

**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.

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.

**15. PAGE 63:22 TO 63:24 (RUNNING 00:00:13.946)**

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

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

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       Q    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    developer every couple of weeks.  
02

**27. PAGE 78:13 TO 78:24 (RUNNING 00:00:31.039)**

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 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 Q 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

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

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

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:)

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

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.

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.

**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:)

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.

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.

**70. PAGE 196:10 TO 196:25 (RUNNING 00:00:33.925)**

10 Q And Ms. Doerr writes in the second sentence  
11 (as read and/or reflected:)  
12 The system is not perfect and  
13 scams can still perpetuate in the  
14 App Store where reviews can be  
15 gamed in short term and even  
16 possibly long-term monetary gains  
17 can be made by unscrupulous  
18 developments.  
19 Do you see that?  
20 A Yes, I do.  
21 Q Do you agree that that's a correct  
22 statement? The system was never perfect and scams  
23 did still perpetuate the App Store from time to  
24 time?  
25 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:)  
05 Subcommittee staff learned  
06 that Apple has engaged in conduct  
07 to exclude rivals ...  
08 Do you see that?  
09 A Yes, I do.

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

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  
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.

**Shoemaker, Phillip (Vol. 02) - January 14, 2021**

**1 CLIP (RUNNING 00:11:37.692)**

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**20 SEGMENTS (RUNNING 00:11:37.692)**

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**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.

**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

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?

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?

**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.