

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

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

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

△DEFENDANT△	United States District Court Northern District of California
	Case No. <u>4:20-cv-05640-YGR</u>
	Case Title <u>Epic Games, Inc. v. Apple, Inc.</u>
	Exhibit No. <u>DX-3036</u>
	Date Entered _____
	Susan Y. Soong, Clerk By: _____, Deputy Clerk

8 vs. Case No. 4:20-cv-05640
9 YGR
10 APPLE INC.,
11
12 Defendant,
13 Counterclaimant.
14
15
16
17
18
19
20
21
22
23
24

11 IN RE APPLE IPHONE Case No. 4:11-cv-06714
12 ANTITRUST LITIGATION YGR
13
14
15
16
17
18
19
20
21
22
23
24

25 (caption cont'd)

Page 1

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 DONALD R. CAMERON, et al.,
2 Plaintiffs,
3 vs. Case No. 4:19-cv-03074
YGR
4 APPLE INC.,
5 Defendant.

6
7
8
9
10
11 **HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER**
12 ZOOM DEPOSITION OF MARK REIN
13 (Reported Remotely via Video & Web Videoconference)
14 Ocala, Florida Deponent's location)
15 Wednesday, February 10, 2021
16 Volume I
17
18
19
20

21 STENOGRAPHICALLY REPORTED BY:
REBECCA L. ROMANO, RPR, CSR, CCR
22 California CSR No. 12546
Nevada CCR No. 827
Oregon CSR No. 20-0466
Washington CCR No. 3491
JOB NO. 4453817
23 PAGES 1 - 161

24
25 Page 2

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. When did you join Epic Games, sir? 09:15:46

A. Around early 1992.

Q. And you've been with the company ever 09:16:04

Page 19

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 since? 09:16:06

2 A. Yes.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Page 20

Veritext Legal Solutions
866 299-5127

DX-3036.004

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

23 Q. And are the things that you are involved
24 in today still in the arena of sales and marketing
25 and sales and marketing strategy?

09:18:55

Page 21

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 A. Typically, yes. 09:18:57

2

3

4

5

6

7

8 And do you currently sit on the board of
9 directors for Epic?

10 A. Yes. 09:19:21

11 Q. And how long have you been on the board?

12 A. Since we created the board.

13

14

15

16

17

18

19

20

21

22

23

24

25

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

And in the course of your responsibilities or your job function, have you had dealings with Apple?

A. Yes.

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Well, while Fortnite was on the

App Store, did Apple offer marketing and

promotional support for it?

A. Yes.

09:51:51

Page 48

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 Q. Okay. And what sort of marketing and 09:51:51

2 promotional support did Apple provide?

3 A. Apple would feature your app occasionally

4 when you had something important going on.

5 Q. You mean --

09:52:08

6 A. Sorry. Apple would feature Fortnite

7 occasionally when we had something important going

8 on.

9 Q. And what does that mean in the context of

10 an App Store to feature it? 09:52:15

11 A. It means they would give it a prominent

12 placement on one of the pages of the App Store.

13

14

15

16 Q. What other sorts of promotion and

17 marketing did Apple provide for Fortnite?

18 A. One time they put us up on stage and they

19 demonstrated Fortnite at one of their -- I can't

20 remember if it was a developer conference or a

09:52:54

21 product launch.

22

23

24

25

Page 49

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6

7 Q. Did Apple and Epic collaborate
8 effectively on the marketing and promotional
9 efforts that you do recall?

10 A. I think so. 09:53:43

11 Q. And did the marketing and promotion
12 provided by Apple benefit Epic?

13 A. I -- I think it did.

14 Q. How?

15 A. Through more people being aware of the 09:54:00
16 game.

17 Q. No matter which platform they ultimately
18 played it on?

19 A. Well, the marketing would have been
20 targeted at iOS users. 09:54:14

21 Q. One of the significant elements of
22 Fortnite is cross-platform play, correct?

23 A. Yes.

24
25

Page 50

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Exhibit 188 was marked for

identification by the court reporter and is

attached hereto.)

09:56:03

Page 51

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 Q. (By Mr. Doren) Mr. Rein, while you 09:56:08

2 review that, I will describe for the record that

3 this Exhibit 188 is a two-page document which

4 contains an email string, and the first page of the

5 exhibit is EPIC_00010165. 09:56:18

6 Please take a moment and review that

7 document.

8 THE DEPONENT: Yup. I've reviewed it.

9 Q. (By Mr. Doren) Thank you very much, sir.

10 First of all, do you recognize this as an 09:57:02

11 email chain in which you participated including

12 various Epic colleagues on January -- from

13 January 17th, 2018?

14 A. Yes.

15

16

17

18

19

20

21

22

23

24

25

Page 52

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7

8 Q. In 2019 Epic hosted a virtual concert
9 with the DJ named Marshmello, correct?

10 A. I believe it was in 2019, yes. 10:18:54

11 Q. But you recall the event, correct?

12 A. I recall the event. I don't recall the
13 exact date.

14 Q. Thank you.

15 And can you describe what the event was, 10:19:02
16 please.

17 A. The Marshmello concert was an in-game
18 event where we had the Marshmello character doing a
19 show and to Marshmello music.

20 Q. And for those of us that aren't quite as 10:19:20
21 hip as others, what is Marshmello? Or who is
22 Marshmello?

23 A. He's a famous DJ artist.

24 Q. And did Epic consider this to be a major
25 event? 10:19:36

Page 65

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 A. Yes, I believe we did. 10:19:38
2 Q. And when you say it was "an in-game
3 experience," was it within Fortnite?
4 A. It was within Fortnite.
5 Q. And was it available on all platforms? 10:19:47
6 A. Yes, I believe it was.
7 Q. Meaning mobile and consoles and PCs?
8 A. Yes, whatever -- within Fortnite.
9 Wherever you played it.
10 Q. Was it available on the web-based 10:20:07
11 versions of Fortnite?
12 A. What web-based versions of Fortnite?
13 Q. Those available, for example, through
14 GeForce?
15 A. It should have been, yes. 10:20:22
16 Q. Thank you.
17 And did viewers purchase tickets to
18 attend that event?
19 A. No.
20 Q. It was free? 10:20:30
21 A. It was a free event.
22 Q. And did Apple offer marketing support for
23 the Marshmello event?
24 A. I believe they did.
25 Q. And do you recall what it was? 10:20:47

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 A. I believe they did some sort of featuring 10:20:52
2 on the store.

3 Q. And when you say featuring on the store,
4 what do you mean?

5 A. I think they wrote a story about it or 10:21:01
6 placed a Fortnite imagery in -- in -- in a featured
7 location on App Store.

8 Q. And do you recall any other marketing or
9 promotion that Apple did with Epic around the
10 event? 10:21:19

11 A. Apple Music did some advertising, some
12 outdoor advertising, I believe.

13 Q. Do you recall?

14 A. And featured -- and featured music from
15 the event in Apple Music. 10:21:32

16 Q. And did you consider that to be a benefit
17 to Epic's profile?

18

19

20 THE DEPONENT: I -- it helped get more 10:21:49
21 people to listen to the music that was from the
22 Fortnite Marshmello concert, perhaps.

23 Q. (By Mr. Doren) And do you consider that
24 to be a good thing?

25 A. If you like that kind of music, it's a 10:22:02

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 good thing, yes.

10:22:04

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Page 68

Veritext Legal Solutions
866 299-5127

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11

12 Exhibit 190 is a multipage email string,
13 the first page of which begins with an email from
14 Edward Zobrist to you and others sent on
15 January 30th, 2019. The document bears numbers 10:44:09
16 EPIC_00193236 through 40.

17
18
19
20
21

22 Q. Mr. Rein, have you had an opportunity to
23 review Exhibit 190?

24 A. Yes.

25 Q. And do you recognize it as an email chain 10:47:57

Page 69

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 among various Epic employees, including yourself, 10:48:01

2 from January of 2019?

3 A. Yes.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9

10 You then go on and state: "With 11:02:07

11 controller support and if Apple gets behind
12 promoting that, we could see huge growth on iOS."

13 Do you see that?

14 A. Yes. I wrote that.

15 Q. What did you mean by that statement? 11:02:18

16 A. I think I mean what it said. With
17 control and support and if Apple gets behind
18 promoting, we could see huge growth on iOS.

19
20
21
22
23
24
25

Page 82

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1

2 And you mentioned that -- and why is it a
3 good thing to have Apple advertise your product?

4 A. Any -- almost any advertising for your
5 product is a good thing.

11:08:18

6 Q. And Apple is a -- a well-known brand?

7 A. Yes.

8 Q. And a highly regarded brand?

9 A. Yes.

10 Q. And being affiliated with Apple is

11:08:28

11 beneficial to Epic?

12 A. I believe it's beneficial to Fortnite
13 when they are marketing Fortnite.

14

15

16

17

18

19

20

21

22

23

24

25

Page 87

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

25

MR. DOREN: Sarah, let's, please, look at

11:26:55

Page 100

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 Tab 34, which is a document previously marked as 11:26:56

2 Exhibit 35.

3 THE DEPONENT: I'm looking at it.

4 Q. (By Mr. Doren) Great.

5 And, Mr. Rein, we will be talking about 11:27:35

6 the last paragraph in your email on page 1, and I'm

7 going to be asking you some questions about the

8 [REDACTED]

21

22

23

24

25

Page 101

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. (By Mr. Doren) The first page of the exhibit begins with an April 15th, 2019, email from Mr. Rein.

Mr. Rein, you've had an opportunity to review Exhibit 35?

11:33:06

A. Yes.

21
22
23
24
25

Page 102

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. We've discussed earlier GeForce as -- as
a web -- as a source for a web-accessible version
of Fortnite, correct?

11:34:16

A. GeForce is a cloud streaming service that
has Fortnite on it.

Q. And --

A. Or does now. Sorry.

Q. Thank you.

11:34:27

And we have in front of us documents
discussing an initiative at Walmart called Project
Storm back in April 2019, correct?

A. Yes.

Page 103

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Is that a trend in gaming, the
cloud-based streaming?

11:35:47

A. I don't know if I'd say it's a trend.
There are companies attempting to do it.

Q. Do you consider that to be the future of
gaming?

A. Not really.

11:36:02

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

A horizontal bar chart showing the length of each row from 1 to 25. Rows 1, 2, 6, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 have black bars ending in yellow caps. Row 3 has a black bar ending in a yellow cap. Row 4 has a black bar ending in a white cap. Row 5 has a black bar ending in a white cap. Row 7 has a black bar ending in a white cap. Row 9 has a black bar ending in a white cap. Row 19 has a black bar ending in a white cap. Row 20 has a black bar ending in a white cap. Row 21 has a black bar ending in a white cap. Row 22 has a black bar ending in a white cap. Row 23 has a black bar ending in a white cap. Row 24 has a black bar ending in a white cap. Row 25 has a black bar ending in a white cap.

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1

2

3

4

Q. (By Mr. Doren) Looking, please, at the
first page of Exhibit 35. And in the third

11:38:59

6 [REDACTED]

[REDACTED]

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

Q. (By Mr. Doren) It was -- it was what
they had to offer as -- as of April 15 as their
streaming service for you to try out; is that fair?

11:40:04

Page 107

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 A. What I played in our office that date. 11:40:07

2 | Page

© 2013 Pearson Education, Inc.

ANSWER The answer is 1000. The first two digits of the number are 10, so the answer is 1000.

ANSWER

ANSWER The answer is 1000.

[View Details](#) | [Edit](#) | [Delete](#)

[View Details](#) | [Edit](#) | [Delete](#)

ANSWER The answer is 1000. The area of the rectangle is 1000 square centimeters.

For more information about the study, please contact Dr. Michael J. Hwang at (310) 794-3000 or email at mhwang@ucla.edu.

Digitized by srujanika@gmail.com

[View Details](#) | [Edit](#) | [Delete](#)

ANSWER The answer is (A). The first two digits of the number 1234567890 are 12.

© 2013 Pearson Education, Inc.

ANSWER The answer is 1000. The first two digits of the number are 10, so the answer is 1000.

A set of small, light-gray navigation icons typically found in LaTeX Beamer presentations, including symbols for back, forward, search, and table of contents.

[View all posts by **John Doe**](#) [View all posts in **Category A**](#)

Digitized by srujanika@gmail.com

Digitized by srujanika@gmail.com

www.nature.com/scientificreports/ | (2022) 12:1030 | Article number: 1030

[View Details](#) | [Edit](#) | [Delete](#)

© 2013 Pearson Education, Inc.

[View Details](#) | [Edit](#) | [Delete](#)

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 [REDACTED]
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 109

Veritext Legal Solutions
866 299-5127

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1

2

3

4 Q. Do you know what factors went into
5 setting the 12 percent commission level? 11:42:45

6 A. Yes.

7 Q. What do you know about that?

8 A. The -- the cost of operating the service
9 went into -- was one of the factors in deciding
10 what was a fair amount to charge. 11:43:05

11 Q. And when you say cost of operating the
12 service, what service are you referring to?

13 A. The service of -- that we provide to --
14 to games that are sold in the Epic Games Store.

15 Q. You mean the payment processing service 11:43:22
16 or do you mean something more than that?

17 A. I'm -- payment processing would be one of
18 the costs.

19 Q. What other costs went into it?

20 A. Some of the others could be the -- the 11:43:36
21 actual distribution cost, the internet bandwidth
22 cost, the -- you know, the -- the cost of
23 maintaining it.

24 Q. Maintaining the store?

25 A. Yes. 11:43:54

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Exhibit 198 was marked for

identification by the court reporter and is

attached hereto.)

Q (By Mr. Doren) Mr. Rein, you are

12:23:32

Page 129

HIGHLY CONFIDENTIAL UNDER THE PROTECTIVE ORDER

1 presented with Exhibit 198, which is a three-page 12:23:35
2 document which contains an email chain. The first
3 email on the document at the top of the first page
4 is dated March 14th, 2018 from Canon Pence to
5 Daniel Vogel, with cc's to others, including 12:23:59
6 yourself. The document bears Bates
7 No. EPIC_01919888, et cetera.
8 Please take a moment and review this
9 document.
10 A. Okay. I reviewed it. 12:24:57
11 Q. Mr. Rein, you had an opportunity to
12 review Exhibit 198?
13 A. Yes.
14 Q. And is this an email string that you
15 received on March 14th, 2018 from Mr. Pence? 12:25:05
16 A. It appears to be, yes.
17
18
19
20
21
22
23
24
25