Pages 1 - 46

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE THOMAS S. HIXSON, MAGISTRATE JUDGE

IN RE APPLE IPHONE ANTITRUST LITIGATION.)	**No. 11-cv-06714-YGR (TSH)**
)	
DONALD R. CAMERON, et al.,)	
)	
Plaintiffs,)	
)	
VS.)	**No. 19-cv-03074-YGR (TSH)**
)	
APPLE INC.,)	
)	
Defendant.)	
)	
EPIC GAMES, INC.,)	
)	
Plaintiff/)	
Counter-defendant,)	
)	
VS.)	**No. 20-cv-05640-YGR (TSH)**
)	
APPLE INC.,)	
)	
Defendant/)	
Counterclaimant.)	
)	

San Francisco, California
Wednesday, December 9, 2020

TRANSCRIPT OF PROCEEDINGS VIA ZOOM WEBINAR

(Appearances on next page)

Reported by: Katherine Powell Sullivan, CSR #5812, CRR, RMR
Official Reporter - U.S. District Court

1   **APPEARANCES:** (via Zoom Webinar)

2   For Plaintiffs in In re Apple iPhone Antitrust Litigation,
     11-cv-06714-YGR:

3   WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP
                               750 B Street, Suite 1820

4   San Diego, California 92101
                          BY: **RACHELE R. BYRD, ESQ.**

5
     For Plaintiffs in Cameron, et. al v. Apple Inc.,

6   19-cv-03074-YGR:
                               HAGENS BERMAN SOBOL SHAPIRO LLP

7   1301 Second Avenue, Suite 2000
                               Seattle, Washington 98101

8   BY: **ROBERT F. LOPEZ, ESQ.**

9   For Plaintiff Epic Games, Inc.:
                               CRAVATH, SWAINE & MOORE LLP

10   825 Eighth Avenue
                               New York, New York 10019

11   BY: **LAUREN A. MOSKOWITZ, ESQ.**

12   For Defendant Apple Inc.:
                               GIBSON, DUNN & CRUTCHER LLP

13   555 Mission Street
                               San Francisco, California 94105-0921

14   BY: **ETHAN D. DETTMER, ESQ.**

15

16

17

18

19

20

21

22

23

24

25

1	**<u>Wednesday - December 9, 2020</u>** **<u>1:01 p.m.</u>**
2	**P R O C E E D I N G S**
3	**---oOo---**
4	**THE CLERK:** All right, everyone. Good afternoon.
5	Thank you for all joining us on the Zoom call.
6	We're here in Civil Action 11-6714, In re Apple iPhone
7	Antitrust Litigation, and in Case Number 19-3074, Cameron, et
8	al. versus Apple Inc. And the last case is 20-5640, Epic
9	Games, Inc. versus Apple Inc.
10	Counsel, please state your appearances for the record.
11	The Honorable Thomas S. Hixson, presiding.
12	Let's start with the Apple Antitrust Litigation first.
13	**MS. BYRD:** Good afternoon, Your Honor. This is
14	Rachele Byrd, with Wolf Haldenstein Adler Freeman & Herz, on
15	behalf of the plaintiffs.
16	**THE COURT:** Good afternoon.
17	**THE CLERK:** Thank you.
18	And the Cameron v. Apple.
19	**MR. LOPEZ:** Good afternoon, Your Honor. This is Rob
20	Lopez, of Hagens Berman, for the developer plaintiffs in the
21	Cameron matter.
22	**THE COURT:** Good afternoon.
23	**THE CLERK:** And Epic Games, Inc., versus Apple Inc.
24	**MS. MOSKOWITZ:** Good afternoon, Your Honor. Lauren
25	Moskowitz, from Cravath, Swaine & Moore, on behalf of Epic

1 Games.

2   THE COURT: Good afternoon.

3   MR. DETTMER: And, Your Honor, Ethan Dettmer, from

4 Gibson Dunn & Crutcher, on behalf of Apple in all three

5 matters.

6   THE COURT: Good afternoon.

7   MR. DETTMER: Good afternoon, Your Honor.

8   THE COURT: So let me tell you what my agenda is for

9 the hearing. I have some questions that I want to ask Epic

10 Games and Apple, and then I have some thoughts that I want to

11 discuss with those two parties.

12   And then what I'm likely to do is tell you to go meet and

13 confer a little bit more in light of my -- the ideas I discuss

14 with the two parties.

15   I know that you've met and conferred for several weeks

16 already in a good-faith attempt to get to an answer, and I'm

17 hoping that with some feedback from me we can get you over the

18 finish line.

19   So, anyway, there's not going to be an order coming out of

20 this hearing. Or the order will be that you talk with each a

21 little bit more.

22   First, I want to ask Epic, Inc., just to make sure that I

23 understand how you searched for documents, I understand that

24 you had a set of search terms and that was shared with Apple.

25 Is that correct?

1   **MS. MOSKOWITZ:** Yes, Your Honor. We had initially

2   proposed a set of terms, and Apple responded with a lengthy set

3   of proposed conditions that we met and conferred and reached

4   agreement on.

5   **THE COURT:** Okay. So there was -- at the start of the

6   process, there was an agreement on a group of search terms so

7   Apple would know if a document didn't have one of their search

8   terms it wasn't going to come up. And if it did, then the

9   search term would pull it out. Is that right?

10   **MS. MOSKOWITZ:** Correct. Correct.

11   **THE COURT:** Okay. Then after you ran the search

12   terms, did you have a team of document reviewers do manual

13   review to see which documents were, in fact, responsive?

14   **MS. MOSKOWITZ:** That's correct, Your Honor. We are

15   performing a linear review of all of the search term hit

16   results, which is in the order of over 3.5 million documents.

17   **THE COURT:** Wow. That sounds like a big task.

18   **MS. MOSKOWITZ:** It is.

19   **THE COURT:** Was there ever a time when you took a

20   sample of the documents that hit on the search terms and then

21   disclosed to Apple, here's how we're making responsiveness

22   calls with respect to this set, and let us know what you --

23   what you think?

24   In other words, I knew that they had input on your search

25   terms. What I'm wondering is whether they also had any input

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.

fastcase®
Smarter legal research.