

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. <b>4:20-cv-05640-YGR</b>
	Case Title <i>Epic Games, Inc. v. Apple, Inc.</i>
	Exhibit No. <b>DX-3036</b>
	Date Entered _____
	Susan Y. Soong, Clerk
	By: _____, Deputy Clerk

DONALD R. CAMERON, et al.,

Plaintiffs,

vs.

Case No. 4:19-cv-03074

YGR

APPLE INC.,

Defendant.

---

**\*\*HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER\*\***

ZOOM DEPOSITION OF MARK REIN

(Reported Remotely via Video & Web Videoconference)

Ocala, Florida Deponent's location)

Wednesday, February 10, 2021

Volume I

STENOGRAPHICALLY REPORTED BY:

REBECCA L. ROMANO, RPR, CSR, CCR

California CSR No. 12546

Nevada CCR No. 827

Oregon CSR No. 20-0466

Washington CCR No. 3491

JOB NO. 4453817

PAGES 1 - 161

Page 2

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

1

since?

09:16:06

2

A.

Yes.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

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

Page 21

1 A. Typically, yes. 09:18:57

2

3

4

5

6

7

8 And do you currently sit on the board of

9 directors for Epic?

10 A. Yes. 09:19:21

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

12 A. Since we created the board.

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

A. Yes.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

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.

13

14

15

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.

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(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.

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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, 10:19:02  
please.

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 10:19:20  
hip as others, what is Marshmello? Or who is  
Marshmello?

A. He's a famous DJ artist.

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

1 A. Yes, I believe we did. 10:19:38

2 Q. And when you say it was "an in-game  
3 experience," was it within Fortnite?

4 A. It was within Fortnite.

5 Q. And was it available on all platforms? 10:19:47

6 A. Yes, I believe it was.

7 Q. Meaning mobile and consoles and PCs?

8 A. Yes, whatever -- within Fortnite.

9      Wherever you played it.

10	Q. Was it available on the web-based	10:20:07
----	--------------------------------------	----------

11 versions of Fortnite?

12 A. What web-based versions of Fortnite?

13 Q. Those available, for example, through  
14 GeForce?

15 A. It should have been, yes. 10:20:22

16 Q. Thank you.

17 And did viewers purchase tickets to  
18 attend that event?

19 A. No.

20	Q. It was free?	10:20:30
----	-----------------	----------

21                    A.    It was a free event.

22 Q. And did Apple offer marketing support for  
23 the Marshmello event?

24 A. I believe they did.

25 Q. And do you recall what it was? 10:20:47





1

good thing, yes.

10:22:04

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



1

2

3

4

5

6

7

8

9

10

11

12 Exhibit 190 is a multipage email string,

13 the first page of which begins with an email from

14 Edward Zobrist to you and others sent on

15 January 30th, 2019. The document bears numbers 10:44:09

16 EPIC\_00193236 through 40.

17

18

19

20

21

22 Q. Mr. Rein, have you had an opportunity to

23 review Exhibit 190?

24 A. Yes.

25 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.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

25 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]

9 [REDACTED]

10 [REDACTED] [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED] [REDACTED]

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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



25

DX-3036.026

1

2

3

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

5 first page of Exhibit 35. And in the third

11:38:59

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

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

Page 107

1

A. What I played in our office that date.

11:40:07

2

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

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

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.

17

18

19

20

21

22

23

24

25