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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.,
Plaintiff,
Counter-defendant,

vs.

Case No. 4:20-cv-05640
YGR

APPLE INC.,
Defendant,
Counterclaimant.

IN RE APPLE IPHONE
ANTITRUST LITIGATION

Case No. 4:11-cv-06714
YGR

(caption cont'd)

DEFENDANT	United States District Court Northern District of California
	Case No. 4:20-cv-05640-YGR
	Case Title <i>Epic Games, Inc. v. Apple, Inc.</i>
	Exhibit No. DX-3036
	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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11 ****HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER****

12 ZOOM DEPOSITION OF MARK REIN

13 (Reported Remotely via Video & Web Videoconference)

14 Ocala, Florida Deponent's location)

15 Wednesday, February 10, 2021

16 Volume I

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20

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. 4453817

25 PAGES 1 - 161

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Q. When did you join Epic Games, sir? 09:15:46

A. Around early 1992.

Q. And you've been with the company ever 09:16:04

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since?

09:16:06

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A.

Yes.

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23 Q. And are the things that you are involved

24 in today still in the arena of sales and marketing

25 and sales and marketing strategy?

09:18:55

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A. Typically, yes.

09:18:57

And do you currently sit on the board of
directors for Epic?

A. Yes.

09:19:21

Q. And how long have you been on the board?

A. Since we created the board.

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And in the course of your responsibilities or your job function, have you had dealings with Apple?

A. Yes.

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22 Q. Well, while Fortnite was on the
23 App Store, did Apple offer marketing and
24 promotional support for it?

25 A. Yes.

09:51:51

1 Q. Okay. And what sort of marketing and 09:51:51
2 promotional support did Apple provide?

3 A. Apple would feature your app occasionally
4 when you had something important going on.

5 Q. You mean -- 09:52:08

6 A. Sorry. Apple would feature Fortnite
7 occasionally when we had something important going
8 on.

9 Q. And what does that mean in the context of
10 an App Store to feature it? 09:52:15

11 A. It means they would give it a prominent
12 placement on one of the pages of the App Store.

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16 Q. What other sorts of promotion and
17 marketing did Apple provide for Fortnite?

18 A. One time they put us up on stage and they
19 demonstrated Fortnite at one of their -- I can't
20 remember if it was a developer conference or a 09:52:54
21 product launch.

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Q. Did Apple and Epic collaborate effectively on the marketing and promotional efforts that you do recall?

A. I think so. 09:53:43

Q. And did the marketing and promotion provided by Apple benefit Epic?

A. I -- I think it did.

Q. How?

A. Through more people being aware of the game. 09:54:00

Q. No matter which platform they ultimately played it on?

A. Well, the marketing would have been targeted at iOS users. 09:54:14

Q. One of the significant elements of Fortnite is cross-platform play, correct?

A. Yes.

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(Exhibit 188 was marked for
identification by the court reporter and is
attached hereto.)

09:56:03

1 Q. (By Mr. Doren) Mr. Rein, while you 09:56:08
2 review that, I will describe for the record that
3 this Exhibit 188 is a two-page document which
4 contains an email string, and the first page of the
5 exhibit is EPIC_00010165. 09:56:18

6 Please take a moment and review that
7 document.

8 THE DEPONENT: Yup. I've reviewed it.

9 Q. (By Mr. Doren) Thank you very much, sir.
10 First of all, do you recognize this as an 09:57:02
11 email chain in which you participated including
12 various Epic colleagues on January -- from
13 January 17th, 2018?

14 A. Yes.

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Q. In 2019 Epic hosted a virtual concert with the DJ named Marshmello, correct?

A. I believe it was in 2019, yes. 10:18:54

Q. But you recall the event, correct?

A. I recall the event. I don't recall the exact date.

Q. Thank you.

And can you describe what the event was, please. 10:19:02

A. The Marshmello concert was an in-game event where we had the Marshmello character doing a show and to Marshmello music.

Q. And for those of us that aren't quite as hip as others, what is Marshmello? Or who is Marshmello? 10:19:20

A. He's a famous DJ artist.

Q. And did Epic consider this to be a major event? 10:19:36

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good thing, yes.

10:22:04

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Exhibit 190 is a multipage email string,
the first page of which begins with an email from
Edward Zobrist to you and others sent on
January 30th, 2019. The document bears numbers 10:44:09
EPIC_00193236 through 40.

Q. Mr. Rein, have you had an opportunity to
review Exhibit 190?

A. Yes.

Q. And do you recognize it as an email chain 10:47:57

1 among various Epic employees, including yourself, 10:48:01

2 from January of 2019?

3 A. Yes.

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You then go on and state: "With 11:02:07
controller support and if Apple gets behind
promoting that, we could see huge growth on iOS."

Do you see that?

A. Yes. I wrote that.

Q. What did you mean by that statement? 11:02:18

A. I think I mean what it said. With
control and support and if Apple gets behind
promoting, we could see huge growth on iOS.

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And you mentioned that -- and why is it a good thing to have Apple advertise your product?

A. Any -- almost any advertising for your product is a good thing.

11:08:18

Q. And Apple is a -- a well-known brand?

A. Yes.

Q. And a highly regarded brand?

A. Yes.

Q. And being affiliated with Apple is beneficial to Epic?

11:08:28

A. I believe it's beneficial to Fortnite when they are marketing Fortnite.

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MR. DOREN: Sarah, let's, please, look at

11:26:55

Page 100

1 Tab 34, which is a document previously marked as 11:26:56

2 Exhibit 35.

3 THE DEPONENT: I'm looking at it.

4 Q. (By Mr. Doren) Great.

5 And, Mr. Rein, we will be talking about 11:27:35

6 the last paragraph in your email on page 1, and I'm

7 going to be asking you some questions about the

8 [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

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Q. (By Mr. Doren) The first page of the exhibit begins with an April 15th, 2019, email from Mr. Rein.

Mr. Rein, you've had an opportunity to review Exhibit 35?

11:33:06

A. Yes.

[REDACTED]

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Q. We've discussed earlier GeForce as -- as
a web -- as a source for a web-accessible version
of Fortnite, correct?

11:34:16

A. GeForce is a cloud streaming service that
has Fortnite on it.

Q. And --

A. Or does now. Sorry.

Q. Thank you.

11:34:27

And we have in front of us documents
discussing an initiative at Walmart called Project
Storm back in April 2019, correct?

A. Yes.

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Q. Is that a trend in gaming, the
cloud-based streaming?

11:35:47

A. I don't know if I'd say it's a trend.
There are companies attempting to do it.

Q. Do you consider that to be the future of
gaming?

A. Not really.

11:36:02

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[REDACTED]

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4 Q. (By Mr. Doren) Looking, please, at the

5 first page of Exhibit 35. And in the third

11:38:59

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23 Q. (By Mr. Doren) It was -- it was what

24 they had to offer as -- as of April 15 as their

25 streaming service for you to try out; is that fair?

11:40:04

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A. What I played in our office that date.

11:40:07

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[REDACTED]

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Q. Do you know what factors went into setting the 12 percent commission level? 11:42:45

A. Yes.

Q. What do you know about that?

A. The -- the cost of operating the service went into -- was one of the factors in deciding what was a fair amount to charge. 11:43:05

Q. And when you say cost of operating the service, what service are you referring to?

A. The service of -- that we provide to -- to games that are sold in the Epic Games Store.

Q. You mean the payment processing service or do you mean something more than that? 11:43:22

A. I'm -- payment processing would be one of the costs.

Q. What other costs went into it?

A. Some of the others could be the -- the actual distribution cost, the internet bandwidth cost, the -- you know, the -- the cost of maintaining it. 11:43:36

Q. Maintaining the store?

A. Yes. 11:43:54

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22 (Exhibit 198 was marked for
23 identification by the court reporter and is
24 attached hereto.)

25 Q (By Mr. Doren) Mr. Rein, you are

12:23:32

Page 129

1 presented with Exhibit 198, which is a three-page 12:23:35
2 document which contains an email chain. The first
3 email on the document at the top of the first page
4 is dated March 14th, 2018 from Canon Pence to
5 Daniel Vogel, with cc's to others, including 12:23:59
6 yourself. The document bears Bates
7 No. EPIC_01919888, et cetera.

8 Please take a moment and review this
9 document.

10 A. Okay. I reviewed it. 12:24:57

11 Q. Mr. Rein, you had an opportunity to
12 review Exhibit 198?

13 A. Yes.

14 Q. And is this an email string that you
15 received on March 14th, 2018 from Mr. Pence? 12:25:05

16 A. It appears to be, yes.

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