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# TRAILBLAZERS

WEST

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**What was the genesis of the idea that has made you a trailblazer?**

Video games are filled with seemingly esoteric features like “ultimate teams,” “dynamic difficulty adjustment,” and so-called “loot boxes.” When fights break out over those features, success often depends on translating disputes into terms and defenses that non-gamers can understand. We successfully defended Electronic Arts Inc. in two recent matters by boiling down claims to their core issues and explaining why – as a matter of common sense and the law – those claims lacked merit.

**What sort of change has resulted from the concept?**

In the first case, the plaintiff pursued a theory based on the mistaken belief that EA’s Madden NFL game used “dynamic difficulty adjustment” technology. We engaged the plaintiff before we filed our motion to dismiss to demonstrate that the Madden game didn’t use the technology. The plaintiff, after better understanding the issue, agreed to voluntarily dismiss his claims.

In the second case, accusing EA’s Madden NFL and FIFA “ultimate teams” of being illegal gambling, we mounted a full defense on the merits, but also pursued the more mundane strategy of enforcing the parties’ arbitration agreement. Although the Court could have dismissed based on our merits arguments – after working through the requirements of California gambling law and the details of the games at issue – the arbitration agreement provided a more familiar means of disposing of the claims.

**What bearing will this have on the future?**

These cases are fascinating because the technologies at issue often outpace the evolution of legal doctrines that cover them. The more esoteric the technology, the more important it is to have an advocate who can explain it to a lay audience. Whether you’re dealing with video game features or data compression patents, the clearest defense is usually the most persuasive one.