

THE HONORABLE JAMAL N. WHITEHEAD

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IN RE VALVE ANTITRUST LITIGATION

No. 2:21-cv-00563- JNW

**VALVE CORPORATION'S STATUS  
REPORT RE ORDER (DKT. 66)**

Defendant Valve Corporation (“Valve”) respectfully submits this status report regarding developments related to the Court’s October 25, 2021 Order, which compelled arbitration under the arbitration agreement in a prior Steam Subscriber Agreement (“SSA”) as to individual plaintiffs Sean Colvin, Susann Davis, Daniel Escobar, William Herbert, Ryan Lally, Hope Marchionda and Everett Stephens (“Consumer Plaintiffs”). (Dkt. No. 66.) That Order granted Valve’s motion to compel arbitration as to the Consumer Plaintiffs but held that “any objections with respect to the existence, scope or validity of the arbitration agreement” were reserved for arbitrators. (Dkt. No. 66 at 3.) The Court stayed the Consumer Plaintiffs’ claims pending arbitration. (*Id.* at 5.)

VALVE CORPORATION'S STATUS REPORT RE ORDER (DKT. 66)  
CASE NO. 2:21-cv-00563-JNW – 1

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1 On July 8, 2024, an arbitrator ruled that the arbitration agreement in the prior SSA was  
2 unenforceable and dismissed arbitrations brought against Valve by John Elliott and three other  
3 individuals represented by Bucher Law PLLC (“Bucher Law”).<sup>1</sup> This arbitrator was the first  
4 and only arbitrator to squarely address the overall enforceability of the arbitration agreement in  
5 that SSA. Valve has not challenged those rulings of unenforceability and does not plan to do  
6 so.

7 On August 9, 2024, Bucher Law and Hagens Berman Sobol Shapiro LLP filed a putative  
8 class action in this Court captioned *Elliott v. Valve Corporation*, No. 2:24-cv-01218-JNW,  
9 naming John Elliott and the three other individuals as plaintiffs and proposed class  
10 representatives.<sup>2</sup> The *Elliott* complaint was marked as related to this action, is pending before  
11 this Court, and asserts claims that overlap with the claims the Consumer Plaintiffs asserted in  
12 this action in 2021. *Compare* Complaint ¶¶ 184-252, *Elliott v. Valve Corporation*, No. 2:24-cv-  
13 01218 (W.D. Wash. filed Aug. 9, 2024), *with* Dkt. No. 34 ¶¶ 317-392. The plaintiffs in *Elliott*  
14 allege that they “won binding decisions from arbitrators rendering Valve’s arbitration provision  
15 unenforceable” and assert claims on behalf of a putative nationwide class of persons who  
16 bought games, or made in-game purchases, on Steam. (*Id.* ¶¶ 13, 167.) The *Elliott* putative class  
17 overlaps with the class the Consumer Plaintiffs sought in this case. *Compare* Complaint ¶ 167,  
18 *Elliott v. Valve Corporation*, No. 2:24-cv-01218 (W.D. Wash. filed Aug. 9, 2024), *with* Dkt.  
19 No. 34 ¶ 302.  
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23 <sup>1</sup> Only one of the Consumer Plaintiffs in this case filed an arbitration demand against Valve, but  
24 the American Arbitration Association has not yet assigned that case to an arbitrator.

25 <sup>2</sup> Valve was served with the *Elliott* complaint on August 23, 2024.

1 In light of the arbitrator's rulings that the arbitration agreement in the prior SSA is  
2 unenforceable, on September 26, 2024, Valve updated the SSA to remove the arbitration  
3 agreement and class action waiver. (*See Ex. A.*) The current SSA now provides:

4 All disputes and claims between you and Valve (including any  
5 dispute or claim that arose before the existence of this or any prior  
6 agreement) shall be commenced and maintained exclusively in  
7 any state or federal court located in King County, Washington,  
8 having subject matter jurisdiction. You and Valve hereby consent  
9 to the exclusive jurisdiction of such courts and waive any  
10 objections as to personal jurisdiction or venue in such courts.

11 DATED this 27th day of September 2024.

12 *s/ Blake Marks-Dias*

13 Blake Marks-Dias, WSBA No. 28169

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