to ensure IPs licensed into virtual reality and augmented reality come with the appropriate rights to create the most profit for both licensee and licensor.

Advertising

One of the most interesting use cases for virtual reality and augmented reality is the opportunity to message users about goods and/or services available for purchase in real life. The use case is compelling because of the immersive exposure available through these technologies, and the ability to directly measure user reaction to the advertisements and the goods and/or services being promoted, among other reasons. Our team includes attorneys with extensive experience advising clients in connection with advertising campaigns through emerging technology platforms and/or in conjunction with content (e.g., movie and/or gaming IPs) consumers find compelling in order to comply with advertising, sweepstakes, and contest regulations, as well as in connection with agreements between advertisers and other stakeholders (e.g., first parties, content owners/licensors, etc.)

Digital and Virtual Currency Issues

Some virtual reality and augmented reality ecosystems (platform-wide and/or on an application by application basis) use, or will use, digital or virtual currency instead of real money, believing that this will avoid legal issues. This is not always the case. Our team has numerous attorneys who advise clients on the legal issues with digital and virtual currency, including bitcoin and other cryptocurrencies.

Patents

Many of the technologies, processes, and business models resulting from the rapid innovation in the virtual reality and augmented reality space are patentable. Attorneys from Sheppard Mullin's Social Media & Games Team help companies assess the unique aspects of their innovations, develop and implement patent filing strategies, and handle patent licenses, sales/acquisitions, and patent litigation.

Copyrights

Virtual and augmented reality raise unique challenges regarding securing, perfecting, and protecting copyrights from creation. From registration in the Copyright Office to presenting infringement actions in the courts, our attorneys are equipped to assist, defend, and assert your copyright interests to maximize the scope of protection and return on your valued investment.

Services & Related Practices

Intellectual Property: Litigation, Patent Prosecution, Trademark Registration, Technology Transactions

We cover in depth all laws governing patents, trademarks, copyrights, trade secrets, false advertising, unfair competition, counterfeiting, grey marketing, and all matters involving intellectual property. We routinely address practical concerns related to the Internet, intranets, e-mail and document and data retention policies, as well as offer cutting edge advice in important related areas such as antitrust, unfair competition, counterfeiting, grey marketing and product diversion. Sheppard Mullin represents clients ranging from Fortune 500 corporations to start-ups and individuals across a wide spectrum of industries.

Sheppard Mullin's attorneys assist clients to secure and enforce patents, trademarks and copyrights, both domestically and internationally. We also monitor and enforce our clients' intellectual property rights on the Internet. Our attorneys are experienced in technology transfers, including assignments, licensing and joint ventures. We also assist our clients to protect proprietary information to avoid loss through employee departures, industrial espionage or other means, as well as create compliance and employee training programs. We have proven expertise in representing clients in trials and appeals in the federal and state courts, in arbitrations and in adversarial proceedings before the U.S. Patent and Trademark Office, the International Trade Commission, the Federal Trade Commission and other tribunals, as well as in industry investigations such as those before the National Advertising Division of the Council of Better Business Bureaus, Inc.

Privacy and Cybersecurity

We help clients understand how they can lawfully collect, use, and share information they receive from users based on multi-jurisdictional laws and regulations. We evaluate features within games and platforms for potential privacy risks such as facial recognition, geolocation, and behavioral advertising. We proactively advise on cybersecurity standards and procedures for collecting and storing information. We run tabletop exercises to prepare clients for data breaches. If clients face a data breach, we handle the response and investigation, individual and regulator notifications, and regularly defend our clients in data breach litigation and regulator inquiries.

Advertising, Promotions & Sponsorships

We prepare endorsement, sponsorship, sports marketing and entertainment marketing agreements; license and protect intellectual property rights; structure branded entertainment initiatives and customer loyalty programs; review and clear advertising copy for use in online and offline media; comply with domestic and European Union privacy concerns; and prepare advertising agency and media agreements. We also advise clients on compliance with state and federal regulations governing fantasy sports initiatives and some of the highest profile contest and sweepstakes promotions in the country.

Transactions and Financings

We help clients with critical business transactions including licensing agreements, debt and equity financings, joint ventures, as well as complex transactions involving the purchase and sale of games and game and infrastructure companies, including:

- Venture capital and financing

- Credit Facilities
- Corporate formation and governance
- Game development and publishing deals
- Streaming and broadcast agreements
- Mergers and acquisitions
- Related Tax Structuring

Entertainment and Digital Media

The Entertainment and Digital Media practice at Sheppard Mullin is a full-service multi-disciplinary group representing the major motion picture studios, television networks and other domestic and international entertainment, media and communications companies in all areas, including, motion picture and television development, finance, production and distribution, advertising/sweepstakes, branded entertainment, esports and games, intellectual property, licensing and merchandising, mergers, corporate finance, acquisitions and other strategic corporate transactions, music, First Amendment convergence, online/technology publishing, and sports.

Immigration

Our immigration attorneys skillfully guide clients through the ever-increasing complex web of rules, policies and regulations governing U.S. immigration and global mobility. Sheppard Mullin's multidisciplinary approach provides U.S. employers with comprehensive advice on immigration matters and the interplay between immigration and employment, tax, corporate and securities laws.

Labor and Employment

We regularly advise clients on employment matters that impact their businesses, such as misclassification, intellectual property protection, restrictive covenants, remote workforce strategies, immigration, wage and hour issues, traditional labor, harassment, discrimination, equal pay, equity compensation, disability and employee leave management. We regularly defend and support our clients during audits and investigations by federal, state and local governmental agencies, such as the EEOC, DOL, SEC, and OSHA.

Litigation and Dispute Resolution

Sheppard Mullin's Litigation Practice involves all aspects of business and commercial litigation, including antitrust, creditors' rights, banking and financial institutions, construction, communications, general business, insurance, intellectual property, products liability, professional liability defense, real estate, environmental, securities, white collar criminal defense, and trust and estate litigation.

Construction

Sheppard Mullin represents owners, developers, contractors, subcontractors, design professionals, governmental agencies, REITs, lenders and sureties in a broad range of domestic and international construction law matters relating to public and private projects. We offer a one-stop shop, advising clients from project inception to conclusion. Whether negotiating contracts or prosecuting and defending high-stakes disputes, we partner with our clients to realize their project goals.

Experience

- Represented Vindex LLC in its acquisition of the Belong Gaming Arenas Brand and Partnership with Game Digital.
- Represented Vindex LLC in its simultaneous \$80+ million capital raise, acquisition of Next Generation Esports (NGE) and the launch of Esports Engine – both industry-leading companies in esports operations, production and technology.
- Represented Ready at Dawn, the studio and veteran game developer behind Lone Echo and The Order: 1886, in its acquisition by Facebook.
- Represented GAN Limited, a UK.-based maker of gambling software, in its \$62.4 million initial public offering in the United States.
- Represented entrepreneur and philanthropist Nick Gross as the lead investor, in a multi-million dollar Series A investment in ReKTGlobal, including to finance Rogue's franchise participation in the League of Legends European Championship
- Represented Mastercard in the negotiation of a multi-year sponsorship agreement with Riot Games making Mastercard the first global sponsor of the studio's online multiplayer game League of Legends
- Represented global leader in consumer audio products on a multi-year, multimillion dollar deal to become the exclusive audio partner of a prominent lifestyle brand and gaming organization.
- Represented Sony Interactive Entertainment in its acquisition of Insomniac Games.
- Represented AmazeVR in matters related to artist, label and publishing deals for the VR content and bus tour.
- Represented Allied Esports on its lease of the 30,000 square foot HyperX Gaming Arena at the Luxor hotel in Las Vegas.
- Advise Turtle Beach on its patent, trademark and other intellectual property matters.
- Represented Machine Zone and defeated putative class action seeking to convert Game of War into an unlawful gambling enterprise
- Represented Seismic Games, developer of mobile games including "Marvel Strike Force," and "Blade Runner: Revelations," in its acquisition by Niantic, the creator of Pokémon Go
- Represented financial investor in private equity investment in Probably Monsters, a builder of AAA video game studios.
- Represented world-renowned esports athlete and influencer, Matt Haag (Nadeshot), in the formation of 100 Thieves esports company in partnership with Dan Gilbert and the Cleveland Cavaliers
- Represented FunPlus Phoenix with its formation and the acquisition of its franchise spot in the League of Legends Pro League.
- Represented Activision regarding \$100M acquisition of the *Guitar Hero franchise* from Red Octane
- Represented Oculus and Oculus Story Studios in various entertainment, licensing and production related transactions, including the production of a promotional video featuring founder Palmer Lucky and the band DragonForce to announce the launch of the VR version of Harmonix's *Rock Band*
- Represented Activision Blizzard Studios in negotiation of license agreement with Netflix for two seasons of the animated *Skylanders Academy series* based on one of Activision's most recognizable video game franchises: Skylanders

- Represented Supermassive Games in connection with several cutting edge videogames, including “The Quarry” to be launched on Google’s new Stadia platform, and “House of Ashes”
- Represented Dynamic Social Gaming in negotiating celebrity endorsement agreements for its gaming properties
- Represented Sky Union (IGG) in a successful defense of class action concerning whether micro-transactions involving virtual currencies violate state anti-gambling laws