

FILED
FAYETTE COUNTY
J. EDDY SMITH
CLERK

IN THE CIRCUIT COURT OF FAYETTE COUNTY, ALABAMA

2005 DEC 13 PM 3:57

STEVE STRICKLAND, ET AL

PLAINTIFF

VS.

CASE NO. CV 05-019

SONY CORPORATION OF AMERICA,
ET AL

DEFENDANT

ORDER

This matter is before the Court on the motions of Defendants Take-Two Interactive Software, Inc., Rockstar Games, Inc., Sony Computer Entertainment America, Inc., Sony Corporation of America, GameStop, Inc., and Wal-Mart Stores, Inc. to Dismiss the Second Amended Complaint of Plaintiffs and the Court has considered the motions, briefs and arguments of counsel.

The Court must also consider the following: (1) This action is in the preliminary stages and there has been no discovery or development of evidence; (2) Alabama Law provides that courts should be especially reluctant to dismiss a case on the pleadings when the theory of liability is novel and untested; (3) Alabama law provides, on a motion to dismiss, that the Court is required to view the allegations of the complaint most strongly in the pleader's favor if it appears that the pleader could prove any set of circumstances that would entitle relief; and, (4) Alabama law provides, on a motion to dismiss, that the Court must consider facts alleged in the complaint as true. ACCORDINGLY, IT IS ORDERED, ADJUDGED AND DECREED that the motions to dismiss are and they are hereby denied.