

# SKIN GAMBLING: HAVE WE FOUND THE MILLENNIAL GOLDMINE OR IMMINENT TROUBLE?

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## INTRODUCTION

The gaming industry has been scratching its head trying to figure out how to draw in the 87 million millennials.<sup>1</sup> Millennials are largely disinterested in traditional casino games like slot machines, leaving casino operators and industry observers with the false impression that they do not gamble as much as older generations.<sup>2</sup> In roughly 30 years, technology has evolved from dial-up modems and pay phones to a world where most people are frustrated if Siri does not understand a question or if predictive text fails to anticipate a correct word. Instant gratification is no longer a benefit; it is a requirement, and millennials—those born between 1980 to 2000—have seldom experienced anything else. They are technologically savvy and gravitate toward interactive games of skill.<sup>3</sup> This begs the question: If they are not engaging in traditional gambling, what type of gambling is commanding their attention, and can it

be legally capitalized upon? Skin gambling on esports may be the elusive answer to this millennial gambling quandary, offering lucrative prospects for entrepreneurs who can stay ahead of the legal curve.

This article proceeds in four parts. Part I explains what esports is and elaborates on how it quickly evolved into a phenomenon with millions of followers. Part II defines what skins are, summarizes the history leading to the development of skins, and explicates how they caused an explosion of trading and betting. Part II also explains how virtual items are used in conjunction with esports and online casino games. Part III discusses skin controversies and the resulting litigation that is placing these virtual items in the spotlight. Lastly, Part IV analyzes federal statutes and state case law, which may have a profound impact on virtual gambling and esports.

## I. WHEN TECHNOLOGY MEETS SPORTS

Electronic sports (esports) have provided a stimulating outlet for young adults and have spurred new forms of gambling that are generating hundreds of millions of dollars in yearly revenue.<sup>4</sup> Esports are multiplayer video game competitions that are “mediated by human-computer interfaces.”<sup>5</sup> To be more specific, esports is essentially competitive video game playing where two teams, usually comprised of five professional video game players, battle each other in live, multiplayer games in front of thousands of screaming fans. The games have large virtual landscapes, also called maps, that players must scour to find and destroy the other team. In real life, this would be the equivalent of war, where extensive terrain must be crossed and searched to defeat the enemy. Each player is equipped with a headset that allows him to speak with his teammates about strategy as they try to defeat the other side. As the players

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<sup>1</sup>*The Millennial Problem: Why We (Don't) Gamble*, HARTMANN GROUP (Sept. 9, 2015), <http://thehartmanngroup.net/wp-content/uploads/2015/09/The-Millennial-Problem-Why-We-Dont-Gamble-Sept-20152.pdf> (last visited Mar. 26, 2017).

<sup>2</sup>*Id.*

<sup>3</sup>Jackson Brainerd, *States are Betting on Gaming to Score a Revenue Windfall*, NATIONAL CONFERENCE OF STATE LEGISLATURES (Dec. 1, 2016), <http://www.ncsl.org/>

[bookstore/state-legislatures-magazine/states-are-betting-on-legal-gambling-to-yeild-revenue-jackpot.aspx](http://bookstore/state-legislatures-magazine/states-are-betting-on-legal-gambling-to-yeild-revenue-jackpot.aspx).

<sup>4</sup>*2017 Global Esports Market Per Revenue Stream*, NEWZOO, <https://newzoo.com/resources/> (last visited June 29, 2017) (projecting that \$696 million of global revenue will be generated from eSports in 2017); *eSports—A New Product for Gambling*, VICTORIAN RESPONSIBLE GAMBLING FOUNDATION, <https://www.responsiblegambling.vic.gov.au/information-and-resources/victorias-gambling-environment/esports> (last visited Jun. 21, 2017).

<sup>5</sup>*eSports*, ESPORTS GENERATION, <http://www.esports-generation.com/esports/> (last visited Jun. 21, 2017).

battle, the spectators, often selling out arenas such as the Staples Center<sup>6</sup> and Madison Square Garden,<sup>7</sup> can see both sides of the action as the game unfolds. The result is an atmosphere that is just like a rowdy professional basketball game. In the end, the winning team takes the spoils,<sup>8</sup> which in esports, can be millions of dollars. In the early 2000s, only a few esports tournaments existed, but by 2013, the video game culture exploded, giving way to professional, salaried players and teams battling for staggering prize pools.<sup>9</sup> Online streaming platforms such as Twitch.tv<sup>10</sup> have been “central to the growth and promotion of esports competitions” and have expanded the audience from approximately 71.5 million people in 2013 to 226 million in 2015.<sup>11</sup> Like most sports, placing bets on the outcome adds to the excitement and lures in spectators, quickly expanding demand.<sup>12</sup>

In most countries, online sports betting is regulated and legal, and many sportsbooks are regularly offering lines on esports.<sup>13</sup> However, in the United States, online sportsbooks are illegal everywhere but Nevada.<sup>14</sup> Born out of necessity, this has given rise to alternative methods of wagering that have been flying mostly under the radar, the most prevalent being skin gambling.

## II. GAMBLING THAT IS SKIN DEEP

Virtual items have become the casino chips of the esports world, and skins have become one of the largest methods employed for gambling. So, what are skins exactly? They are virtual items, designed by video game companies, that change the appearance of in-game avatars, weapons, and equipment.<sup>15</sup> In the real world, they would be akin to having a gun or knife that has a colorful design or camouflage finish. Skins are merely ornamental and have no effect on actual game play, but have become a token of status and are immensely valuable. Game players can trade or bet their skins on the outcome of a video game match. Over 80% of all skins being wagered are from the game Counter-Strike: Global Offensive (CS:GO); thus, this is where this evaluation will focus.<sup>16</sup> CS:GO is a multiplayer shooting game that was developed by Hidden Path Entertainment and Valve Corporation.<sup>17</sup> It was originally released in August of 2012, but skins did not become a part of the game until August 13, 2013 when an addition to the game called the “Arms Deal” was released.<sup>18</sup>

Skins can be acquired in three separate ways.<sup>19</sup> First, they are given as rewards for playing CS:GO; the more that people play, the more opportunities they

<sup>6</sup>Paul Tassi, *League of Legends Finals Sell Out LA's Staples Center in an Hour*, FORBES (Aug. 24, 2013), <https://www.forbes.com/sites/insertcoin/2013/08/24/league-of-legends-finals-sells-out-las-staples-center-in-an-hour/#4230e37e32b8>.

<sup>7</sup>*How Video Gamers Sold Out Madison Square Garden*, REAL CLEAR LIFE (Oct. 27, 2016), <http://www.realclearlife.com/featured/how-video-gamers-took-over-madison-square-garden/> (The League of Legends World Championship Semifinals sold out Madison Square Garden's 18,000+ seats for two consecutive nights in a row. Hungry fans paid \$46-\$61 to watch the “superhuman hand-eye coordination displayed by its top players.”) *Id.*

<sup>8</sup>See John Gaudiosi, *Why eSports Are Attracting Sponsors Like Coke*, FORTUNE (Nov. 6, 2013), <http://fortune.com/2013/11/06/why-esports-are-attracting-sponsors-like-coke/> (Corporate sponsors including Coke, Microsoft, Activision, and Valve Software have awarded millions of dollars to the top players of esports tournaments.). See also Kevin Knocke, *Why Prize Pools Don't Matter in Esports Anymore*, IGN (Aug. 9, 2016), <http://www.ign.com/articles/2016/08/09/why-prize-pools-dont-matter-in-esports-anymore> (In 2016, Valve's tournament, the International, had a \$20 million prize pool raised through crowd funding strategies. The top team in this tournament received \$8.3 million. Additionally, top players can receive stable salaries backed by major sponsors, sweetening the pot even more.).

<sup>9</sup>Tyler F.M. Edwards, *eSports: A Brief History*, ADANAI (Apr. 30, 2013), <http://adanai.com/esports/>. See *supra* note 8.

<sup>10</sup>Twitch.tv is the “world's leading social video platform and community for gamers, video game culture, and the creative arts.” *Twitch Social Video for Gamers*, TWITCH.TV, <https://www.twitch.tv/p/about> (last visited Jun. 29, 2017). Daily, over 10 million people watch and talk about video games and more than two million videos are streamed. *Id.* In 2014, Twitch emerged as the fourth largest Internet traffic producer, falling behind only Apple, Netflix, and Google. Matthew DiPietro, *Twitch Is 4th in Peak US Internet Traffic*, TWITCH.TV (Feb. 5, 2014), <https://blog.twitch.tv/twitch-is-4th-in-peak-us-internet-traffic-90b1295af358>.

<sup>11</sup>Sajal Manchanda, *Sports to eSports*, SPORTS CRUNCH (Jul. 23, 2016), <http://sports crunch.in/sports-to-esports/>. See generally *Global eSports Market Report Light 2017*, NEWZOO (Feb. 14, 2017), <https://newzoo.com/insights/trend-reports/global-esports-market-report-2017-light/> (In 2017, the eSports economy is projected to reach \$696 million with North America accounting for \$257 million in revenue. “Brands will contribute \$517 million and brand investment will double by 2020.”).

<sup>12</sup>See generally Steven Salaga and Scott Tainsky, *Betting Lines and College Football Television Ratings*, 132 ECONOMICS LETTERS 112, 112–116 (May 2015).

<sup>13</sup>*eSports Betting at Sportsbooks*, ESPORTS GAMBLING, <http://www.esportsgambling.com/> (last visited Mar. 26, 2017).

<sup>14</sup>*Fantasy eSports Sites*, ESPORTS GAMBLING, <http://www.esportsgambling.com/> (last visited Mar. 26, 2017).

<sup>15</sup>Chris Grove, *Understanding Skin Gambling*, ESPORTS BETTING REPORT (2016), <http://www.esportsbettingreport.com/wp-content/uploads/2016/07/A-Guide-To-Skin-Gambling.pdf>.

<sup>16</sup>*Id.*

<sup>17</sup>*Counter Strike: Global Offensive*, HIDDEN PATH ENTERTAINMENT, <http://www.hiddenpath.com/game/counter-strike-global-offensive/> (last visited Jun. 21, 2017). See Zorine Te, *Dust to Dust: The History of Counter-Strike*, GAMESPOT (May 17, 2014), <https://www.gamespot.com/articles/dust-to-dust-the-history-of-counter-strike/1100-6419676/>.

<sup>18</sup>Blake Robbins, *How Virtual Weapons Create a Booming Economy*, ASSOCIATE.VC (Jan. 19, 2016), <https://associate.vc/how-virtual-weapons-created-a-booming-economy-3da2da0fec79>.

<sup>19</sup>Counter-Strike: Global Offensive (CS:GO) players can make custom skins, but there are limitations. In July of 2015, Valve issued a statement banning the following on community servers: (1) “Allowing players to claim temporary ownership

have to receive these treasures. Second, virtual weapons cases appear during the game and can be opened if a key is purchased for \$2.50 through the in-game store. Lastly, you can trade or purchase skins through the Steam Community Market, which is essentially a video game Walmart containing virtual supplies and trinkets.<sup>20</sup> In order to make purchases, real money must be deposited into an account called the Steam Wallet. Valve takes a 15 percent cut of all game-related purchases conducted with Steam Wallet Funds.<sup>21</sup> The hitch with the system, however, is that Valve does not directly allow money to be withdrawn from the Steam Wallet because it could qualify as a “banking institution” and would be subject to stringent regulations.<sup>22</sup> Despite these cash distribution restrictions, Valve’s application program interface (API), Steamworks, allows third parties to link up with players’ accounts, enabling skins to be traded for monetary compensation.<sup>23</sup> This is as if a seller wants to sell a watch to another person but cannot tell the buyer their location. Valve’s API is like providing directions to the buyer so that it is possible to reach the seller and purchase the watch. These outside sites provide an avenue for players to exchange their valuable skins for actual cash, further adding to the appeal of acquiring skins.

“Like a casino chip, a CS:GO skin can be traded between the player and the house. That basic functionality allows skins to serve as a de facto currency that can power basically any type of gambling product you can imagine.”<sup>24</sup> In 2015, this gave rise to third-party websites that began offering non-skill gambling games such as jackpots, coin flips, blackjack, roulette, and raffles,<sup>25</sup> all of which are largely unregulated. Surprisingly, while esports was estimated to have cash wagers of \$550 million in 2016, \$7.4 billion “worth of skins would be wagered worldwide by players across all skin gambling products in 2016.”<sup>26</sup> Until now, this technology has managed to continue at a pace that law has struggled to keep up with.<sup>27</sup> The question of how to regulate this unconventional phenomenon is yet to be definitively decided, but the sheer volume of yearly sales may force legislatures to take notice and action.

### III. REACHING A FEVER PITCH

Controversies have plagued skin gambling and drawn unwanted attention, causing Valve to act to ward off possible liability. While some parties refuse to recognize the value of skins, scandals involving cheating and theft have proven their undeniable worth.<sup>28</sup> At DreamHack 2014, professional players

of CS:GO items that are not in their inventory (Weapon skins, knives, etc.); (2) “Providing a falsified competitive skill group and/or profile rank status or scoreboard coin (e.g., Operation Challenge Coins);” (3) “Interfering with systems that allow players to correctly access their own CS:GO inventories, items, or profile.” *Game Server Operation Guidelines*, COUNTER-STRIKE.NET BLOG, [http://blog.counter-strike.net/index.php/server\\_guidelines/](http://blog.counter-strike.net/index.php/server_guidelines/) (last visited Mar. 26, 2017). Valve initially also made a statement making it unacceptable to provide custom models and/or weapon skins not existing in the CS:GO ecosystem to other players. *Id.* However, a Valve employee later clarified the meaning of this last statement, stating that “[i]nnovation is awesome and almost every mod we see is fine. Our only concern, as the community correctly understands, is with mods that specifically misrepresent a player’s skill group/rank or the items they own.” Ben Barrett, *Valve Clarify That Custom CS:GO Weapon Skins and Spoofing Banned Only if They Misrepresent Your Status*, PC GAMES N, <https://www.pcgamesn.com/counter-strike-global-offensive/custom-csgo-weapon-skins-and-spoofing-banned-on-all-community-servers-by-valve> (last updated Jan. 29, 2016). Valve is concerned more with misrepresentation of inventory and status, also referred to as “spoofing,” rather than good faith utilization of custom skins. This is attributable to Valve’s intricate system for valuing skins, which makes it almost impossible for a custom skin to pose a threat. Skins do not gain their value solely by what they look like, but rather are graded on the following factors: rarity, wear quality, aesthetics, pattern orientation, whether a gun is StatTrack, novelty, and nostalgia. Emily Richardson, *How Counter-Strike: Global Offensive’s Economy Works*, ROCK PAPER SHOTGUN (Aug. 14, 2015), <https://www.rockpapershotgun.com/2015/08/14/csgo-skin-economy-explained/>. Much like used car sales, identical skins can be valued differently depending on how they are rated under each factor, contributing to “an economy that fluctuates as different players value different qualities within a single item.” *Id.* Custom skins are not weighed under these factors, making them incomparable to authentic skins and largely worthless.

<sup>20</sup>Samit Sarkar, *How Do Counter-Strike: Global Offensive Skins Work?*, POLYGON (Jul. 11, 2016), <http://www.polygon.com/2016/7/11/12129136/counter-strike-global-offensive-cs-go-skins-explainer>.

<sup>21</sup>*Id.*

<sup>22</sup>*Id.* Valve has a maximum limit of \$2,000 on Steam Wallet Funds and a \$1,000 maximum sales price per item. *Community Market FAQ*, STEAM, [https://support.steampowered.com/kb\\_article.php?ref=6088-UDXM-7214#restrictions](https://support.steampowered.com/kb_article.php?ref=6088-UDXM-7214#restrictions) (last visited Jun. 26, 2017).

<sup>23</sup>*Id.*

<sup>24</sup>Grove, *supra* note 15.

<sup>25</sup>*Id.*

<sup>26</sup>*Id.*

<sup>27</sup>Vivek Wadhwa, *Laws and Ethics Can’t Keep Pace with Technology*, MIT TECH. REV. (Apr. 15, 2014), <https://www.technologyreview.com/s/526401/laws-and-ethics-cant-keep-pace-with-technology/> (Wadhwa explains that “regulatory gaps exist because laws have not kept up with advances in technology. The gaps are getting wider as technology advances ever more rapidly. And it’s not just in employment and lending—the same is happening in every domain that technology touches.”).

<sup>28</sup>Virtual items have been the center of other scandals due to their significant worth. Recently, four 24-year-old co-conspirators created a program that allowed them to steal up to 67 million FIFA coins per hour, leading to a bounty of coins, which they sold for \$16 million. Will Green, *Man Convicted of Wire Fraud, Bilking EA of \$16 Million Worth of FIFA Coins*, ESPORTS BETTING REPORT (Nov. 17, 2016), <https://www.esportsbettingreport.com/fifa-coins-trading-fraud-conviction/>. All four men were convicted based on conspiracy to commit wire fraud. *Fourth Defendant Convicted in Scheme That Defrauded Software Company of More Than \$16*

exploited known glitches in the game maps in an attempt to cheat their way to the finals.<sup>29</sup> Later in that year, one of America's top CS:GO teams, iBUY-POWER, bet extensively against themselves and threw their competition match so that colossal CS skin bets could be won.<sup>30</sup> Ultimately, their bizarre behavior and a series of text messages outed their skin gambling scandal,<sup>31</sup> and seven pro Counter-Strike players were banned.<sup>32</sup> Demonstrably, this shows the great worth of these virtual assets.

In addition to match throwing, dishonest marketing and nondisclosure by third-party sites has brought further negative attention. First, a former professional player, Mohamed "m0E" Assad was sponsored by gambling page CSGO Diamonds and streamed himself playing on the site.<sup>33</sup> After a falling out, Assad revealed that the website had provided him with the outcome of the games in advance so that "he could fix the results and 'create entertainment' on his stream."<sup>34</sup> Similarly, in 2016 two prominent gamers created YouTube videos and streams promoting a CS:GO skins lottery.<sup>35</sup> The issue was that they had promoted the gambling site to an audience of 10 million without ever disclosing

that they were the owners.<sup>36</sup> Shortly thereafter, other big name streamers and esports owners were dragged into the scandal by also having undisclosed stakes in these questionable sites.<sup>37</sup>

The result of this series of deceptive behavior are two class action lawsuits.<sup>38</sup> The first was brought against TmarTn and ProSyndicate, the CSGO Lotto, and Valve by a mother claiming that her minor son gambled and lost significant amounts of money.<sup>39</sup> The second, exclusively against Valve, was brought by an ex-gambler claiming that Valve enabled the illegal gambling market to exist and rapidly flourish.<sup>40</sup> Plaintiffs in both suits faced dismissals and difficulty trying to push forward their cases; however, they have refiled in different jurisdictions and are still pending.<sup>41</sup> In response to these lawsuits, Valve issued cease and desist letters to 23 sites that they believed were violating their terms of service to facilitate skin gambling, but they were only marginally successful.<sup>42</sup> Half of the sites contacted continue to operate while additional low profile, offshore sites that are hard to track are popping up, creating a new "underground economy."<sup>43</sup> On October 5, 2016, the Washington State Gambling Commission ordered

Million Worth of Virtual Currency, DEPARTMENT OF JUSTICE (Nov. 16, 2016), <https://www.justice.gov/usao-ndtx/pr/fourth-defendant-convicted-scheme-defrauded-software-company-more-16-million-worth>. See USA v. Clark, et al., 4:16-CR-205-O (N.D. Tex. Nov. 13, 2016) (explaining how the men managed to violate the Wire Act by fraudulently obtaining FIFA coins).

<sup>29</sup>Nathan Grayson, *Cheating Fiasco Leads to Incredible Counter-Strike Final Match*, KOTAKU (Dec. 1, 2014, 5:16 PM), <http://www.kotaku.co.uk/2014/12/01/cheating-fiasco-leads-incredible-counter-strike-final-match>.

<sup>30</sup>Richard Lewis, *New Evidence Points to Match-Fixing at Highest Level of American Counter-Strike*, DOT ESPORTS (Jan. 16, 2015, 4:03 PM), <https://dotesports.com/counter-strike/match-fixing-counter-strike-ibuy-power-netcode-guides-1256> (iBUY-POWER was matched in what was considered an easy round, but the team ended up beating them 16-4. The game was categorized as "lackadaisical play and strange behavior on iBUYPOWER's part: going for knife kills in strange situations, laughing as they lost.").

<sup>31</sup>*Id.*

<sup>32</sup>Grayson, *supra* note 29.

<sup>33</sup>Callum Leslie, *The CS:GO Gambling Scandal: Everything You Need to Know*, DOT ESPORTS (Jul. 26, 2016), <https://dotesports.com/counter-strike/csgo-gambling-scandal-explained-3545>.

<sup>34</sup>*Id.* (m0E was provided with skins, or "house money" which was never disclosed to viewers. Essentially, most streamers working for these sites were never winning or losing their own money).

<sup>35</sup>Brian Crecente, *CSGO Lotto and Owners Sued Over "Illegal Gambling" Allegations*, POLYGON (Jul. 7, 2016), <http://www.polygon.com/2016/7/7/12116902/csgo-lotto-and-owners-sued-over-illegal-gambling-allegations> (Trevor "Tmartin" Martin and Thomas Cassell were added to one of two separate complaints that were filed against Valve Corporation. The suit was filed by an "anonymous parent on behalf of the child." Valve is accused of deliberately allowing the creation of a market where players and third-parties trade weapon skins like casino chips.").

<sup>36</sup>Leslie, *supra* note 33.

<sup>37</sup>*Id.* (James "PhantomL0rd" Varga failed to disclose that he owned CSGO Shuffle and asked for outcomes prior to them happening. Additionally, the owners of top esports team FaZe Clan, Nordan "Rain" Shat, and Richard "Banks" Gengtson, were also outed for not disclosing an ownership stake in GSGO Wild.).

<sup>38</sup>*Id.*

<sup>39</sup>*Id.*

<sup>40</sup>*Id.*; see *McLeod v. Valve Corp.*, 2016 U.S. Dist. LEXIS 137836 (W.D. Wash. Oct. 4, 2016).

<sup>41</sup>*McLeod v. Valve Corp.*, 2016 U.S. Dist. LEXIS 137836 (W.D. Wash. Oct. 4, 2016); Kirk McKeand, *Lawyer Suing TmarTn and Valve Speaks out about the Case: "We Feel Good about It,"* PC GAMES N (last modified Jan. 3, 2017), <https://www.pcgamesn.com/counter-strike-global-offensive/csgo-tmartn-csgolotto-lawsuit-2017> (Both cases relied on Racketeer Influence and Corrupt Organizations Act violations, but they did not fit under the legislation, resulting in a dismissal and one of the cases being kicked out of federal court. The first case was refiled in Florida state courts where CSGO Lotto was incorporated and a new filing has been filed in federal courts in Seattle in regards to the second issue.).

<sup>42</sup>Sam Machkovech, *Valve Lawyers Send Cease-and-Desist Letters to Counter-Strike Gambling Sites*, ARS TECHNICA (Jul. 20, 2016), <https://arstechnica.com/gaming/2016/07/valve-lawyers-send-cess-and-desist-letters-to-counter-strike-gambling-sites/> (Valve's cease and desist letters placed a 10-day time frame to discontinue use of their Steamworks API for commercial purposes.), Shaun Assael, *Skin in the Game*, ESPN (Jan. 20, 2017), [http://www.espn.com/espn/feature/story/\\_/id/18510975/how-counter-strike-turned-teenager-compulsive-gambler](http://www.espn.com/espn/feature/story/_/id/18510975/how-counter-strike-turned-teenager-compulsive-gambler).

<sup>43</sup>Maddy Myers, *Inside the Unregulated and Scam-Filled World of Video Game Betting*, KOTAKU (May 16, 2017), <http://compete.kotaku.com/inside-the-unregulated-and-scam-filled-world-of-video-g-1793306259> (explaining that new off-shore gambling sites are keeping a low profile, making skin gambling more of an underground economy that is difficult to track).

Valve to “immediately stop allowing the transfer of virtual weapons known as ‘skins’ for gambling activities through the company’s Steam Platform” by October 14, 2016 or otherwise face criminal charges and legal repercussions.<sup>44</sup> Valve responded to the request but refused to comply, stating that they are not affiliated with the illegal gambling sites, did not violate state law, and that the majority of the Steamworks API uses are for “legal and acceptable practices” and should not be shut down because of the actions of the minority.<sup>45</sup> As this all reaches a fever pitch, legal experts opine that the pending cases are unlikely to survive a motion to dismiss, but they feel that there could be other legal arguments that may pose a potential threat to future skin gambling operations.<sup>46</sup>

The lucrateness of skin gambling may be the answer to capturing millennial funds, creating a gold rush of sorts, but the waters are largely uncharted. While everything is still a bit of a guessing game, it is necessary to evaluate current legal precedence to understand potential ramifications and to avoid obvious pitfalls.

#### IV. WHAT IS LEGAL?

The size and nature of skin gambling makes it a very attractive prospect for the commercial gaming industry, but, like most issues involving gambling, “skin gambling or skin betting exists in a legal gray area.”<sup>47</sup> Laws and regulations have struggled to keep up with the explosively quick expansion of skin betting, resulting in a climate where it is anyone’s guess as to what the ultimate legal framework

for this style of “gambling” will be. Despite the many unknowns, at least four federal statutes should be consulted when assessing this new form of online betting: the Illegal Gambling Business Act (IGBA), the Unlawful Internet Gambling Enforcement Act (UIGEA), the Wire Act,<sup>48</sup> and the Professional and Amateur Sports Protection Act (PASPA). Additionally, recent case law may shed light on whether virtual goods should be treated like casino chips, having intrinsic monetary value.

#### A. The Illegal Gambling Business Act

The Illegal Gambling Business Act<sup>49</sup> has increasingly been applied to online gambling sites offering poker and casino games, but it may be ineffective until skins betting is considered an official form of gambling. The IGBA originally started as component of the 1970 Organized Crime Control Act,<sup>50</sup> but it is now one of the primary governing laws for Internet gambling.<sup>51</sup> The act is not Internet specific, “but does make it unlawful for a person to take part in an illegal gambling business.”<sup>52</sup> One of the potentially hairy parts of this statute is that it is a general intent crime, meaning that the person does not even have to know that they are engaging in illegal activity; “he only need[s] to know that he performed the acts which turn out to be illegal.”<sup>53</sup> This could be problematic if the government decides that skins betting on esports or on casino-type games is actual gambling. If the site owners are operating within a state that prohibits online gambling, the unknowing violators could be in violation of the IGBA. As of now, this scenario is a remote possibility due to the debate about labeling skins betting as actual

<sup>44</sup>Press Release, Washington State Gambling Commission, Valve Corporation Told to Stop Facilitating Gambling (Oct. 5, 2016).

<sup>45</sup>Letter from Liam Lavery, Legal Counsel, Valve, to David E. Trujillo, Director, Washington State Gambling Commission (Oct. 17, 2016) (on file with the Washington State Gambling Commission).

<sup>46</sup>Matt Sayer, *The CS:GO Gambling Lawsuit against Valve Is Fundamentally Flawed*, PC GAMER (Jul. 8, 2016), <http://www.pcgamer.com/why-the-cs-go-gambling-lawsuit-against-valve-is-fundamentally-flawed/> (Attorneys Bryce Blum, Ryan Morrison, and Jeff Ifrah evaluated the lawsuit and found that the arguments held little weight.); See *McLeod v. Valve Corp.*, 2016 U.S. Dist. LEXIS 137836 (W.D. Wash. Oct. 4, 2016).

<sup>47</sup>Grove, *supra* note 15.

<sup>48</sup>*Id.*

<sup>49</sup>18 U.S.C. § 1955 (2014).

<sup>50</sup>*Online Gambling*, WASHINGTON STATE GAMBLING COMMISSION (Jul. 2015), <http://www.wsgc.wa.gov/publications/brochures/5-165-internet-gambling-brochure.pdf>.

<sup>51</sup>Linda J. Shorey, *IGBA: Legal Basis for New Online Gambling Activities*, K&L GATES (Oct. 2009), [http://www.klgates.com/files/Publication/050103ba-4577-4f71-8400-367e1072c27f/Presentation/PublicationAttachment/6a8de7d5-e259-4547-8d97-477d2792e109/IGBA\\_Legal\\_Basis\\_For\\_New\\_Online\\_Gambling\\_Activities.pdf](http://www.klgates.com/files/Publication/050103ba-4577-4f71-8400-367e1072c27f/Presentation/PublicationAttachment/6a8de7d5-e259-4547-8d97-477d2792e109/IGBA_Legal_Basis_For_New_Online_Gambling_Activities.pdf) (stating that the U.S. government did not use the Wire Act for Internet gambling issues in 2009. “The primary replacement appears to be the Illegal Gambling Business Act (IGBA), 18 U.S.C. § 1955 . . .”).

<sup>52</sup>Grove, *supra* note 15.

<sup>53</sup>Marc W. Dunbar, *Internet Gaming and the Illegal Gambling Business Act*, GULF STATES GAMING LAW (Dec. 18, 2015), <http://www.gulfstatesgaminglaw.com/2015/12/internet-gaming-and-the-illegal-gambling-business-act/>. See *United States v. Cyprian*, 23 F.3d 1189, 1199 n.14 (7th Cir. 1994), *United States v. Ables*, 167 F.3d 1021, 1031 (6th Cir. Ky. Feb. 12, 1999) (holding that the government does not have to prove that a defendant violated a state law knowingly to prove that they conducted an illegal gambling business that violated 18 U.S.C. § 1955).

gambling.<sup>54</sup> Until this happens, the IGBA may be used more as a government scare tactic<sup>55</sup> instead of governing law over skin gambling. Despite the current situation, eager entrepreneurs looking to break into the skins market need to pay close attention to new legal developments because even “‘advice of counsel’ will not provide them with a safe harbor defense under the IGBA”<sup>56</sup> if the government reclassifies skin gambling.

## B. The Unlawful Internet Gambling Enforcement Act of 2006

The Unlawful Internet Gambling Enforcement Act of 2006<sup>57</sup> specifically addresses Internet gambling, but its dependence on state law and a “narrowly defined list of valuable instruments” provide potential loopholes for skin gambling.<sup>58</sup> The UIGEA carries criminal and civil penalties<sup>59</sup> when a business accepts a payment over the Internet for a bet that is unlawful under state law.<sup>60</sup> “The statute’s reliance on state law means an online gambling website can operate in a state that has legalized online gambling so long as the site limits users to that particular state.”<sup>61</sup> As of now, there are very few states that allow online gambling, but this still presents opportunity to escape regulation. The largest caveat of the UIGEA is that it prohibits a narrow list of transferred payment types inclusive of credit, proceeds of credit, electronic fund transfers, drafts or check, or other transactions involving a financial institution.<sup>62</sup> This arguably leaves a gaping loophole for virtual goods and cryptocurrencies such as bitcoin.<sup>63</sup> While it seems obvious that skins have great value, as of now, courts

have concluded that virtual goods do not have real world value and cannot constitute gambling.<sup>64</sup> If the value of virtual goods continues to be unrecognized, UIGEA’s narrowly tailored language would render it inapplicable to skin gambling, and, even if it was recognized as having monetary value, there may still be an issue of whether skins fall under one of the valuable instruments in the Act.

## C. The Wire Act

The Wire Act<sup>65</sup> may seem to be the strongest opposition against skin gambling because it is the “main statute that criminalizes online betting,” but it does not extend far enough to fully address the different types of wagering utilizing skins.<sup>66</sup> This act makes it a criminal offense to place, or to assist with placing, a bet or wager itself through wire communication.<sup>67</sup> The hitch is that it applies to sporting events and contests but not to non-sports gambling.<sup>68</sup> Unlike the UIGEA or IGBA, the Wire Act does not require a state violation to apply; rather, the Wire Act can be violated simply through transmitting wagers on a sporting event.<sup>69</sup> While \$2.3 billion worth of skins were wagered on esports matches in 2015 and the numbers were estimated to reach \$7.4 billion in 2016,<sup>70</sup> competitive video gaming has not formally been recognized as a sport. If it were classified as a sport, there could be a significant effect on the market, but, currently, there is no state “whether it is Nevada or otherwise—that has a statute on the books that would capture e-sports. It [is] just too new.”<sup>71</sup> Without formal recognition, the Wire Act would be futile for this style of betting. Additionally, a large portion

<sup>54</sup>There is much debate about whether skins betting is actual gambling because courts have denied the worth of virtual goods, making skins an invaluable item not capable of being illegally bet.

<sup>55</sup>Shorey, *supra* note 51 (discussing how the Southern District of New York has used the IGBA to place pressure on online gambling sites despite there being governing state law to back of some of their claims).

<sup>56</sup>Dunbar, *supra* note 53. See U.S. v. Cross, 113 F. Supp. 2d 1253 (S.D. Ind. 2000).

<sup>57</sup>31 U.S.C. § 5363.

<sup>58</sup>Myers, *supra* note 43.

<sup>59</sup>*Id.*; see 31 U.S.C. § 5363.

<sup>60</sup>Grove, *supra* note 15; see 31 U.S.C. § 5363.

<sup>61</sup>Grove, *supra* note 15.

<sup>62</sup>Myers, *supra* note 43. See 31 U.S.C. § 5363.

<sup>63</sup>Myers, *supra* note 43.

<sup>64</sup>Mason v. Mach. Zone, Inc., 851 F.3d 315, 319–20 (4th Cir. Mar. 17, 2017) (The player of a mobile video game sustained losses after betting virtual gold and chips in an in-game casino, leading to a suit to recoup the funds expended to purchase the virtual currency. The court ultimately found that the plaintiff did not sustain any losses because the term “money” did not include virtual currencies.)

<sup>65</sup>18 U.S.C. § 1084.

<sup>66</sup>Myers, *supra* note 43.

<sup>67</sup>*Id.*

<sup>68</sup>18 U.S.C. § 1084 (The Wire Act provides a safe harbor for interstate transmission of wagers if the form of gambling being utilized is legal in both states.); Grove, *supra* note 15.

<sup>69</sup>*Id.*

<sup>70</sup>Barbara Mantel, *Betting on Sports: Should It Be Legal Nationwide?*, CQ RESEARCH (Oct. 28, 2016), <http://library.cqpress.com/cqresearcher/document.php?id=cqresrre2016102800>.

<sup>71</sup>*Id.* (quoting Ryan Rodenberg, a sports law professor at Florida State University).

of the skins market is bet on casino type games such as coin flips, dice rolls, and virtual slot machines, all of which also fall outside of the reach of the statute. Thus, the Wire Act is unlikely to have a prominent effect on skin gambling in the near future.

## D. The Professional and Amateur Sports Protection Act of 1992

The language of the Professional and Amateur Sports Protection Act of 1992,<sup>72</sup> coupled with the lack of definitive labeling and guidance on esports, may place professional gaming and, consequently, skin gambling outside of the reach of this legislation. However, tensions are mounting and opponents of PASPA are calling for a repeal which, if happens, will have a profound effect on the expansion of sports betting and on how esports is defined. PASPA was enacted to “stop the spread of sports betting in the United States.”<sup>73</sup> It restricts all but a small handful of states from legalizing sports betting, driving much of this style of gambling underground.<sup>74</sup> Narrow exceptions allow full sports betting privileges to

Nevada and what has been likened to minor “parlay bets” to Oregon, Delaware, and Montana.<sup>75</sup> In 2013, New Jersey challenged PASPA’s permanent restrictions by enacting the New Jersey’s Sports Wagering Law<sup>76</sup> that allowed “Nevada-style sports betting,” but it was struck down.<sup>77</sup> In 2014, New Jersey “went back to the drawing board” and enacted another bill that met similar opposition, but the case worked its way up to the U.S. Supreme Court.<sup>78</sup> On June 27, 2017, *Christie, Gov. Of NJ v. NCAA* and *NJ Thoroughbred Horsemen v. NCAA* were consolidated<sup>79</sup> and granted the privilege of presenting oral arguments before the high Court during the October 2017 term.<sup>80</sup>

While it is still up in the air as to whether PASPA will be ruled unconstitutional, the persistence of New Jersey, coupled with opposition from high profile figures, and the Supreme Courts’ willingness to hear the case, may ultimately lead to the repeal or revision of this controversial legislation.<sup>81</sup> If PASPA goes away, “[t]he floodgates would open for both sports betting and esports betting, without the federal

<sup>72</sup>See 28 U.S.C. § 3702.

<sup>73</sup>*Professional and Amateur Sports Protection Act—PASPA*, ONLINE GAMBLING SITES, <http://www.onlinegamblingsites.com/law/paspa/> (last visited Apr. 18, 2017) (PASPA was not solely enacted to stop sports betting. The legalization of casinos in South Dakota, Colorado, Illinois, Iowa, Mississippi, Missouri, and Louisiana within a three-year period also led to this legislation, demonstrating that it was not merely about sports but, rather, a response to the general legalization and expansion of gambling through the country.). *Id.*

<sup>74</sup>Eric Meer, *The Professional and Amateur Sports Protection Act (PASPA): A Bad Bet for the States*, 2 UNLV GAMING L.J. 281 (2011).

<sup>75</sup>*Professional and Amateur Sports Protection Act—PASPA*, ONLINE GAMBLING SITES, <http://www.onlinegamblingsites.com/law/paspa/> (last visited Apr. 18, 2017) (There are three key admissibility elements to PASPA: it stops new states from regulating sports betting; it exempts states that had existing sports gambling laws in place at the time the legislation was passed; and it contains a clause that permitted states that had commercial gambling for 10 years to “legalize sports betting during the first year that PASPA was in effect. New Jersey was the only state to meet the 10-year exception but failed to enact timely legislation, removing its opportunity to regulate sports betting.). *Id.* See also Steve Ruddock, *Wanna Bet?*, GLOBAL GAMING BUSINESS MAGAZINE (Jul. 26, 2016), <https://ggbmagazine.com/article/wanna-bet/>.

<sup>76</sup>*Professional and Amateur Sports Protection Act—PASPA*, ONLINE GAMBLING SITES, <http://www.onlinegamblingsites.com/law/paspa/> (last visited Apr. 18, 2017) (The NFL, NHL, NBA, MLB, and NCAA immediately sued to block this bill and were successful in the district court. The lower court’s decision was affirmed by the Third Circuit Court of Appeals. New Jersey appealed, but the U.S. Supreme Court refused to hear the case.). See 28 U.S.C. § 3704. See N.J. STAT. ANN. §5:12A-1.

<sup>77</sup>*Court Enjoins New Jersey Sports Gambling Law NCAA v. Christie*, 25(2) WJENT 1 (2013) (explaining that the District Court determined that PASPA is constitutional and granted a permanent injunction to stop New Jersey from legalizing sports betting); See generally Anthony G. Galasso, Jr., *Note: Betting Against the House (and Senate): The Case for Legal, State-Sponsored Sports Wagering in a Post-PASPA World*, 99 KY. L.J. 163 (2011); See *Professional and Amateur Sports Protection Act—PASPA*, ONLINE GAMBLING SITES, <http://www.onlinegamblingsites.com/law/paspa/> (last visited Apr. 18, 2017). See also Na-

tional Collegiate Athletic Association et al. v. Christie et al., No. 12-4947, 2013 WL 772679 (N.J. Feb. 28, 2013).

<sup>78</sup>*Professional and Amateur Sports Protection Act—PASPA*, ONLINE GAMBLING SITES, <http://www.onlinegamblingsites.com/law/paspa/> (last visited Apr. 18, 2017) (The second bill passed in June 2014, but the district court shot it down, once again. The Third Circuit Court of Appeals affirmed this decision. New Jersey appealed asking for an en banc decision, which was granted. In the summer of 2016, the state lost. The case has since been appealed to the U.S. Supreme Court. In January 2017, the U.S. Supreme Court “asked the Solicitor General to provide a brief, thus keeping the case alive.). On June 27, 2017, the Supreme Court agreed to hear arguments on whether or not to legalize sports betting in New Jersey. Brent Johnson and Jonathan D. Salant, *U.S. Supreme Court Agrees to Hear N.J. Sports Betting Case*, NJ.COM (Jun. 28, 2017), <http://www.nj.com/politics/index.ssf/2017/06/supreme-court-agrees-to-hear-nj-sports-betting-case.html>; Christie v. NCAA, 2017 U.S. LEXIS 702 (U.S. Jan. 17, 2017); N.J. Thoroughbred Horsemen’s Ass’n v. NCAA, 2017 U.S. LEXIS 705 (U.S. Jan. 17, 2017).

<sup>79</sup>N.J. Thoroughbred Horsemen’s Ass’n v. NCAA, 2017 U.S. LEXIS 4274 (U.S. Jun. 27, 2017).

<sup>80</sup>*Supreme Court of the United States Granted & Noted List Cases for Argument in October Term 2017*, SUPREME COURT OF THE UNITED STATES (Jun. 27, 2017), <https://www.supremecourt.gov/orders/17grantednotedlist.pdf>; See *NCAA v. Governor of N.J.*, 832 F.3d 389 (3d Cir. Aug. 9, 2016). Because the Supreme Court hears less than two percent, 80 out of 7,000–8,000 cases, yearly, their willingness to hear oral argument is a substantial threat to the existence of PASPA. *Frequently Asked Questions*, SUPREME COURT OF THE UNITED STATES, <https://www.supremecourt.gov/faq.aspx#faqg19> (last visited Jun. 30, 2017).

<sup>81</sup>*Professional and Amateur Sports Protection Act—PASPA*, ONLINE GAMBLING SITES, <http://www.onlinegamblingsites.com/law/paspa/> (last visited Apr. 18, 2017) (High profile figures such as NBA Commissioner Adam Silver are supportive of the movement to legalize sports betting.; MLB Commissioner Rob Manfred is supportive of fantasy sports based on his stance that it is “not gambling.” Mark Feinsand, *MLB Commissioner Rob Manfred Defends DraftKings Partnership, Says Fantasy Sports “Not Gambling,”* NY DAILY NEWS (Oct. 26, 2015), <http://www.nydailynews.com/sports/baseball/fantasy-sports-not-gambling-mlb-commissioner-manfred-article-1.2412347>; Johnson and Salant, *supra* note 78.

statutory impediment.”<sup>82</sup> This will allow individual states to create legislation classifying esports as legal sports betting, making it possible to capitalize on the billions of dollars that are being bet on the black market.<sup>83</sup> However, the drawback is that companies facilitating esports betting will be subject to gambling regulations that were previously inapplicable. This aside, the prospect of reaching sources of untapped revenue may outweigh the regulatory obstacles.

PASPA’s sole applicability to sporting events presents the same issue that the Wire Act faces. It “covers competition involving professional and amateur athletes,” but the video games used in esports “do not make the events athletic competitions.”<sup>84</sup> When compared to athletes in games such as football and basketball, there is reluctance to place gamers in the same category.<sup>85</sup> However, this could change soon as esports grow and the players gain recognition. New developments, such as colleges offering scholarships to esports gamers, Nevada legislation allowing betting on not just sporting events but also “other events,”<sup>86</sup> and the U.S. Department of Homeland Security issuing “professional athlete” visas to esports players, may support an argument that PASPA does apply.<sup>87</sup> Despite this likely possibility, PASPA currently “only comes into play if it is sports betting that is government operated, licensed, or authorized by law, as it is in Nevada.”<sup>88</sup> Esports has not been formerly recognized by the federal government as a sport; thus, it is out of the reach of this regulation for now. Consequentially, skins will also remain

out of reach until esports is defined in a different manner.

## E. The virtual goods debate

The classification of skins betting as gambling hinges on one major question: Do virtual goods have value? There have been no cases that have applied this question to skins, but there are a few cases that were brought against the social gaming industry that may be insightful.<sup>89</sup> *Mason v. Machine Zone*,<sup>90</sup> *Soto v. Sky Union*,<sup>91</sup> *Kater v. Churchill Downs Incorporated*,<sup>92</sup> and *Phillips v. Double Down Interactive*<sup>93</sup> all involve consumers that sued social gaming companies “alleging the virtual coins and prizes won on the social gaming sites had real money value and that the operators were therefore guilty of violating state and federal laws prohibiting online gambling.”<sup>94</sup> The plaintiffs each played casino games on their mobile devices using virtual chips that they often purchased. In each of these cases, the courts concluded that the money that the players paid was for access to the actual game and not a wager on games of chance.<sup>95</sup> Further, the virtual casinos that were part of the social games “were not illegal gambling because the players were not wagering or winning real world money.”<sup>96</sup> Simply put, the courts found that the prizes and tokens in the games did not have any tangible worth, leading to the conclusion that “virtual gaming operators with virtual prizes are legal.”<sup>97</sup> Although this specific case law and the aforementioned statutes have not been applied to skin gambling, it is

<sup>82</sup>Myers, *supra* note 43.

<sup>83</sup>Ruddock, *supra* note 75 (estimating that \$80 billion to \$380 billion is illegally wagered in the U.S.).

<sup>84</sup>Sara Friedman, *Beyond Nevada, E-Sports May Challenge PASPA Rules*, GAMBLING COMPLIANCE (Oct. 19, 2016), <http://www.hinckleyallen.com/wp-content/uploads/2016/10/Beyond-Nevada-E-Sports-May-Challenge-PASPA-Rules-1.pdf>.

<sup>85</sup>Paul Tassi, *ESPN Boss Declares eSports “Not a Sport,”* FORBES (Sep. 7, 2014), <https://www.forbes.com/sites/insertcoin/2014/09/07/espn-boss-declares-esports-not-a-sport/#5dc1ec7d5f80> (ESPN president John Skipper considers esports to be a competition and not a sport).

<sup>86</sup>S.B. 240, 79 Leg., Reg. Sess. (Nev. 2017) (On May 27, 2017, Nevada enacted a bill that revised their gambling provisions, allowing “sporting events or other events” to be added to the “off-track pari-mutuel system.” Although esports is not specifically listed in the bill, “other events” encompasses esports); Leonard Post-rado, *Nevada Governor Gives Esports Betting Bill the Thumbs Up*, CALVIN AYRE (May 30, 2017), <https://calvinayre.com/2017/05/30/business/nevada-governor-gives-esports-betting-bill-thumbs/> (elaborating on how Senate Bill 240 formalizes esports wagering under state law).

<sup>87</sup>Id. (The University of California, Irvine has a scholarship program and an arena for eSports players. Many other universities have followed its lead.) *Id.*

<sup>88</sup>Id. (quoting Mark Hichar from Hinckley Allen in Providence, Rhode Island).

<sup>89</sup>*Mason v. Mach. Zone, Inc., Mason v. Mach. Zone, Inc.*, 851 F.3d 315 (4th Cir. Mar. 17, 2017); *Mason v. Mach. Zone, Inc.*, 140 F. Supp. 3d 457 (D. Md. 2015); *Soto v. Sky Union* 159 F. Supp. 3d 871 (N.D. Ill. 2016); *Kater v. Churchill Downs, Inc.*, 2015 U.S. Dist. LEXIS 175049 (W.D. Wash. Nov. 19, 2015); *Phillips v. Double Down Interactive*, 173 F. Supp. 3d 731 (N.D. Ill. 2016).

<sup>90</sup>See *Mason v. Mach. Zone, Inc.*, 140 F. Supp. 3d 457 (D. Md. 2015), *Mason v. Mach. Zone, Inc.*, 2017 *Mason v. Mach. Zone, Inc.*, 851 F.3d 315 (4th Cir. Mar. 17, 2017).

<sup>91</sup>See 159 F. Supp. 3d 871 (N.D. Ill. 2016).

<sup>92</sup>See *Kater v. Churchill Downs, Inc.*, 2015 U.S. Dist. LEXIS 175049 (W.D. Wash. Nov. 19, 2015).

<sup>93</sup>See *Phillips v. Double Down Interactive*, 173 F. Supp. 3d 731 (N.D. Ill. 2016).

<sup>94</sup>Grove, *supra* note 15.

<sup>95</sup>Id.

<sup>96</sup>Id.

<sup>97</sup>Id.; see *Mason v. Mach. Zone, Inc.*, 851 F.3d 315, 319–20 (4th Cir. Mar. 17, 2017); *Mason v. Mach. Zone, Inc.*, 140 F. Supp. 3d 457, 468–69 (D. Md. 2015); *Soto v. Sky Union* 159 F. Supp. 3d 871 880–81 (N.D. Ill. 2016); *Kater v. Churchill Downs, Inc.*, 2015 U.S. Dist. LEXIS 175049 1, 10–11 (W.D. Wash. Nov. 19, 2015).



reasonable to expect that skins will be classified as virtual goods lacking worth, resulting in similar outcomes.

## V. WHAT CONCLUSIONS CAN BE DRAWN?

Skin gambling presents regulation difficulties unlike anything that our legal system has ever experienced. Technological advances are moving so quickly that our sluggish legal system has yet to catch up. The lack of regulation provides the perfect atmosphere for thirsty, tech-savvy entrepreneurs looking to capitalize on the craze, but they must proceed with caution because skin gambling may be the elephant in the room that is too big to ignore. As of now, the UIGEA, IGBA, the Wire Act, and PASPA all fall slightly outside of the range of skins betting, but simple changes could place skins right in the line of fire. Namely, if skins are viewed as more than mere virtual items, this would allow skins betting to be classified

as gambling subject to regulation. Additionally, courts may find it necessary to start reining in this millennial goldmine especially if a social policy concern such as underage gambling through esports and skins betting arises. Fortunately for game developers and programmers, recent cases have taken a consistent position against recognizing any real-world value of virtual goods, providing substantial promise.<sup>98</sup> Additional avenues such as moving operations to states that allow online gambling or overseas to countries where skin gambling is legal are also viable alternatives.<sup>99</sup> “The very high popularity and exponential growth rates for esports betting present a bright long term outlook and it is one of the sectors on the cusp of booming growth.”<sup>100</sup> By following the precedence of online gambling sites that have already encountered legislative opposition, such as online poker and social gaming, skin betting may have a good chance of continuing to evade a gambling classification and developers may strike millennial gold.

<sup>98</sup>State v. Espinoza, F14-2923 (11th Fla. Cir. Ct. July 22, 2016) (charges were dismissed because the courts could not consider bitcoin as money); Mason v. Mach. Zone, Inc., Mason v. Mach. Zone, Inc., 851 F.3d 315 (4th Cir. Mar. 17, 2017); Mason v. Mach. Zone, Inc., 140 F. Supp. 3d 457 (D. Md. 2015).

<sup>99</sup>Overseas locations such as Alderney, the Isle of Man, and France, realizing the potential of esports and skin gambling, have legalized or are in the process of legalizing this new form of betting. A primary option for skin gambling websites would be to “acquire a Gambling license from a favorable destination and strictly

implement the guidelines on age limits for gambling. With the growing number of countries, particularly in Europe who have modified their legislations to include skin gambling, it would be possible for willing entrepreneurs to acquire a license and start their business.” Lionel Iruk, *Legality of CS:GO Skin Gambling*, CALVIN AYRE (Feb. 23, 2017), <https://calvinayre.com/2017/02/23/business/legality-of-csgo-skin-gambling/>.

<sup>100</sup>*Id.*