

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 OAKLAND DIVISION

4
5 EPIC GAMES, INC.,
6 Plaintiff,
7 Counter-defendant,

8 vs.

Case No. 4:20-cv-05640

9 YGR

10 APPLE INC.,

11 Defendant,
12 Counterclaimant.

13 -----
14 IN RE APPLE IPHONE
15 ANTITRUST LITIGATION

Case No. 4:11-cv-06714

16 YGR
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25 (caption cont'd)

DEFENDANT	United States District Court Northern District of California
	Case No. <u>4:20-cv-05640-YGR</u>
	Case Title <u>Epic Games, Inc. v. Apple, Inc.</u>
	Exhibit No. <u>DX-3029</u>
Date Entered _____	
Susan Y. Soong, Clerk	
By: _____, Deputy Clerk	

1 DONALD R. CAMERON, et al.,

2 Plaintiffs,

3 vs.

Case No. 4:19-cv-03074

YGR

4 APPLE INC.,

5 Defendant.

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10 ZOOM DEPOSITION OF ALEC SHOBIN

11 (Reported Remotely via Video & Web Videoconference)

12 Raleigh, North Carolina (Deponent's location)

13 Friday, January 22, 2021

14 Volume I

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STENOGRAPHICALLY REPORTED BY:

21 REBECCA L. ROMANO, RPR, CSR, CCR

California CSR No. 12546

22 Nevada CCR No. 827

Oregon CSR No. 20-0466

23 Washington CCR No. 3491

24 JOB NO. 4422886

25 PAGES 1 - 259

Page 2

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EXAMINATION

First, would you state and spell your full name, please.

A. Alec Shobin. A-L-E-C, S-H-O-B-I-N.

Q. Who is your current employer, Mr. Shobin?

A. Epic Games. 09:04:16

Q. And what city and state do you live in?

A. Raleigh, North Carolina.

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Q. You began working at Epic Games in

January of 2019?

A. That is correct.

Q. What is your current title there?

A. It should be marketing manager.

09:08:11

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Q. Has that title changed during your time

09:08:16

at Epic?

A. No.

Q. What are your current responsibilities?

A. I do Fortnite marketing.

09:08:29

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Q. Okay. In your participation in Project Liberty, were you aware of any goals to challenge the revenue share of the PlayStation or Xbox platform? 10:24:59

A. I wasn't aware of any kind of stated goals by leadership in those regards. 10:25:21

Q. Were you aware of any goals in Project Liberty to challenge the revenue share of Samsung's Galaxy platform?

A. I was not aware of any goals of Project Liberty that were intended to challenge Samsung. 10:25:45

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24 Q. You were -- you were averse to the risk

25 that as a result of what Epic did in

10:30:56

1 Project Liberty, Fortnite might be removed from the 10:31:01
2 App Store; is that accurate?
3 A. I was -- I was averse to any possible
4 risk that would jeopardize Fortnite's availability
5 on the App Store. 10:31:14

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Q. What do you think you know that Sony charges in commissions? 10:59:51

A. I heard previously it was around 30 percent.

Q. Okay. And you never questioned during any Project Liberty meeting, why are we challenging the Apple 30 percent but not the Sony 30 percent? 11:00:03

A. I don't know if I questioned that during a meeting. I'm sure I brought that up casually with a colleague.

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Q. Okay. And even though you didn't know whether that information was accurate, you were comfortable with the goals of Project Liberty to challenge the 30 percent commission charged by Apple and Google; is that accurate? 11:00:57

A. I'm always in favor of helping developers get better terms. 11:01:13

Q. Well, then, why wouldn't you be in favor of lowering the commission at Microsoft and at Sony?

A. My focus at that time was on mobile, so I was focused on those platforms. 11:01:27

Q. Well, but there were people on Project Liberty whose focus was on Microsoft and Sony, right?

A. Yeah. Some of those people sat in meetings. 11:01:44

Q. And they never raised their hand and said, look, if we're going to make life better for developers, we ought to challenge the Sony and Microsoft commissions? None of them raised that 11:01:53

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issue?

11:01:55

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A. I don't recall if that was raised in a

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meeting.

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20 Q. And in the Project Liberty meetings, no 11:17:40

21 one asked what Samsung charges on the Galaxy store

22 in commission?

23 A. I can't recall that coming up.

24 Q. And in the Project Liberty meetings, no

25 one ever mentioned what Samsung charges for its 11:17:58

1 Galaxy store? 11:18:00

2 A. I don't recall.

3 Q. In the Project Liberty meetings, no one

4 raised their hand and said, hey, while we're going

5 after these platforms, we should go after Samsung 11:18:14

6 too?

7 A. I don't recall.

8 Q. In the Project Liberty meetings, no one

9 raised their hand and said, hey, while we're trying

10 to lower the commission for all developers, maybe 11:18:27

11 we should look into what Samsung charges other

12 developers?

13 A. I don't recall.

14 Q. In the Project Liberty meetings, when

15 you're talking about the fairness or unfairness of 11:18:40

16 the Apple and Google commission, nobody thought to

17 compare that and say, well, what does Samsung

18 charge?

19 A. I don't recall.

20 Q. Is it your understanding the reason that 11:18:56

21 there were no discussions of Samsung was because

22 Mr. Sweeney was not interested in targeting

23 Samsung?

24 A. I don't recall that either.

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We were talking about Project Liberty and the team members. You mentioned there are about 100 and 200 members. To your knowledge -- well, 11:35:51 first, is -- is Project Liberty still a thing at Epic? Is that still a team at Epic?

A. I mean, some of the -- some members from -- that were involved in Project Liberty have meetings. 11:36:21

1 Q. So there are still Project Liberty 11:36:24

2 meetings ongoing?

3 A. Yes, I believe so.

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19 Q. Since August 2020, has the subject of

20 Samsung's commission ever been raised at a 11:37:37

21 Project Liberty meeting?

22 A. I don't recall that subject being raised.

23 Q. Since August 2020, has the subject of

24 Microsoft's commission ever been raised at a

25 Project Liberty meeting? 11:37:54

1 A. I don't recall that subject being raised 11:38:00
2 at a meeting.

3 Q. And is it also correct that you don't
4 recall the subject of Sony's commission ever being
5 raised at a Project Liberty meeting since August 11:38:08
6 2020?

7 A. I don't recall Sony's commission coming
8 up in a Project Liberty meeting since August 2020.

9 Q. Have there been -- we talked about the
10 fact that one goal of Project Liberty was to 11:38:21
11 challenge the 30 percent commission charged by
12 Google and Apple. Since August 2020, have there
13 been additional goals sought by Project Liberty?

14 A. I don't believe any additional goals have
15 been discussed. 11:38:50

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24 Q. (By Mr. Lo) Exhibit 12 is now up, sir,

25 EPIC_00173272. Take a look at that, and I'm going 04:21:55

1 to be asking you about the exchange with Matthew 04:22:02

2 Bengston on the bottom of page 2.

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18 Q. It's an email from Mr. Bengston to you,

19 correct?

20 A. It appears. It's addressed to me. I 04:26:35

21 think there are a number of people on this thread.

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24 Q. On his third point, last sentence on this

25 page, it says "our strategy." And the full 04:26:58

Page 229

1 sentence is: "Our strategy for releasing in iOS 04:27:00
2 first is mostly to disallow Google from having any
3 reasons for rejecting the app when we submit to the
4 Play Store, as it is likely they will know exactly
5 what we are doing here." 04:27:15

6 Do you see that sentence?

7 A. I see that sentence.

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Q. Have you developed an understanding that if something is up on the Apple store, it is less likely to be rejected by Google in its review process?

A. Like reading this, I am not -- I don't think that's necessarily sound logic.

04:29:09

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Q. (By Mr. Lo) Exhibit 13 is -- looks like
to be a PowerPoint presentation, EPIC_00126602. 04:34:53

My first question is actually going to be
do you know who created this document, and if you
don't, then I may not have any other questions for
you.

A. Yeah, it looks familiar.

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Q. This particular deck, was it created by the Epic side or the Apple side or something else? 04:36:05

A. This was created by Epic to update Apple to the latest stuff in Fortnite.

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Q. (By Mr. Lo) Take a look at 14. And while you're doing that, Exhibit 14 is -- the top email is from Andrew Grant to Mr. Shobin, EPIC_00198749.

04:42:09

Q. All right. The earliest email in this chain is by you, and you were looking for information on how quickly players migrate onto a mobile update, correct?

04:44:15

A. Yeah. I wanted to understand how quickly players were getting a new client update.

Q. And the reason you were doing that was you were anticipating that there would be an update with the hot fix inside, yes?

04:44:35

A. Yeah. I believe we were trying to figure out if -- how many people would get the -- the build, I think 13.40.

04:44:58

Q. Right. Because you wanted the -- you wanted to maximize the number of players who had 13.40 before you triggered implementation -- before Epic triggered implementation of the hot fix, correct?

04:45:14

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Q. (By Mr. Lo) You were asking for this information because Epic was trying to maximize the number of users who had updated to 13.4 before Epic implemented direct payments within 13.4? That's why you were asking for this information, correct? 04:45:25

A.

I don't -- I don't know if it is -- if I was looking to -- or if anyone here is necessarily looking to maximize. I think there was an ask just to like better understand how quickly players get a new build so we had some kind of frame of reference. 04:45:58