

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

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)  
IN RE APPLE iPHONE TRUST ) Case No. 4:11-cv-06715YGR  
) 4:11-cv-06714-YGR and  
LITIGATION ) 4:19-cv-03074-YGR  
\_\_\_\_\_)

DEFENDANT	United States District Court Northern District of California
	Case No. <b>4:20-cv-05640-YGR</b>
	Case Title <b><i>Epic Games, Inc. v. Apple, Inc.</i></b>
	Exhibit No. <b>DX-3041</b>
	Date Entered _____
	Susan Y. Soong, Clerk
	By: _____, Deputy Clerk

\*\* HIGHLY CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER \*\*

REMOTE VIDEOTAPED DEPOSITION OF HASEEB MALIK

Friday, February 12, 2021

Volume I

Reported by:

NADIA NEWHART

CSR No. 8714

Job No. 4453673

PAGES 1 - 198

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While you were at Epic Games, what was your  
position?

09:22:04

A Director of mobile publishing.

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(Exhibit 506 was marked for identification  
and is attached hereto.)

BY MR. DOREN:

Q And, Mr. Malik, the next exhibit will be 10:56:37  
Exhibit 506. It's a multipage document bearing  
Bates numbers EPIC\_00407322 through 332. And it is  
a series of -- it looks like a text string between  
you and Mr. Payne on -- from Saturday, August 3,  
2019. 10:57:06

Just wait for that to come up, and please  
take the time you need to review it.

MS. MOSKOWITZ: It's not a text chain. I  
think this would have been a Hangouts in the  
production format. 10:57:19

MR. DOREN: Thank you.

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First of all, Mr. Malik, do you -- have you  
had a chance to review Exhibit 506?

A Yeah, for the -- yeah, I -- I tried to go  
through the 11 pages as quick as I could.

11:02:48

Q Yeah. And to the extent you need more time  
with the document along the way, you just tell me.

Now, do you recognize this as a Hangout  
exchange between yourself and Mr. Payne from  
August 2019?

11:03:06

A Yes.

Q And what is a Hangout?

A It's Google's chat client.

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Q And your next entry -- entry says (as read): 11:11:46

"And for God's sake, why do we hate

Apple?"

And that was a question you had on August 3,

2019, correct?

THE WITNESS: I -- yeah. As you can tell by

my tonality in this conversation, I appear quite

frustrated as a new employee not being able to

figure out how to effectively do my job. And so I

am wondering why we are struggling with the 11:12:22

1 platforms I'm supposed to work on.

2 BY MR. DOREN:

3 Q And your perception at the time was that Epic  
4 hated Apple, correct?

5 A The language I'm using here is me trying to 11:12:32  
6 figure out why the relationship is not the same as  
7 what I'm used to at other companies.

8 Q With Apple?

9 A With -- with Apple, uh-huh.

10 Q And what you wrote was (as read): 11:12:44  
11 "And for God's sake, why do we hate  
12 Apple," correct?

13 A That's what I wrote.

14 Q And that was the question you had as of that  
15 date, correct? 11:12:56

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24 A Yeah. So look, I -- so as I mentioned, I was  
25 having a pretty tough time at this period of being 11:13:09

1 there for a few months and not understanding why we  
2 were having some of the challenges we were having  
3 with mobile coming -- that I am coming from a -- a  
4 pretty strong mobile background, and this felt  
5 different to me for the world's largest game. 11:13:27

6 Q And -- and what challenges did you believe  
7 that the company was having with mobile after --  
8 once you had been at the company for three months?

9 A So the Android ones which were, as I  
10 mentioned, numerous steps imposed by the operating 11:13:39  
11 system to -- to scale the game -- so you have to  
12 remember, if my -- if my job performance is -- is  
13 based on growing the mobile -- mobile users but I'm  
14 running into these hurdles, it's quite frustrating.

15 And then regarding Apple, by this time, I've 11:13:58  
16 already encountered a number of delays and so on in  
17 the review process. And so I am trying to figure  
18 out through talking to this colleague on why we're  
19 having all of these delays through the review  
20 process and -- and so on with Apple. 11:14:12

21 Q And what review process are you talking  
22 about?

23 A So sometimes it takes a long time to get a --  
24 a Fortnite build -- or it took a long time to get a  
25 Fortnite build through the review process at Apple 11:14:26



1 relative to the speed in which the same builds would  
2 go through on the other platforms.

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Q And if you go down further at 8- -- or sorry,

13:58:21, Mr. Payne says (as read):

"I don't have the impression that

our relationship is regularly

11:34:19

antagonistic. Epic has been

on-stage in several big Apple

presentations in the last couple of

years."

Do you see that?

11:34:27

A Uh-huh, yes, I see that.

Q And you -- and you understand that to mean

that Epic had made -- created opportunities for Epic

to present at Apple events, correct?

A From my understanding, the company had been

11:34:41

invited to share games in the past on -- at

worldwide developer conference. So that's where I

was -- this is all sort of coming from, and it -- it

should be better than the way it is.

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20           Q    Hi, Mr. Malik.   We are preparing the next           11:58:14

21   exhibit in order, which will be Exhibit 507, which

22   is a deck entitled "Fortnite Mobile Adam Sussman

23   Onboarding - January 2020."

24               And it -- it -- the first page bears your

25   name and Brian Chu's name.   The document is Bates           11:58:39

Page 126

1 numbers EPIC\_00126433 through 487.

2 So once that comes up, take the time to  
3 familiarize yourself with it, but to the extent I  
4 have specific questions, I will direct you to the --  
5 the places that I have questions about. 11:59:01

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10 (Exhibit 507 was marked for identification 11:59:15  
11 and is attached hereto.)

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Q Mr. Malik, have you had an opportunity to  
review Exhibit 507?

A Yes. 12:02:49

Q And this document is entitled "Adam Sussman  
Onboarding - January 2020."

Do you recall this document?

A Yes, I -- I do.

Q And what is it? 12:03:02

A This was a collection of slides that  
leadership asked us to pull together to be shared  
with Adam Sussman when he joined the company.

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(Exhibit 508 was marked for identification  
and is attached hereto.)

12:31:27

BY MR. DOREN:

Q Mr. Malik, you were presented with  
Exhibit 508, which is a document bearing Bates  
numbers EPIC\_00385868 through 902.

It begins with an email from you to  
Devin Winterbottom with attachments, "Mobile  
Business Update - March 2020," and it does indeed  
include or is followed by a deck entitled "Mobile  
Business Update - March 2020."

12:31:41

Can you please just take a moment to  
familiarize yourself with this document. And as  
with the last deck, I will point you to specific  
areas of interest.

12:32:05

A Okay.

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Q And have you had an opportunity to review  
Exhibit 508?

A Yes. This looks like the mobile business --

Q Let me ask, let me ask, let me ask.

And do you recognize this document? 12:33:35

A Yes, I recognize this document.

Q And what is it?

A This is the mobile business update dated  
March 2020.

Q And what was -- why was this document  
created? 12:33:46

A As far as I recall, I believe this was to be  
presented to (technical difficulty.)

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A I believe this presentation was put together  
to be presented to Adam Sussman.

Q And who prepared this -- this presentation? 12:34:24

A All of the people on that -- on -- which was  
the mobile team at Epic. So you're number 5870, all  
the people on this slide participated in putting  
this presentation together.



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(Exhibit 510 was marked for identification  
and is attached hereto.)

BY MR. DOREN:

Q Mr. Malik, you have in front of you 12:44:56  
Exhibit 510, which is a three-page document bearing  
Bates numbers EPIC\_00428883 through 885.

If you could please take a moment to review  
this email string.

A Okay. 12:45:51

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[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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Q And who was the source of that information to you?

A So again, like I had mentioned before, 01:52:41  
these -- me carrying out these things was under the  
direction of Epic leadership and the people that  
were above me. So Ed Zobrist, Matt Weissinger and  
so on.

Q You were just following orders? 01:53:00

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11                   (Exhibit 511 was marked for identification

12                   and is attached hereto.)

13       BY MR. DOREN:

14           Q    Exhibit 511 is another email string.  It

15       begins on EPIC\_00431657 to 659.  And the top email       01:53:30

16       on the first page of Exhibit 511 is from

17       Adam Sussman to you, dated Friday the 24th of

18       January of 2020.

19                   Can you please take a moment, please, and

20       review Exhibit 511.                               01:53:50

21           A    Okay.

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22       Q    Okay.   Then on January 23rd, at 1:48 p.m.,  
23   you send this string -- you forward this string to  
24   Adam Sussman, correct?

25       A    Yes.   I was asked to catch Adam up on all       01:58:11

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1 things mobile, and so I started forwarding different  
2 emails. This was one of them.

3 Q Okay. And you tell him that (as read):

4 "For background, we had submitted a  
5 build of Google Play that included  
6 Epic payment only," correct?

01:58:25

7 A Yes, that is what I wrote there, uh-huh.

8 Q And that was an accurate statement?

9 A Yes.

[illegible]

21 And that's an accurate statement as of  
22 January 23rd, 2020?

23 A Yes. I summarize what had happened in a few  
24 short paragraphs for the new executives to join.