



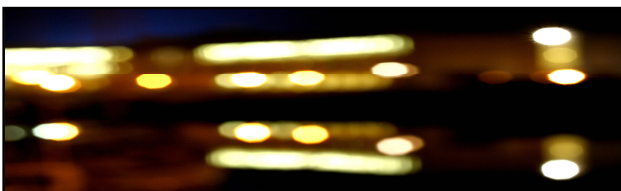
## OsborneClarkepublications

### Doping in eSports

#### *German court dismisses alleged cheater's application for injunctive relief*

With fast internet access in almost every home, playing computer games is no longer a solitary activity. Players from all over the world can connect and match their skills. Tournaments and organized leagues have left the stadium and entered the living room to create a whole new phenomenon, "electronic sports" (or "eSports").

Due to the permanent professionalizing in the field of eSports, cheating in computer games is increasingly developing from a mere nuisance to a complicated technical and legal issue. With high prizes at stake in professional tournaments, cheaters and eSports operators are waging a battle that reminds of the eternal technology race between hackers and antivirus software programmers. While matches are almost always monitored by security software in order to detect patches granting the user an advantage over his opponents, like the ability to see through walls ("wallhack") or aim more precisely ("aimbot"), newly developed exploits necessarily elude these security devices for some time. That is why even eSports cannot make do without the traditional human referee who monitors matches and may detect suspicious game play and disqualify individual players or teams.



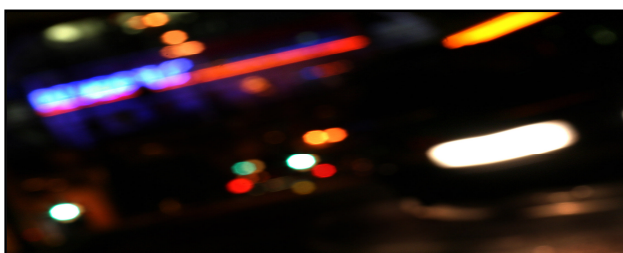
However, referee decisions are frequently contested, and in January 2008, a suspected cheater has taken the matter to court in Cologne, Germany. For the first time, a court had to rule in a cheating matter opposing a Counterstrike player and an eSports league operator. It confirmed the league operator's decision to disqualify the player.

The player had been suspected of cheating for a long time, when in a decisive play-off match in the Electronic Sports League (ESL), Europe's largest eSports league, members of the opposing team detected what they thought were telltale signs of the use of cheating tools and initiated anti-cheating procedures described in detail in the ESL rules by lodging a formal protest. Two very experienced referees working for the ESL then reviewed the match, as always recorded in its integrity, and independently of one another confirmed the suspicion, in spite of the fact that the surveillance software had not detected anything unusual. Based on its strict anti-cheating rules, the ESL therefore canceled the match, suspended the alleged cheater for 2 years and disqualified his team for the current season.

Claiming he had not used illegitimate tools, the concerned player filed for injunctive relief, applying for an injunction to let him participate in the current ESL season. The court refused to grant the relief. In its very succinct decision, the court stresses that, even though the surveillance software had not detected any cheating tools, the ESL had not acted arbitrari-

ly, and goes on to explain that in view of the heavy suspicions confirmed independently by two referees, the league operator's interest in fair play weighed heavier than the player's interest to participate in the league, in particular since the manipulated play-off match was to determine some of the participants of the following season's professional series, which offers prizes of approximately € 170,000.00 per season.

The ruling has sparked considerable media interest in Germany and fueled the ongoing discussion on whether the final decision on the handling of cheating cases in eSports can legally belong to the league operators. The court, at any rate, currently seems to subscribe to this point of view.



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