

1                   UNITED STATES DISTRICT COURT  
2                   NORTHERN DISTRICT OF CALIFORNIA  
3                   OAKLAND DIVISION

4  
5 EPIC GAMES, INC.,  
6                   Plaintiff,  
7                   Counter-defendant,

△ DEFENDANT △	United States District Court Northern District of California
	Case No. <u>4:20-cv-05640-YGR</u>
	Case Title <u>Epic Games, Inc. v. Apple, Inc.</u>
	Exhibit No. <u>DX-3029</u>
	Date Entered _____
	Susan Y. Soong, Clerk By: _____, Deputy Clerk

8                   vs.                   Case No. 4:20-cv-05640  
9                   YGR  
10                  APPLE INC.,  
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12                  Defendant,  
13                  Counterclaimant.  
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11                  IN RE APPLE IPHONE                   Case No. 4:11-cv-06714  
12                  ANTITRUST LITIGATION                   YGR  
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25                  (caption cont'd)

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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10 ZOOM DEPOSITION OF ALEC SHOBIN  
11 (Reported Remotely via Video & Web Videoconference)  
12 Raleigh, North Carolina (Deponent's location)  
13 Friday, January 22, 2021

14 Volume I  
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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. 4422886  
25 PAGES 1 - 259

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EXAMINATION

11           First, would you state and spell your  
12       full name, please.

13       A.    Alec Shobin. A-L-E-C, S-H-O-B-I-N.

14       Q.    Who is your current employer, Mr. Shobin?

15       A.    Epic Games.

09:04:16

16       Q.    And what city and state do you live in?

17       A.    Raleigh, North Carolina.

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Q. You began working at Epic Games in

January of 2019?

A. That is correct.

Q. What is your current title there?

A. It should be marketing manager.

09:08:11

Page 18

1 Q. Has that title changed during your time 09:08:16  
2 at Epic?  
3 A. No.  
4 Q. What are your current responsibilities?  
5 A. I do Fortnite marketing. 09:08:29  
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10 Q. Okay. In your participation in 10:24:59

11 Project Liberty, were you aware of any goals to  
12 challenge the revenue share of the PlayStation or  
13 Xbox platform?

14 A. I wasn't aware of any kind of stated  
15 goals by leadership in those regards. 10:25:21

16 Q. Were you aware of any goals in  
17 Project Liberty to challenge the revenue share of  
18 Samsung's Galaxy platform?

19 A. I was not aware of any goals of  
20 Project Liberty that were intended to challenge 10:25:45  
21 Samsung.

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24 Q. You were -- you were averse to the risk  
25 that as a result of what Epic did in

10:30:56

Page 59

1 Project Liberty, Fortnite might be removed from the 10:31:01

2 App Store; is that accurate?

3 A. I was -- I was averse to any possible

4 risk that would jeopardize Fortnite's availability

5 on the App Store. 10:31:14

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Q. What do you think you know that Sony  
charges in commissions?

10:59:51

A. I heard previously it was around  
30 percent.

Q. Okay. And you never questioned during  
any Project Liberty meeting, why are we challenging  
the Apple 30 percent but not the Sony 30 percent?

11:00:03

A. I don't know if I questioned that during  
a meeting. I'm sure I brought that up casually  
with a colleague.

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5 Q. Okay. And even though you didn't know 11:00:57  
6 whether that information was accurate, you were  
7 comfortable with the goals of Project Liberty to  
8 challenge the 30 percent commission charged by  
9 Apple and Google; is that accurate?  
10 A. I'm always in favor of helping developers 11:01:13  
11 get better terms.  
12 Q. Well, then, why wouldn't you be in favor  
13 of lowering the commission at Microsoft and at  
14 Sony?  
15 A. My focus at that time was on mobile, so I 11:01:27  
16 was focused on those platforms.  
17 Q. Well, but there were people on  
18 Project Liberty whose focus was on Microsoft and  
19 Sony, right?  
20 A. Yeah. Some of those people sat in 11:01:44  
21 meetings.  
22 Q. And they never raised their hand and  
23 said, look, if we're going to make life better for  
24 developers, we ought to challenge the Sony and  
25 Microsoft commissions? None of them raised that 11:01:53

1 issue? 11:01:55

2 A. I don't recall if that was raised in a  
3 meeting.

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Q. And in the Project Liberty meetings, no

11:17:40

one asked what Samsung charges on the Galaxy store  
in commission?

A. I can't recall that coming up.

Q. And in the Project Liberty meetings, no

one ever mentioned what Samsung charges for its

11:17:58

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1 Galaxy store? 11:18:00  
2 A. I don't recall.  
3 Q. In the Project Liberty meetings, no one  
4 raised their hand and said, hey, while we're going  
5 after these platforms, we should go after Samsung 11:18:14  
6 too?  
7 A. I don't recall.  
8 Q. In the Project Liberty meetings, no one  
9 raised their hand and said, hey, while we're trying  
10 to lower the commission for all developers, maybe 11:18:27  
11 we should look into what Samsung charges other  
12 developers?  
13 A. I don't recall.  
14 Q. In the Project Liberty meetings, when  
15 you're talking about the fairness or unfairness of 11:18:40  
16 the Apple and Google commission, nobody thought to  
17 compare that and say, well, what does Samsung  
18 charge?  
19 A. I don't recall.  
20 Q. Is it your understanding the reason that 11:18:56  
21 there were no discussions of Samsung was because  
22 Mr. Sweeney was not interested in targeting  
23 Samsung?  
24 A. I don't recall that either.  
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18           We were talking about Project Liberty and  
19           the team members. You mentioned there are about  
20           100 and 200 members. To your knowledge -- well,           11:35:51  
21           first, is -- is Project Liberty still a thing at  
22           Epic? Is that still a team at Epic?  
23           A. I mean, some of the -- some members  
24           from -- that were involved in Project Liberty have  
25           meetings.   11:36:21

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1 Q. So there are still Project Liberty 11:36:24

2 meetings ongoing?

3 A. Yes, I believe so.

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19 Q. Since August 2020, has the subject of

20 Samsung's commission ever been raised at a

11:37:37

21 Project Liberty meeting?

22 A. I don't recall that subject being raised.

23 Q. Since August 2020, has the subject of

24 Microsoft's commission ever been raised at a

25 Project Liberty meeting?

11:37:54

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1 A. I don't recall that subject being raised 11:38:00  
2 at a meeting.

3 Q. And is it also correct that you don't  
4 recall the subject of Sony's commission ever being  
5 raised at a Project Liberty meeting since August 11:38:08  
6 2020?

7 A. I don't recall Sony's commission coming  
8 up in a Project Liberty meeting since August 2020.

9 Q. Have there been -- we talked about the  
10 fact that one goal of Project Liberty was to 11:38:21  
11 challenge the 30 percent commission charged by  
12 Google and Apple. Since August 2020, have there  
13 been additional goals sought by Project Liberty?

14 A. I don't believe any additional goals have  
15 been discussed. 11:38:50

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24 Q. (By Mr. Lo) Exhibit 12 is now up, sir,

25 EPIC\_00173272. Take a look at that, and I'm going

04:21:55

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1 to be asking you about the exchange with Matthew 04:22:02

2 Bengston on the bottom of page 2.

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18 Q. It's an email from Mr. Bengston to you,

19 correct?

20 A. It appears. It's addressed to me. I 04:26:35

21 think there are a number of people on this thread.

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24 Q. On his third point, last sentence on this

25 page, it says "our strategy." And the full 04:26:58

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1 sentence is: "Our strategy for releasing in ios 04:27:00  
2 first is mostly to disallow Google from having any  
3 reasons for rejecting the app when we submit to the  
4 Play Store, as it is likely they will know exactly  
5 what we are doing here." 04:27:15  
6 Do you see that sentence?  
7 A. I see that sentence.

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11 Q. Have you developed an understanding that  
12 if something is up on the Apple store, it is less  
13 likely to be rejected by Google in its review  
14 process?

15 A. Like reading this, I am not -- I don't  
16 think that's necessarily sound logic.

04:29:09

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Q. (By Mr. Lo) Exhibit 13 is -- looks like

to be a PowerPoint presentation, EPIC\_00126602.

04:34:53

My first question is actually going to be

do you know who created this document, and if you

don't, then I may not have any other questions for

you.

A. Yeah, it looks familiar.

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Q. This particular deck, was it created by

04:36:05

the Epic side or the Apple side or something else?

A. This was created by Epic to update Apple

to the latest stuff in Fortnite.

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2       Q.     (By Mr. Lo) Take a look at 14. And  
3 while you're doing that, Exhibit 14 is -- the top  
4 email is from Andrew Grant to Mr. Shobin,  
5 EPIC\_00198749.    04:42:09

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9       Q.     All right. The earliest email in this  
10 chain is by you, and you were looking for                                  04:44:15  
11 information on how quickly players migrate onto a  
12 mobile update, correct?  
13       A.     Yeah. I wanted to understand how quickly  
14 players were getting a new client update.  
15       Q.     And the reason you were doing that was                                  04:44:35  
16 you were anticipating that there would be an update  
17 with the hot fix inside, yes?  
18       A.     Yeah. I believe we were trying to figure  
19 out if -- how many people would get the -- the  
20 build, I think 13.40.    04:44:58  
21       Q.     Right.  
22              Because you wanted the -- you wanted to  
23 maximize the number of players who had 13.40 before  
24 you triggered implementation -- before Epic  
25 triggered implementation of the hot fix, correct?                                  04:45:14

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Q. (By Mr. Lo) You were asking for this information because Epic was trying to maximize the number of users who had updated to 13.4 before Epic implemented direct payments within 13.4? That's why you were asking for this information, correct? 04:45:25

A.

I don't -- I don't know if it is -- if I was looking to -- or if anyone here is necessarily looking to maximize. I think there was an ask just to like better understand how quickly players get a new build so we had some kind of frame of reference. 04:45:58