

*Epic Games, Inc. v. Apple Inc., No. 4:20-cv-05640-YGR-TSH (N.D. Cal.)***Forstall, Scott (Vol. 01) - March 8, 2021****1 CLIP (RUNNING 01:03:58.057)****82 SEGMENTS (RUNNING 01:03:58.057)****1. PAGE 13:13 TO 13:15 (RUNNING 00:00:03.000)**

13 SCOTT FORSTALL,  
 14 having been administered an oath, was examined and  
 15 testified as follows:

**2. PAGE 14:05 TO 14:06 (RUNNING 00:00:04.273)**

05 Please state your full name for the record.  
 06 A. Scott James Forstall.

**3. PAGE 22:02 TO 22:05 (RUNNING 00:00:09.750)**

02 Q. And so going back to the date I mentioned  
 03 earlier, your departure from Apple was publicly  
 04 announced in late October 2012; is that right?  
 05 A. Correct.

**4. PAGE 37:23 TO 38:01 (RUNNING 00:00:07.715)**

23 Q. Understood. So let me clarify. Was Xcode  
 24 an integrated development environment when it was  
 25 released in 2003?  
 00038:01 A. Yes.

**5. PAGE 38:06 TO 38:08 (RUNNING 00:00:09.027)**

06 Q. And was Xcode used internally at Apple to  
 07 develop applications for the Mac?  
 08 A. Yes.

**6. PAGE 40:08 TO 40:09 (RUNNING 00:00:03.915)**

08 Did Apple ever charge third party developers  
 09 for OS X?

**7. PAGE 40:12 TO 40:15 (RUNNING 00:00:18.096)**

12 So while I was there, you're asking was the  
 13 IDE a free download?  
 14 Q. Yes, that's what I'm asking.  
 15 A. Yes, I believe it was.

**8. PAGE 40:24 TO 41:04 (RUNNING 00:00:23.060)**

24 Q. And you understood at the time that the  
 25 more -- the better applications that developers could  
 00041:01 offer for Mac, that would help Apple make its  
 02 customers, its Mac customers, happier and hopefully  
 03 enlarge the number of Mac -- Mac customers that Apple  
 04 has, correct?

**9. PAGE 41:06 TO 41:13 (RUNNING 00:00:24.598)**

06 THE WITNESS: Having more robust platform  
 07 with nominal applications from Apple and third party  
 08 developers is good for the platform, the customers  
 09 and the developers.  
 10 BY MR. EVEN:

11 Q. And when you say it's good for the platform,  
 12 it's good for Apple it's going to sell more  
 13 computers, right?

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-3027</u> Date Entered _____ By: <u>Susan Y. Soong, Clerk</u> , Deputy Clerk
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15           THE WITNESS: It would likely sell more  
16 computers. It also may make customers who've already  
17 bought a computer happier because they have that  
18 application.

**11. PAGE 52:21 TO 53:23 (RUNNING 00:02:05.600)**

21           Q. When did you become involved with  
22 development of the iPhone?  
23           A. You're asking when I became or when Apple  
24 started or the year, part of the project, what --  
25           Q. I'm asking when you became, that was my  
00053:01 question. When did you become involved?  
02           A. Well, I helped start the project itself. So  
03 from day one.  
04           Q. And what year was that?  
05           A. I think it would -- it's hard to capture  
06 exactly when you consider the iPhone piece of it,  
07 'cause we actually started by developing for a tablet  
08 and then we shifted to developing a phone and put the  
09 tablet on hold and then came back and developed the  
10 iPad post iPhone.  
11           I think it was around 2003, 2004, when that  
12 work began.  
13           Q. When you say "that work began," you're  
14 referring to the early work on a tablet?  
15           A. Correct.  
16           Q. And when did that work morph into a work --  
17 into work on a phone?  
18           A. 2004, 2005, I think.  
19           Q. And were you tasked with creating the  
20 operating system for that phone?  
21           A. Yes. I was tasked with creating the  
22 operating system and the user interface for all the  
23 software.

**12. PAGE 54:06 TO 54:13 (RUNNING 00:00:44.285)**

06           Q. And was macOS 10 used as the basis for that  
07 operating system that you oversaw building?  
08           A. Broadly speaking, yes. There's many aspects  
09 of macOS 10. Some of those code bases were modified  
10 to be used as the basis of iPhone OS 1.0. Some of  
11 the code bases were cleaved. Some of the code bases  
12 were replaced. It was on a functionality and module  
13 basis.

**13. PAGE 57:02 TO 57:05 (RUNNING 00:00:11.899)**

02           Q. And who was the main proponent of using the  
03 macOS 10 as the basis for the operating system for  
04 the phone?  
05           A. I was.

**14. PAGE 58:07 TO 58:17 (RUNNING 00:00:50.406)**

07           What did you view as the main advantage of  
08 using macOS 10 as the basis for a phone operating  
09 system?  
10           A. We built macOS 10 specifically to be a  
11 modern operating system as different from, as we  
12 talked earlier, macOS 7, macOS 8, macOS 9. So many  
13 of the facilities for protected memory, preemption  
14 are available in macOS 10.  
15           So it had exactly the modern operating  
16 system facilities we would want to use in any  
17 project.

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11 Q. Mr. Forstall, let me mark as Exhibit 869 a  
 12 document Bates stamped APL-EG 00422472.  
 13 (Exhibit 869 was marked for identification  
 14 and is attached hereto.)

**16. PAGE 63:02 TO 63:05 (RUNNING 00:00:17.341)**

02 Q. Mr. Forstall, do you see this is a December  
 03 31, 2006 e-mail from Ms. Meriko Borogove to you and  
 04 copying some others?  
 05 A. Yes.

**17. PAGE 64:19 TO 64:21 (RUNNING 00:00:12.623)**

19 Q. Was the ultimate phone released with an  
 20 operating system that's based on macOS 10?  
 21 A. Yes.

**18. PAGE 65:18 TO 66:10 (RUNNING 00:01:04.590)**

18 Who was Ms. Borogove?  
 19 A. She was an engineering manager in my team.  
 20 Q. And she writes in the second paragraph  
 21 (as read):  
 22 Our security model around  
 23 preventing third parties from  
 24 installing and running their own  
 25 code ...  
 00066:01 And she continues. Do you see that  
 02 sentence?  
 03 A. I do.  
 04 Q. And so at that time, the security approach  
 05 taken by Apple was to not allow any third party apps  
 06 to be installed on the phone, correct?  
 07 MS. MOYE: Object to the form.  
 08 THE WITNESS: Our plan for the first release  
 09 of the iPhone was not to enable native compiled third  
 10 party apps to install and run on the iPhone.

**19. PAGE 66:12 TO 66:20 (RUNNING 00:00:50.833)**

12 Q. And Ms. Borogove then described some of the  
 13 steps that were taken by Apple to make sure that  
 14 native compiled apps cannot be installed on the  
 15 phone, correct?  
 16 A. Correct.  
 17 Q. And Apple needed to take many steps to  
 18 prevent such installation because macOS 10 was built  
 19 in part to allow native compiled applications to be  
 20 installed on it, correct?

**20. PAGE 66:22 TO 66:23 (RUNNING 00:00:09.042)**

22 THE WITNESS: MacOS 10 enabled developers to  
 23 compile, install, and run applications.

**21. PAGE 77:16 TO 77:20 (RUNNING 00:00:28.671)**

16 And so my question was: With respect to  
 17 third party applications, was there a difference of  
 18 view among executives at Apple as to whether Apple  
 19 will or will not open the iPhone for such  
 20 applications after it had released the first iPhone?

**22. PAGE 77:22 TO 77:23 (RUNNING 00:00:04.390)**

22 THE WITNESS: On this particular question,  
 23 it's a great example where the specificity matters.

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24 There were executives at Apple that thought we should  
25 never release the ability for third parties to do any  
00078:01 natively compiled applications.  
02 There were executives who thought -- and  
03 they thought we should just have web applications  
04 and -- and then websites running with web standards  
05 inside of the browser or browsers on the platform,  
06 the browser.  
07 There were executives who thought we should  
08 have a hybrid model of some web technologies and some  
09 native abilities. And then there were executives who  
10 thought we should provide a platform to enable third  
11 parties to build fully native applications on the  
12 platforms.

**24. PAGE 78:16 TO 79:06 (RUNNING 00:01:08.107)**

16 Who are the executives who fell into the  
17 first bucket that you mentioned that felt that Apple  
18 should never open up the platform to third party  
19 native applications?  
20 A. Steve Jobs was the most prominent of those.  
21 I don't remember specifically who else argued that  
22 point. But Steve -- Steve thought that we should not  
23 enable third party app development at all, as needed  
24 app development.  
25 Q. And is it fair to say that you stood on the  
00079:01 other side of this, the other end of the spectrum on  
02 that particular issue?  
03 A. I was probably the -- the most vocal  
04 advocate for enabling third party app development in  
05 an App Store, and this is discussions Steve and I had  
06 multiple times, heated ways.

**25. PAGE 81:02 TO 84:06 (RUNNING 00:05:25.230)**

02 Q. And you believed that native apps are going  
03 to, as you say here, provide a better experience for  
04 iPhone users, correct?  
05 A. Correct.  
06 Q. And looking back 15 years later, do you have  
07 any doubt that you were right at the time?  
08 A. No.  
09 Q. And why did you think that native apps will  
10 provide a better experience?  
11 A. There are many, many reasons. If you build  
12 a native app, you get to use the built-in frameworks  
13 as they were intended, as they were designed for a  
14 touch interface. You have all the facilities we  
15 built to quickly build, iterate, debug these native  
16 applications.  
17 I mean, I can go on and on and on for the  
18 benefits of native application versus a web  
19 application, and they are voluminous. They -- they  
20 are faster. They use less memory. They can take  
21 advantage of the native graphics, libraries, in a way  
22 that is either not available or would have to be  
23 shoehorned in for a web app or a different kind of  
24 application.  
25 So you can go -- you can go through and we  
00082:01 can go through for hours the advantages, but I would  
02 say the most telling reason is when we were building  
03 the original iPhone, we were building most of the  
04 built-in apps as native apps. So mail, calendar, we  
05 were building these as native apps. And they  
06 performed fantastically, the behavior felt right.

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07 They loaded quickly. They -- you could switch  
 08 between applications quickly. It was an exceptional  
 09 experience.  
 10 We wanted web applications, because Steve  
 11 had not agreed with me to enable third party apps in  
 12 the first version, I still had the team building it  
 13 as a platform so that we could quickly enable third  
 14 party apps. This was part of my direction to the  
 15 team the whole time, even though Steve had said no.  
 16 But we wanted to make it so third party apps  
 17 that were based on web technologies and would be  
 18 enabled in version 10 would work as -- as best as we  
 19 could possible make them, because I still wanted  
 20 these to be a good experience, the best experience  
 21 they could be.  
 22 So we built a few of our own apps. I think  
 23 it was like weather, stocks, maybe the calculator, I  
 24 think there was like three of those that we built as  
 25 web technology apps, and they were similar to what a  
 00083:01 third party could have built when we shipped.  
 02 And, in fact, in January of 2007 when we had  
 03 the keynote and launched the iPhone, those were  
 04 web-based apps at the time of that launch, and they  
 05 did not perform well. We could tell using it that  
 06 they were not as good as performing as the built-in  
 07 apps.  
 08 Now, you can always through software start  
 09 to try to improve things, make its launch a little  
 10 better, use a little less memory, get a faster  
 11 processor, get more memory in the next iteration of  
 12 the iPhone. You can do things to try to make it can  
 13 better.  
 14 But because of the architecture, it sits as  
 15 an extra layer on top of the native layer, and  
 16 therefore, it's never going to be faster than the  
 17 native layer. There might be some advantages about  
 18 how the code loads in a modular fashion or something  
 19 else. But it just, for us, it wasn't as good as the  
 20 native ones.  
 21 And therefore, after we announced the iPhone  
 22 and demonstrated the iPhone between that and June 29,  
 23 we rewrote all those apps as native apps and they --  
 24 they shipped as native apps on the first version of  
 25 the iPhone.  
 00084:01 So even though there are arguments people  
 02 can and did make for using web technologies as the  
 03 sole way for third parties to build apps, my  
 04 experience was very clear that those apps would not  
 05 be as good as native apps, and I wanted to have the  
 06 best possible apps in the platform we could.

**26. PAGE 85:01 TO 85:09 (RUNNING 00:00:42.650)**

00085:01 Q. Fair to say that pretty quickly after the  
 02 launch of the iPhone, it became pretty clear that  
 03 there was huge demand from developers for the ability  
 04 to build native apps for the iPhone?  
 05 A. Yes.  
 06 Q. And one of the ways that this became clear  
 07 was that third party developers approached you and  
 08 asked whether they could do that; is that right?  
 09 A. Yes.

**27. PAGE 85:19 TO 85:24 (RUNNING 00:00:28.145)**

19 Q. And was one indicator that there were  
 20 constant attempt by hackers to essentially remove all  
 21 the protections that Ms. Borogove presented to us

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22 awhile -- in the e-mail we read a little bit ago and  
 23 start loading third party applications, native  
 24 applications on to jail broken phones?

**28. PAGE 86:01 TO 86:05 (RUNNING 00:00:21.761)**

00086:01 THE WITNESS: After we shipped, developers  
 02 started jailbreaking phones and writing native  
 03 applications and I took that as an indication of  
 04 their passion to build applications, native  
 05 applications, for the iPhone.

**29. PAGE 87:13 TO 88:14 (RUNNING 00:02:10.071)**

13 Q. Fair to say that at the time you understood  
 14 that the attempts to block this tsunami of attempt  
 15 of -- of third party obligations was futile and  
 16 better for Apple to join in, rather than fight these  
 17 attempts?

18 MS. MOYE: Object to the form.

19 THE WITNESS: So I would not say it that  
 20 way.

21 BY MR. EVEN:

22 Q. How would you --

23 A. I would say we were very concerned about  
 24 people building viruses or malware for the phone, and  
 25 so any activity that I saw that involved jailbreaking  
 00088:01 and then trying to create malicious code, we would  
 02 vigilantly respond to and were not concerned, even if  
 03 it were a tsunami that we would give up on that.

04 We were going to be vigilant for all time as  
 05 protecting people in the security and the privacy of  
 06 their phones. I thought as I'd argued a year earlier  
 07 and -- and beyond that, that we should be creating a  
 08 platform and both enable and encourage developers to  
 09 build native apps for the phones.

10 So I did not see this as a bad thing that  
 11 developers wanted to dedicate their time and energy  
 12 and lives to building something cool for our  
 13 platform. If that cool thing was not malware or a  
 14 virus or something problematic.

**30. PAGE 89:02 TO 89:25 (RUNNING 00:01:32.960)**

02 Q. And one concern with jailbreaking I take it  
 03 was that just like the mechanisms that Ms. Borogove  
 04 wrote about that were not discriminating between  
 05 malware and so-called good applications, once a phone  
 06 is jail broken, all third party applications can go  
 07 on it without any distinguishing between malware or  
 08 malicious applications and good applications,  
 09 correct?

10 MS. MOYE: Object to the form.

11 THE WITNESS: The danger with jailbreaking  
 12 is, it breaks down, depending on how it's done,  
 13 potentially all of the consumer protections build  
 14 into the operating system.

15 Now, jailbreaking in general like this can't  
 16 be done accidentally. So consumers are still  
 17 protected in general, but if you do these certain  
 18 things which involve plugging into a computer and --  
 19 and going through a set of machinations, it does not  
 20 only allow maybe some positives the consumer might  
 21 believe or the developer might perceive of installing  
 22 an application, a game in this case, but it has the  
 23 very dangerous and significant downsides for  
 24 consumers of opening their phone up to potential  
 25 viruses or malware.

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19 Q. Got it. What was your official title at the  
 20 time?  
 21 A. Senior vice-president of software, iPhone  
 22 software something.

**32. PAGE 98:15 TO 103:15 (RUNNING 00:09:40.910)**

15 Q. Mr. Forstall, let me mark as Exhibit 873 a  
 16 document Bates stamped APL-EG\_00460878, and this is  
 17 an October 1 chain between yourself and Mr. Lamiriaux,  
 18 if I'm pronouncing that right, and the subject is:  
 19 Re: Cocoa Touch apps.  
 20 (Exhibit 873 marked for identification and is  
 21 attached hereto.)  
 22 BY MR. EVEN:  
 23 Q. My first question is, is this an e-mail  
 24 chain you exchanged with Mr. Lamiriaux in early  
 25 October 2007 in the ordinary course of your work at  
 00099:01 Apple?  
 02 A. Give me a minute to look it over.  
 03 Q. Sure.  
 04 A. Okay. Yes, this is an e-mail I received  
 05 during the normal course of business.  
 06 Q. This is an e-mail you received and an e-mail  
 07 that you sent, right, it's an exchange of e-mails  
 08 between you and Mr. Lamiriaux, correct?  
 09 A. There is an e-mail that I sent to Henri and  
 10 there is his response as well.  
 11 Q. So let's start with the subject. What is  
 12 Cocoa Touch?  
 13 A. Cocoa Touch is a name we used for the frame  
 14 works, notably normally the high level frame works  
 15 for Cocoa on the iPhones, the native frame works.  
 16 Now, it's used in multiple ways, sometimes  
 17 it's used to mean all the frame works, sometimes it's  
 18 used just to mean the user interface level.  
 19 Q. Okay. And when you wrote here: Cocoa Touch  
 20 apps as the subject of your e-mail, that pertains to  
 21 native apps, third party apps on the iPhone, correct?  
 22 A. Right. I'm distinguishing here between web  
 23 apps which we had and continue to have and this is  
 24 talking about natively compiled iPhone apps for third  
 25 parties using the Cocoa Touch frame works.  
 00100:01 Q. And -- you're writing (as read):  
 02 I'm trying to capture the issues  
 03 with taking Cocoa Touch public.  
 04 What am I missing.  
 05 Do you see that?  
 06 A. I do.  
 07 Q. And so -- and below, you try to capture the  
 08 issues with, that you've identified with opening up  
 09 the -- the iPhone for third party native apps,  
 10 correct?  
 11 A. Correct.  
 12 Q. And what was the role of Mr. Lamiriaux?  
 13 A. Henri led the team, the engineering team, he  
 14 was an engineering director, reporting directly to  
 15 me. He was responsible for some of the native  
 16 frameworks and many of the native apps.  
 17 Q. When you say "the native apps" you mean  
 18 Apple developed native apps, correct?  
 19 A. The apps that shipped on the iPhone as part  
 20 of iPhone OS, correct.  
 21 Q. And first you point to several risks in  
 22 making Cocoa Touch public, correct?  
 23 A. Correct.

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24 Q. And you say, for example, the risks of  
25 viruses. That's one you identify, correct?  
00101:01 A. Correct.  
02 Q. Another one is: Harder to switch  
03 processors.  
04 Why is it harder to switch processors?  
05 A. Yeah, this is a really big deal. When you  
06 have a native app, it is compiled into the  
07 instruction set of a specific processor. For  
08 instance, if you're on a Windows machine now-a-days,  
09 it's probably compiled into an Intel instruction set.  
10 And what we had found when I -- you know,  
11 I've worked at NeXT and we had actually switched  
12 processors and then at Apple we had switched  
13 processors again, if you have natively compiled apps  
14 out there, that native binary will not just run on  
15 your new processor. You have multiple options for  
16 this.  
17 And so we talked earlier about this when we  
18 brought up macOS 10 that we had, you know, like  
19 Classic, but that's this, this blue box Classic  
20 emulation mode that tries to take those processor  
21 instructions and convert them into one that can run  
22 on the new processor.  
23 So in this case when I'm talking about was a  
24 risk, well, if Apple is building only natively  
25 compile applications and third parties are building  
00102:01 web applications, a huge advantage to those third  
02 parties of those web apps is no matter what Apple  
03 does with the processor, those keep running, because  
04 they're interpreted.  
05 So each time you get a new, if Apple  
06 switches iPhone -- this is true today. If Apple  
07 switches to a new processor those web apps have this  
08 big advantage that they just keep running going  
09 forward, because interpreted on the -- on the  
10 processor.  
11 And if Apple is running all -- all native  
12 apps come from Apple, then to introduce a new phone  
13 with a new processor, all you need to do is Apple  
14 will recompile every one of those apps, the source  
15 code to those apps, to the new processor and then  
16 release it.  
17 The liability here is if you now have third  
18 party natively compiled apps and you want to bring  
19 out a new processor which you think will be faster,  
20 more security, whatever, and there will be advantages  
21 this new processor might have, and there are third  
22 party native apps in the marketplace that customers  
23 are relying upon, you have to find some solution for  
24 those customers.  
25 The solution could be convince the  
00103:01 developers to take that source code and recompile it  
02 for the new processor. Which might work. But if  
03 that, let's say that company is out of business or no  
04 longer is staffing that app any more, doesn't want to  
05 put in the amount of money and time and effort it  
06 would take to recompile that, you get stuck.  
07 So then you -- look, do you simulate it also  
08 or do you have customers now who are left not being  
09 able to buy a new iPhone because doing so would then  
10 disable functionality in the form third party apps  
11 they've come to rely upon for their business.  
12 Q. So essentially you get breakage with some of  
13 the third party apps potentially if you switch  
14 processors?  
15 A. Correct?

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22 Q. Let me now mark Exhibit 875, APL-EG\_0098292.  
 23 (Exhibit 875 was marked for identification  
 24 and is attached hereto.)

**34. PAGE 109:12 TO 109:23 (RUNNING 00:00:30.342)**

12 Q. First question was, what is "MacOS X  
 13 Embedded"?  
 14 A. I think the authors of this document took it  
 15 to mean iPhone OS which would be used on the iPhone  
 16 and it was to be used to iPod Touch at the time, but  
 17 I think they're taking it to mean the same thing.  
 18 Q. Okay. And is this a document you had  
 19 received in the ordinary course of your work at  
 20 Apple?  
 21 A. Likely. I mean, I don't see a e-mail trail  
 22 anything, but this -- I would have expected to have  
 23 received this document.

**35. PAGE 110:08 TO 110:13 (RUNNING 00:00:15.971)**

08 Q. And the document is prepared by three  
 09 people, Mitch Adler, John Wright, and Dallas  
 10 De Atley.  
 11 Do you see that?  
 12 A. Well, it says "et al." So it's prepared by  
 13 more than just them, but three named authors.

**36. PAGE 111:02 TO 111:09 (RUNNING 00:00:33.826)**

02 Q. And were they -- was part of their -- was  
 03 part of their job to oversee security?  
 04 A. Part of their job was to oversee security.  
 05 Q. And did they oversee security on both  
 06 macOS 10 and iPhone or just one of them?  
 07 A. I believe they were in groups that oversaw  
 08 security on both platforms and I do believe they  
 09 oversaw security on both platforms.

**37. PAGE 111:10 TO 112:20 (RUNNING 00:02:19.911)**

10 Q. So going to the first page, do you see that  
 11 the document begins by saying (as read):  
 12 The transition from a closed  
 13 system to one with a more open  
 14 developer model demands answers to  
 15 questions of control and security.  
 16 Do you see that?

17 A. I do.  
 18 Q. Going further down under applications, they  
 19 say they assume the (as read):  
 20 Existence of a robust sandbox to  
 21 contain applications and developers.  
 22 Do you see that?

23 A. By the way, I would not have characterized  
 24 the way they characterized that first statement, for  
 25 the record.

00112:01 So what's your second question.  
 02 Q. What do you mean by you would not have  
 03 characterized the way they characterized, sorry?  
 04 A. The statement you read said: The transition  
 05 from a closed system to one with more open  
 06 developer -- a more open developer model demands  
 07 answers to questions of control and security.  
 08 Q. Got it.  
 09 A. And I would characterize ours as not a  
 10 closed system, because we did have both a web

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11 browser. So all web applications ran, and we  
 12 supported these web apps. I don't remember if the  
 13 web apps by this time could be placed on the home  
 14 screen as well, which I thought was important enough  
 15 that I think I'm the lead patent holder on that  
 16 patent. So that was an important thing.  
 17 So -- so calling it a closed system, which  
 18 is their words, not mine, I would not say that. I  
 19 would say that we were going to a -- more developer  
 20 opportunities with native apps.

**38. PAGE 117:13 TO 117:18 (RUNNING 00:00:09.016)**

13 Q. And they say (as read):  
 14 Distribution through the web  
 15 should be supported, but Apple will  
 16 provide no transfer protection.  
 17 Do you see that?  
 18 A. I do.

**39. PAGE 117:25 TO 118:02 (RUNNING 00:00:09.934)**

25 Q. And "through the web" here means through a  
 00118:01 website operated by the developer or through a store  
 02 operated by a third party, correct?

**40. PAGE 118:04 TO 118:05 (RUNNING 00:00:05.019)**

04 THE WITNESS: Well, it doesn't say, but it  
 05 would be through a mechanism that is not iTunes.

**41. PAGE 118:07 TO 118:08 (RUNNING 00:00:06.753)**

07 Q. And not the App Store, correct?  
 08 A. And not the App Store. The Apple App Store.

**42. PAGE 118:25 TO 119:17 (RUNNING 00:00:53.803)**

25 Q. And if you go to appendix C, developer  
 00119:01 scenarios, the first one is: Guy in his basement.  
 02 Do you see that?  
 03 A. I do.  
 04 Q. And I gather this is their speak for small  
 05 time developers, stand alone developer, correct?  
 06 A. Yes.  
 07 Q. And under 3: Decide you have final version  
 08 to deploy, do you see that they say what the  
 09 developer needs to do, A -- or 3.1, sorry (as read):  
 10 Submit to Apple for signing and  
 11 then get signed image and deploy as  
 12 you wish.  
 13 Do you see that?  
 14 A. I do.  
 15 Q. And deploy as you wish here again, means  
 16 distribute in whichever way you believe best serves  
 17 your interests, correct?

**43. PAGE 119:19 TO 119:24 (RUNNING 00:00:14.296)**

19 THE WITNESS: I could define it as you wish,  
 20 but you get assigned image and you deploy it  
 21 yourself.  
 22 BY MR. EVEN:  
 23 Q. And "deploy" here means distribute, correct?  
 24 A. Correct.

**44. PAGE 125:12 TO 125:12 (RUNNING 00:00:01.979)**

12 Exhibit 877. And tab 877 -- sorry, PX877 is

*Epic Games, Inc. v. Apple Inc., No. 4:20-cv-05640-YGR-TSH (N.D. Cal.)***45. PAGE 125:13 TO 125:15 (RUNNING 00:00:05.791)**

13 APL-EG\_01025133.  
 14 (Exhibit 877 was marked for identification  
 15 and is attached hereto.)

**46. PAGE 127:03 TO 127:08 (RUNNING 00:00:34.474)**

03 Q. And this, too, came from your files, fair to  
 04 assume that this, too, is a document that you would  
 05 have received back in 2007?  
 06 A. If you're correct about the date it was  
 07 created, I would have received it sometime around  
 08 when it was created, I'll expect.

**47. PAGE 129:08 TO 129:24 (RUNNING 00:00:49.273)**

08 Q. Under Distribution Method, on page 2 you see  
 09 that it says (as read):  
 10 We will distribute third party  
 11 applications through the iTunes  
 12 Music Store. However, our model  
 13 will allow for third parties to  
 14 distribute their own applications  
 15 and for enterprise customers to  
 16 deploy to their own devices.  
 17 Do you see that?  
 18 A. I do.  
 19 Q. And do you recall that there was a time  
 20 around October or November of -- of 2007, sorry,  
 21 where that was the plan of record at Apple, that  
 22 third parties could sign their applications as we've  
 23 seen before and then distribute as they wish, as this  
 24 last document we saw --

**48. PAGE 130:05 TO 131:12 (RUNNING 00:01:28.868)**

05 THE WITNESS: Let me start with the first.  
 06 This statement says (as read):  
 07 We will distribute third party  
 08 applications through the iTunes  
 09 Music Store.  
 10 Okay. Second sentence says (as read):  
 11 However, our model will allow for  
 12 third parties to distribute their  
 13 own applications ...  
 14 It does not say our policy is to allow that.  
 15 This is a technical document from a technical team  
 16 who is building the security infrastructure, and so  
 17 their statement here is that the model -- the  
 18 technical infrastructure they're building will allow  
 19 for other distribution mechanisms.

20 BY MR. EVEN:

21 Q. Good. Thank you.  
 22 And then it goes -- if you go further below,  
 23 do you see it says (as read):

24 Signing does not imply a specific  
 25 distribution method, and it's left  
 00131:01 as a policy decision as to whether  
 02 Apple signed application are posted  
 03 to the online store, or we allow  
 04 developers to distribute on their  
 05 own.

06 Do you see that?

07 A. I do.

08 Q. And do you recall that there was a time  
 09 around October or November 2007 when that policy  
 10 decision has not yet been made, it is up in the air?

11 A. There was a time when that decision had not

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12 yet been made.

**49. PAGE 142:24 TO 145:08 (RUNNING 00:05:36.701)**

24 Q. Do you recall that there was a debate within  
 25 Apple about whether Apple should allow distribution  
 00143:01 only through the App Store or whether it should allow  
 02 developers to distribute native apps through other  
 03 means?

04 A. So there were discussions about what the  
 05 distribution mechanisms could be, and as you pointed  
 06 out in one of the white papers we looked at, it  
 07 talked about potential mechanisms in the operating  
 08 system for how to make each of these secure in  
 09 different ways.

10 And then there were discussions about how  
 11 effective those different mechanisms could be and  
 12 what mechanisms we should enable for our customers.

13 Q. Fair to say that there was a contingent  
 14 within Apple that thought that developers should be  
 15 able to distribute their apps through a different  
 16 mechanism than the App Store?

17 MS. MOYE: Objection to the form.

18 THE WITNESS: There were discussions about  
 19 how we could enable developers to distribute their  
 20 apps, one being the App Store, another being  
 21 distribute them sort of directly the way, say, people  
 22 do on Windows. Although, I think Windows might have  
 23 an App Store also now. But distribute, you know,  
 24 through Windows. Back in the day, you had to  
 25 distribute through shrink wrap at a physical store.

00144:01 So we had discussions about the merits and  
 02 dangers of distributing in different ways, within a  
 03 company, and then beyond the company.

04 BY MR. EVEN:

05 Q. And you don't recall arguments about whether  
 06 Apple should or should not allow distribution through  
 07 the web, for example?

08 A. I remember going through the various  
 09 options. I can't point to a specific conversation  
 10 about some of these mechanisms, but I can recall my  
 11 thinking on the reasons for doing certain ways and  
 12 why certain mechanisms might be better or worse than  
 13 others, and why we came to the conclusion that we  
 14 did.

15 And I'm certain there were people giving  
 16 input and opinions on the merits for each of these  
 17 different mechanisms, and that's just responsible to  
 18 consider different mechanisms and the pros and cons  
 19 of them.

20 MR. EVEN: Jessica, can you bring up 478,  
 21 please.

22 Q. Who were the main proponents of distribution  
 23 only through the App Store?

24 A. Sorry. Is there a document I'm supposed to  
 25 be looking at?

00145:01 Q. Nope.

02 A. Okay. Sorry. I thought you said -- who  
 03 were the proponents? After we had gone through the  
 04 discussion, I think basically all of the execs were  
 05 proponents of the App Store, plus our enterprise  
 06 distribution models as being the two best mechanisms  
 07 to protect our mutual customers and get wide  
 08 distribution for developers.

**50. PAGE 161:20 TO 162:04 (RUNNING 00:00:42.406)**

20 Q. Do you recall you gave a presentation, I

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21 think we discussed that earlier, in March 2008,  
 22 introducing the SDKs for the iPhone?  
 23 A. In 2008, we had an event where we launched  
 24 and publicly announced the iPhone SDK, in App Store.  
 25 Q. And you personally presented in that -- in  
 00162:01 that event and specifically the portion about the  
 02 SDK, correct?  
 03 A. Correct.  
 04 Q. If you look at Exhibit 880.

**51. PAGE 162:05 TO 162:12 (RUNNING 00:00:18.729)**

05 (Exhibit 880 was marked for identification  
 06 and is attached hereto.)  
 07 BY MR. EVEN:  
 08 Q. Do you recognize this as a transcript  
 09 prepared by Apple of the event on March 6, 2008,  
 10 launching the iPhone SDK?  
 11 A. Yeah. This appears to be a transcript of  
 12 that event.

**52. PAGE 162:13 TO 162:16 (RUNNING 00:00:12.098)**

13 Q. After you were done introducing the SDKs,  
 14 you turned the -- the baton over to Mr. Jobs to  
 15 present the App Store; is that right?  
 16 A. Yes.

**53. PAGE 163:14 TO 164:11 (RUNNING 00:01:17.544)**

14 Q. If you go to the page ending in 075.  
 15 A. Okay.  
 16 Q. And you see that in the fourth paragraph  
 17 beginning: "Now, developers."  
 18 Do you see that paragraph?  
 19 A. I do.  
 20 Q. And in the middle of the paragraph, Mr. Jobs  
 21 says (as read):  
 22 When we sell the app through the  
 23 App Store, the developer gets  
 24 70 percent of the revenues right off  
 25 the top. We keep 30 to pay for  
 00164:01 running the App Store.  
 02 Do you see that?  
 03 A. I do.  
 04 Q. And going to the next paragraph he says,  
 05 second full sentence after the second question mark  
 06 (as read):  
 07 So when a developer wants to  
 08 distribute their app for free, there  
 09 is no charge for free apps at all.  
 10 Do you see that?  
 11 A. Followed by "applause." Yep.

**54. PAGE 164:12 TO 164:25 (RUNNING 00:00:36.304)**

12 Q. And do you see that in the next paragraph,  
 13 Mr. Jobs said -- talks about some apps that will not  
 14 be allowed. And then he says (as read):  
 15 ... we have exactly the same  
 16 interest as the vast majority of our  
 17 developers, which is to get a ton of  
 18 apps out there for the iPhone and we  
 19 think we've invented an incredibly  
 20 great way to do it ...  
 21 Do you see that?  
 22 A. Yes.  
 23 Q. You were there and heard all that being said  
 24 at the time, right?

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25 A. Yes.

**55. PAGE 165:01 TO 166:14 (RUNNING 00:02:04.050)**

00165:01 Q. Now, if you go to the page ending in 079.  
 02 A. Okay.  
 03 Q. And Mr. Jobs is being asked what sorts of --  
 04 the bottom half of the page (as read):  
 05 What sorts of safeguards have you  
 06 built in to make sure that all these  
 07 apps and applications that are going  
 08 to be coming on to the iPhone are  
 09 secure?  
 10 Do you see that?  
 11 A. I do.  
 12 Q. And Mr. Jobs says how are we going to do  
 13 that, and first he explains the way we're going to do  
 14 it is that developers have to register with us, and  
 15 for that \$99 that they paid to join the program they  
 16 actually get an electronic certificate, and that  
 17 tells us who they are, and so if they write a  
 18 malicious app we can track them down, we can tell  
 19 their parents.  
 20 Do you see that?  
 21 (Reporter clarification.)  
 22 BY MR. EVEN:  
 23 Q. Do you see that?  
 24 A. I do.  
 25 Q. And that is a version of the same signing  
 00166:01 mechanism that we have discussed now over multiple  
 02 documents, correct?  
 03 A. That is part of this, yes.  
 04 Q. And then on the next page, Mr. Jobs says  
 05 (as read):  
 06 The other thing we can do since  
 07 the distribution of their  
 08 applications is going to be through  
 09 the App Store, if we're alerted to a  
 10 malicious app that we didn't catch,  
 11 we'll turn off the spigots so no  
 12 more people download it.  
 13 Do you see that?  
 14 A. Yes.

**56. PAGE 171:05 TO 171:16 (RUNNING 00:00:37.901)**

05 Q. So let's look at that question, and that's  
 06 on page 081. And the question is at the top third --  
 07 third sort of bullet, third paragraph (as read):  
 08 Isn't the fact that Apple is  
 09 going to be the exclusive  
 10 distributor for all these  
 11 applications raise some questions  
 12 about monopolies and so forth? What  
 13 if a developer doesn't want to  
 14 distribute through the App Store?  
 15 Do you see that question?  
 16 A. I do. I didn't realize that you attended

**57. PAGE 173:05 TO 174:07 (RUNNING 00:01:25.966)**

05 Q. Mr. Forstall, going down the page, you see  
 06 that there's some back and forth, and then Mr. Jobs  
 07 said (as read):  
 08 Also, just to make it a little  
 09 clearer, we don't intend to make  
 10 money off the App Store.  
 11 Do you see that statement?

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12       A. I see that statement on the page.  
 13       Q. And do you see that then Mr. Jobs then  
 14 explained that Apple doesn't make a lot of money off  
 15 of iTunes. Do you see that?  
 16       A. I do.  
 17       Q. And then he says -- I'm reading (as read):  
 18                 ... in the case of the iTunes  
 19                 Music Store, we give all the money  
 20                 to the content owners and we are  
 21                 basically giving all the money to  
 22                 the developers here and if that 30  
 23                 percent of it pays for running the  
 24                 store, well that will be great.  
 25                 Do you see -- did I read that correctly?  
 00174:01      A. Yes.  
 02        Q. And the 30 percent that Mr. Jobs is alluding  
 03 to is the 30 percent commission that Apple keeps when  
 04 there's a distribution of a paid app through the  
 05 store, correct?  
 06        A. It's 30 percent of the gross revenue of an  
 07 app through the App Store.

**58. PAGE 174:08 TO 174:10 (RUNNING 00:00:12.992)**

08       Q. You understand that for the past decade or  
 09 so, the 30 percent that Apple keeps does much more  
 10 than pay for running the store, correct?

**59. PAGE 174:12 TO 174:13 (RUNNING 00:00:06.450)**

12                 THE WITNESS: I understand that app -- the  
 13 30 percent is making Apple a profit.

**60. PAGE 183:22 TO 184:01 (RUNNING 00:00:12.132)**

22       Q. So with that, Mr. Forstall, if you can go to  
 23 Exhibit 882, which is APL-EG\_00260094.  
 24                 (Exhibit 882 was marked for identification  
 25 and is attached hereto.)  
 00184:01      MR. EVEN: This document is a e-mail

**61. PAGE 184:02 TO 184:07 (RUNNING 00:00:21.793)**

02 correspondence between Mr. Forstall and Mr. Schiller,  
 03 dated January 21, 2008.  
 04       Q. Mr. Forstall, is this an e-mail chain that  
 05 you sent and received as part of the ordinary course  
 06 of your employment at Apple?  
 07       A. Yes.

**62. PAGE 187:21 TO 188:07 (RUNNING 00:00:42.051)**

21       Q. Okay. And I think you mentioned earlier  
 22 today when talking about, for instance, something  
 23 like HTML5, you mentioned that HTML5 is sort of  
 24 agnostic to the underlying processor because you --  
 25 the developers write for HTML5, right? And so HTML5  
 00188:01 is a cross-platform platform in that sense?  
 02       A. HTML5 standards are interpreted code so they  
 03 are agnostic to the specific processor on which they  
 04 run.  
 05       Q. And in that sense they serve as a  
 06 cross-platform platform for web app developers,  
 07 correct?

**63. PAGE 188:09 TO 188:12 (RUNNING 00:00:12.655)**

09                 THE WITNESS: For web app developers and web  
 10 developers in general, they can serve as a  
 11 cross-platform development platform, which sometimes

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12 can work very well.

**64. PAGE 188:13 TO 189:03 (RUNNING 00:01:00.060)**

13 Now, they run inside of a browser generally,  
 14 and browsers have been built up with an enormous  
 15 amount of security over time. I mean, even though  
 16 you see viruses sometimes come through web browsers,  
 17 but the more mature ones are getting better and  
 18 better at it.

19 Just as an aside, sometimes that works  
 20 really great and it's interesting like today we're  
 21 doing this deposition and we are using a native app,  
 22 which is Zoom so we can see each other, and then  
 23 we're using a web app to exchange documents.

24 Well, those documents, you know, that's an  
 25 important way to go and they're secure and that's  
 00189:01 being done through an app inside of a web browser,  
 02 too, HTML5 and beyond standards, so both mechanisms  
 03 of building can work well.

**65. PAGE 189:21 TO 190:08 (RUNNING 00:00:27.436)**

21 Q. And so back then, too, you thought that what  
 22 they're planning is really a cross-platform platform  
 23 as you called it?

24 A. Yes.

25 Q. And you then say (as read):  
 00190:01 While I would prefer developers  
 02 use web standards -- you mention a  
 03 couple -- or go native if they want  
 04 more, I'm not sure we shouldn't take  
 05 the high ground and let them build  
 06 it and complete.  
 07 Do you see that?  
 08 A. I do.

**66. PAGE 192:23 TO 193:02 (RUNNING 00:00:17.436)**

23 Q. And Mr. Schiller has taken -- upon hearing  
 24 it has taken the initial opposite view to yours,  
 25 correct?

00193:01 A. It sounds like his initial opinion is very  
 02 different from mine.

**67. PAGE 193:03 TO 194:08 (RUNNING 00:01:23.379)**

03 Q. And at the end of the day, Mr. Schiller also  
 04 says (as read):

05 In the grand scheme of things --  
 06 of APIs we could choose to support  
 07 beyond our own, if we ever did  
 08 support another (which I don't  
 09 recommend), Yahoo's Widget API is  
 10 not even close to the most important  
 11 one we would pick, some of the other  
 12 ones I listed above (like Flash) are  
 13 way more important ...  
 14 Do you see that?

15 A. I do.

16 Q. Flash was another cross-platform platform?

17 A. In some ways. I mean, Flash is a pretty big  
 18 conversation in and of itself.

19 Q. I understand. I'm not trying to hear the  
 20 entire Flash story.

21 A. Well, there's a long Flash story in here  
 22 which is -- I mean, yeah. 'Cause we tried to work  
 23 with them also. Yes. Flash can be used as a  
 24 cross-platform platform as well.

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25 Q. And then Mr. Schiller (as read):  
 00194:01        Besides, we have a way to do  
 02 Widgets that competes with theirs,  
 03 so who cares?  
 04 Do you see that?  
 05 A. I do.  
 06 Q. And did Apple end up supporting the Yahoo  
 07 widget engine?  
 08 A. We did not.

**68. PAGE 194:09 TO 194:20 (RUNNING 00:00:44.060)**

09 Q. Did you end up supporting Flash?  
 10 A. We did not ship Flash. We tried to make  
 11 Flash work. We helped Adobe. We -- we definitely  
 12 were interested. Again, this is one where I thought  
 13 if we could help make it work, this could be great.  
 14 Flash has been such a problem because it -- the way  
 15 that it hooks into systems, it's been a virus  
 16 nightmare on -- on Windows, even on the Mac.  
 17 And when we got it running on iOS, the  
 18 performance was just abysmal and embarrassing and it  
 19 could never get to something which would be consumer  
 20 value add.

**69. PAGE 194:21 TO 194:22 (RUNNING 00:00:03.632)**

21 Q. And so you never shipped with Flash either?  
 22 A. We did not.

**70. PAGE 195:01 TO 195:10 (RUNNING 00:00:26.039)**

00195:01 Q. Did you support Java?  
 02 A. We did not.  
 03 Q. And he also mentioned Adobe's Air. Do you  
 04 support Adobe Air?  
 05 A. I do not believe so.  
 06 Q. What about Microsoft Silverlight?  
 07 A. We did not support that. I don't even know  
 08 if that exists anymore, but we did not support that.  
 09 Q. And Qualcomm's Brew?  
 10 A. We did not support that.

**71. PAGE 195:22 TO 196:03 (RUNNING 00:00:26.779)**

22 Q. I wasn't suggesting that. I asked whether  
 23 you recall that there were cross-compilers available  
 24 from third parties that allowed people to develop  
 25 apps that would run on iOS.  
 00196:01 A. I think people were trying to create  
 02 cross-compilers. I don't remember if any of those  
 03 were used in the real world.

**72. PAGE 196:04 TO 196:07 (RUNNING 00:00:14.590)**

04 Q. Do you recall that Apple at some point  
 05 decided to ban the use of cross-compilers for  
 06 developing apps for the -- for iOS?  
 07 A. Yes.

**73. PAGE 198:10 TO 198:14 (RUNNING 00:00:14.132)**

10 Q. Cross-compilers are used for cross-platform  
 11 development, right?  
 12 A. In general they can be used for a couple  
 13 things, but yes, they can be used for cross-platform  
 14 development.

**74. PAGE 206:14 TO 206:21 (RUNNING 00:00:12.042)**

14 (Exhibit 886 was marked for identification

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15 and is attached hereto.)  
 16 BY MR. EVEN:  
 17 Q. Do you see this is an e-mail from Philip  
 18 Schiller to yourself, copying Mr. Jobs on July 16,  
 19 2011?  
 20 A. Give me a minute. There's a lot of e-mails  
 21 in here, so I'm going to scan through it briefly.

**75. PAGE 207:01 TO 207:06 (RUNNING 00:00:14.197)**

00207:01 Q. Mr. Forstall, is this an e-mail that you  
 02 received?  
 03 A. Yes.  
 04 Q. And is in an e-mail that you received as  
 05 part of the ordinary course of your work at Apple?  
 06 A. Yes.

**76. PAGE 208:02 TO 208:03 (RUNNING 00:00:03.628)**

02 And Mark here again is Mr. Zuckerberg?  
 03 A. Yep.

**77. PAGE 208:04 TO 208:06 (RUNNING 00:00:18.353)**

04 Q. And so Facebook wanted to have either an  
 05 embedded web view or links to web apps in its iPad  
 06 native app, correct?

**78. PAGE 208:08 TO 208:15 (RUNNING 00:00:23.502)**

08 THE WITNESS: Facebook was looking in their  
 09 iPad app to enable embedded apps with inside of that  
 10 app.  
 11 BY MR. EVEN:  
 12 Q. And you told them they can't do that,  
 13 correct?  
 14 A. We said they should not include embedded  
 15 apps inside of the native app.

**79. PAGE 209:25 TO 210:11 (RUNNING 00:00:57.300)**

25 Q. And the concern is that if Facebook did  
 00210:01 this, if it did include these links, then it would  
 02 operate as a storefront for web apps, correct?  
 03 MS. MOYE: Objection to the form.  
 04 THE WITNESS: The idea is if they were doing  
 05 this -- I mean, there's many issues, it could be very  
 06 confusing to users if they're making it appear to be  
 07 an app store, but it's not taking you to the native  
 08 apps you can download on to a platform. It's unclear  
 09 exactly what the point of that directory of links  
 10 with inside of an application would -- would present  
 11 itself as.

**80. PAGE 211:08 TO 212:01 (RUNNING 00:01:07.900)**

08 Q. Mr. Forstall, what you told Mr. Zuckerberg  
 09 is not to include embedded apps in the Facebook iPad  
 10 app either in an embedded web view or as a directory  
 11 of links that would redirect to Safari. This speaks  
 12 to HTML5 web apps, correct?  
 13 A. No --  
 14 MS. MOYE: Objection to the form.  
 15 THE WITNESS: This speaks to what Facebook  
 16 would do in its native iPad app. Facebook when using  
 17 HTML, HTML5, all web standards, as a website which  
 18 is, you know, how you probably access Facebook when  
 19 you're sitting on your Windows machine or your Mac,  
 20 that uses web standards and works exactly how they  
 21 built Facebook from day one.

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22            This is talking about what do they do in the  
23 native iPhone or iOS app and iPad app, in this case.  
24 BY MR. EVEN:  
25            Q. I understand that, but that wasn't my  
00212:01 question, Mr. Forstall.

**81. PAGE 212:02 TO 212:04 (RUNNING 00:00:15.815)**

02            My question was: You told Mr. Zuckerberg  
03 that Facebook should not embed or link to HTML5 apps  
04 from its native app, correct?

**82. PAGE 212:06 TO 212:09 (RUNNING 00:00:19.344)**

06            THE WITNESS: I said -- the message that I  
07 delivered was that Facebook in their native app  
08 should not redirect to links that would take you to  
09 Safari in this directory.



Smile

*Epic Games, Inc. v. Apple Inc., No. 4:20-cv-05640-YGR-TSH (N.D. Cal.)***Forstall, Scott (Vol. 02) - March 8, 2021****1 CLIP (RUNNING 00:07:40.616)****13 SEGMENTS (RUNNING 00:07:40.616)****1. PAGE 230:05 TO 230:11 (RUNNING 00:00:44.125)**

05 Q. Mr. Forstall, do you recall that after the  
 06 App Store opened, there were developers who deployed  
 07 mechanisms for collection of payments within their app;  
 08 for instance, through opening an embedded web app,  
 09 collect payment, things of that nature?  
 10 A. I remember there was some sort of payment thing.  
 11 I don't remember the specifics. I remember generally.

**2. PAGE 230:16 TO 230:18 (RUNNING 00:00:16.143)**

16 Q. Okay, but you were aware that developers found  
 17 ways to -- to make sales within their app, and collect  
 18 payment for those sales?

**3. PAGE 230:20 TO 230:22 (RUNNING 00:00:08.518)**

20 THE WITNESS: I remember a general concept  
 21 that some developers were trying to collect payment  
 22 through their apps.

**4. PAGE 230:24 TO 231:02 (RUNNING 00:00:18.824)**

24 Q. And do you recall there came a time when Apple  
 25 decided to offer its own payment mechanism for  
 00231:01 applications that sold digital content?  
 02 A. Yes.

**5. PAGE 231:06 TO 231:08 (RUNNING 00:00:12.291)**

06 Q. And applications that sold physical goods remained  
 07 free to use whatever other mechanisms they wanted.  
 08 They couldn't use the Apple mechanism. Correct?

**6. PAGE 231:15 TO 231:19 (RUNNING 00:00:18.786)**

15 THE WITNESS: Apps could not use Apple's  
 16 in-app purchase for the sale of physical goods.  
 17 BY MR. EVEN:  
 18 Q. But they could use other mechanisms. Correct?  
 19 A. Yes.

**7. PAGE 232:05 TO 232:07 (RUNNING 00:00:17.530)**

05 Q. But apps that sold digital content were required  
 06 to do so using the IAP API. Correct?  
 07 A. Correct.

**8. PAGE 234:08 TO 234:08 (RUNNING 00:00:02.128)**

08 Q. If you look at Exhibit 888, Exhibit 888 is Bates

**9. PAGE 234:09 TO 234:17 (RUNNING 00:00:43.244)**

09 stamped APL-APPSTORE\_10080247. And it's a cover  
 10 email attaching a -- what appears to be a slide deck,  
 11 with the tagline "App Commerce Models." Do you see  
 12 that?  
 13 A. I do.  
 14 Q. And is that an email that you received together  
 15 with its -- with its attachment on 11 December 2008 in

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16 the ordinary course of your work at Apple?  
 17 A. Yeah.

**10. PAGE 252:06 TO 252:13 (RUNNING 00:00:29.053)**

06 Q. Okay. We discussed earlier that there were some  
 07 apps on the App Store prior to the release of IAP  
 08 that were using their own payment mechanisms for  
 09 different kinds of purchases made in the app. Correct?  
 10 A. Correct.  
 11 Q. And some of those then needed to switch over to  
 12 IAP once IAP was released. Correct?  
 13 A. At some time frame.

**11. PAGE 252:16 TO 254:10 (RUNNING 00:03:25.791)**

16 Do you recall, without divulging any legal advice,  
 17 all the reasons why Apple decided to require that all  
 18 digital sales must use API [sic]?  
 19 MS. MOYE: Do you mean to say "IAP"?  
 20 MR. EVEN: IAP. Sorry.  
 21 THE WITNESS: I mean, there are a number of  
 22 reasons we added IAP. It was to make it easier for  
 23 developers to sell digital goods.  
 24 If you're a game developer and you have an extra  
 25 level that you'd like to sell, but the customer has to  
 00253:01 enter a credit card, that could be a huge impediment to  
 02 the customer buying that extra level; whereas if it  
 03 just says, "Hey, click this button, and, for 99 cents,  
 04 you get another level," the user is much more likely to  
 05 click it. And Apple already has your credit card on  
 06 file, so it -- it really streamlines it. And it's a  
 07 huge win for the developer to have an easy mechanism  
 08 built in to -- to sell goods inside the app. So that  
 09 was -- that was the main reason we did it: To make it  
 10 much, much easier for developers to have another  
 11 revenue stream.  
 12 And, as the App Store -- as apps matured, we  
 13 just learned a lot more about different mechanisms for  
 14 how to help developers make money.  
 15 BY MR. EVEN:  
 16 Q. Any other reasons that you recall, without  
 17 divulging any legal advice?  
 18 A. Any other reasons for what?  
 19 Q. For requiring the use of IAP for in-app sales of  
 20 digital goods.  
 21 A. Well, another reason was to make it consistent  
 22 everywhere. So if users were to see a consistent  
 23 panel, they'd be more likely to accept that.  
 24 If, again, everything's different every time,  
 25 users might be afraid to click, you know, one -- one  
 00254:01 place and not another place, because they might think  
 02 they're going to get a credit-card form added. And so  
 03 if you had a standard panel across everything, that was  
 04 another.  
 05 Another was we did have this 70:30 revenue split  
 06 in the store for sales. And it was to avoid apps from  
 07 trying to basically circumvent that by having a free  
 08 download that wasn't actually free. It was -- Apple  
 09 would pay for everything for the download, and then  
 10 they would charge the customer.

**12. PAGE 254:11 TO 254:13 (RUNNING 00:00:06.133)**

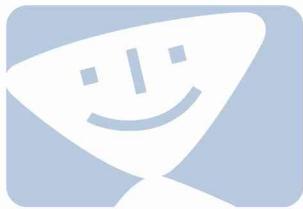
11 Q. Any other reason?  
 12 A. I'm sure there are more that I'm not thinking of  
 13 right now.

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**13. PAGE 255:18 TO 256:02 (RUNNING 00:00:38.050)**

18       Do you recall the year that the App Store was  
19   launched?  
20   A.    2008.  
21   Q.    And in 2008 what were your -- from a high level,  
22   what were your general duties and responsibilities at  
23   Apple?  
24   A.    I ran all software for the iPhone OS, so iOS,  
25   plus I was responsible for macOS 10 releases, and all  
00256:01   design of software user interface design, and a set of  
02   other things.



Smile