

*Epic Games, Inc. v. Apple Inc., No. 4:20-cv-05640-YGR-TSH (N.D. Cal.)***Shoemaker, Phillip B. (Vol. 01) - January 12, 2021****1 CLIP (RUNNING 00:46:50.303)****76 SEGMENTS (RUNNING 00:46:50.303)****1. PAGE 19:13 TO 19:15 (RUNNING 00:00:02.505)**

13 THE VIDEOGRAPHER: Will the reporter please
 14 swear in the witness.
 15 Thank you.

United States District Court
 Northern District of California

2. PAGE 19:17 TO 19:21 (RUNNING 00:00:11.132)

17 PHILLIP B. SHOEMAKER,
 18 having been first duly sworn by the reporter, was
 19 examined and testified as follows:
 20
 21 THE WITNESS: Yes, I do.

Case No. 4:20-cv-05640-YGR
 Case Title Epic Games, Inc. v. Apple, Inc.
 Exhibit No. DX-3004
 Date Entered _____
 By: Susan Y. Soong, Clerk
 , Deputy Clerk

3. PAGE 20:08 TO 20:09 (RUNNING 00:00:05.125)

08 Please state your full name for the record.
 09 A My name is Phillip Burton Shoemaker.

4. PAGE 28:24 TO 29:01 (RUNNING 00:00:07.143)

24 Q And it says that you worked at Apple
 25 beginning at March 2009; is that right?
 00029:01 A That's correct.

5. PAGE 31:03 TO 31:05 (RUNNING 00:00:06.347)

03 Q And what was your job description, as
 04 explained to you at the time?
 05 A To build the App Store Review team.

6. PAGE 35:22 TO 36:01 (RUNNING 00:00:16.825)

22 Q And what were the qualifications of the
 23 then existing reviewers?
 24 A Qualifications were they could breathe,
 25 they could think, and typically they came from the
 00036:01 App Store -- or sorry, the Apple genius stores.

7. PAGE 36:02 TO 37:05 (RUNNING 00:01:30.290)

02 They were ex-Apple geniuses that we'd pull into the
 03 team.
 04 Q And what kind of training did they have for
 05 their role as reviewers?
 06 A We did a -- once they joined the company,
 07 we put them through a multi-month process of them
 08 learning the tools that we used to review apps, and
 09 then go through the Wiki or knowledge base, if you
 10 will, of what we allow in apps and what we don't
 11 allow in apps.

12 And then a lot of the process focused on
 13 who to send the app to when you have questions, who
 14 to send the app to when you've done reviewed it and
 15 you're happy and you want to approve it, and who to
 16 send the app to when you're unhappy with the app and
 17 want to reject it.

18 So it came a lot around understanding what
 19 Apple would tolerate and what they wouldn't tolerate
 20 with regards to features within the app.

21 Q Okay.

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22 And you mentioned a multi-month process and
 23 a Wiki, et cetera. Was all that in place already
 24 when you arrived, or are these things that you
 25 instituted?
 00037:01 A Some of it was in place. I refined most of
 02 that over time. The multi-month process became a
 03 two-week process under my helm, and we put out
 04 guidelines rather than us having to guess at what's
 05 allowed and what's not allowed.

8. PAGE 37:24 TO 38:07 (RUNNING 00:00:27.317)

24 Q And what were the hiring criteria for new
 25 team members?
 00038:01 A That they understood how to use a Mac, that
 02 they understood how to use an iPhone, that they
 03 understood a little about the Apple brand. In that
 04 first year, we were literally only hiring people
 05 that had iPhones, had Macs, and came out of
 06 somewhere within Apple, whether it was the Apple
 07 stores or Apple corporate.

9. PAGE 38:08 TO 38:18 (RUNNING 00:00:31.740)

08 Q And have those criteria changed over time?
 09 A Yes. They changed over time because we
 10 found that people outside of Apple could understand
 11 how to protect the Apple brand. We didn't have to
 12 rely on people that had drunk the Kool-aid, so to
 13 speak.
 14 And we wanted to make sure that -- that
 15 there were people that we could bring from all walks
 16 of life to be able to review apps. It wasn't just
 17 an Apple employee thing. It's something we could
 18 roll out to a larger audience.

10. PAGE 44:03 TO 44:05 (RUNNING 00:00:09.501)

03 Q How many times were you deposed in your
 04 capacity as an Apple employee?
 05 A Roughly, I believe, about five times.

11. PAGE 44:17 TO 44:20 (RUNNING 00:00:10.379)

17 Q And do you recall generally what topics
 18 were you asked by Apple to be deposed as, as Apple's
 19 representative?
 20 A Always App Store related.

12. PAGE 45:24 TO 46:02 (RUNNING 00:00:09.578)

24 Fair to say that your understanding is that
 25 during your tenure, Apple considered you a trusted
 00046:01 representative of the company?
 02 A Yes, that is correct.

13. PAGE 56:13 TO 56:17 (RUNNING 00:00:15.988)

13 How long does the human review process
 14 typically take?
 15 A The numbers we've quoted in the past are
 16 about 13 minutes per app when it's a new app. About
 17 six minutes per app when it's an updated app.

14. PAGE 57:05 TO 57:06 (RUNNING 00:00:04.030)

05 I have been gone for five years. Right.
 06 So a lot may have changed.

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22 MR. EVEN: So I would like to introduce
 23 Exhibit 98. That's Tab 36, Amal.
 24 And Exhibit 99. That's Tab 37.

16. PAGE 64:01 TO 64:12 (RUNNING 00:00:22.341)

00064:01 (Whereupon Shoemaker Exhibit 98 was
 02 marked for identification and
 03 attached hereto.)
 04 (Whereupon Shoemaker Exhibit 99 was
 05 marked for identification and
 06 attached hereto.)
 07 BY MR. EVEN:
 08 Q So while Amal is making that available to
 09 you, the first article I'm referring to is an
 10 article from December 2017 named, "A Modern Content
 11 Store."
 12 Is that an article that you wrote?

17. PAGE 64:13 TO 64:20 (RUNNING 00:00:25.971)

13 A Yes, it is.
 14 Q In this article, one of the predicates of
 15 it, you begin by saying that there's been no radical
 16 innovation in the way app stores operate over the
 17 past 10 to 20 years.
 18 Has there been any radical innovation in
 19 app stores since 2017?
 20 A I don't believe so.

18. PAGE 66:01 TO 66:24 (RUNNING 00:01:31.341)

00066:01 And is this a correct copy of your
 02 December 2017 article?
 03 A It appears to be, yeah.
 04 Q And if you look at the end of the first
 05 paragraph and the beginning of the second paragraph,
 06 after you point out that there has been no radical
 07 innovation, you say (as read and/or reflected:)
 08 Today we are in dire need of a
 09 revolution. We need digital stores
 10 that service multiple platforms,
 11 et cetera.
 12 Do you see that?
 13 A Yes, I do.
 14 Q And you wrote that?
 15 A Yes, I did.
 16 Q In your view, and based on your experience,
 17 how would a content store or an app store servicing
 18 both iOS and Android, for example, which I get is
 19 what you say by "multiple platforms," affect
 20 competition between Apple and Google?
 21 A Well, I think the first thing is that this
 22 would give us an alternate app store, which we can
 23 download apps for our devices. Right now there's
 24 only one for iOS.

19. PAGE 66:25 TO 67:04 (RUNNING 00:00:16.010)

25 For Android, there's numerous, but for iOS,
 00067:01 there's only one.
 02 I'm not sure how that would change or
 03 affect competition between the two platforms. I'm
 04 not really certain.

20. PAGE 67:06 TO 67:09 (RUNNING 00:00:11.118)

06 Could a Multiplatform App Store at least

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07 make switching between the two platforms easier for
 08 users?
 09 A Yes, I believe it would.

21. PAGE 69:20 TO 70:03 (RUNNING 00:00:26.616)

20 Q If we go to page 3 of this article, at the
 21 top you write (as read and/or reflected:) Over time I realized that the
 22 rules were often arbitrary,
 23 arguable, and created by middle
 24 aged white man ...
 00070:01 Which you are one, as am I. So ...
 02 Turning to arbitrary first, which rules did
 03 you consider to be arbitrary?

22. PAGE 71:12 TO 71:24 (RUNNING 00:00:45.684)

12 At the time a good one is App
 13 Recommendation Apps. Right. Apple was fine for the
 14 first five years of their life of the App Store life
 15 with having app -- an app list apps that they
 16 recommend for you to download.
 17 But Apple got tired of that space because
 18 it was driving more volume than their own App Store
 19 was, their App Store charts, and decided to remove
 20 that whole category of apps.
 21 And many companies went out of business
 22 because of that change. They built entire company
 23 around this feature that Apple decided to change.
 24 So that was another arbitrary decision.

23. PAGE 72:01 TO 72:15 (RUNNING 00:00:40.350)

00072:01 You also called the rules arguable.
 02 What did you mean by that?
 03 A Well, it's objectionable material. Right.
 04 If you look at what's porn. Right. I'll see when
 05 I -- I'll know it when I see it. Those were a lot
 06 of the guidelines. If you look at the guidelines
 07 and you read them, you'll see that most are written
 08 in a gray, a very subjective manner.
 09 And developers read them one way, create
 10 time, spend time, spend money to build an app and
 11 submit it and we reject it because we interpret that
 12 line differently.
 13 When they're arguable, they're really
 14 difficult to enforce, and it gets -- it breeds a lot
 15 of anger, hence, my numerous death threats.

24. PAGE 72:17 TO 73:20 (RUNNING 00:01:42.660)

17 Is there a reason why Apple, to your
 18 understanding, have you heard discussions as to why
 19 Apple moderates content on the App Store but not on
 20 the phone more generally through, for instance,
 21 Safari?
 22 A Well, I mean, it's tough. Right. The
 23 content -- when you're in Safari, you don't say,
 24 okay, Apple has vetted all the content I can find
 25 out on the Internet. Right. They -- that would be
 00073:01 ludicrous. Right. You can't do that.
 02 On the App Store, Apple from Day 1 says, we
 03 want to protect our customers. And so they will
 04 moderate content that goes through the App Store.
 05 Apple has control of that. Apple has no control
 06 over what websites are created and what content is
 07 going to be put on them.
 08 Now, sure they could do some of these

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09 ridiculous services that turn everything Disneyesque
 10 that you can find on your iPhone, but that will
 11 eliminate a large percentage of the population.
 12 I think the Internet is intended to be free
 13 to some extent, whereas, the App Store is about --
 14 one of the key things we learned building the App
 15 Store is that approving something that makes Apple
 16 look really bad hurts.
 17 It hurts Apple. It hurts their stock
 18 price. It hurts the shareholders. It can be very
 19 bad. So the App Store is a vetted, curated store,
 20 whereas, the Internet is not curated by anyone.

25. PAGE 73:21 TO 74:05 (RUNNING 00:00:29.477)

21 Q And so if I understand you correctly, what
 22 you're saying is that Apple believes anything that
 23 goes through the Apple App Store essentially has the
 24 impromptu of Apple on it because of the approval
 25 process?
 00074:01 A That is correct.
 02 Q Okay.
 03 A And would the same impromptu attach to an
 04 app downloaded from a different store?
 05 A No. I can't imagine it would.

26. PAGE 75:14 TO 77:02 (RUNNING 00:02:02.262)

14 Is that an article that you've penned
 15 around late March 2019?
 16 A Yes, it is.
 17 Q If you go to page 5. At the penultimate
 18 paragraph, you see it begins with (as read and/or
 19 reflected:)
 20 Over the years, Apple has
 21 struggled with using the App Store
 22 as a weapon against competitors.
 23 A Yes, I see that.
 24 Q What did you mean by that?
 25 A Yeah. Interesting line, in retrospect.
 00076:01 The App Store was -- for a while was one of
 02 those places that everyone wanted to purchase space,
 03 everyone wanted to have an app from the App Store.
 04 And we saw that through the review process, the
 05 number of submissions, et cetera.
 06 There were times when competing apps, apps
 07 that we could arguably say compete with Apple in
 08 some way or another, like Google Voice or
 09 Rhapsody -- or Rhapsody Music subscription, faced a
 10 lot of barriers in getting approved.
 11 And, to me, that was, you know, it was
 12 curious. Other apps didn't have this problem, but
 13 we spent a lot of time thinking on what the slippery
 14 slope implications were of approving an app like
 15 Google Voice.
 16 Does that mean that people will stop using
 17 the phone as a phone?
 18 Will your phone number disappear?
 19 Will the iPhone disappear, right, in guise
 20 of a Google phone or something like that?
 21 There was always a lot of talk and
 22 conjecture about that internally.
 23 But Google Voice and Rhapsody faced
 24 daunting -- Google Voice took a year to approve. A
 25 year. And I had to call the developer every couple
 00077:01 of weeks, or get an angry phone call from the
 02 developer every couple of weeks.

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13 Q On page 6 you note that Apple Arcade is the
 14 type of app that Apple has consistently disallowed
 15 on the store.
 16 A Do you see that?
 17 A Yes, I do.
 18 Q What is the guideline that Apple Arcade
 19 violates, in your view?
 20 A A store within a store. It was an
 21 overarching rule that Apple had for many years, you
 22 could not have a store within a store. An app that
 23 made other apps available within it was absolutely
 24 not allowed.

28. PAGE 79:13 TO 80:10 (RUNNING 00:01:08.107)

13 Going to page 8 under the heading (as read
 14 and/or reflected):
 15 A Apple needs to play fair.
 16 You write (as read and/or reflected):
 17 With the App Store being the
 18 only way to install apps on the
 19 iPhone and iPad, Apple has complete
 20 and unprecedented power over their
 21 customers' devices.
 22 A Do you see that?
 23 A Yes, I do.
 24 Q What are the options of a developer that's
 25 unhappy with Apple to just leave the iOS platform
 00080:01 and move to another platform?
 02 A They can move to Android. That's
 03 80 percent of the devices in the world. Right. I
 04 mean, that's one alternative is to just pull
 05 everything out of iOS and put it entirely on
 06 Android. That gets the majority of the world's
 07 apps. Right.
 08 Q In your experience, did most app developers
 09 consider that a viable option for them?
 10 A No. No, they didn't.

29. PAGE 80:20 TO 81:01 (RUNNING 00:00:29.753)

20 Q Have you ever heard of developer
 21 considering leaving iOS to move to a game console?
 22 A No, I have not.
 23 Q Did there come a time when you were
 24 interviewed by congressional staffers as part of an
 25 investigation by U.S. Congress?
 00081:01 A I recall.

30. PAGE 84:16 TO 85:08 (RUNNING 00:01:14.294)

16 Q The report also states that you recalled an
 17 instance when an app developer's compliant
 18 application was rejected from the App Store, and
 19 then the technology was appropriated by Apple for
 20 its own offerings.
 21 A Do you recall saying that to the staffers?
 22 Q The technology wasn't appropriated. The
 23 idea was appropriated. The technology was still
 24 inherent in the app, but Apple released a feature, a
 25 similar feature about a year later.
 00085:01 A And your understanding was that that
 02 rejection from the App Store was not justified under
 03 the guidelines?
 04 A That is correct.
 05 Q And so this would be an example of Apple
 06 making sure it has a first-mover advantage through

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07 the review process?
 08 A Yeah, I think so.

31. PAGE 88:02 TO 88:08 (RUNNING 00:00:30.521)

02 Do you remember when you thought that Apple
 03 executives found reasons you thought were pretextual
 04 for the non-approval of apps, the rejection of apps?
 05 A Yes.
 06 Q Can you give me an example of an app that
 07 you thought was rejected on pretextual grounds?
 08 A Google Voice.

32. PAGE 88:09 TO 88:10 (RUNNING 00:00:08.180)

09 Q Any others?
 10 A That's the only one I can remember.

33. PAGE 100:15 TO 100:18 (RUNNING 00:00:09.760)

15 Q What were the numbers by the time you left
 16 Apple?
 17 A By the time I left Apple, we were reviewing
 18 about 100,000 apps per week.

34. PAGE 101:03 TO 101:10 (RUNNING 00:00:18.913)

03 Q And you also say that this leads to an
 04 increased number of mistakes being made.
 05 Do you see that?
 06 A Yes, I do.
 07 Q And mistakes are when apps are being
 08 approved that should be rejected?
 09 A Apps that are being approved that should be
 10 rejected and rejected that should be approved, yes.

35. PAGE 108:10 TO 110:07 (RUNNING 00:02:47.800)

10 Q Why does the review team need a set of
 11 rules that are not open to the developers?
 12 A We crafted the guidelines to be very
 13 subjective. So we did not -- so we allowed
 14 developers to try stuff, right, to push the
 15 envelope, to try to show us something that's
 16 allowable. And we learned over the years that
 17 developers will try interesting things, some of
 18 which we like, and some of which we don't like.
 19 But if we had very black and white rules,
 20 developers would not have typically pushed the
 21 envelope and tried to get interesting things into
 22 the store.

23 So we wanted the guidelines to be
 24 subjective for a while in order to see what type of
 25 content, what type of apps we were going to get.

00109:01 Now, having said that, look, one of the
 02 very first apps that we had an issue with was called
 03 "Baby Shaker." It was in the first three weeks of
 04 my hiring. And for all intents and purposes, that
 05 didn't violate any guidelines, and three sets of
 06 eyes.

07 This is when three reviewers would review
 08 it. They approved it. Apple stock went down. I
 09 got a call from Steve. I got a call from Al Gore's
 10 office. We got -- we had people picketing outside
 11 of Apple because of one app approval that should not
 12 have been approved.

13 And it was about quieting a baby by gently
 14 shaking the phone, but if you shook it really hard,
 15 you killed the baby.

16 And so that is the reason why we needed to

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17 have more refined guidelines internally because
 18 reviewers, they don't see the forest for the trees.
 19 This was a dumb app.
 20 If you shook it, it put X's over
 21 the baby -- a picture of the baby's eyes. No baby
 22 was harmed in the making of this app.
 23 But perception was that Apple's okay with
 24 shaking babies. So we'd have to reject -- or so we
 25 got picketed. And so we got a lot of bad press from
 00110:01 that. That's why we needed something a little more
 02 defined than just the guidelines because the
 03 guidelines are subjective.
 04 Q Is one of the goals of the review process
 05 to protect -- to protect Apple's goodwill?
 06 A Yes. It's to protect Apple's brand for
 07 sure.

36. PAGE 117:01 TO 117:19 (RUNNING 00:00:49.499)

00117:01 Q In Marketing Text, there's a guideline
 02 about cross-platform information.
 03 Do you see that?
 04 A Yes, I do.
 05 Q What is the goal of this guideline?
 06 A Well, for the guideline specifically, I can
 07 address some points of it. Not -- it won't be
 08 complete.
 09 But one of the issues that we always had is
 10 that developers that create a cross-platform app
 11 like to put in the marketing text for the App Store,
 12 iOS App Store, they want to tell them -- tell you
 13 about the features in their Android app. It made no
 14 sense.
 15 So we didn't want that kind of information
 16 in the iOS App Store.
 17 Q Did you have any list of bad words that
 18 were searched for, such as Android or Windows?
 19 A I'm sure we did.

37. PAGE 117:20 TO 117:22 (RUNNING 00:00:08.196)

20 Q And were apps generally prohibited from
 21 pointing to their availability on other platforms?
 22 A Yes, they were.

38. PAGE 124:17 TO 124:22 (RUNNING 00:00:18.446)

17 Q If you turn to Exhibit 102. This is a
 18 document dated March 13, 2009.
 19 (Whereupon Shoemaker Exhibit 102
 20 was marked for identification and
 21 attached hereto.)
 22 MR. EVEN: It's APL-APPSTORE_01964696-707.

39. PAGE 125:02 TO 125:15 (RUNNING 00:00:44.859)

02 Q Do you recall writing this document titled,
 03 "My iPhone Developer Experience"?
 04 A Barely. Vaguely. Yes.
 05 Q Let me take a step back. Did you write
 06 this document; right?
 07 A Yes, I did. Yes, I did.
 08 Q And you wrote it as part of your general
 09 ordinary course of duties at Apple?
 10 A Yes. I started on March 9th, 2009. This
 11 was four days later. I was asked by Ron to write up
 12 my developer experience working with the App Store
 13 because -- because that's part of the reason they
 14 hired me is what did I go through to get onto the

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15 App Store.

40. PAGE 126:20 TO 126:23 (RUNNING 00:00:11.750)

20 Q How often did you hear developers
21 complaining about Apple's criteria being unclear
22 while you were at Apple?
23 A Every day probably.

41. PAGE 133:20 TO 134:19 (RUNNING 00:01:23.257)

20 Q You mentioned earlier that you believed
21 that in your later years at Apple, the accuracy of
22 the review or the error rate went down.
23 Do you remember that?
24 A Yes, I do.
25 Q And do you recall quoting to your
00134:01 executives numbers around the 15 percent error rate
02 around the 2015-16 time frame?
03 A Yes, I do.
04 Q And you mentioned earlier that you reviewed
05 about, I think you said, 100,000 apps a week; is
06 that right?
07 A Yes.
08 Q So that would still mean about 15,000
09 mistakes each week; correct?
10 A That is correct.
11 Q If you turn to Exhibit 104.
12 (Whereupon Shoemaker Exhibit 104
13 was marked for identification and
14 attached hereto.)
15 BY MR. EVEN:
16 Q That is an e-mail exchange, dated
17 January 4, 2006. The top e-mail -- the last e-mail
18 is from you. And it bears Bates
19 APL-APPSTORE_00058136-1838.

42. PAGE 135:01 TO 138:03 (RUNNING 00:03:36.626)

00135:01 Q Is this an e-mail that you wrote around
02 early 2016?
03 A It looks to be.
04 Q And it's an e-mail that you wrote as part
05 of your ongoing business and employment at Apple; is
06 that right?
07 A Yes, that's correct.
08 Q And you are forwarding an e-mail from a
09 Mr. Sasser to Mr. Schiller, dated the same day,
10 January 4th, 2016.
11 Do you see that?
12 A I do see that.
13 Q Who is Mr. Sasser?
14 A I don't recall. A developer from Panic.
15 Panic was a popular developer or a developer that
16 had popular apps on the store.
17 Q Okay.
18 And they had apps for both iOS and Mac; is
19 that right?
20 A I believe so. Yes.
21 Q And the review process applied both to the
22 Mac Store and the iOS Store; is that right?
23 A Yes. My team reviewed apps for the Watch,
24 for the App Store and for the Mac Store, that's
25 correct.
00136:01 Q If you turn to the second page of the
02 document, at the bottom do you see that Mr. Sasser
03 is saying that -- and this is underlined (as read
04 and/or reflected:)

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05 The app store takes parts --
 06 sorry -- of our job that we're
 07 already extremely good at -- like
 08 customer support, quick updates,
 09 easy refunds -- and makes them all
 10 more stressful and difficult, in
 11 exchange for giving Apple
 12 30 percent of our revenue.
 13 Do you see that?
 14 A Yes, I do.
 15 Q What's your understanding as to how the App
 16 Store made customer support more difficult for a
 17 developer like Panic?
 18 A Well, if you look at the way the App Store
 19 works, technically Panic doesn't have any users.
 20 Apple has users. Right. Apple has customers.
 21 And those customers are able to purchase
 22 access to an app like Panic, but Panic doesn't get
 23 to know who they are. They don't know their name.
 24 They don't have the credit card billing details.
 25 They don't know really anything about them.
 00137:01 So it's a level of indirection. And it's
 02 very difficult for a company like Panic to know, you
 03 know, if I write to Panic directly, say I bought
 04 your app, they can basically say, prove it. I don't
 05 have any record of you buying my app.
 06 They have to go through the Apple channel
 07 to make that happen. It's very difficult to connect
 08 the dots once you're running into customer
 09 service-related issues.
 10 Q Okay.
 11 And if somebody wants to give a 1 star
 12 rating to Panic, can Panic do anything about it,
 13 talk directly to the customer, explain to them what
 14 they're not understanding about the app or anything
 15 like that?
 16 A No, not directly.
 17 Q How does the App Store make easy refunds
 18 more difficult for developers?
 19 A Well, giving a refund from Apple is real
 20 easy. You just go up to the app -- you just request
 21 a refund through a standard channel with Apple Care.
 22 The problem is that the developer doesn't
 23 really know about it. Right. I mean, if somebody
 24 requests -- if they go directly to Panic, in this
 25 instance, and say, I want a refund, Panic can't do
 00138:01 it. They say you have to go to Apple to get the
 02 refund. And so they can get a refund from Apple.
 03 But it's another level of indirection.

43. PAGE 138:04 TO 138:07 (RUNNING 00:00:10.190)

04 But I think -- I'm not sure what he means
 05 by that because honestly I've never had problems
 06 with getting a refund out of Apple on the App Store,
 07 but it's difficult for them to know.

44. PAGE 138:18 TO 138:21 (RUNNING 00:00:08.049)

18 Q And fair to say that this created another
 19 level of friction between developers and their
 20 users?
 21 A Yeah, I would say so.

45. PAGE 144:10 TO 144:23 (RUNNING 00:00:46.869)

10 Q Did Apple have a policy against the
 11 disclosure to consumers of the 30 percent commission

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12 that developers were paying?
 13 A I never saw anything in writing in the
 14 guidelines, but, yes, that is an accurate statement.
 15 We did not like to see that in the marketing text.
 16 Q And when you say did not like to see it,
 17 that means that an app could get rejected for
 18 putting something like that in the marketing text or
 19 in an app itself?
 20 A Yes. If an app were to say the monthly
 21 subscription is 6.99, that's an extra 30 percent
 22 because of Apple or something like that, yes. We
 23 would absolutely have them remove that.

46. PAGE 149:12 TO 149:14 (RUNNING 00:00:12.811)

12 Q Have you ever heard anybody voice concerns
 13 about the security of other in-app purchase APIs?
 14 A I have not.

47. PAGE 149:15 TO 150:05 (RUNNING 00:00:52.440)

15 Q Based on your understanding, is IAP, in
 16 fact, safer than, for instance, PayPal?
 17 A I believe it is, but I don't have any data
 18 to back that up. It just feels like it would be
 19 more secure.
 20 Q And why do you think it feels more secure?
 21 A Because when you use in-app purchase,
 22 you're using services that are built in on the phone
 23 versus a third-party library that may or may not
 24 have malware in it. Right.
 25 People can use infected libraries to give
 00150:01 you third-party functionality. And then your
 02 password and user name are out there.
 03 Whereas, I know if it's using the built-in
 04 services of the iPhone, people can't be tracking
 05 that information. They can't be capturing it.

48. PAGE 150:22 TO 151:06 (RUNNING 00:00:33.090)

22 Q Has the functionality of IAP involved
 23 during your time at Apple in any material way?
 24 A It evolved in a variety of ways, including
 25 things like extra protections in place so people
 00151:01 could not make accidental purchases. Right. Or
 02 their children making accidental purchases so -- or
 03 purchases.
 04 Requiring the password to be reentered
 05 after 15 minutes. Certain features like that
 06 changed over time.

49. PAGE 151:09 TO 151:18 (RUNNING 00:00:30.470)

09 Q You mentioned earlier that there came a
 10 time when you and maybe others thought that maybe 30
 11 percent was too high.
 12 Do you remember that?
 13 A I do remember that.
 14 Q When was that discussion?
 15 A I would probably say late in my time at
 16 Apple, 2015, 2016, developers were complaining about
 17 the 30 percent. I started hearing more and more
 18 complaint about it.

50. PAGE 171:14 TO 173:21 (RUNNING 00:02:25.040)

14 Q We talked earlier about a store within a
 15 store.
 16 Do you remember that?
 17 A Yes, I do.

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18 Q And you said that Apple had a general
19 policy not allowing that; right?
20 A That's correct.
21 Q And that was for some time in a more
22 internal policy that became more explicit and public
23 facing over time; is that fair?
24 A That is correct.
25 Q And do you -- what's your understanding of
00172:01 the rationale for the prohibition on a store within
02 a store?
03 A Apple always believed in -- well, there
04 were multiple rationales. One is that App Store was
05 to be the only way that you could install apps
06 into -- onto the iPhone. Right.
07 And there was technological reasons for it.
08 There was privacy reasons, et cetera, but the only
09 way to get an app onto your phone was through the
10 App Store.
11 So that was issue No. 1. Right. We didn't
12 want anyone else to pretend that they were
13 downloading an app, et cetera. And we didn't want
14 them to use other things like the enterprise
15 guidelines or enterprise certificates and
16 side-loading certificates. They could only do it
17 through this one.
18 The other one was a little different. It
19 was about meritocracy.
20 So the idea for the App Store has always
21 been that the best apps will rise to the top because
22 of reviews, ratings, and downloads. Right. The
23 apps that tend to get a lot of downloads, they'll
24 chart; right.
25 And if they are getting a lot of downloads,
00173:01 it's trending. It means it's got some value. And
02 those will rise up the charts because people, you
03 know, especially now when there's 2 million apps in
04 the store, it's very difficult to find apps.
05 And so you know what the hot ones are by
06 watching the charts and things that rise in the
07 charts.
08 Now, when you have a store in a store or
09 these app recommendation apps, you have third
10 parties meddling with that and people can pay to
11 place.
12 So let's say I go to one of these app
13 recommendation apps and I say I'll give you \$10,000
14 put me at the top of your list, they'll put you at
15 the top of their list and suddenly that terrible app
16 is trending.
17 And that app is changing the Apple charts
18 and people are downloading this piece of garbage
19 over and over and over.
20 That was kind of the reason. Those are the
21 two reasons that I recall.

51. PAGE 175:04 TO 175:13 (RUNNING 00:00:27.216)

04 Let me introduce Exhibit 111. That's an
05 e-mail chain, Bates stamped APL-APPSTORE_09425339.
06 (Whereupon Shoemaker Exhibit 111
07 was marked for identification and
08 attached hereto.)
09 BY MR. EVEN:
10 Q That's another e-mail chain you wrote in
11 the ordinary course as part of your job at Apple;
12 right?
13 A Yes, it is.

*Epic Games, Inc. v. Apple Inc., No. 4:20-cv-05640-YGR-TSH (N.D. Cal.)***52. PAGE 175:14 TO 175:16 (RUNNING 00:00:08.003)**

14 Q And you're given here ERB meeting notes.
 15 Do you see that?
 16 A Yes, I do.

53. PAGE 175:17 TO 176:07 (RUNNING 00:00:36.129)

17 Q And do you see at the top of the second
 18 page there's an app name called The Web Store,
 19 discover the top fun and useful or whatever from
 20 developer Orange?
 21 Do you see that?
 22 A Yes, I do.
 23 Q And you say it's rejected. And in the
 24 comment you say (as read and/or reflected:)
 25 We do not want apps that
 00176:01 replace our store with web apps.
 02 Do you see that?
 03 A Yes, I do.
 04 Q What was the rationale for not wanting a
 05 web app store?
 06 A I think the comments sum that up. They
 07 don't want to replace the store with web apps.

54. PAGE 180:22 TO 181:03 (RUNNING 00:00:28.489)

22 Q So while this is updating, let me introduce
 23 Exhibit 113. That's a document dated November 23,
 24 2011.
 25 A Okay.
 00181:01 Q Again, an e-mail chain and it's
 02 APL-APPSTORE_05267651.
 03 If you can take a look at that.

55. PAGE 181:04 TO 181:12 (RUNNING 00:00:11.455)

04 A Okay. I see it.
 05 (Whereupon Shoemaker Exhibit 113
 06 was marked for identification and
 07 attached hereto.)
 08 BY MR. EVEN:
 09 Q This is another e-mail that you wrote and
 10 received as part of your ordinary course of
 11 employment at Apple; right?
 12 A Yes, it is.

56. PAGE 181:13 TO 181:23 (RUNNING 00:00:17.800)

13 Q And on the second page, the very first
 14 e-mail in the chain, you're saying, (as read and/or
 15 reflected:)
 16 I'm removing the Big Fish
 17 games app immediately. I have no
 18 guideline to remove their app, but
 19 have been asked by the ERB to hide
 20 it. I will be doing so
 21 immediately.
 22 Do you see that?
 23 A Yes, I do.

57. PAGE 181:24 TO 182:01 (RUNNING 00:00:07.250)

24 Q What do you mean by "hide it"?
 25 A It means remove it. Just remove it from
 00182:01 the App Store so nobody can see it.

58. PAGE 182:23 TO 183:09 (RUNNING 00:00:32.380)

23 What do you mean by (as read and/or
 24 reflected:)

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25 I have no guideline to remove
 00183:01 their app On.
 02 A I don't recall.
 03 Q Doesn't it mean that there is no guideline
 04 that actually supports the ERB's decision that you
 05 can point to and say to the developer, here's the
 06 problem?
 07 A That's how it reads, but it's 2011. I
 08 figured there were guidelines at the time that
 09 disallowed this. Maybe not. I don't recall.

59. PAGE 184:07 TO 184:11 (RUNNING 00:00:17.311)

07 Q So let's turn to Exhibit 114. Let me
 08 introduce it.
 09 That's a November 23, which is the same
 10 date, November 23, 2011, and it's e-mails from you.
 11 This is APL-APPSTORE_05267654.

60. PAGE 184:12 TO 184:18 (RUNNING 00:00:05.409)

12 (Whereupon Shoemaker Exhibit 114
 13 was marked for identification and
 14 attached hereto.)
 15 BY MR. EVEN:
 16 Q That's another e-mail that you wrote in the
 17 ordinary course of your employment at Apple; right?
 18 A Yes.

61. PAGE 184:19 TO 185:20 (RUNNING 00:00:53.936)

19 Q And it's a little more lively in its
 20 language?
 21 A Yes, it is.
 22 Q And Mr. Neumayr -- I hope I'm not
 23 butchering his name -- says (as read and/or
 24 reflected:)
 25 If we clearly said to them "we
 00185:01 removed it because we do not allow
 02 app stores in an app inside the App
 03 Store."
 04 Which is a quote from your e-mail that
 05 we've just seen.
 06 A Yeah.
 07 Q (As read and/or reflected:)
 08 Why wouldn't we also say this
 09 publicly as a statement?
 10 Do you see that?
 11 A Yes, I do.
 12 Q And you respond (as read and/or reflected:)
 13 Because it's chicken shit. We
 14 don't have a guideline for this.
 15 Do you see that?
 16 A Yes, I do.
 17 Q Fair to say that at the time you thought
 18 that there was no guideline that supported this
 19 decision?
 20 A I -- yes. I would trust what I said then

62. PAGE 185:21 TO 185:22 (RUNNING 00:00:05.130)

21 about the guidelines then than I would now. I don't
 22 remember those guidelines.

63. PAGE 185:24 TO 185:24 (RUNNING 00:00:01.497)

24 So if we turn to 115.

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64. PAGE 185:25 TO 186:15 (RUNNING 00:00:58.977)

65. PAGE 186:24 TO 187:04 (RUNNING 00:00:13.814)

24 Q And that's about some other iOS application
25 that Big Fish submitted; correct?
00187:01 A That is correct.
02 Q Not the one that was removed back in 2011;
03 right?
04 A That's correct. Yes.

66. PAGE 188:10 TO 188:25 (RUNNING 00:00:33.098)

10 Q Going all the way to the top, you write
11 again (as read and/or reflected:
12 Big Fish Unlimited is seen as
13 a game store within an app. This
14 is not allowed. Phil and Eddy have
15 been adamant about this, despite my
16 protests. We have no clear
17 guidelines around this.
18 Do you see this?
19 A Yes, I do.
20 Q And this is now February 2013 and still
21 there are no guidelines; correct?
22 A So it appears, yes.
23 Q And Phil and Eddy are Phil Schiller and
24 Eddy Cue; correct?
25 A Yes, that is correct.

67. PAGE 189:07 TO 189:11 (RUNNING 00:00:14.280)

07 Q And so as of February 2013, you thought
08 that a game subscription is a promising business
09 model that should be allowed?
10 A Personal belief, probably -- yes, that is
11 correct.

68. PAGE 195:09 TO 195:11 (RUNNING 00:00:00.031)

09 (Whereupon Shoemaker Exhibit 116
10 was marked for identification and
11 attached hereto.)

69. PAGE 195:16 TO 195:22 (RUNNING 00:00:18.916)

16 Q This is an e-mail dated July 18, 2011.
17 Is this another e-mail that you wrote
18 during your employment at Apple?
19 A I believe so. Yes, it looks like it.
20 Q And it was part of the ordinary course of
21 fulfilling of your duties at Apple?
22 A Yes.

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10 Q And Ms. Doerr writes in the second sentence
 11 (as read and/or reflected:) The system is not perfect and
 12 scams can still perpetuate in the
 13 App Store where reviews can be
 14 gamed in short term and even
 15 possibly long-term monetary gains
 16 can be made by unscrupulous
 17 developments.
 18 Do you see that?
 19 A Yes, I do.
 20 Q Do you agree that that's a correct
 21 statement? The system was never perfect and scams
 22 did still perpetuate the App Store from time to
 23 time?
 24 A Sure. Yes.

71. PAGE 204:02 TO 204:10 (RUNNING 00:00:26.803)

02 Was there anything about the App Review
 03 process that was not susceptible to replication by
 04 another App Store should another App Store decide to
 05 do it?
 06 A No, I don't think so.
 07 Q It was just a matter of investing the money
 08 and taking the time and thinking about the problem
 09 and addressing it?
 10 A That's right.

72. PAGE 214:23 TO 215:02 (RUNNING 00:00:17.520)

23 Q Would you agree with me that there were
 24 instances that malware got onto iPhones?
 25 A Yes, I agree with that.
 00215:01 Q And malware got onto the App Store?
 02 A Yes.

73. PAGE 216:03 TO 216:14 (RUNNING 00:00:41.402)

03 Q Do you recall an instance where a foreign
 04 government had managed to put some malware into the
 05 App Store?
 06 A Yes, I do.
 07 Q What was that instance?
 08 A A researcher from a university in China
 09 submitted an app that when you played the game, it
 10 would randomly go into your contact list and replace
 11 all the phone numbers with 8s. 8888888.
 12 And Chinese government brought that to our
 13 attention to say -- to criticize us for our review
 14 process.

74. PAGE 229:20 TO 229:23 (RUNNING 00:00:22.715)

20 MR. EVEN: If you turn to Exhibit 119.
 21 Q And scroll to page 367. This document is
 22 even bigger than the Wiki, I believe.
 23 A Yeah. Yeah, it is.

75. PAGE 230:03 TO 231:03 (RUNNING 00:01:14.277)

03 Q At the top of the page, there's a paragraph
 04 starting with (as read and/or reflected:) Subcommittee staff learned
 05 that Apple has engaged in conduct
 06 to exclude rivals ...
 07 Do you see that?
 08 A Yes, I do.

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10 Q And do you see that it says (as read and/or
 11 reflected:)
 12 For example, Mr. Shoemaker
 13 explained that Apple's senior
 14 executives would find pretextual
 15 reasons to remove apps from the App
 16 Store, particularly when those apps
 17 competed with Apple services.
 18 A Yes, I do.
 19 Q Do you recall sharing those views with the
 20 staffers?
 21 A Not in so many words, but I had a lot of
 22 conversations with them. I -- I do recall saying
 23 that -- yes. I guess, yes, I did have that
 24 conversation with them.
 25 Q And we saw some examples of instances like
 00231:01 that today about Google Voice and some of the Big
 02 Fish situation and things like that; is that fair?
 03 A Yes.

76. PAGE 248:13 TO 251:04 (RUNNING 00:03:16.905)

13 are listening, what is the difference between a web
 14 app and an iOS app for the App Store?
 15 A So an iOS app is an application that has
 16 been written in a specific programming language like
 17 Objective-C and Swift.
 18 And you write it on a Mac -- on a Mac or
 19 other type of computer. And you access specific
 20 APIs to do the functionality that you want.
 21 You want to put buttons on the screen. You
 22 do that with Objective-C or Swift.
 23 If you want to get access to the contacts
 24 or access to any of the deeper functionality in iOS,
 25 you use an app for that.
 00249:01 Now -- I'm sorry. You use an API for that
 02 to access it within your app.
 03 So you can have a lot of functionality,
 04 full integration with the hardware device, access to
 05 the camera, access to the screen, drawing pixels on
 06 the screen, creating games, et cetera. And it's a
 07 full, robust type of development environment on
 08 which you develop. And that's available on iOS.
 09 When you go to the web and you do a web
 10 app, you're creating what's called "lowest common
 11 denominator functionality." You're now creating an
 12 app -- an app with HTML and JavaScript.
 13 So, first of all, you have much slower
 14 processing. It's a slower app because it's the same
 15 stuff you see on a website. It's the HTML and
 16 JavaScript. So you have limited functionality where
 17 you can put a pixel on the screen. It's not as
 18 powerful.
 19 You don't have access to all of those APIs
 20 built into the underlying operating system because
 21 your lowest common denominator. You want it to run
 22 on iOS. You want it to run on windows. You want it
 23 to run on Mac, and you want it to run on Android.
 24 So suddenly you're eliminating a lot of
 25 functionality for that.
 00250:01 Now, these operating systems can expose a
 02 little stuff that can be -- expose some of these
 03 deeper APIs to be used by web apps, but doing so
 04 also opens up security problems, a way, a back door
 05 into getting to the code.
 06 You want to expose as little as you can to
 07 these web apps because web apps don't go through a

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08 review process. Websites don't go through a review
09 process.

10 If you launch a website and it can access
11 underlying functionality like maybe your contacts,
12 suddenly every website you go to has the potential
13 of stealing your information. Stealing your data.
14 And that's something that we want to disallow.

15 So a web app essentially is a website that
16 you say make a web app version of this. And all
17 that does is it takes all of these files, these
18 HTML, these JavaScript files, and puts it into a
19 small container, and it lives on the springboard, on
20 the home screen, if you will, of your iOS device.

21 It looks like an app. It's an icon. But
22 it's a web app. You're not going to have a lot of
23 functionality there. You click it. It's just like
24 saving a Safari link on your desktop and launching
25 an app. So there's a lot of limited functionality.

00251:01 You can't do as much there.

02 Q So at bottom, would you say that a web app
03 is no substitute for a true iOS app?

04 A Yes, I would.



Smile

*Epic Games, Inc. v. Apple Inc., No. 4:20-cv-05640-YGR-TSH (N.D. Cal.)***Shoemaker, Phillip (Vol. 02) - January 14, 2021****1 CLIP (RUNNING 00:11:37.692)****20 SEGMENTS (RUNNING 00:11:37.692)****1. PAGE 356:05 TO 356:13 (RUNNING 00:00:13.228)**

05 THE REPORTER: Raise your right hand,
06 please.
07
08 PHILLIP BURTON SHOEMAKER,
09 recalled as a witness by counsel for Plaintiff, being
10 first duly sworn, testified as follows:
11
12 THE WITNESS: Yes, I do.
13 THE REPORTER: Thank you.

2. PAGE 452:09 TO 452:15 (RUNNING 00:00:24.733)

09 And this is Bates Stamp 04 -- 00424815.
10 Exhibit 176. It is an e-mail from you,
11 Mr. Shoemaker, to Peter stone. It is dated
12 March 6th, 2013. New app process.
13 Is this an e-mail that you would have sent
14 in the course of your employment at Apple?
15 A. Yes.

3. PAGE 452:19 TO 452:25 (RUNNING 00:00:24.269)

19 Q. And this is a discussion about whether the
20 apps were reviewed for viruses.
21 And according to this e-mail, the apps are
22 reviewed for -- are reviewed -- are scanned -- I'm
23 sorry. Are scanned with the Norton iAntivirus and
24 the ClamXAV; is that correct?
25 A. That is correct.

4. PAGE 453:17 TO 454:04 (RUNNING 00:00:34.895)

17 Q. Okay. And do you know how iTunes scanned
18 for viruses, other than through the Norton and the
19 ClamXAV?
20 A. No. I did not.
21 Q. So do you know if they did a scan for the
22 .exes?
23 A. Yes.
24 Before I left, I know they were scanning the
25 binaries for anything inside of the .zip file, which
00454:01 is also an app. They would scan those. Whether they
02 had .exes or .dlls in there, they would scan them for
03 viruses -- well-known viruses using tools like Norton
04 antivirus.

5. PAGE 480:07 TO 480:15 (RUNNING 00:00:31.532)

07 So yesterday you mentioned an instance where
08 Apple rejected an app and then released a similar
09 feature on a tone.
10 Do you recall that?
11 A. Yes.
12 Q. And what was the feature in question?
13 A. It was wireless syncing of -- of data.
14 Q. Wireless syncing between which devices?
15 A. iPhone and your Mac.

*Epic Games, Inc. v. Apple Inc., No. 4:20-cv-05640-YGR-TSH (N.D. Cal.)***6. PAGE 484:20 TO 485:17 (RUNNING 00:01:40.097)**

20 Q. You mentioned yesterday that there were
 21 generally no viruses on iOS; is that correct?
 22 A. That is correct.
 23 Q. And I think you have stated that that is
 24 because unlike Windows and, to some extent, Mac OS,
 25 iOS is a more modern OS; is that right?
 00485:01 A. Yes. That is correct.
 02 Q. And I think you said that -- one aspect that
 03 is relevant to the issue of susceptibility to viruses
 04 was that iOS has what you called a sandbox model; is
 05 that right?
 06 A. Yes. That is correct.
 07 Q. And sandbox model, if I understand
 08 correctly, it that essentially each application
 09 remains in its own little compartment and can't reach
 10 out of that unless the user or app allows it; is that
 11 right?
 12 A. Yes. That is correct.
 13 Q. And if I understand in your answers then
 14 when it comes to malware, iPhones are -- are, you
 15 know, super safe because iOS in the sandbox model are
 16 very robust.
 17 A. That is correct.

7. PAGE 487:06 TO 487:11 (RUNNING 00:00:24.101)

06 And so what you are telling me is that for
 07 viruses, sandbox -- a sandbox model is very effective
 08 and human review is not. And for malware, really,
 09 neither one is very effective because it is just very
 10 hard to catch. It is just a real problem.
 11 A. I would agree with that.

8. PAGE 488:02 TO 488:11 (RUNNING 00:00:30.522)

02 Q. Now, Apple does allow other app stores on
 03 Mac OS; is that right?
 04 A. Yes, they do.
 05 Q. And Apple does allow direct download of
 06 applications, what is called siloing onto Mac
 07 computer; right?
 08 A. Yes, they do.
 09 Q. And an iOS, even though it is more secure,
 10 Apple does not allow app stores for siloing; right?
 11 A. That is correct.

9. PAGE 488:12 TO 488:16 (RUNNING 00:00:27.722)

12 Q. So would you agree with me that to extend --
 13 to the extent anyone claims that Apple needs a close
 14 guard on iOS to prevent viruses, for instance, that
 15 is just not true?
 16 A. For viruses, yes. That is correct.

10. PAGE 490:13 TO 490:19 (RUNNING 00:00:25.029)

13 Q. You mentioned yesterday that there were some
 14 dumb decisions made by some reviewers who put certain
 15 apps on halt.
 16 Do you recall that?
 17 A. Yes, I do.
 18 Q. And that was with respect to apps that
 19 supported a competing watch; right?

11. PAGE 490:20 TO 491:07 (RUNNING 00:00:42.115)

20 A. Yes.
 21 Q. And so we covered yesterday that competing

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22 apps sometimes faced issues at the ERB because of
 23 positions taken by your superiors; is that right?
 24 A. Yes.
 25 Q. And based on the story of this competing
 00491:01 watch, I understand that competing apps also
 02 sometimes faced problems with the review process
 03 because of your -- of your underlings, the people who
 04 reported to you.
 05 Is that fair?
 06 A. Yes. Overzealous reviewers, yes. That is
 07 correct.

12. PAGE 491:11 TO 491:21 (RUNNING 00:00:26.310)

11 They are they are overzealous in protecting
 12 Apple; right?
 13 A. I would say they are more overzealous in
 14 protecting themselves and their job. They were
 15 afraid they would get fired if they did something
 16 incorrect.
 17 Q. Okay. And they thought that they might get
 18 fired because they thought that Apple would not want
 19 to approve things that are competing against Apple;
 20 is that right?
 21 A. That is my understanding, yes.

13. PAGE 510:01 TO 510:12 (RUNNING 00:00:32.890)

00510:01 Q. Okay. And would a jail broken iPhone still
 02 have sandboxing as part of its iOS?
 03 A. No. It would not.
 04 Q. Okay. So again, you had spoken earlier with
 05 Mr. Even about how sandboxing was the be all/end all
 06 safeguard against viruses.
 07 But would that safeguard exist in jail
 08 broken iPhones?
 09 A. It would not, no.
 10 Q. And how seriously did Apple, during your
 11 time there, take the threat of jail breaking?
 12 A. Very seriously.

14. PAGE 517:21 TO 518:15 (RUNNING 00:01:02.276)

21 Q. And did Apple or the App Store review
 22 process ever make changes or modifications in
 23 response to developer feedback?
 24 A. Yes.
 25 Q. And how frequently did that occur?
 00518:01 A. A lot of things changed based on feedback.
 02 As far as the process was concerned, we were
 03 continually refining the process based on feedback.
 04 The guidelines were -- were one of the clearest forms
 05 of -- of feedback causing changes at Apple. When
 06 developers would complain about one of our
 07 guidelines, the executives, the ERB, we would all get
 08 together and discuss those guidelines and ultimately
 09 make changes to them if we found they were warranted
 10 or not if we didn't, and we would release those
 11 guidelines -- updated versions of those guidelines;
 12 so that -- that happened -- those guidelines changed
 13 probably twice a year, but that was -- that was just
 14 one of the ways in which we would -- we would change
 15 based on feedback.

15. PAGE 551:12 TO 552:10 (RUNNING 00:01:04.607)

12 Q. Going back to the question, Mr. Shoemaker.
 13 Why were you concerned that there would be
 14 an exodus of developers from iOS to Android?

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15 A. The -- the Apple App Store was -- was built
 16 for our customers, our consumers, the people
 17 downloading apps. And we never had -- you know, we
 18 never had consumers complaining about -- about the
 19 app review process; right?
 20 Consumers never did that. That was
 21 developers.
 22 But -- but my concern was if we didn't
 23 improve the app review process, developers might
 24 start pulling out and then making their games or
 25 their apps only available on the -- the Android
 00552:01 store. It was just a -- to me, it was always -- you
 02 know, it was always the concern. You always want to
 03 strive to be better than you were the day before.
 04 And so, for me, I was always concerned about that,
 05 and I didn't want to be the reason why something like
 06 that happened.
 07 Q. And did developers ever threaten to take
 08 their apps off of iOS and move exclusively to
 09 Android?
 10 A. Yes.

16. PAGE 555:02 TO 555:13 (RUNNING 00:00:27.350)

02 Q. Okay. And speaking of it being heated,
 03 I note that on the bottom of this e-mail on page
 04 there he concludes by saying:
 05 "If Apple keeps treating developers that
 06 way, all of the small and medium developers
 07 will run away to other platforms. The
 08 developers are the future of Apple."
 09 Is this a complaint that you heard -- or
 10 a threat, I should say, that you heard from other
 11 developers?
 12 A. Yes. We -- we -- I had heard this threat
 13 before.

17. PAGE 562:14 TO 562:19 (RUNNING 00:00:09.507)

14 MS. AHMAD: Nineteen, yes.
 15 MR. PHILLIPS: Okay.
 16 (Defense Exhibit Number DX-19
 17 was marked for identification.)
 18 BY MS. AHMAD:
 19 Q. Mr. Shoemaker, will you pull up Exhibit 19?

18. PAGE 562:21 TO 563:08 (RUNNING 00:00:45.486)

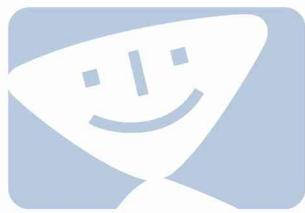
21 Q. So this is an e-mail exchange between you,
 22 P.B. Shoemaker direct, and Zenus Song at Apple.
 23 Is this an exchange that you had in the
 24 regular course of your work for Apple?
 25 A. Okay. Yes, it is.
 00563:01 Q. And who are you writing to when you address
 02 it team and send it to P.B. Shoemaker direct?
 03 A. So those were my direct reports; so my
 04 managers in my organization.
 05 Q. All right. And I wanted to -- well, take
 06 a look at the e-mail and tell me if you recall
 07 generally the subject matter that you recount here.
 08 A. Yes. I do -- I do recall this.

19. PAGE 565:07 TO 565:10 (RUNNING 00:00:10.008)

07 Q. Well, what was your understanding from these
 08 conversations with Android users as to why they had
 09 more concerns on Android than they would have had on
 10 an iOS?

*Epic Games, Inc. v. Apple Inc., No. 4:20-cv-05640-YGR-TSH (N.D. Cal.)***20. PAGE 565:13 TO 565:25 (RUNNING 00:00:41.015)**

13 THE WITNESS: Because the users -- I'm
14 sorry. Because -- because Android didn't -- I'm
15 sorry. Google did no checks. If you submit an app
16 to the -- the store, it basically made it onto the
17 store after going through some of the automation
18 stuff, but malware and privacy apps would get in
19 pretty easily -- private -- I'm sorry. When I say
20 privacy, I mean apps that can affect your privacy,
21 that would take information, et cetera, would often
22 make it into the store. There are hundreds of news
23 articles about those kinds of apps. And we felt our
24 users felt it was much more comfortable doing that on
25 the App Store.



Smile