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Fortnite maker accuses Google of bullying and bribing to block competition to its Android app store

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Q4: 2023-11-02 Earnings Summary



Transcript



Press Release



10-K

EPS of \$1.46 **beats by \$0.07** | Revenue of \$89.50B (-0.72% Y/Y) **beats by \$82.61M**

SAN FRANCISCO (AP) — Google on Monday confronted the second major U.S. antitrust trial in two months to cast the internet powerhouse as a brazen bully that uses its immense wealth and people's dependence on one of its main products to stifle competition at consumers' expense.

The trial that opened in a San Francisco federal court targets the Google Play Store that distributes apps for the company's Android software that powers virtually all the world's smartphones that aren't made by Apple ([AAPL](#)).

The case, stemming from a lawsuit filed by video game maker Epic Games, alleges Google has created an illegal monopoly on Android apps primarily so it can boost its profits through commissions ranging from 15% to 30% on purchases made within an app.

“The result of what Google is doing is higher prices, lower quality and less choice for everybody,” Epic attorney Gary Bornstein said Monday during a 45-minute opening statement before the 10-person jury that will decide the case.

Google attorney Glenn Pomerantz attempted to debunk the portrait of the company having a stranglehold on Android apps by outlining a wide gamut of competition from rival mobile and video game console stores, as well as Apple's store for apps that run on its iPhone software.

“Because Google faces strong competition from Apple and others, it cannot be and is not a monopolist,” Pomerantz asserted in his opening statement.

Google's strategy to lean on Android's competition with Apple and the iPhone in its trial with Epic is tinged irony. That's because Google in September became immersed in [the biggest U.S. antitrust trial in a quarter century](#) — a case largely centered on payments that the company makes to Apple to ensure its dominant search engine automatically fields queries made on iPhones.

Epic's allegations against Google mirror those leveled against Apple in a case [that went to trial in May 2021](#).

Although [a federal judge sided with Apple](#) on most fronts in that trial, the outcome opened one potential crack in the digital fortress that the company has built around the iPhone.

The judge and [an appeals court](#) both determined Apple should allow apps to provide links to other payment options, a change that could undermine the commissions that both Apple and Google collect on digital purchases made within a mobile app. Apple is appealing that part of the ruling to the U.S. Supreme Court, where Epic is also challenging most elements of the case that it lost.

Epic is now taking aim at Google's commission system, even though Android software is already set up to allow other stores, such as Samsung's installed on its phones, distribute apps that work on the operating system. Even so, Epic maintains that Google still maintains a stranglehold on the Android app ecosystem and the payment system attached to it — and has paid hundreds of millions of dollars to stifle competition.

In his opening statement, Bornstein accused Google of deploying a “bribe and block” strategy to discourage competition and then make it too cumbersome or worrisome for consumers to download Android apps from other distribution outlets than the Play Store.

That is why, Bornstein said, the Play Store handles more than 90 percent of all Android download apps and resulted in the commission store generating more than \$12 billion in operating profit. That figure represented about 13% of the roughly \$92 in Google Services operating profit — most of which came from digital ads — during 2021, according to the financial statements of its corporate parent, Alphabet Inc. ([GOOGL](#))

“Google makes it a challenge to put a competitor on the phone (powered by Android),” Bornstein said. “If a competition were a race, it’s like Google gets to run on a nice smooth track and everyone else has to run on quicksand.”

Pomerantz depicted Google's tactics as way to make sure Android apps are safe to use and its commission system as a way to defray the costs for an operating system that powers billions of smartphones around the world. The arguments also echoed the defense that Apple successfully used in its 2021 trial with Epic.

As Apple's lawyers did, Pomerantz suggested Epic is primarily interested in finding a way to boost its own profit by evading a payment system that siphons revenue away from its popular Fortnite title and other video games.

“They want to take all the benefits of Android and all the benefits of the Play Store and not pay for them,” Pomerantz said of Epic.

The trial before U.S. District Judge James Donato is scheduled to last until just before Christmas and include testimony from longtime Google executive Sundar Pichai, who is now CEO of the company’s parent, Alphabet Inc.

Pichai [recently took the witness stand](#) in Washington D.C. during an antitrust trial that is expected to wrap up later this month, but the judge in that case isn't likely to rule until next year.

Google initially was going to have to defend itself against multiple foes in the Play Store trial, but in September it settled antitrust allegations that had been brought by state attorneys general and just last week resolved a case being pursued by Match Group ([MTCH](#)), the owner of Tinder and other online dating services.

The Match settlement prompted Google to switch from its original request for a jury trial to a proceeding to be decided by the judge, but Donato rebuffed the bid.

Match is receiving a refund of \$40 million in fees that had been placed in an escrow account earlier this year and adopting Google's "user choice billing" system in its settlement. The terms of the resolution with the state attorneys general is expected to be revealed during Google's trial with Epic.

Epic CEO Tim Sweeney skewered the "user choice billing" option as a sham [in a social media](#) post vowing to fight Google in court. Sweeney is also expected to take the witness stand during the trial.

This story has been corrected to reflect that an Epic Games lawyer was referring to operating profit in terms of a \$12 billion figure cited from 2021 during opening statements. An earlier version of the story said it the figure referred to revenue.

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