

Supreme Court sympathetic to Microsoft in Xbox owners' suit (Update)

March 21 2017, by Jessica Gresko



In this Nov. 22, 2005 file photo, an Xbox 360 is purchased in New York. The Supreme Court suggested Tuesday, March 21, 2017, that it is sympathetic to Microsoft Corp. in a dispute with disgruntled owners of the Xbox 360 video-game system who sued saying the console has a design defect that scratches game discs. (AP Photo/Tina Fineberg, File)

The Supreme Court suggested Tuesday that it is sympathetic to Microsoft Corp. in a dispute with disgruntled owners of the Xbox 360 video-game system who sued saying the console has a design defect that scratches game discs.

The justices heard arguments Tuesday in a case that involves the Xbox 360 owners' attempts to get class action status for their lawsuit, which was filed several years ago in the state of Washington, where Microsoft is headquartered.

Xbox 360 owners were denied class action status in the lawsuit. Several justices seemed sympathetic to Microsoft's argument that the Xbox 360 owners shouldn't be permitted to use a procedural maneuver to force an appeals court to weigh in after the appeals court declined to do so. Justice Ruth Bader Ginsburg told the attorney for the Xbox 360 owners, Peter Stris, that a lot of work had gone in to the rule governing appeals in class action cases and suggested he was making an end run around it.

Microsoft has sold millions of Xbox 360 consoles since they were introduced in 2005. It says only 0.4 percent of owners report disk scratching and that in many cases damage is the result of consumer misuse. The company says consumers were warned both in the instruction manual and on a sticker affixed to the console not to move it while a disc was inside.

When a handful of Xbox 360 owners sued, a federal judge initially said the lawsuit couldn't proceed as a class action, reasoning that the actions of each user were different, and an appeals court declined to hear an appeal. But after the Xbox owners asked the judge to dismiss their case in order to get the appeals court to hear the dispute, the appeals court weighed in. Microsoft says that shouldn't be allowed to happen.

Business groups including the U.S. Chamber of Commerce have urged

the court to side with Microsoft. In briefs to the court they say a ruling for the Xbox 360 owners gives those who file questionable class action lawsuits another chance to pursue class action status if they fail to get it at an early stage of the litigation. Businesses say that would make defending against class action lawsuits more expensive and push businesses to settle claims.

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Citation: Supreme Court sympathetic to Microsoft in Xbox owners' suit (Update) (2017, March 21) retrieved 10 July 2024 from

<https://phys.org/news/2017-03-supreme-court-sympathetic-microsoft-xbox.html>

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