

The **SCRAMBLE**



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Gaming Legal Year in Review: **2025**

MARCH 2026



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Full Steam Ahead into the AI Revolution:

The gaming industry continued to realign in 2025, powered by AI-driven innovation that's transforming everything from game development to player experiences. As studios harness generative AI to create personalized worlds and adaptive narratives, the industry stands poised for growth, but faces new legal frontiers in data privacy, content moderation, and AI governance.

WELCOME TO THE SCRAMBLE



Introduction

Welcome to *The Scramble*, presented by Wilson Sonsini's Electronic Gaming Group. Over the last four decades, Wilson Sonsini has supported hundreds of clients who have revolutionized the gaming sector. *The Scramble*, our yearly publication, offers a retrospective look at the gaming industry's legal landscape of the past year, showcasing Wilson Sonsini's contributions during that period, delivering insightful industry analyses, and highlighting anticipated trends.

A look back. Over the past year, Wilson Sonsini has provided comprehensive legal services to gaming clients, including supporting product launches, cross-border partnerships, technology integrations, brand-building efforts, compliance reviews, and industry-wide collaborations. Building on the significant growth in immersive media technologies, artificial intelligence (AI)-driven game development, and global market expansion that began in 2024, 2025 led to continued advancement in these areas. The global games market generated \$197 billion this past year, a 7.5 percent increase year-on-year.¹ With new console launches and announcements of upcoming gaming products,² the growing use of AI in video game development,³ the expansion of emerging mobile gaming markets in Southeast Asia, Latin America, and parts of Africa,⁴ and the creation of cutting-edge gaming technology from start-ups and existing players,⁵ the gaming industry demonstrated a stronger-than-expected performance in 2025. As industry players continue to shape these transformations, the firm continues to invest heavily in pioneering new tools, refining operational frameworks, and strengthening support systems for innovators in the gaming industry.

A look forward. In 2026 we expect the gaming industry to enter an era of expansion and diversification as both veteran developers and newly formed studios branch into previously underexplored niches. A recent forecast by MIDiA Research, an entertainment-focused market research firm, projects the global games industry will grow to roughly USD \$236.9 billion in 2026, underscoring resurgent demand across facets of gaming.⁶ Many of these new studios will likely leverage AI not just to cut costs, but to create personalized, reactive game worlds, procedurally generated content, and adaptive narratives that respond in real time to a player's behavior. This should enable smaller teams with tighter budgets to deliver immersive experiences rivaling those of much larger publishers. At the same time, we anticipate the rise of hybrid distribution models, including cloud-based gaming across portable, mobile, and console platforms, allowing games to reach new audiences globally, especially in emerging regions. These shifts could foster a boom in indie exports and global multiplayer communities, expanding the industry's reach far beyond traditional strongholds. Finally, as the gaming industry continues to evolve technologically and economically, companies will face intensifying pressures from new and updated regulations in areas such as data privacy, content moderation, AI governance, and monetization practices.

If you missed any of our 2025 gaming publications, you can find them linked from this issue of *The Scramble* and on our website (<https://egg.wsgr.com>). Throughout the year, we invite you to stay updated with current developments through our publications and podcasts. Visit [Wilson Sonsini's Subscription Center](#) to receive regular updates delivered directly to your inbox.

We hope you enjoy *The Scramble* and look forward to connecting with you at the 2026 Game Developer's Conference in San Francisco. If you have any inquiries about Wilson Sonsini's Electronic Gaming Group, learn more about our team by visiting <https://egg.wsgr.com> or contact us by email at egg@wsgr.com.

Thanks for reading,

Christopher Paniewski

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INDUSTRY INSIGHT

What are the “next frontier” generative AI use-cases in e-gaming (e.g., dungeon-style narrative games, personalized AI coaches, procedural generated worlds), and what legal risks do they pose?



I think the examples above are good examples of “next frontier” generative AI use-cases in e-gaming, as are things like AI non-player characters (NPCs). Companies need to take steps to address unpredictable outputs, such as defamatory content, infringing materials, or inappropriate materials being provided to minors. There are also a number of data privacy issues, especially with minors interacting with AI platforms. Finally, where substantive portions of a game are purely AI-generated, there are potential IP risks since purely AI-generated outputs are not protectible by U.S. copyright law. Companies need to have strong terms of service to protect their games, as well as robust disclaimers, and should also implement content filtering to protect their users.

- **Barath Chari**, *Technology Transactions*



As anticipated in last year’s issue of *The Scramble*, multi-modal AI is transforming both the creation and experience of gaming. On the development side, AI tools allow individual creators to act as art directors for massive asset libraries. While some studios may use these tools to reduce headcount, the more innovative approach involves leveraging existing teams to exponentially scale content production, making gaming environments significantly richer and more expansive. On the player side, we are moving toward an era of endless, procedurally generated worlds featuring NPCs with genuine autonomy. This shifts games from static scripts into living environments that adapt to a player’s specific choices, creating truly personalized narratives.

However, these “next frontier” use cases introduce significant legal and social challenges. Models trained on scraped data pose constant litigation risks, particularly if an AI inadvertently generates outputs similar to existing trademarks or characters. To mitigate this, forward-thinking studios are fine-tuning models exclusively on their own original assets to ensure outputs remain legally defensible derivative works. Socially, the industry must also address the risks of gaming addiction and the unpredictability of autonomous NPCs. Without robust safety guardrails, AI characters could generate toxic content in real-time, creating reputational liabilities that did not exist with pre-written dialogue.

Ultimately, the winners in this space will be the studios that use these tools not to replace the human element, but to amplify it. The potential for infinite, personalized worlds represents a massive opportunity, but it requires a commitment to creating experiences that are as legally secure and socially responsible as they are technically impressive.

- **Atussa Simon**, *Technology Transactions*

Wilson Sonsini is a top three legal provider for AI gaming developer tools, serving as counsel to three of the top five companies in the vertical.⁸



INDUSTRY INSIGHT

How is the increasing use of generative AI in game development (e.g., art assets, character design, voice, dialogue) challenging traditional notions of copyright and “human authorship?”



The Copyright Office has long stood behind the “human authorship” requirement and reaffirmed its position in January 2025 that works created entirely by AI are not protected by copyright. The U.S. Court of Appeals for the D.C. Circuit issued an order in March 2025 deferring to the U.S. Copyright Office’s interpretation, but the plaintiff in that case has petitioned for review from the U.S. Supreme Court, and we may see the final word on the requirement soon.⁷ While the issue remains unsettled, it is important for game developers who want to experiment with AI to ensure human involvement in the game-making process (such as by editing and polishing AI-generated assets) to support any claim to copyright.

- **Qifan Huang**, *Litigation*



Current legal frameworks, such as those from the U.S. Copyright Office, generally do not grant copyright to works created solely by AI. If a studio generates a massive world via AI with minimal human intervention, they may find it difficult to protect that intellectual property (IP) from being cloned by competitors. To bridge this gap, studios must implement human-in-the-loop workflows. By adding a level of original human authorship through the manual arrangement and creative refinement of AI outputs, developers can ensure the resulting work is copyrightable to the extent of the human creative contribution.

- **Atussa Simon**, *Technology Transactions*



INDUSTRY INSIGHT

What legal strategies should game developers adopt to secure IP rights and manage ownership for AI-assisted creations?



The laws governing the protectability of AI-assisted creations are evolving quickly, so companies should adopt a flexible strategy and try to rely on not just copyrights but also trade secret protection and trademarks for branding. Layering multiple types of IP protection on a game can be a useful tool to ensure that there are multiple paths to protection. On copyright, since copyright offices remain skeptical of purely AI-generated work, companies should document human creative contributions carefully. Finally, be careful to review the license agreements with AI tool vendors to ensure that the provider does not claim rights to outputs.

- *Barath Chari, Technology Transactions*

Podcast Episode:

A Conversation with Tyler Cloutier of Clockwork Labs

Wilson Sonsini's Electronic Gaming Group has worked with clients throughout the digital gaming sector, from design firms and publishers to component manufacturers and online gaming providers. This podcast series takes a closer look at the start-up world of gaming companies. What do game founders care about? What should they care about? What are the common pitfalls and traps to avoid? Each episode features a different Wilson Sonsini attorney chiming in with their area of expertise to help guide game companies to success.



UKIPO Decides Patentability of Computer Games in the UK Involving Real-World Player Interactions

By Jinny Park, Hin Au, and Ali Alemozafar

An August 2025 decision issued by the UK Intellectual Property Office (UKIPO) concerning a patent application filed by a game developer company Bandai Namco Entertainment Inc. (Bandai Namco) serves as a useful example for informing patent strategies on gameplay mechanics in the UK. Bandai Namco, as some may be aware, is the creator of games such as Pac-Man™ and Elden Ring™. Bandai Namco filed a patent application at the UKIPO related to a real-world game mechanic where players gather at a physical location.

Wilson Sonsini is the number one legal services provider on peripherals and accessories deals, representing two of the top five companies in the vertical by market capitalization.⁸



INDUSTRY INSIGHT

How might consolidation in the gaming-technology/AI space (e.g., major publishers acquiring AI start-ups) trigger competition concerns?



Antitrust and competition questions are likely to persist in the gaming industry, but I see consolidation and M&A activity more as a response to competition concerns rather than the source. As AI continues to level the playing field for gaming development, competition will become increasingly focused on customer acquisition, distribution, and content differentiation.

Consolidation is a natural response to this environment.

- **Brendan Coffman**, *Regulatory and Compliance*



Consolidation may trigger concerns where acquisitions result in the creation of a dominant firm, substantially reduce competition between remaining market players, foreclose rivals' access to key inputs, markets, or customers, or entail the acquisition of an innovative challenger, e.g., a major publisher acquiring an emerging AI-driven studio. Outside of acquisitions, concerns may typically arise around exclusivities or non-competes in distribution or other cooperation agreements or around practices by leading players involving bundling, self-preferencing, or a refusal to provide access to a platform.

- **Jindrich Kloub**, *Regulatory and Compliance*



As consolidation increases in an industry, the antitrust agencies grow increasingly attuned to the potential for competitive concerns. There is particular concern when incumbent market leading firms, such as major publishers in e-gaming, begin acquiring start-up companies that can be viewed as nascent or maverick competitors in the market. The concern is that the innovations and competitive pressure that these new entrants bring to the market will be greatly limited or eliminated if the new entrant is acquired by a large, incumbent competitor. Further, the agencies may see these acquisitions as a strategic action by the incumbent company to quash competition. As the gaming-technology and AI markets consolidate, companies seeking to make acquisitions should consult antitrust counsel early and prepare for potential scrutiny from antitrust agencies.

- **Jamillia Ferris**, *Regulatory and Compliance*

Wilson Sonsini is one of the top three legal services providers on platform deals.⁸



INDUSTRY INSIGHT

How are market concentrations and competition law affecting M&A in the e-gaming industry?



The more concentrated a market is, the greater the risk a transaction will get questions from the antitrust agencies and face a drawn-out merger review. To mitigate this, companies considering transactions in this space should do the work upfront and anticipate both agency questions and consumer or partner concerns (including around direct competition, but also non-horizontal concerns like content accessibility and cross-platform play/interoperability). Having a clear rationale and being able to show how beneficial the transaction is for competition and innovation in the e-gaming space—and ultimately consumers—is also critical.

- *Deirdre Carroll, Antitrust and Competition*



Competition law requires all acquisitions or investments over a set threshold (\$126.4 million for 2025, increasing to \$133.9 million on February 17, 2026) to be reported directly to antitrust agencies for initial review under the Hart-Scott-Rodino Act. If the antitrust agencies have concerns that the merger may result in anticompetitive effects the agencies will launch a more in-depth investigation. In recent years, the e-gaming industry has seen large-scale mergers (such as Microsoft/Activision) and investments (such as Saudi Arabia's investments through the Public Investment Fund) that have led to increased concentration. The antitrust agencies may place additional scrutiny on mergers in concentrated markets. There is also an increased risk of non-merger related anti-competitive conduct in concentrated markets including information sharing and coordinated conduct.

- *Jamillia Ferris, Regulatory and Compliance*

CLIENT HIGHLIGHT

Firm Advises Golden Star on De-SPAC Transaction with Gamehaus

On January 24, 2025, Golden Star Acquisition Corporation (Golden Star), a blank check company formed for the purpose of effecting a business combination with one or more businesses, completed its initial business combination with Gamehaus Holdings Inc. Wilson Sonsini advised Golden Star on its initial business combination with Gamehaus.

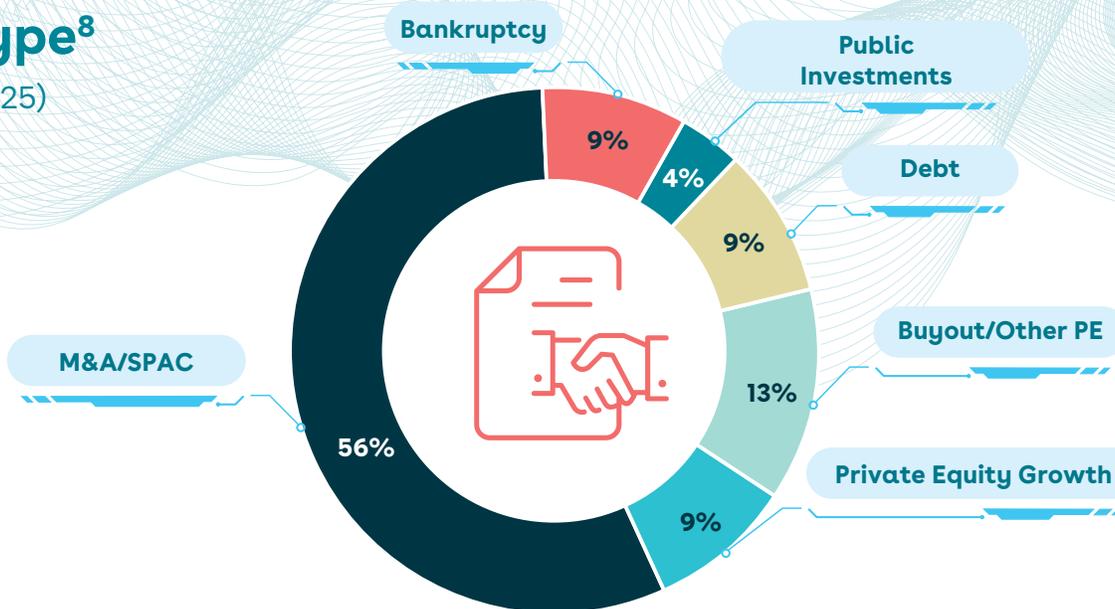
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M&A Median Gaming Deal Size⁸



Gaming Deal Count by Deal Type⁸

(Excluding VC, 2025)



Wilson Sonsini is one of the top three legal services providers on company-side gaming deals for the last 10 years, notably advising a client on its \$800 million sale of its mobile gaming business in 2025.⁸



Global Minors' Privacy and Online Safety Predictions

By Chris Olsen, Cédric Burton, Tom Evans, Claudia Chan, and Rebecca Weitzel Garcia

In 2025, lawmakers and enforcement agencies around the globe have kept one issue firmly in the spotlight: the privacy and safety of minors online. This heightened focus shows no sign of abating, with early indications that companies should expect to see more legislative and regulatory initiatives in the year ahead.

In our [2026 Year in Preview: Global Minors' Privacy and Online Safety Predictions](#), we highlight six minors' privacy and online safety trends that we expect to see in the new year. Here are the top three most relevant to the online gaming community.

1. Age assurance

Age assurance technologies can be an important tool in helping to identify minors on a service, and tailor their experience accordingly. Laws requiring some form of age assurance or age verification—beyond a self-declaration—have been in focus over the last 12 months.

In the U.S., both state and federal lawmakers considered legislation requiring such protocols. Most notably, four states passed laws requiring app stores to provide age category signals to developers (often referred to as “app store accountability laws”). Other countries, like Singapore, have considered or adopted similar legal frameworks. In Europe, the European Commission (EC) struck a pragmatic chord in its [guidelines](#) on the protection of minors (the Guidelines), noting that providers of online platforms should adopt a proportionate risk-based approach when deciding whether to implement age assurance measures for the purposes of complying with the Digital Services Act (DSA). In the UK, the Online Safety Act 2023 (OSA) sets out relatively clear rules on the purposes for which age assurance should be used. The UK's Office of Communications early enforcement efforts have focused on compliance by websites hosting adult content, however it is expected that the regulator will turn its attention to a broader range of services in 2026, and report on the overall effectiveness of age assurance technologies.

In 2026, we can expect to see further movement in this space globally. While the app store laws will be challenged in the U.S., legislatures will continue to discuss if and how to impose age assurance requirements. And the EU has shown early indications that it may introduce new rules requiring 13-16-year-olds to obtain parental consent before accessing certain platforms, including social media platforms, video-sharing platforms, and certain AI companions.

2. “Addictive” features

Increased attention has been paid globally to how products and services directed at minors are designed, especially with respect to so-called “addictive” features.

In the U.S., courts continue to grapple with the question of whether companies can be regulated or sued regarding certain design decisions about their online services. In Europe, the topic of “addiction” in the context of digital services has not been explicitly referenced in EU or UK legislation to date, although rules

around the use of so-called “dark patterns” are in force under the DSA, General Data Protection Regulation (GDPR), and Unfair Commercial Practices Directive. In July 2025, the EC signaled that this may change when it launched a call for evidence in connection with a new “Digital Fairness Act” (DFA) which would tackle practices including “addictive design of digital products.” The DFA is also referenced in the context of the EC’s [2030 Consumer Agenda](#). In the UK, it remains to be seen whether legislation will be introduced to address the topic of addiction head-on, or whether the government will rely on existing regulators and rules—including the OSA and the UK Information Commissioner’s Office’s (ICO) Age-Appropriate Design Code—in the space. Finally, Brazil enacted the [Estatuto Digital da Criança e do Adolescente](#) (ECA Digital Law), which includes various provisions aimed to protect minors online. Notably, the ECA Digital Law prohibits companies from offering loot boxes in electronic games that are targeted or likely to be accessed by minors.

In 2026, we can expect continued discussions around product design and its effects on minors. In the U.S., courts will continue to examine the issue of whether certain design features can cause actionable harms and whether companies can be held liable for those designs. Discussions in Europe around the introduction of a DFA will be watched closely, particularly given the body’s broader [push to simplify certain elements of its regulatory framework](#)

[for digital services](#). Broadly, we can expect that more jurisdictions will start examining how design choices affect minors in particular.

3. Addressing potentially harmful content for minors

One of the motivating factors animating increased regulation and enforcement to protect minors online stems from their access to certain content perceived as harmful to minors. This content can include sexually explicit material or content that promotes goods or services that are illegal for minors.

In the U.S., many states have passed laws requiring age verification for certain websites that provide content that is obscene for minors. Additionally, in Texas, age verification is required for websites that make available AI tools that can generate content considered obscene for minors, unless such use is prohibited by the company’s terms and the company takes steps to limit the creation of such content. In Europe, the EC’s Guidelines have provided direction to service providers on the types of content they may need to protect minors from, including content that is hateful, harmful, or amounts to disinformation. In July 2025, duties under the OSA to assess and mitigate risks to minors became applicable, requiring regulated services to take steps in relation to broad categories of content deemed “harmful.” The impacts of these measures are now being felt in terms of user experience.

And under Brazil’s ECA Digital Law companies whose online content, product, or services are “inappropriate, inadequate, or prohibited” for minors under 18 are required to implement measures to prevent minors from accessing such material.

In 2026, we can expect this trend to solidify its place in the minors’ online safety playbook. In the U.S., states may begin enforcing these laws against obscene content for minors. Additionally, we may see more scrutiny around how companies enforce content moderation for minors in light of recent app store accountability acts. In Europe, despite the potentially broad application of laws such as the DSA and OSA, we expect to see a continued focus on the availability of content judged to be most harmful to minors, including adult content and disinformation. Broadly, we can expect more countries to address concerns about minors accessing age-appropriate experiences online, possibly requiring some form of age assurance when certain content is illegal for minors or perceived as harmful.

The upshot of all these initiatives is clear. Safety and privacy issues for minors are top of mind for regulators around the world. Companies, including online gaming platforms, providing services to minors will want to pay close attention to developments in these areas in the coming year.





INDUSTRY INSIGHT

How will the Genshin Impact enforcement action settlement affect the gaming industry?

Background: Genshin Impact is a 2020 free-to-play, open-world action role playing game. In the 2025 Genshin Impact settlement, the developer Cognosphere (doing business as HoYoverse) paid \$20 million to resolve allegations that it violated the Children's Online Privacy Protection Rule (COPPA) and Section 5 of the Federal Trade Commission Act. The U.S. Department of Justice (DOJ) and the Federal Trade Commission (FTC) alleged the studio used "dark patterns," including misleading drop rates and complex virtual currencies to deceive players about the true costs and odds of loot boxes. Additionally, the complaint charged that Genshin Impact collected personal information from children under 13 without verifiable parental consent. Beyond the fine, the settlement mandates a neutral age gate and prohibits loot box sales to users under 16 without affirmative parental approval. This case underscores increasing regulatory scrutiny on deceptive monetization and minor-specific data privacy in the gaming industry.⁹



Genshin likely already has had an impact on a number of practices in the gaming industry. In Genshin, the FTC

alleged that "Genshin . . . deceived children, teens, and other players into spending hundreds of dollars on prizes they stood little chance of winning."

The FTC warned, "Companies that deploy these dark-pattern tactics will be held accountable if they deceive players, particularly kids and teens, about the true costs of in-game transactions." Notably, the relief a court approved included a prohibition on allowing kids under 16 to purchase loot boxes without affirmative

parental consent. Companies that offer these types of digital features in their games would be well-served by reviewing the FTC's complaint and Order in Genshin to understand how the FTC expects companies to operate in connection with these offers.

- **Chris Olsen,**
Regulatory and Compliance

The FTC finalized a change in the COPPA rule on June 23, 2025; what are the main changes for the new rule and how will these changes impact the gaming industry?



The main changes to the COPPA rule that will impact the gaming industry include new notice

and data security requirements. On the notice front, the new rule requires that operators must disclose in a direct notice to parents the identities or categories of third parties to whom the information collected may be

disclosed. In addition, the rule requires operators to disclose the identities and categories of all third parties who receive personal information from the operator. These notice changes will require more detail and information from operators on third-party sharing in their notices to parents. On the data security front, the rule now requires operators to establish and implement a written information security program

that requires risk assessments, implement safeguards to control identified risks, and evaluate the adequacy of the program annually. The new rule also requires companies to implement a formal data retention policy.

- **Chris Olsen,**
Regulatory and Compliance



INDUSTRY INSIGHT

How should studios and platforms address cybersecurity and compliance challenges, especially with mobile and cloud-based gaming?



Studios and platforms should address cybersecurity and compliance challenges in mobile and cloud-

based gaming by embedding security and regulatory considerations directly into product design and live operations. This means employing zero-trust principles, securing accounts and APIs against fraud and takeover, and relying on behavioral and server-

side detection rather than invasive client controls, especially on mobile. Cloud infrastructure presents its own security demands, including identity and access management, encryption, segmentation, and continuous monitoring. At the same time, companies must align with global data protection and platform rules by minimizing data collection, respecting user consent, protecting minors, and maintaining clear audit

trails and incident-response processes. Ultimately, treating cybersecurity, privacy, and compliance as ongoing trust and governance commitments—rather than one-time technical fixes—allow studios to scale globally, meet regulatory expectations, and protect both competitive integrity and player confidence.

- **Chris Olsen**,
Regulatory and Compliance

What legal or regulatory frameworks are emerging (or needed) around match-fixing, algorithmic manipulation, or AI-driven performance enhancement?



I think we are in early days in this space. Esports are global, so absent international frameworks (which

seems unlikely in the present climate) I think the leagues themselves will be the first line of defense here. There

are also existing laws governing match fixing (such as state gambling statutes and wire fraud laws in the U.S.). On algorithmic manipulation and AI performance enhancement in particular, we first need to reach a consensus on what uses of AI are legitimate and gaming, and from

there will need to address this through player contracts and league rules. The leagues are also going to have to put some real effort into detection.

- **Barath Chari**, *Technology Transactions*



While match-fixing in non-digital contexts has long been illegal, the application of match-fixing in the digital arena

is still evolving. Some nongovernmental organizations have been working to address match-fixing in esports, and game developers have imposed prohibitions against match-fixing and

other efforts to undermine competitive integrity.¹⁰ We expect policymakers to work to standardize approaches to match-fixing prohibitions. AI is also impacting the gaming industry. Companies that employ algorithmic manipulation that may affect outcomes risk consumer protection action if they are not adequately transparent with consumers about

how their algorithms operate. And AI may also be employed in ways that violate terms of use or gaming rules to benefit players. Companies will continue to assess these developments in their anti-cheat measures.

- **Chris Olsen**,
Regulatory and Compliance

Wilson Sonsini is one of the top three legal services providers for companies on esports deals and has represented four of the top five companies in the subsector by total raised.⁸



INDUSTRY INSIGHT

What new governance structures are emerging internally (e.g., legal, engineering, and data security) to manage cross-border technology and data issues holistically?



We see gaming companies using more cross-functional committees and escalation paths to manage cross-border tech and data issues. These typically bring together legal, engineering, and security teams to address compliance with U.S., EU, and global cybersecurity and data laws. As these requirements are becoming increasingly technical in nature (e.g., prescriptive security measures for software or hardware), such hybrid teams are essential to translate them into operational reality. These governance structures also help decision-makers meet their risk management duties under EU cyber laws by improving visibility and oversight on the company's cyber exposure and strategy.

- **Laura Brodahl**, *Regulatory and Compliance*



The new legal regimes that have been implemented over the last year have led to the need for companies to implement new and better compliance programs. For example, we have seen firms implement internal controls to monitor the collection of U.S. sensitive personal data and government data that is subject to the DOJ's Data Security Program. Typically, these internal controls will involve 1) processes to review new customer or vendor engagements to identify any potentially relevant data that will be collected or generated and 2) additional IT security controls to ensure that the data is not released internally or externally unless authorized under the regulations.



We have also seen investment firms implement new programs for compliance related to the Outbound Investment Security Program, which restricts U.S. investment in (and other collaboration with) businesses linked in certain ways to "countries of concern," particularly China. Companies are requesting additional information from counterparties on any nexus with countries of concern and requesting additional representations in investment agreements to address these risks.

Finally, as discussed above, we are closely monitoring updates for new rules and regulations limiting the ability of entities headquartered in or located in China to use U.S. computing resources. Any new restrictions could require U.S. companies to implement additional compliance structures and technical measures.

- **Stephen Heifetz and Nimit Dhir**, *Regulatory and Compliance*

Combating Increased Harassment Against Gaming Professionals

By Vicky Zhou and Christopher A. Paniewski

In January 2025, Square Enix, the video game publisher behind famous role-playing game franchises such as Final Fantasy and Dragon Quest, released its new customer policy addressing customer harassment against its employees, staff, and partners. This alert examines the background and the content of this customer policy, compares Square Enix's policy with similar initiatives across the electronic gaming industry, and analyzes the reactions of the consumers and implications to Square Enix and other companies in the industry.

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INDUSTRY INSIGHT

In the current market, what does the fundraising process look like for a new gaming start-up? What do VCs, strategic investors, and partners really care about?



Fundraising for game companies has been challenged given the market. On the other hand, funding sources have diversified for game companies to now include angels, accelerators, venture capital firms, equity and rewards crowdfunding, and game publishers. We have also seen the emergence of newer investment structures like debt notes with revenue sharing that could provide an earlier return to investors without equity dilution.

- *Jonathan Chan, Corporate*



Fundraising today is definitely more grounded than it was a few years ago. Investors still want big ideas, but they're spending more time on evidence of execution: a playable build, early engagement signals, or real monetization levers. VCs are looking for founders who can pivot quickly, manage burn, and tell a story that scales beyond one title. Strategics care about IP, platforms, and how your game or tech fits into their broader ecosystem. Across the board, capital efficiency and early proof points matter more than they did a few years ago. If you want a broader snapshot of how early-stage rounds are getting done right now (including structures and valuation trends) our latest *Entrepreneurs Report* is a useful reality check on what founders are walking into in this market.

- *TJ Tingjie Li, Corporate*

CLIENT HIGHLIGHT

Wilson Sonsini Advises Qloud Games on \$5 Million Seed Round

On August 13, 2025, Sydney, Australia-based Qloud Games, the independent studio behind the upcoming massively multiplayer online (MMO) game Loftia, announced a \$5 million seed funding round led by BITKRAFT Ventures and GFR Fund, with participation from a16z Speedrun, IUP Fund, and Gaingels. Wilson Sonsini advised Qloud Games on the transaction.

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Access Wilson Sonsini's emerging companies practice **Term Sheet Generator** where you can generate a venture financing term sheet.* The Term Sheet Generator includes tutorials and annotations on financing terms.

The Start-Up Toolkit is a complimentary series of resources intended to inform early-stage gaming companies about core legal needs.

For companies looking to level up, we recommend applying for the Wilson Sonsini NEST program.



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INDUSTRY INSIGHT

Have you seen AI work its way into earlier phases of gaming start-ups? Are founders relying on AI, and how is this impacting the ability to draw funding?



Yes, AI is showing up in earlier phases such as prototyping and asset creation. Used well, it lets small teams move faster, which investors generally like. But AI by itself isn't a hook anymore—everyone claims to be an AI start-up regardless of what they do these days. Founders still need to show the game is fun, and that AI meaningfully improves player experience or production efficiency in a way that's hard to copy. The strongest pitches treat AI as a tool, not the thesis.

- *TJ Tingjie Li, Corporate*



We have seen recent gaming start-ups being funded while working at different levels of generative AI: from traditional studios using gen AI tools for faster, cheaper development, to game developers integrating gen AI into the gameplay and experience, to companies creating development platforms that allow consumers to vibecode their own games. It's exciting to follow the teams that are working with gen AI in games, and it still remains to be seen to what degree and how gen AI evolves the games industry.

- *Jonathan Chan, Corporate*

What is one big piece of advice to an individual thinking of founding a gaming start-up?



The founders who do best are the ones who test early, listen closely to players, and aren't overly precious about their first idea; it's much easier to iterate or pivot when you haven't overbuilt too soon. At the same time, don't ignore fundamentals like IP protection and key-person risk. I've seen gaming start-ups stumble by scaling too fast, bringing teams in-house too early, or failing to put the right legal protections in place, mistakes that are hard to unwind later and can derail an otherwise promising company.

- *TJ Tingjie Li, Corporate*

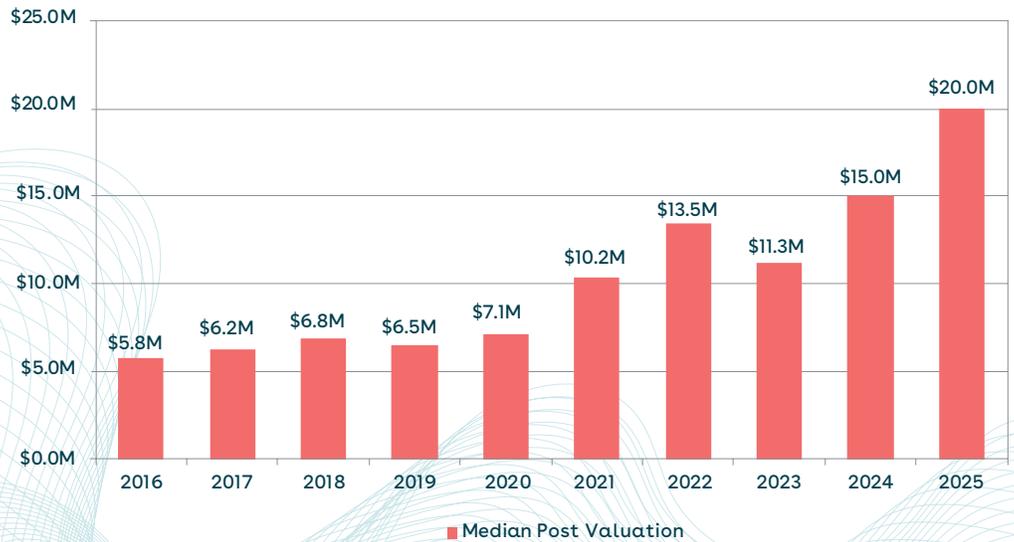
CLIENT HIGHLIGHT

Wilson Sonsini Advises Spekter Games on \$5 Million Fundraise

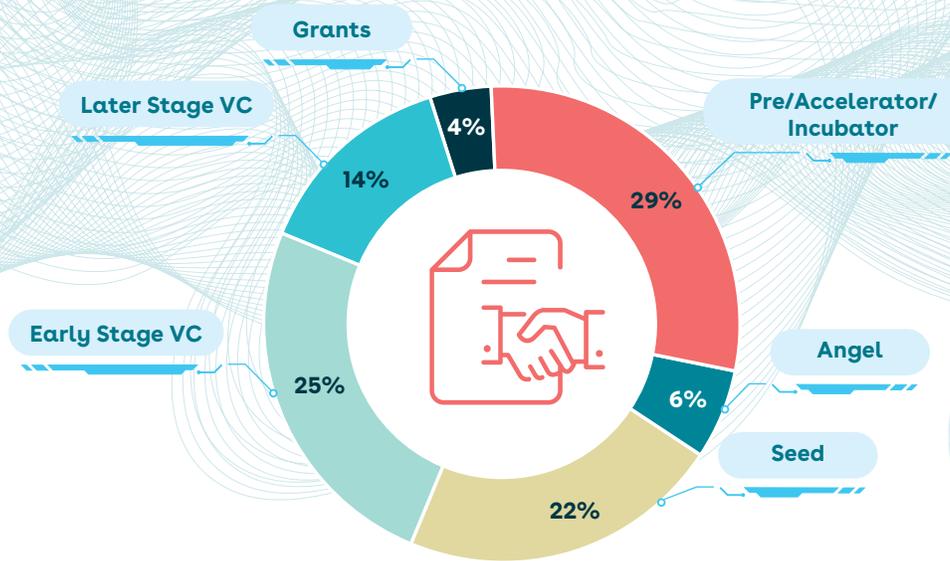
On June 26, 2025, Spekter Games, a next-gen game publisher dedicated to crafting high-quality mobile games enriched with seamless Web3 incentives, announced a \$5 million funding round and launched its first title, Spekter Agency. The funding round saw participation from prominent investment firms, including a16z speedrun, London Venture Partners, BRV Capital, Chamaeleon, Accelerator Ventures, Impact46, Versus Ventures, and Alumni Ventures. Wilson Sonsini advised Spekter Games on the financing transaction.

[Learn More](#) →

VC Median Gaming Deal Size⁸



Gaming VC Count⁸ by Financing Type (2025)



CLIENT HIGHLIGHT

Firm Advises Circle Games on \$7.25 Million Funding Round

On July 9, 2025, Circle Games announced that it has closed a \$7.25 million round of funding. The round was led by Bitkraft Ventures, with a16z Speedrun, Play Ventures, e2vc, and APY Ventures also participating. Circle Games plans to use the proceeds from the funding to develop mobile casual games. Wilson Sonsini advised Circle Games on the transaction.

[Learn More](#) →

Wilson Sonsini is the number one legal services provider on hardware deals, representing half of the top 10 companies in the vertical by market capitalization.⁸



INDUSTRY INSIGHT

How will tightening export-control rules on advanced graphics hardware, AI chips, or real-time rendering technology affect studios operating across multiple regions?



The rules controlling the export, reexport, and transfer of advanced graphics hardware and AI chips and related technology are currently in flux. In June 2025, the administration announced the rescission of parts of the Biden-era AI Diffusion Rule that limited the export of advanced computing chips worldwide and its plans to instead issue a revised rule. However, we have yet to see a formal withdrawal of that rule or the details of the revised rule. It is important to understand that restrictions on the export, reexport, and transfer of advanced graphics hardware and AI chips and related technology still exist—particularly on their export to China and certain other countries. That said, we understand that the current administration reportedly has been authorizing exports of NVIDIA's H200 chips to China under individual export licenses but continues to restrict exports of the H100 and similar hardware.



One outcome of the increased controls that we have already been seeing is rapid development of comparable technologies in other jurisdictions, such as Huawei Technologies' rapid development of its Ascend chips and expansion of the HarmonyOS. We saw a similar outcome with the Chinese space industry when the U.S. implemented ITAR controls on commercial satellites. In addition, we have seen a focus on offering advanced computing as a service rather than through hardware exports—although we also understand that the administration is looking for ways to control the provision of these services. We expect to see further developments on these controls in 2026, from the U.S. administration, in Congress, and in other countries.

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- Jahna Hartwig and Anne Seymour, Regulatory and Compliance



INDUSTRY INSIGHT

How are geopolitical tensions influencing distribution strategies for mobile, console, and cloud gaming platforms in 2026?



The U.S. government has continued to express a desire to limit the ability of entities headquartered in or located in China to use U.S. computing resources. We are watching for new controls on the provision of SaaS or other cross-border computing services. These controls may impact how U.S. companies work with partners and subsidiaries located in China—both in development and the provision of cloud gaming platforms.



The development of new China-based technologies is requiring U.S. companies to consider how they can adapt and work with these China-based technologies. For example, U.S.

companies must consider prohibitions on providing games subject to U.S. controls to Huawei's cloud or app stores and implications of modifying games and other applications to specifically work with China-based technologies.

In addition, Trump's tariffs have caused many companies to examine their distribution strategies and supply chains. Companies that develop consoles, data center hardware, and other equipment have been working to determine the impact of the tariffs and whether shifting to a supplier in another country will be cost effective. The tariffs have not yet been imposed on electronic transfers of software and technology, which means that most software companies have not been affected directly. However, we understand that the increased

cost of producing the hardware needed for data centers has flowed downstream and increased costs for some companies. Even after the February 24, 2026, U.S. Supreme Court decision invalidating the use of the International Emergency Economic Powers Act to impose tariffs, significant uncertainty exists. Not all Trump tariffs were invalidated by the decision (see Wilson Sonsini alert, "[U.S. Supreme Court Shakes Up Trump Tariff Tactics](#)"). Additionally, the Administration has other tools available to it to impose tariffs and has already imposed a new global "temporary import surcharge" of 10 percent on many of the same products affected by prior tariffs.

- *Jahna Hartwig, Anne Seymour, and Nimit Dhir, Regulatory and Compliance*

What lessons can gaming companies take from recent CFIUS (Committee on Foreign Investment in the United States) trends when planning cross-border M&A deals, joint ventures, or strategic data-sharing partnerships?



Gaming companies planning cross-border M&A, joint ventures, or strategic data-sharing partnerships should internalize several CFIUS trends. First, CFIUS focuses on data sensitivity over sector labels—entertainment



status may not insulate a deal if personal, geolocation, voice, or other sensitive personal data is involved. Second, access rights matter: even

for minority investments, board or observer rights, or shared analytics platforms could trigger greater CFIUS scrutiny if foreign partners gain data or operational insight into how a gaming company operates. Third, future risk counts—CFIUS is likely to evaluate how data use may expand post-transaction, not just current practices. Finally, in more sensitive transactions (e.g., where the data at issue is particularly of interest, or where CFIUS may be particularly interested in an investor) companies

should be mindful that CFIUS could eventually impose conditions on a transaction, and therefore, companies should plan early for mitigation (e.g., where CFIUS may require data localization, access controls, governance ring-fencing), bake CFIUS analysis into deal structuring, and not treat it as a late-stage regulatory check.

- *Stephen Heifetz and Nimit Dhir, Regulatory and Compliance*



Tariffs and Chip Export Bans: Emerging Challenges for the Gaming Industry Under the Trump Administration

By Bryan Poellot

Updated January 27, 2026:

On January 14, 2026, President Trump issued a new [proclamation](#) imposing an additional 25 percent ad valorem tariff on the import of certain advanced semiconductor articles, effective as of January 15, 2026. The tariff applies to specific semiconductors within certain performance parameters, often used in AI applications, but exempts imports used for U.S. data centers, research and development, repair or replacement, start-ups, non-data center consumer applications, non-data center civil industrial applications, public sector uses and other uses strengthening the U.S. technology supply chain or domestic manufacturing capacity for derivatives of semiconductors as determined by the Secretary of Commerce, in each case as specified in the [annex to the proclamation](#). The proclamation also directs the Secretary of Commerce and U.S. Trade Representative to pursue negotiations with foreign jurisdictions to address

U.S. national security concerns related to the imported of semiconductors, semiconductor manufacturing equipment, and derivative products. The administration has signaled it may impose broader tariffs on imports of these and similar products in the near future, and that it may also consider implementing a tariff offset program to spur the domestic manufacture of these commodities. This development adds another layer of complexity to the gaming industry's supply chain challenges, as advanced chips are critical components in gaming hardware and AI-powered game development.

Please see below for a summary of the client alert we published on April 24, 2025:

The global video game industry with over \$200 billion value thrives on cutting-edge hardware and innovative gaming content. However, recent trade policies introduced by the Trump administration in 2025, including new tariffs on Chinese, Canadian, and Mexican imports in February and

March 2025; the recent imposition of an additional global baseline tariff for imports from almost all countries and steep additional "reciprocal" tariffs on select U.S. trading partners in April 2025; and still further increases in the reciprocal tariff for China alongside a temporary reversion to the baseline tariff for other U.S. trading partners later in April; along with consistently tightening restrictions on advanced chip exports to China, pose significant challenges to the game industry's further growth. Additionally, the Framework for Artificial Intelligence Diffusion (the "AI Diffusion Rule"), may further complicate the landscape by extending the export controls on advanced computing chips and AI model weights to safeguard U.S. national security and foreign policy interests. This alert analyzes these policies' implications for hardware production, physical game sales, and gaming collaborations between American and Chinese game developers.

[Learn More](#) →



INDUSTRY INSIGHT

How are licensing deals between game publishers and major entertainment IP (e.g., films, sports leagues, influences) evolving as cross-media collaborations become more common?



While major film or sports IP once ensured a player base, the data from 2025 shows that traditional discovery of games is being eclipsed by the creator economy. Statistics indicate that over 24 percent of players now find new games through influencers,¹¹ while nearly 81 percent of gamers use YouTube as their primary hub for game-related decisions.¹²

Despite the power of a famous IP, the market has become increasingly intolerant of layering a brand over a lackluster product. Gamers today are incredibly discerning. If the gaming experience is not rock-solid, even the biggest IP will fail to drive sales. Before layering on a famous film or sports franchise, developers must ensure the game design is compelling and the fundamental fun of the experience is intact.

Studios are increasingly moving toward fine-tuning models exclusively on a partner's proprietary IP assets. Even as this technology advances, the fundamental element of game design remains an essential pillar that IP and generative AI cannot replace. However, when the fundamental game design is in place, generative AI transforms from a development tool into a commercial multiplier. This allows for a deeper level of cross-media collaboration where the game can generate endless, legally defensible derivative content that stays perfectly "on-brand."

- *Atussa Simon, Technology Transactions*

What patterns are emerging in right-of-publicity and likeness-rights cases involving esports pros, influences, and AI-generated avatars, and how should sponsorship and licensing agreements be updated in response?



States laws are being broadened to explicitly cover AI digital replicas and to limit the use of vague contractual terms to enable use of a person's digital replica. Sponsorship and license agreements should be tailored to ensure enforceability and compliance with state laws, including by (among other things) i) broadly and specifically defining personal rights where appropriate (e.g., digital likeness, synthetic voice, distinctive mannerisms); and ii) employing an AI-specific grant of publicity and likeness rights. Notably, state law in some cases can render an individual's grant of rights to a digital replica invalid if the person was not represented by counsel or an applicable labor union, so it may be important to have the individual warrant in the agreement that he has been represented.

- *Aaron Hendelman, Litigation*



INDUSTRY INSIGHT

Given the prevalence of in-game transactions, streaming deals, and AI-driven content, what best practices should companies adopt in user terms, developer-publisher contracts, and partner agreements?



We are in the early days of AI, so agreements need to be flexible to address evolutions in the capability of AI and changes to regulatory frameworks. There are a few key issues that contracts will need to address, including allocation of IP (and in particular allocation of rights to AI-generated content), exclusivities, marketing rights, and financial terms. With respect to gamer-facing contracts, clarity and specificity are extremely important, as are data privacy terms (particularly for games that minors will play). Finally, for partnership agreements with streamers, consider whether “moral turpitude” clauses or takedown rights are necessary to protect the company from bad acts by partners.

The successful games of 2026 will be those that build a high-quality foundation first, then use AI to seamlessly weave famous IP and influencer-led content into the experience. This strategy not only drives player discovery but significantly boosts studio valuations. By proving that a game can thrive as a persistent, evolving media platform rather than a static release, developers can command valuation multiples that are higher than traditional competitors.

- Barath Chari, Technology Transactions

Wilson Sonsini is a top legal services provider for console/PC deals and has represented over half of the top 20 console/PC transactions in the past five years.⁸

Wilson Sonsini is the number two augmented and virtual reality legal advisor, notably representing a client in its \$900 million capital raise in this space.⁸



INDUSTRY INSIGHT

How will the next generation of smart glasses and lightweight XR headsets influence the mainstream adoption curve for immersive gaming, and how will this impact personal information and privacy concerns?



The primary barrier to mainstream XR adoption has been the friction of “clunky” hardware that breaks

immersion. Historically, gaming in extended reality has been defined by heavy headsets tethered by long cables and confined to small, static spaces. This physical tethering constantly reminds the player of the reality they are trying to escape. Furthermore, legacy controllers often lack the novelty and natural interaction required for true presence.

The bridge to a “jacked-in” future lies in the transition from bulky goggles to streamlined, lightweight smart glasses and auxiliary interfaces. Before we reach the era of direct neural interfaces, the logical evolutionary step is the mass adoption of hardware that doesn’t disrupt the user’s experience. In 2026, we are seeing a shift toward high-fidelity smart glasses that offer 240Hz refresh rates and cinematic visuals without the weight. Complemented by haptic gloves and non-invasive wearables, these tools allow players to step into new realities with a level of natural interaction that was previously impossible.¹³

In addition to entertainment, the next generation of XR is creating an unexpected and vital connection to the real world for people with differentiated abilities. Gaming has a long legacy of pioneering accessibility, and these new lightweight tools are expanding that mission into everyday life. For example, modern XR glasses have opened a new world for the deaf and hard-of-hearing community by providing real-time, line-of-sight subtitles for every conversation.

By integrating AI-driven transcription and translation directly into a wearable form factor, XR is transforming a gaming tool into a life-changing utility. These glasses allow users to stay engaged with their physical environment while receiving a constant stream of visual data that compensates for hearing loss. This nature of the hardware, as both a portal for immersive gaming and a bridge for social accessibility, is a key driver in pushing XR from a niche gaming hobby into a mainstream necessity.

The transition to immersive gaming brings significant questions regarding the privacy of spatial maps, room scans, and object recognition data.

As these XR games rely on “always-on” cameras and sensors to map a player’s physical environment, they generate highly granular data about a user’s home. While these technical privacy challenges are often left to legal and regulatory experts, there is also a critical physical safety component. Immersive experiences carry the risk of users injuring themselves or others or unintentionally destroying property when the boundary between the virtual and physical is blurred.

Overcoming legal and social pitfalls is ultimately a challenge for developers rather than for lawyers. While existing legal frameworks for liability and negligence apply, the most effective “defense” is technological. Developers must continue to innovate by building safety directly into the experience. By creating safer by design experiences, the industry can avoid the legal friction that often stalls the adoption of transformative new technologies.

- Atussa Simon, Technology Transactions

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Special Thanks to the Wilson Sonsini Teams

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Endnotes

- ¹ <https://newzoo.com/resources/blog/year-in-review-2025-to-date>.
- ² <https://www.strategymrc.com/blog/nintendo-switch-surge-powers-global-console-market/>.
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- ⁶ <https://www.midiaresearch.com/games-forecasts>.
- ⁷ See *Thaler v. Perlmutter*, No. 23-5233 (D.C. Cir. March 18, 2025).
- ⁸ The third-party data included in *The Scramble* was obtained from research provided by PitchBook, Inc. and is current as of submission of this report. Wilson Sonsini's use of this data has not been reviewed by PitchBook analysts.
- ⁹ <https://www.ftc.gov/news-events/news/press-releases/2025/01/genshin-impact-game-developer-will-be-banned-selling-lootboxes-teens-under-16-without-parental>.
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