

DEFENDANT A	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-4325	
	Date Entered _____	
By: _____, Susan Y. Soong, Clerk Deputy Clerk		

From: Edward Zobrist <[REDACTED]>
Sent: Wed, 30 Jan 2019 00:50:58 +0000 (UTC)
To: Brad Cummings <[REDACTED]>
Cc: Donald Mustard <[REDACTED]>; Mark Rein
 <[REDACTED]>; Donald Mustard <[REDACTED]>;
 Marc Hutcheson <[REDACTED]>; Matt Weissinger
 <[REDACTED]>; Phil Rampulla <[REDACTED]>
Subject: Re: Fortnite x Marshmello x Apple Music x App Store

I'm assuming we have approval delayed until tomorrow. I'll discuss more with Mark R tonight. Can we schedule a google call for all on this thread tomorrow? 8a pst 11a Cary time works for me

On Jan 29, 2019, at 3:23 PM, Brad Cummings <[REDACTED]> wrote:

Had some side conversations and wanted to catch up everyone up:

- Phil and others have some major concerns and is having discussions with most people on this list.
- There are some tech concerns about planning something when we feel like there are risks something may break.
- Marc is reaching out to Apple to tell them we need until tomorrow morning for more conversations.

Here is a consolidation of the proposal:

Here is the US Apple Music marketing plan to support the exclusive Fortnite Marshmello mix:

MAIN MESSAGE: Fortnite and Marshmello driving to the exclusive mix on Apple Music

CAMPAIGN STARTS: 2:30pm EST Saturday 2/2

VISUAL DIRECTION: Want to use Marshmello outfit art and copy, will not include logos (Fortnite mentioned in copy)

- OOH (Feb 2nd - Feb 9th)
 - NY: Times Square "Godzilla" digital board
 - LA: LA Live JW Marriott digital board
- Digital Advertising
 - Digital networks
- Paid Social
 - Snapchat
 - Twitter
- Organic Social
 - Launch messaging tagging Fortnite and Marshmello driving to the exclusive mix on Apple Music
 - Timing TBC with Epic

Asset requests from us:

- Outfit render (Today, tomorrow available)
- Video of outfit dancing (Thursday delivery)

They are looking for a go/no go by EOD today.

On Tue, Jan 29, 2019 at 1:00 PM Donald Mustard <[REDACTED]> wrote:

I think all your points are really really good - especially number 2.

On Tue, Jan 29, 2019 at 10:55 AM Mark Rein <[REDACTED]> wrote:

There are certainly several reasons not to do it but there are also several reason to do this:

1. Our biggest opportunity for player and revenue growth is on iOS. Currently only 6% of our revenue comes from there. With controller support, and if Apple gets behind promoting that, we could see HUGE growth on iOS.
2. Apple advertising this might actually make Spotify and others sit up and notice the market power we have in music and want to do deals with us. It will also inspire artists and labels to play ball as they'll see as even bigger marketing promotions for their artists. Also having Apple ADVERTISE YOUR PRODUCT doesn't suck and we've had our games in Apple ads, and on Apple's stages before.
3. We'd like to have Apple be the presenting sponsor for the Fortnite World Cup. Having a successful tie to Apple Music might help them think of Apple benefits outside of just the App Store.
4. This could give us some more leverage with Apple which is always helpful!
5. I don't think this will have any negative reputational/authenticity affects to the Fortnite brand among players but it will get the Marshmello association out in a much bigger way.
6. Apple commercials are always tasteful and cool. They won't do something shitty with this.

My flight is supposed to land around 10:25 PST so I could jump on a call at 11AM PST. Feel free to put a hangout video conference on my calendar and let's talk this through some more.

On Tue, Jan 29, 2019 at 11:10 AM Donald Mustard <[REDACTED]> wrote:

Im definitely leaning towards Phil's sentiment on this one. Dont love at all that it feels like they are drafting on us. Also puts us 'playing favorites' with Apple right when we are about to start doing lots of music stuff and may need to work with Spotify, etc.
That said, agree with Ed that it is great exposure for Mello and (for the same reasons I would hope if we ever make original music) an 'expected' way for fans to get the music. But man I hate the exclusive part.

Should we all jump on a hangout and chat through it?

On Tue, Jan 29, 2019 at 9:07 AM Ed Zobrist <[REDACTED]> wrote:

Not sure no plan is player friendly. If people want to hear the music afterwards, we should give them an easy way to do it.

On Tue, Jan 29, 2019 at 11:03 AM Phil Rampulla <[REDACTED]> wrote:

Actually adding Matt and Donald this time.

I don't think we need to have a plan to listen to it after. It's a live event. Folks will stream and make replay but we as Fortnite aren't hosting or sharing the music. Mello and team can do that.

On Tue, Jan 29, 2019 at 10:58 AM Ed Zobrist <[REDACTED]> wrote:

let's set Apple's ask aside for a moment. What is our plan for fans to be able to listen to this music after the concert is done?

On Tue, Jan 29, 2019 at 10:55 AM Phil Rampulla <[REDACTED]> wrote:

Adding Matt & Donald.

I'm not feeling great about this. Essentially, we do an amazing thing, do all the work and then Apple jumps on and sells the mix as a promotion. This is brand co-opting and drafting in our wake.

Sony has music. Would we have to do this with Sony? Spotify? etc...

I think we need to keep this about us and Mello and just say we are not ready to jump into a marketing promo like this.

As I mentioned, if they want to highlight this in their app store editorial feed and say "did you guys see what happened in fortnite yesterday? blah blah blah and then say "check out mello music here and download fortnite here, that is totally fine.

A times square billboard piggybacking on the cool shit we did feels slimy. We need to push them back to editorial feature AFTER the concert. Nothing more. We have no business trying to help out Apple Music.

My stance anyway.

On Tue, Jan 29, 2019 at 10:43 AM Brad Cummings <[REDACTED]> wrote:

Full proposal from Apple on how they want to partner with us and Marshmello.
We've already informed them it will have to start after both the concert and encore.

----- Forwarded message -----

From: **Neil Schield** <[REDACTED]>

Date: Mon, Jan 28, 2019 at 7:17 PM

Subject: Fortnite x Marshmello x Apple Music x App Store

To: [REDACTED], [REDACTED]

Cc: Mike Schmid <[REDACTED]>, Isaac Lau <[REDACTED]>

Brad and Marc,

Thanks again for the quick call today. We've spoken to Marshmello's team and they can confirm the extended mix will be clean. He is still finalizing the track list and hopes to have it locked by tomorrow. Below is 90% confirmed of what it will be:

- Marshmello intro wolves, everyday remix
- Poppin - rickyxsan

- Gassed Up - Jauz and DJ Snake
- The drop (4b x nvrleft)
- Waiting for Love (Marshmello remix) - avicii
- Check This Out - Marshmello
- Want u 2 - Marshmello
- Everyday - Logic x Marshmello
- Power - Marshmello
- Fly feat Leah Culver - Marshmello
- Light (Crankdat remix) - San Holo
- Moving On - Marshmello
- Alone - Marshmello
- Chasing Colors ft Noah Cyrus - Marshmello x Ookay
- Pop Dat - 4b x azaar
- Behemoth - Svddendeath
- Reddy the throne ft PsoGnar - spag heddy
- I Hold Still - Jauz x Crankdat
- Make it Pop - nonsens
- Deep Down Low - Valentino Khan
- Giant Mouse - AC Slater x Chris Lorenzo
- Jungle Bae VIP - Jack U
- Losing It - Fisher
- Bomb a drop - Garmiani
- Party up ft YG (GTA remix) - destructo
- Happier - Marshmello

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Asks to Epic

- Approval to use the Fortnite name as part the title of the mix
- Approval to use the Fortnite name in advertising and marketing copy
 - i.e. “Marshmello. Exclusive Fortnite DJ Mix. Listen only on Apple Music”
- Approval to use the Marshmello Fortnite character in our advertising and marketing creative
- delivery of Marshmello Fortnite character in hi-res by 1/29 9am PT

We are looking into more opportunities to make this even a bigger moment. Our head of PR would love to have a call with your PR team this week to discuss opportunities to partner on.

Let me know if you have any other questions or concerns.

Thanks again for your partnership and looking forward to this and other future opportunities.

Best,
Neil

Neil Schield
MUSIC
[REDACTED]

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Phil Rampulla
Epic Games

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Epic Games Publishing
[REDACTED]

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Phil Rampulla
Epic Games

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Mark Rein,
Epic Games, Inc.

Visit us at <http://www.epicgames.com>